

must comply with 33 CFR part 105 are subject to earlier, rolling compliance dates, as set forth in 33 CFR 105.115(e). The Coast Guard announced the rolling compliance dates, as provided in 33 CFR 105.115(e), at least 90 days in advance via notices published in the **Federal Register**. The final compliance date for all COTP Zones will not be later than April 15, 2009.

On September 30, 2008, we announced the compliance date for COTP Zone Honolulu would be February 12, 2009 (73 FR 56730).

## II. Notice of Facility Compliance Date—American Samoa, COTP Zone Honolulu

Title 33 CFR 105.115(e) currently states that “[f]acility owners and operators must be operating in accordance with the TWIC provisions in this part by the date set by the Coast Guard in a Notice to be published in the **Federal Register**.” Through this Notice, the Coast Guard informs the owners and operators of facilities subject to 33 CFR 105.115(e) located on American Samoa within COTP Zone Honolulu that the deadline for their compliance with Coast Guard and TSA TWIC requirements has been extended until April 14, 2009.

This extension is being granted due to the fact that approximately 87% of the maritime workers that require TWICs in American Samoa are not native to the island, and do not need to comply with United States immigration laws. They are not issued a visa by the U.S. Department of State (DOS), and therefore they do not meet the immigration standards required for a TWIC, found in 49 CFR 1572.105. This new date provides sufficient time for the Coast Guard, in consultation with TSA, DHS, and DOS, to determine whether there is an equivalent visa category that these workers can use to qualify for a TWIC, or whether the TWIC requirement for facilities in American Samoa needs to be reconsidered, as it was for facilities located in the Commonwealth of the Northern Mariana Islands (72 FR 55043).

We note that this compliance delay ONLY applies to facilities located on the island of American Samoa; facilities subject to 33 CFR part 105 in the remainder of COTP Zone Honolulu must continue to comply with the TWIC requirements beginning February 12, 2009.

You may visit our Web site at [homeport.uscg.mil/twic](http://homeport.uscg.mil/twic) for a listing of all compliance dates by COTP Zone. This list is subject to change; any changes in compliance dates will appear on that Web site and be announced in the **Federal Register**.

Dated: February 9, 2009.

**Mark P. O'Malley,**

*Captain, U.S. Coast Guard, Chief, Ports and Facilities Activities.*

[FR Doc. E9-3119 Filed 2-10-09; 1:00 pm]

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 209

[FRA-2007-28573]

RIN 2130-AB87

#### Railroad Safety Enforcement Procedures; Enforcement, Appeal and Hearing Procedures for Rail Routing Decisions

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

**ACTION:** Final rule; clarification.

**SUMMARY:** On November 26, 2008, FRA published the final rule in this docket that established procedures to enable railroad carriers to challenge rail routing decisions made by FRA's Associate Administrator for Safety. The final rule was published with an immediate effective date. Under applicable federal statutes, this document did not qualify for an immediate effective date.

**DATES:** The applicability date for the final rule published at 73 FR 72194 was January 15, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Lucinda Henriksen, Office of Chief Counsel, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590 (telephone 202-493-1345).

**SUPPLEMENTARY INFORMATION:** The final rule in this proceeding, published on November 26, 2008, indicated that it would be effective upon publication. See 73 FR 72194. Pursuant to Section 553 of the Administrative Procedure Act (APA), codified at 5 U.S.C. 553, with certain exceptions, substantive rules cannot take effect less than 30 days after publication, unless the agency finds good cause for doing so and provides a written explanation of any good cause found when the rule is published. FRA provided no justification for the immediate effective date in the published rule document and, in fact, FRA did not intend to avail itself of the good cause exception of 5 U.S.C. 553.

In addition, in accordance with the Congressional Review Act (CRA), at 5 U.S.C. 801(a)(4), a final rule cannot take effect until the rule is submitted to

Congress in accordance with 5 U.S.C. 801(a)(1). The rule was submitted to Congress on January 15, 2009.

According to the procedures established by the Administrative Committee of the **Federal Register** under the **Federal Register** Act (44 U.S.C. Chapter 15), the amendments to the Code of Federal Regulations (CFR) set out in this final rule were incorporated into the CFR on November 26, 2008, the effective date of the rule. However, because of the issues with the APA and the CRA, this rule could not become applicable or enforceable until January 15, 2009.

Accordingly, FRA acknowledges that the rule was not effective and enforceable until January 15, 2009. FRA further notes that because the rule establishes procedures that have not yet been utilized, neither the public, nor any regulated entities, were harmed in the interim period between publication of the rule and January 15, 2009.

Issued in Washington, DC, on February 6, 2009.

**Jo Strang,**

*Acting Deputy Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

RIN 0648-XM03

#### Fraser River Sockeye Salmon Fisheries; Inseason Orders

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

**ACTION:** Temporary orders; inseason orders; request for comments.

**SUMMARY:** NMFS publishes Fraser River salmon inseason orders to regulate salmon fisheries in U.S. waters. The orders were issued by the Fraser River Panel (Panel) of the Pacific Salmon Commission (Commission) and subsequently approved and issued by NMFS during the 2008 salmon fisheries within the U.S. Fraser River Panel Area. These orders established fishing dates, times, and areas for the gear types of U.S. treaty Indian and all citizen fisheries during the period the Panel exercised jurisdiction over these fisheries.

**DATES:** The effective dates for the inseason orders are set out in this