

property whose expected useful life is two years or longer and whose acquisition value, as determined by the agency, warrants tracking in the agency's property records, including capitalized and sensitive personal property.

*Accountability* means the ability to account for personal property by providing a complete audit trail for property transactions from receipt to final disposition.

*Acquisition cost* means the original purchase price of an item.

*Capitalized Personal Property* includes property that is entered on the agency's general ledger records as a major investment or asset. An agency must determine its capitalization thresholds as discussed in Financial Accounting Standard Advisory Board (FASAB) Statement of Federal Financial Accounting Standards No. 6 Accounting for Property, Plant and Equipment, Chapter 1, paragraph 13.

*Control* means the ongoing function of maintaining physical oversight and surveillance of personal property throughout its complete life cycle using various property management tools and techniques taking into account the environment in which the property is located and its vulnerability to theft, waste, fraud, or abuse.

*Excess personal property* (see § 102–36.40 of this subchapter B).

*Exchange/sale* (see § 102–39.20 of this subchapter B).

*Executive agency* (see § 102–36.40 of this subchapter B).

*Federal agency* (see § 102–36.40 of this subchapter B).

*Foreign gifts and decorations* (for the definition of relevant terms, see § 102–42.10 of this subchapter B).

*Forfeited property* (see § 102–41.20 of this subchapter B).

*Inventory* includes a formal listing of all accountable property items assigned to an agency, along with a formal process to verify the condition, location, and quantity of such items. This term may also be used as a verb to indicate the actions leading to the development of a listing. In this sense, an inventory must be conducted using an actual physical count, electronic means, and/or statistical methods.

*National property management officer* means an official, designated in accordance with § 102–36.45(b) of this subchapter B, who is responsible for ensuring effective acquisition, use, and disposal of excess property within your agency.

*Personal property* (see § 102–36.40 of this subchapter B).

*Property management* means the system of acquiring, maintaining, using

and disposing of the personal property of an organization or entity.

*Seized property* means personal property that has been confiscated by a Federal agency, and whose care and handling will be the responsibility of that agency until final ownership is determined by the judicial process.

*Sensitive Personal Property* includes all items, regardless of value, that require special control and accountability due to unusual rates of loss, theft or misuse, or due to national security or export control considerations. Such property includes weapons, ammunition, explosives, information technology equipment with memory capability, cameras, and communications equipment. These classifications do not preclude agencies from specifying additional personal property classifications to effectively manage their programs.

*Surplus personal property* (see § 102–37.25 of this subchapter B).

*Utilization* means the identification, reporting, and transfer of excess personal property among Federal agencies.

#### **§ 102–35.25 What management reports must we provide?**

(a) There are three reports that must be provided. The report summarizing the property provided to non-Federal recipients and the report summarizing exchange/sale transactions (see §§ 102–36.295 and 102–39.75 respectively of this subchapter B) must be provided every year (negative reports are required). In addition, if you conduct negotiated sales of surplus personal property valued over \$5,000 in any year, you must report this transaction in accordance with § 102–38.115 (negative reports are not required for this report).

(b) The General Services Administration (GSA) may request other reports as authorized by 40 U.S.C. 506(a)(1)(A).

#### **§ 102–35.30 What actions must I take or am I authorized to take regardless of the property disposition method?**

Regardless of the disposition method used:

(a) You must maintain property in a safe, secure, and cost-effective manner until final disposition.

(b) You have authority to use the abandonment/ destruction provisions at any stage of the disposal process (see §§ 102–36.305 through 102–36.330 and § 102–38.70 of this subchapter B).

(c) You must implement policies and procedures to remove sensitive or classified information from property prior to disposal. Agency-affixed markings should be removed, if at all

possible, prior to personal property permanently leaving your agency's control.

(d) Government-owned personal property may only be used as authorized by your agency. Title to Government-owned personal property cannot be transferred to a non-Federal entity unless through official procedures specifically authorized by law.

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

#### **49 CFR Part 211**

[Docket No. 2006–24141, Notice No. 2]

RIN 2130–AB77

#### **Rules of Practice: Direct Final Rulemaking Procedures**

**AGENCY:** Federal Railroad Administration (FRA), DOT.

**ACTION:** Final rule.

**SUMMARY:** In October 2006, FRA proposed to amend its rules of practice by adopting direct final rulemaking procedures intended to expedite the publication of routine or noncontroversial changes. FRA received no comments to this proposal, and in this rule adopts its proposed direct final rulemaking procedures without change.

**DATES:** This rule is effective on April 6, 2007.

**FOR FURTHER INFORMATION CONTACT:** Patricia V. Sun, Trial Attorney, Mail Stop 10, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20005 (telephone: (202) 493–6038).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On October 11, 2006, FRA proposed to amend its Rules of Practice (49 CFR Part 211) to adopt direct final rulemaking procedures which would expedite its rulemaking process for noncontroversial regulatory changes to which no adverse comment was anticipated (71 FR 59698). The proposed direct final rulemaking procedures, closely modeled upon those of the Office of the Secretary of Transportation (OST) (January 30, 2004, 69 FR 4455), would allow FRA to reduce the time necessary to develop, review, clear and publish routine rules to which no adverse public comment was anticipated by eliminating the requirement to publish separate

proposed and final rules. FRA received no comments to the proposal, and in this rule adopts its proposed direct final rulemaking procedures without change.

Other agencies, such as the Nuclear Regulatory Commission, the Food and Drug Administration, the Environmental Protection Agency, the Department of Agriculture, and the Department of Energy (DOE) have adopted and successfully used direct final rulemaking procedures for routine changes. The DOE, for example, amended its test procedures for measuring the energy consumption of clothes washers through a direct final rule (October 31, 2003, 68 FR 62197).

#### The Direct Final Rulemaking Process

As mentioned above, proceeding through a direct final rulemaking enables FRA to eliminate an unnecessary second round of internal review and clearance, as well as public review, for noncontroversial proposed rules. As proposed, FRA may use direct final rulemaking for noncontroversial rules, including those that:

- (1) Affect internal procedures of the Federal Railroad Administration, such as filing requirements and rules governing inspection and copying of documents,
- (2) Are nonsubstantive clarifications or corrections to existing rules;
- (3) Update existing forms; and
- (4) Make minor changes in substantive rules regarding statistics and reporting requirements, such as a lessening of the reporting frequency (for example, from monthly to quarterly) or elimination of a type of data that FRA no longer needs to collect.

FRA may also use direct final rulemaking process for a particular rule if similar rules had been previously proposed and published without adverse comment.

If FRA determines that a rule is appropriate for direct final rulemaking, FRA will publish the rule in the final rule section of the **Federal Register**. In a direct final rule document, the "action" will be captioned "direct final rule" and will include language in the summary and preamble informing interested parties of their right to comment and their right to request an oral hearing, if such opportunity is required. The direct final rule notice will advise the public that FRA anticipates no adverse comment to the rule and that the rule will become effective a specified number of days after the date of publication unless FRA receives written adverse comment or a request for an oral hearing (if such opportunity is required by statute) within the specified comment period.

An "adverse" comment is one that is critical of the rule, suggests that the rule should not be adopted, or suggests that a change should be made in the rule. FRA will not consider a comment submitted in support of the rule, or a request for clarification of the rule, to be adverse. FRA will provide sufficient comment time to allow interested parties to determine whether they wish or need to submit adverse comments, and will answer any requests for clarification while the comment period is running. If FRA receives no written adverse comment or request for oral hearing within the comment period, FRA will publish another notice in the **Federal Register** indicating that no adverse comment has been received and confirming that the rule will become effective on the specified date.

If, however, FRA receives the timely submission of an adverse comment or notice of intent to submit adverse comment, FRA will stop the direct final rulemaking process and withdraw the direct final rule by publishing a notice in the final rule section of the **Federal Register**. If FRA decides that the rulemaking remains necessary, FRA will recommence the rulemaking under its standard rulemaking procedures by publishing a notice proposing the rule in the proposed rules section of the **Federal Register**. The proposed rule will provide for a new public comment period.

The additional time and effort required to withdraw the direct final rule and issue a Notice of Proposed Rulemaking will be an incentive for FRA to act conservatively in evaluating whether to use the direct final rulemaking process for a particular rule. FRA will not use direct final rulemaking for complex or potentially controversial matters.

#### Regulatory Analyses and Notices

FRA has determined that this action is not a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. There are no costs associated with the proposed rule. There will be some cost savings in **Federal Register** publication costs and efficiencies for the public and FRA personnel in eliminating duplicative reviews. FRA certifies that this rule will not have a significant impact on a substantial number of small entities. FRA does not believe there are sufficient federalism implications to warrant the preparation of a federalism assessment. Because this rule does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive

Order 13175 ("Consultation and Coordination with Indian Tribal Governments") do not apply.

#### Paperwork Reduction Act

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### Unfunded Mandates Reform Act of 1995

FRA has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

#### List of Subjects in 49 CFR Part 211

Administrative practice and procedure, Rules of practice.

■ In consideration of the foregoing, FRA amends 49 CFR part 211 as follows:

#### PART 211—[AMENDED]

■ 1. The authority citation for part 211 is amended to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20114, 20306, 20502–20504, and 49 CFR 1.49.

■ 2. In part 211, subpart B—Rulemaking Procedures, is amended by adding a new section 211.33, Direct final rulemaking procedures, as follows:

#### § 211.33 Direct final rulemaking procedures.

(a) Rules that the Administrator judges to be noncontroversial and unlikely to result in adverse public comment may be published in the final rule section of the **Federal Register** as direct final rules. These include noncontroversial rules that:

(1) Affect internal procedures of the Federal Railroad Administration, such as filing requirements and rules governing inspection and copying of documents,

- (2) Are nonsubstantive clarifications or corrections to existing rules,
- (3) Update existing forms, and
- (4) Make minor changes in the substantive rules regarding statistics and reporting requirements.

(b) The **Federal Register** document will state that any adverse comment or notice of intent to submit adverse comment must be received in writing by the Federal Railroad Administration within the specified time after the date of publication and that, if no written adverse comment or request for oral hearing (if such opportunity is required by statute) is received, the rule will become effective a specified number of days after the date of publication.

(c) If no adverse comment or request for oral hearing is received by the Federal Railroad Administration within

the specified time of publication in the **Federal Register**, the Federal Railroad Administration will publish a notice in the **Federal Register** indicating that no adverse comment was received and confirming that the rule will become effective on the date that was indicated in the direct final rule.

(d) If the Federal Railroad Administration receives any written adverse comment or request for oral hearing within the specified time of publication in the **Federal Register**, a notice withdrawing the direct final rule will be published in the final rule section of the **Federal Register** and, if the Federal Railroad Administration decides a rulemaking is warranted, a notice of proposed rulemaking will be published in the proposed rule section of the **Federal Register**.

(e) An "adverse" comment for the purpose of this subpart means any comment that the Federal Railroad Administration determines is critical of the rule, suggests that the rule should not be adopted, or suggests a change that should be made in the rule.

Issued in Washington, DC, on February 27, 2007.

**Joseph H. Boardman,**  
Administrator.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 060425111-6315-03;I.D.  
041906B]

RIN 0648-AN09

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Vessel Monitoring Systems; Amendment 18A

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

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** NMFS further delays the December 7, 2006, effective date of two sections of a final rule, published August 9, 2006, until May 6, 2007. The amendments to those sections will require owners/operators of vessels with Gulf reef fish commercial vessel permits to install a NMFS-approved vessel monitoring system (VMS) and will make installation of VMS a prerequisite for

permit renewal or transfer. This delay of the effective date will provide additional time for resolution of an unanticipated technological problem with one of the approved VMS units purchased by significant portion of the fleet and will allow vendors additional time to meet the demand for purchase and installation of VMS units that are currently backlogged.

**DATES:** The effective date of §§ 622.9(a)(2) and 622.4(m)(1) published August 9, 2006 (71 FR 45428), is delayed until May 6, 2007.

**ADDRESSES:** Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements referred to in this final rule may be submitted in writing to Jason Rueter, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727-824-5305; fax 727-824-5308; email [Jason.Rueter@noaa.gov](mailto:Jason.Rueter@noaa.gov) and to David Rostker, Office of Management and Budget (OMB), by e-mail at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax to 202-395-7285.

#### FOR FURTHER INFORMATION CONTACT:

Peter Hood, telephone 727-824-5305, fax 727-824-5308, e-mail [Peter.Hood@noaa.gov](mailto:Peter.Hood@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final rule to implement Amendment 18A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 18A) (71 FR 45428, August 9, 2006) included a provision, § 622.9(a)(2), requiring owners or operators of a vessel with a commercial vessel permit for Gulf reef fish, including charter/headboats with commercial reef fish vessel permits even when under charter, to be equipped with an operating VMS approved by NMFS for the Gulf of Mexico reef fish fishery. Additionally, § 622.4(m)(1) required proof of purchase, installation, activation, and operational status of an approved VMS for renewal or transfer of a commercial vessel permit for Gulf reef fish.

Subsequent to the publication of the final rule, NMFS published a notice listing VMS approved by NMFS for use in the Gulf reef fish fishery (71 FR 54472, September 15, 2006). On October 31, 2006, NMFS published a notice (71 FR 63753), announcing availability of grant funds to reimburse owners and operators of vessels subject to the VMS requirements of Amendment 18A for the equivalent cost of purchasing the least expensive VMS approved by NMFS for the Gulf reef fish fishery. On December

6, 2006, because of concerns that fishers would not have sufficient time to comply with the VMS requirements, NMFS published a notice (71 FR 70680) to delay the effective date of § 622.9(a)(2), the VMS requirement, and § 622.4(m)(1), the provision requiring VMS as a condition of renewing or transferring a commercial vessel permit for Gulf reef fish.

#### Further Delay of Effective Date

NMFS is further delaying, until May 6, 2007, the effective date of § 622.9(a)(2), the VMS requirement, and § 622.4(m)(1), the provision requiring VMS as a condition of renewing or transferring a commercial vessel permit for Gulf reef fish. NMFS recently learned, and has confirmed with the VMS vendor, that there is a technological problem with one of the approved VMS units that has been purchased by a significant portion of the commercial reef fish fleet. This VMS unit, as currently configured, has an excessive power draw. When the vessel is not under power or does not have access to an external power source for longer than about 48 hours, the power draw from this VMS unit can drain all battery power, resulting in failure of electronic equipment including such safety equipment as bilge pumps. The vendor is working with vessel owners to resolve this issue through a reconfiguration of the VMS installation. NMFS has determined that a 60-day delay in implementation of the VMS requirements should be sufficient to resolve this issue. NMFS has also confirmed that providers of approved VMS units have a substantial backlog of orders for approved VMS units. It would not be possible for all affected fishers to acquire, install, and activate the required VMS units prior to the current March 7, 2007 deadline. Therefore, for these reasons, NMFS is delaying the effective date of §§ 622.9(a)(2) and 622.4(m)(1) until May 6, 2007.

#### Classification

The Administrator, Southeast Region, NMFS, (RA) has determined that delaying the effective date of VMS requirements for vessels with commercial vessel permits for Gulf reef fish is necessary for management of the fishery and to minimize adverse social and economic impacts. The RA has also determined that this rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.