

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 eliminates the requirement that parties taking advantage of the exemption at 49 U.S.C. 13505(b) prepare and file a notice of their operations. This action is thus consistent with the 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 369**

Highways and roads.

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, CFR, Chapter III, by removing part 369.

Issued on: July 7, 1997.

**Jane F. Garvey,**

*Acting Administrator for the Federal Highway Administration*

[FR Doc. 97-18697 Filed 7-15-97; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**49 CFR Part 372**

[FHWA Docket No. MC-96-38 and No. FHWA-97-2280]

RIN 2125-AE03

**Exemption of Notice Filing Requirements for Agricultural Cooperative Associations Which Conduct Compensated Transportation Operations for Nonmembers**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This document removes the regulation specifying the notice filing requirements for agricultural cooperative associations which conduct compensated transportation operations for nonmembers. These operations are exempt from regulation if certain statutory limitations on their scope are observed. Section 103 of the ICC Termination Act of 1995 (ICCTA), Pub. L. 104-88, 109 Stat. 803, removed the requirement that a notice be filed before initiation of operations under the exemption.

**EFFECTIVE DATE:** August 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas T. Vining or Ms. Patricia A. Burke, Office of Motor Carrier Information Analysis, HIA-30, (202) 358-7028, or Ms. Grace Reidy, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, 400 Seventh St., SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** On October 21, 1996, the FHWA published a proposed rule and a request for comments in the **Federal Register** (61 FR 54712) on the removal of the regulation specifying the notice filing requirement for agricultural cooperative associations which conduct compensated transportation operations for nonmembers. The former Interstate Commerce Act contained an exemption from ICC regulation at 49 U.S.C. 13506(a)(5) (formerly 49 U.S.C. 10526(a)(5)) for transportation provided by an agricultural cooperative association for nonmembers. To qualify for the exemption, the transportation services for nonmembers were required to be incidental to the cooperative's primary transportation operations, could not exceed annually 25 percent of the cooperative's total transportation between any two involved points, and,

as a whole, could not exceed the transportation provided for the cooperative association and its members. The cooperative was also required to file a notice with the ICC of its intent to provide transportation for nonmembers.

The ICCTA reenacted the substantive exemption for nonmember transportation services by agricultural cooperatives, but removed the notice filing requirement. 49 U.S.C. 13506(a)(5). Although the ICCTA does not prohibit imposition of a notice requirement by the FHWA, which has assumed responsibility for this regulation pursuant to the ICCTA, the notice of proposed rulemaking questioned the continuing need for any required notice.

The public comment period for the proposed rule closed on December 20, 1996. No comments were submitted, and the proposed rule is adopted.

The Secretary is granted authority at 49 U.S.C. 13508 to require agricultural cooperatives to maintain records of transportation provided for members and nonmembers. Section 13508 makes these records subject to inspection and imposes specific penalties for reporting and recordkeeping violations. Regulations at 49 CFR 372.111 delineate the scope of the required records. The information contained in these records can be inspected by the FHWA if it ever appears that a cooperative is performing transportation services for nonmembers which exceed the scope of the exemption. Moreover, it is unlikely that a cooperative would have any incentive to conduct unlawful transportation operations. Under the ICCTA, licensing requirements are now essentially limited to compliance with safety and insurance standards. A cooperative could easily obtain operating authority for legitimate operations.

In these circumstances, the notice requirement at 49 CFR 372.113 no longer serves any legitimate purpose. Removal of this regulation, and the adoption of conforming amendments to 49 CFR 372.111, will eliminate unnecessary regulatory requirements.

**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. The economic impact of this rulemaking is minimal; therefore, a full regulatory evaluation is not required. The rulemaking merely

eliminates a notice filing requirement which applies to a small number of transportation entities. Neither the individual nor cumulative impact of this action is 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 filing requirement currently only involves the preparation of a relatively simple notice by a limited number of transportation entities. Its elimination, while beneficial, will not have a significant economic impact.

#### Executive Order 12612 (Federalism Assessment)

This action was analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it was 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.* On the contrary, it eliminates the requirement that parties taking advantage of the exemption at 49 U.S.C. 13506(a)(5) file Form OCP-102 (Office of Management and Budget #3120-0005, εχπρεδ 11-30-95). Τηισ αφτιον ισ τηθσ ψονισιτεντ ζιτη τηε γοαλσ οφ τηε Παπερσορκ Ρεδθψτιον Αψτ.

#### 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 372

Agricultural commodities, Buses, Commercial zones, Freight forwarders, Highways and roads, Motor carriers of property, Reporting and recordkeeping requirements.

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, CFR, Chapter III, Part 372 as set forth below:

#### PART 372—EXEMPTIONS, COMMERCIAL ZONES, AND TERMINAL AREAS

1. The authority citation for Part 372 continues to read as follows:

**Authority:** 49 U.S.C. 13504 and 13506; 49 CFR 1.48.

2. Section 372.111 is amended in paragraph (a) by removing the words "which is required to give notice to the Commission under § 1047.23", and in paragraph (b) by removing the words "and required to give notice to this Commission under § 1047.23".

#### § 372.113 [Removed and reserved]

3. Section 372.113 is removed and reserved.

Issued on: July 7, 1997.

**Jane F. Garvey,**

*Acting Administrator for the Federal Highway Administration.*

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 285

[I.D. 070997E]

#### Atlantic Tuna Fisheries; Adjustments

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

**ACTION:** Fishery reopening.

**SUMMARY:** NMFS has determined that the Atlantic bluefin tuna Harpoon category quota has not been reached. Therefore, NMFS reopens the Harpoon category for 3 days effective July 11,

1997. Closure of this 3-day fishery will be strictly enforced. This action is being taken to allow full harvest of the Harpoon category quota.

**DATES:** Effective Friday, July 11, at 1 a.m. local time until Sunday, July 13, at 11:30 p.m. local time.

**FOR FURTHER INFORMATION CONTACT:** John Kelly, 301-713-2347, or Mark Murray-Brown, 508-281-9260.

#### SUPPLEMENTARY INFORMATION:

Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of ABT will equal the quota and publish a **Federal Register** announcement to close the applicable fishery.

Implementing regulations for the Atlantic tuna fisheries at § 285.22 provide for a quota of 53 mt of large medium and giant ABT to be harvested from the regulatory area by vessels permitted in the Harpoon category.

Based on reported catch and effort, NMFS filed an action with the Office of the Federal Register on July 3, 1997, to close the Harpoon category fishery on July 7, 1997. NMFS has determined that, due to lower than expected fishing effort and landings, the full 53 mt has not been taken. Average catch rates for the month of June indicate that the remaining quota could be taken in 3 fishing days. Therefore, NMFS is reopening the Harpoon category effective 1 a.m., July 11, and closing 11:30 p.m., July 13 to ensure full attainment of the Harpoon category quota.

#### Classification

This action is taken under §§ 285.20(b) and 285.22 and is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 971 *et seq.*

Dated: July 10, 1997.

**Gary C. Matlock,**

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

[FR Doc. 97-18587 Filed 7-10-97; 3:46 pm]

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