

(d) Under section 332 of Pub. L. 107-314, this prohibition does not apply to any contract that is entered into for any increased performance of security-guard functions at a military installation or facility undertaken in response to the terrorist attacks on the United States on September 11, 2001, if—

(1) Without the contract, members of the Armed Forces are or would be used to perform the increased security-guard functions;

(2) The agency has determined that—

(i) Recruiting and training standards for the personnel who are to perform the security-guard functions are comparable to the recruiting and training standards for DoD personnel who perform the same security-guard functions;

(ii) Contractor personnel performing such functions will be effectively supervised, reviewed, and evaluated; and

(iii) Performance of such functions will not result in a reduction in the security of the installation or facility; and

(3) Contract performance will not extend beyond December 1, 2005.

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BILLING CODE 5001-08-P

## DEPARTMENT OF TRANSPORTATION

### Transportation Security Administration

#### 49 CFR Part 1540

#### Prohibited Items

**AGENCY:** Transportation Security Administration (TSA), DOT.

**ACTION:** Interpretive rule.

**SUMMARY:** This interpretive rule provides guidance to the public on the types of property Transportation Security Administration (TSA) considers to be weapons, explosives, and incendiaries prohibited in airport sterile areas and in the cabins of aircraft under the TSA regulations. This interpretation also provides guidance on the types of items permitted in sterile areas, the cabins of passenger aircraft, and in passengers' checked baggage.

**EFFECTIVE DATE:** February 14, 2003.

**FOR FURTHER INFORMATION CONTACT:** For technical questions contact Vicky Skelly, Aviation Security Specialist, Air Carrier Division, Office of Aviation Security Policy, TSA-9, Transportation Security Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (571) 227-2641, e-mail [Vicky.skelly@tsa.dot.gov](mailto:Vicky.skelly@tsa.dot.gov). Legal questions may be directed to Ellen

Siegler, Attorney, TSA-2, Chief Counsel; telephone (571) 227-2723, e-mail [ellen.siegler@tsa.dot.gov](mailto:ellen.siegler@tsa.dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Availability of Documents

You can obtain an electronic copy of this interpretive rule and other TSA rulemaking documents using the Internet by:

(1) Accessing the Government Printing Office's web page at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html); or

(3) Visiting the TSA's Laws and Regulations web page at <http://www.tsa.dot.gov/public/index.jsp>.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section.

##### Statutory and Regulatory Background

Following the terrorist attacks on the United States on September 11, 2001, Congress passed the Aviation and Transportation Security Act (ATSA) on November 19, 2001 (49 U.S.C. 40101 *et seq.*), establishing TSA. TSA is an agency within the Department of Transportation (DOT), operating under the direction of the Under Secretary of Transportation for Security. TSA is responsible for security in all modes of transportation regulated by DOT, including civil aviation. See 49 U.S.C. 114(d). Accordingly, ATSA transferred the responsibility for civil aviation security from the Federal Aviation Administration (FAA) to the TSA.

On February 22, 2002, TSA published a final rule transferring the bulk of FAA's aviation security regulations to TSA. See 67 FR 8340. Among these was FAA's regulation governing the carriage of weapons, explosives, and incendiaries by individuals into sterile areas and into the cabins of passenger aircraft for which screening is conducted. This regulation now is codified at § 1540.111 of Title 49 of the Code of Federal Regulations (CFR). See 67 FR 8340 at 8354. See also 67 FR 41635 at 41639 (June 19, 2002).

*Section 1540.111 Carriage of Weapons, Explosives, and Incendiaries by Individuals.* The rule provides, in part, that an individual (other than a law enforcement or other authorized individual) "may not have a weapon, explosive, or incendiary, on or about the individual's person or accessible property—

(1) When performance has begun of the inspection of the individual's person or accessible property before entering a sterile area, or before boarding an aircraft for which screening is conducted under § 1544.201 or

§ 1546.201 of this chapter (TSA's regulations on acceptance and screening of individuals and accessible property);

(2) When the individual is entering or in a sterile area; or

(3) When the individual is attempting to board or onboard an aircraft for which screening is conducted under § 1544.201 or § 1546.201 of this chapter."

Section 1540.111(b) establishes certain exceptions to this rule for law enforcement officers and other persons authorized to carry weapons. These exceptions, however, do not apply to the general public.

For purposes of § 1540.111(a), "accessible property" is property that is accessible to the individual at the screening checkpoint, in the sterile area, or in the cabin of the aircraft. It includes carry-on baggage and property an individual carries on his or her person. A "sterile area" is a portion of an airport that provides passengers access to boarding aircraft and to which the access is generally controlled through the screening of persons and property. See 49 CFR 1540.5.

##### *Penalties for Prohibited Items.*

Individuals who carry weapons, explosives, or incendiaries into a sterile area or the cabin of a passenger aircraft are subject to civil and criminal penalties. See, for instance, 49 U.S.C. 46301 and 46314. These penalties also apply to individuals who place loaded firearms in checked baggage. See also 49 U.S.C. 46505.

*Today's Interpretative Rule.* This interpretation provides guidance to the public as to the types of property TSA considers to be "weapons, explosives, and incendiaries" that, if carried by an individual not authorized to carry such items, are prohibited in sterile areas and in the cabins of aircraft under 49 CFR 1540.111(a). TSA refers to these items collectively as prohibited items because they are prohibited from these areas. There are many items that are not created for use as weapons, explosives, or incendiaries, but may be used as such items. Today's regulatory interpretation includes examples of these so-called "dual use items," which also are prohibited. Congress specifically directed TSA to identify dual use items for purposes of passenger screening. See 49 U.S.C. 44935(h)(3).

This interpretation also provides guidance on items that are permitted in a sterile area and in the cabin of a passenger aircraft even though they may appear to fall into the broad categories of items on the prohibited items list. These items generally are personal care, medical, and assistive items, examples of which are set forth below. In

addition, certain prohibited items may be transported in checked baggage with appropriate safeguards.

It should be noted that TSA previously placed lists of prohibited and permitted items on its web site at [http://www.tsa.gov/trav\\_consumers/trav\\_consumers\\_tip\\_week.shtm](http://www.tsa.gov/trav_consumers/trav_consumers_tip_week.shtm). Today's interpretive rule makes some changes in these lists, and the lists on TSA's web site will be updated to reflect this interpretation.

Neither the prohibited items list nor the permitted items list in today's regulatory interpretation contains all possible items. There are items not included on the prohibited items list that may be prohibited in an airport's sterile area and the cabin of an aircraft. Screeners have discretion to prohibit an individual from carrying an item into a sterile area or onboard an aircraft if the screener determines that the item is a weapon, explosive, or incendiary, regardless of whether the item is on the prohibited items list. Moreover, if future information or events demonstrate the need to prohibit items that this interpretive rule has listed as permitted, TSA may prohibit individuals from bringing these items into the sterile area or onboard the aircraft, without first publishing a change to this rule. This is consistent with Congress's direction that screeners be proficient in recognizing new threats and weapons. See, 40 U.S.C. 44935(h)(1).

#### Prohibited Items

The prohibited items list includes items in the following categories: Weapons (guns, sharp objects, club-like objects), explosives, and other dangerous items such as incendiary materials and disabling chemicals. The list contains examples of items in these categories, but it is not an exclusive list.

**Weapons.** Weapons are objects that may be used to attack another. TSA considers an item to be a weapon under 49 CFR 1540.111 if it is created for use as a weapon or is so similar to an item created as a weapon that it appears to be, or is easily used as, a weapon.

Weapons include firearms, as well as realistic replicas of firearms that may reasonably be thought to be actual weapons. Such realistic replicas are prohibited because their similarity in appearance to real weapons may allow them to be used to intimidate passengers and flight crew. The screener has the discretion to determine when a replica is so realistic that it should be prohibited. Other toy weapons will be allowed in the sterile areas and cabin.

Partial weapons and parts of weapons also are prohibited because they may be carried separately by collaborators for

assembly subsequent to entry or boarding. In addition, partial weapons may appear to be operative and could be used to intimidate passengers and flight crew.

Weapons also include sharp objects that could be effective in intimidating or harming passengers or crew. These include knives; devices or instruments with razor blades, such as box cutters, utility knives with razor blades, and razor blades that are not components of safety razors; and metal scissors with pointed tips. Also included in this category are sharp or pointed tools and utensils such as screwdrivers, drills, and axes. Screwdrivers that are components of eyeglass repair kits, however, will be allowed in sterile areas and in the cabin.

The prohibited items list also includes as weapons many club-like items, whether made for use as weapons or made for other purposes but capable of being used as weapons. Examples include items such as billy clubs and night sticks, as well as items of sporting equipment, such as baseball bats, hockey sticks, lacrosse sticks, and tools such as crowbars and hammers.

**Explosives.** Explosives are substances that explode or cause an explosion. While many explosives may have commercial uses, they clearly could be used to damage an aircraft or against passengers and flight crew members. Examples include dynamite, plastic explosives, blasting caps, fireworks, flares, gunpowder, hand grenades, and ammunition for firearms. Realistic replicas of explosive devices are prohibited for the same reasons that realistic weapons are prohibited: They can be effective in intimidating crew and passengers.

**Incendiaries.** Incendiaries are devices or materials capable of causing a fire as well as realistic replicas of these devices. Examples include gasoline and other fuels, gas torches (including micro-torches and torch lighters), and strike-anywhere matches. Incendiaries also include aerosol cans containing flammable liquids. Although many personal care and toiletry items may come in the form of aerosol cans containing flammable contents, the prohibited items list specifically excludes these items when carried in limited quantities into a sterile area and the cabin of a passenger aircraft. Under these conditions, the materials pose little risk.

**Disabling Chemicals and Other Dangerous Items.** Another category of weapons is disabling chemicals and other dangerous items. These include items that are intended for this purpose, such as tear gas, pepper spray, and

mace, as well as household chemicals that may be used for this purpose, such as liquid bleach, chlorine for pools and spas, compressed gas cylinders, and batteries that may spill acid.

#### Separate Rules Governing Hazardous Materials

The prohibited items list contains a number of substances that constitute hazardous materials under separate DOT regulations for hazardous materials. See 49 CFR parts 172, 173, and 175. Individuals carrying hazardous materials on their person or in checked or carry-on baggage are subject to the hazardous materials requirements, which prohibit many types of hazardous materials from being carried aboard aircraft or permit their transport only with proper markings, labels, and packaging. Part 175 contains a list of passenger exceptions that permit passengers to bring into the cabin of a passenger aircraft some personal use items, such as toiletries, medicinal products, and limited quantities of certain matches and lighters for individual use, even though they otherwise constitute hazardous materials. Individuals with questions about the types and quantities of hazardous materials prohibited aboard passenger flights should contact the Hazardous Materials Information Center at 1-800-467-4922 or go to <http://hazmat.dot.gov/infocent.htm>.

#### Transport of Some Prohibited Items in Checked Baggage

Some items prohibited from sterile areas and aboard the cabin of passenger aircraft may be transported in checked baggage, under the following conditions. Passengers may place prohibited items other than explosives, incendiaries, and loaded firearms in their checked baggage, subject to any limitations provided in DOT's hazardous materials regulations. See 49 CFR part 175. Prohibited items that may be transported in checked baggage include unloaded firearms or starter pistols, small arms ammunition for personal use, club-like items, single containers of self-defense spray, and other articles listed in the interpretive rule. Realistic replicas of explosive and incendiary devices may not be transported in checked baggage because their detection would have the potential for causing delays and requiring the unwarranted expenditure of time and resources on the part of law enforcement personnel.

#### Permitted Items

Some items are permitted in a sterile area and the cabin of a passenger aircraft even though they may appear to fall into

the broad categories of items on the prohibited items list. These items generally are personal care, medical, and assistive items, and other items that appear to pose little risk or for which there is a compelling reason to allow their presence. For instance, many personal care items such as perfume and hair spray may contain incendiaries. In small amounts, however, they do not pose a risk to security. Other items, such as syringes included in diabetes-related equipment, and nitroglycerine pills or spray for medical purposes, conceivably could be used as weapons, but are permitted as a medical necessity for passengers with a legitimate need. Screwdrivers and other tools in eyeglass repair kits are also permitted, as are tools used in connection with prosthetic devices. Consistent with Department of Transportation regulations for hazardous materials, passengers also are permitted to carry no more than four books of matches (other than strike-anywhere matches) and no more than two lighters for individual use, if the lighters are fueled with non-refillable liquefied gas (Bic-type) or absorbed liquid (Zippo-type).

#### Interpretation

I. *Prohibited Items.* For purposes of 49 U.S.C. 40101 *et seq.* and 49 CFR 1540.111, TSA interprets the terms "weapons, explosives, and incendiaries" to include the items listed below. Accordingly, passengers may not carry these items as accessible property or on their person through passenger screening checkpoints or into airport sterile areas and the cabins of a passenger aircraft.

##### A. Guns and Firearms.

- (1) BB guns.
- (2) Compressed air guns.
- (3) Firearms.
- (4) Flare pistols.
- (5) Gun lighters.
- (6) Parts of guns and firearms.
- (7) Pellet guns.
- (8) Realistic replicas of firearms.
- (9) Spear guns.
- (10) Starter pistols.
- (11) Stun guns/cattle prods/shocking devices.

##### B. Sharp Objects.

- (1) Axes and hatchets.
- (2) Bows and arrows.
- (3) Drills, including cordless portable power drills.
- (4) Ice axes/Ice picks.
- (5) Knives of any length, except rounded-blade butter and plastic cutlery.
- (6) Meat cleavers.
- (7) Razor-type blades, such as box cutters, utility knives, and razor blades not in a cartridge, but excluding safety razors.

- (8) Sabers.
  - (9) Saws, including cordless portable power saws.
  - (10) Scissors, metal with pointed tips.
  - (11) Screwdrivers (except those in eyeglass repair kits).
  - (12) Swords.
  - (13) Throwing stars (martial arts).
- C. *Club-Like Items.*
- (1) Baseball bats.
  - (2) Billy clubs.
  - (3) Blackjacks.
  - (4) Brass knuckles.
  - (5) Cricket bats.
  - (6) Crowbars.
  - (7) Golf clubs.
  - (8) Hammers.
  - (9) Hockey sticks.
  - (10) Lacrosse sticks.
  - (11) Martial arts weapons, including nunchucks, and kubatons.
  - (12) Night sticks.
  - (13) Pool cues.
  - (14) Ski poles.
  - (15) Tools including, but not limited to, wrenches and pliers.

##### D. All Explosives, Including.

- (1) Ammunition.
  - (2) Blasting caps.
  - (3) Dynamite.
  - (4) Fireworks.
  - (5) Flares in any form.
  - (6) Gunpowder.
  - (7) Hand grenades.
  - (8) Plastic explosives.
  - (9) Realistic replicas of explosives.
- E. *Incendiaries.*
- (1) Aerosol, any, except for personal care or toiletries in limited quantities.
  - (2) Fuels, including cooking fuels and any flammable liquid fuel.
  - (3) Gasoline.
  - (4) Gas torches, including micro-torches and torch lighters.
  - (5) Lighter fluid.
  - (6) Strike-anywhere matches.
  - (7) Turpentine and paint thinner.
  - (8) Realistic replicas of incendiaries.

##### F. *Disabling Chemicals and Other Dangerous Items.*

- (1) Chlorine for pools and spas.
- (2) Compressed gas cylinders (including fire extinguishers).
- (3) Liquid bleach.
- (4) Mace.
- (5) Pepper spray.
- (6) Spillable batteries, except those in wheelchairs.
- (7) Spray Paint.
- (8) Tear gas.

II. *Permitted Items.* For purposes of 49 U.S.C. 40101 *et seq.* and 49 CFR 1540.111, TSA does not consider the items on the following lists as weapons, explosives, and incendiaries because of medical necessity or because they appear to pose little risk if, as is required, they have passed through screening. Therefore, passengers may

carry these items as accessible property or on their person through passenger screening checkpoints and into airport sterile areas and the cabins of passenger aircraft.

##### A. *Medical and Personal Items.*

(1) Braille note taker, slate and stylus, and augmentation devices.

(2) Cigar cutters.

(3) Corkscrews.

(4) Cuticle cutters.

(5) Diabetes-related supplies/equipment (once inspected to ensure prohibited items are not concealed), including: Insulin and insulin loaded dispensing products; vials or box of individual vials; jet injectors; pens; infusers; and preloaded syringes; and an unlimited number of unused syringes, when accompanied by insulin; lancets; blood glucose meters; blood glucose meter test strips; insulin pumps; and insulin pump supplies. Insulin in any form or dispenser must be properly marked with a professionally printed label identifying the medication or manufacturer's name or pharmaceutical label.

(6) Eyeglass repair tools, including screwdrivers.

(7) Eyelash curlers.

(8) Knives, round-bladed butter or plastic.

(9) Lighters (maximum of two, fueled with non-refillable liquefied gas (Bic-type) or absorbed liquid (Zippo-type)).

(10) Matches (maximum of four books, strike on cover, book type).

(11) Nail clippers.

(12) Nail files.

(13) Nitroglycerine pills or spray for medical use, if properly marked with a professionally printed label identifying the medication or manufacturer's name or pharmaceutical label.

(14) Personal care or toiletries with aerosols, in limited quantities.

(15) Prosthetic device tools and appliances (including drill, allen wrenches, pullsleeves) used to put on or remove prosthetic devices, if carried by the individual with the prosthetic device or his or her companion.

(16) Safety razors (including disposable razors).

(17) Scissors, plastic or metal with blunt tips.

(18) Tweezers.

(19) Umbrellas (once inspected to ensure prohibited items are not concealed).

(20) Walking canes (once inspected to ensure prohibited items are not concealed).

##### B. *Toys, Hobby Items, and Other Items Posing Little Risk.*

(1) Knitting and crochet needles.

(2) Toy transformer robots.

(3) Toy weapons (if not realistic replicas).

III. *Items Prohibited in Sterile and Cabin Areas but that May Be Placed in Checked Baggage.* Passengers may place prohibited items other than explosives, incendiaries, disabling chemicals and other dangerous items (other than individual self-defense sprays as noted below), and loaded firearms in their checked baggage, subject to any limitations provided in DOT's hazardous materials regulation. 49 CFR part 175.

(1) *Pepper spray or mace.* A passenger may have one self-defense spray, not exceeding 4 fluid ounces by volume, that incorporates a positive means to prevent accidental discharge. See 49 CFR 175.10(a)(4)(ii).

(2) *Small arms ammunition.* A passenger may place small arms ammunition for personal use in checked baggage, but only if securely packed in fiber, wood or metal boxes, or other packaging specifically designed to carry small amounts of ammunition. 49 CFR 175.10(a)(5).

(3) *Unloaded firearms.* A passenger may place an unloaded firearm or starter pistol in a checked bag if the passenger declares to the airline operator, either orally or in writing, before checking the baggage, that the passenger has a firearm in his or her bag and that it is unloaded; the firearm is carried in a hard-sided container; and the container is locked, and only the passenger has the key or combination. 49 CFR 1540.111(c).

(4) *Club-like items.* A passenger also may transport club-like objects and sharp objects in checked baggage, as long as they do not contain explosives or incendiaries.

(5) *Self-defense spray.* A passenger may have one self-defense spray (pepper spray or mace) not exceeding four fluid ounces in a checked bag if the spray container has a positive means to prevent accidental discharge. See 49 CFR 175.10(a)(4)(ii).

(6) *Other items.* Compressed air guns, fire extinguishers, flare pistols, and gun lighters are regulated as hazardous materials and may only be transported in checked baggage under strict limitations in quantity and packaging. 49 CFR part 175.

IV. *Lists are not Exclusive.* Neither the prohibited items list nor the permitted items list contains all possible items. A screener has discretion to prohibit an individual from carrying an item into a sterile area or onboard an aircraft if the screener determines that the item is a weapon, explosive, or incendiary, regardless of whether the item is on the prohibited items list or the permitted items list. For example, if a cigar cutter or other article on the permitted list appears unusually dangerous, the

screener may refuse to allow it in sterile areas. Similarly, screeners may allow individuals to bring items into the sterile area that are not on the permitted items list. In addition, items may be prohibited from the cabin of an aircraft, or allowed in only limited quantities, by Department of Transportation regulations governing hazardous materials. Individuals with questions about the carriage of hazardous materials on passenger aircraft may call the Hazardous Materials Information Center at 1-800-467-4922 for more information.

### Regulatory Impact Analyses

#### Regulatory Evaluation

This is not a substantive rule. Rather, it explains to the public, airport personnel, screeners, and airlines how the TSA interprets certain terms used in an existing rule, 49 CFR 1540.111. Generally, an interpretive rule is not likely to impose an economic impact distinct from the impact of the underlying rule. This interpretive rule does not expand the universe of items that passengers will not be allowed to bring into sterile areas or on board aircraft beyond the types of items that currently are considered prohibited weapons, explosives, and incendiaries under the underlying rule.

The resulting economic impact of this rule is non-significant. Passengers and other persons with items that may not be brought into sterile areas have several options, some of which include transporting the prohibited item in checked baggage, mailing it to a destination, or returning it to their car. These persons can also choose to voluntarily abandon the property in TSA-provided receptacles, at which point title of the property transfers to the Government. The rule does not affect manufacturers' or distributors' ability to sell items that may not be brought into sterile areas or passengers' ability to purchase them (prohibited items sold in sterile areas must be shipped to the purchaser).

While little or no adverse economic impact is expected, some unquantifiable economic benefit may result from the fact that this interpretive rule will expedite the screening process at the nation's airports by assisting passengers in deciding how to handle specified items before passengers reach the checkpoint.

Based on this analysis, this interpretive rule is not considered a "significant regulatory action" for purposes of Executive Order 12866.

### Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980, as amended, (RFA) was enacted by Congress to ensure that small entities (small businesses, small not-for-profit organizations, and small governmental jurisdictions) are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires agencies to review rules to determine if they have "a significant economic impact on a substantial number of small entities." Based on the analysis discussed in the section above, this interpretive rule does not impose a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis is not required.

### Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. TSA has assessed the potential effect of this interpretive rule and has determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, is intended to discourage imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement that assesses the effect of any Federal mandate found in a rulemaking action that may result in an expenditure of \$100 million or more (adjusted annually for inflation) in any one year by State, local and tribal governments, in the aggregate, or by the private sector. Such a mandate is identified as a "significant regulatory action." The interpretive rule does not impose an unfunded mandate on state, local, or tribal governments because it does not require any action on the part of those entities.

### Executive Order 13132, Federalism

TSA has examined this rule under the principles and criteria of Executive Order 13132, Federalism. TSA has determined that this action will not have a substantial direct effect on the States, or the relationship between the national government and the States, or

the distribution of power and responsibilities among the various levels of government. Therefore, this interpretative rule does not have federalism implications.

#### *Environmental Analysis*

TSA has reviewed this action for purposes of the National Environmental Review Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

#### *Energy Impact*

The energy impact of this rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

Issued in Washington, DC, February 10, 2003.

**James M. Loy,**

*Under Secretary of Transportation for Security.*

[FR Doc. 03–3736 Filed 2–13–03; 8:45 am]

**BILLING CODE 4910–62–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 021212306–2306–01; I.D. 020703C]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 24 hours. This action is necessary to fully use the 2003 interim total allowable catch of pollock specific for this area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 13, 2003, until 1200 hrs, A.l.t., February 14, 2003.

**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 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. 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 amount of the 2003 pollock TAC in Statistical Area 630 of the GOA was established as 1,222 metric tons by the interim 2003 harvest specifications for groundfish in the GOA (67 FR 78733, December 26, 2002).

NMFS closed the directed fishery for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on January 21, 2003 (68 FR 2921, January 22, 2003).

NMFS has determined that approximately 587 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for pollock in Statistical Area 630 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional

Administrator finds that this directed fishing allowance will be reached after 24 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA effective 1200 hrs, A.l.t., February 14, 2003.

#### **Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to allow full use of the amount of the 2003 interim pollock TAC specified for Statistical Area 630 of the GOA constitutes 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)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to allow full use of the amount of the 2003 interim pollock TAC specified for Statistical Area 630 of the GOA constitutes good cause to find that the effective date 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 Executive Order 12866.

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

Dated: February 10, 2003.

**Richard W. Surdi,**

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

[FR Doc. 03–3755 Filed 2–11–03; 3:00 pm]

**BILLING CODE 3510–22–S**