

Populations" (59 FR 7629, Feb. 16, 1994), FEMA incorporates environmental justice into its policies and programs. The Executive Order requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in programs, denying persons the benefits of programs, or subjecting persons to discrimination because of race, color, or national origin. FEMA believes that no action under this rule will have a disproportionately high or adverse effect on human health or the environment, and that the rule meets the requirements of the Executive Order.

*Executive Order 13045, Protection of Children*

FEMA has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or safety that might disproportionately affect children.

*Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

FEMA has reviewed this rule under Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000). This rule will not have a substantial direct effect on one or more Indian Tribes, 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.

*Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights*

FEMA has reviewed this rule under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" (53 FR 8859, Mar. 18, 1988) as supplemented by Executive Order 13406, "Protecting the Property Rights of the American People" (71 FR 36973, June 28, 2006). This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630.

**List of Subjects in 44 CFR Part 62**

Claims, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, the interim rule amending 44 CFR part 62 which was

published at 73 FR 18182, Apr. 3, 2008, is adopted as final without change.

Dated: July 16, 2009.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Parts 356, 365, and 374**

[Docket No. FMCSA-2008-0235]

**RIN 2126-AB16**

**Elimination of Route Designation Requirement for Motor Carriers Transporting Passengers Over Regular Routes**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of disposition.

**SUMMARY:** On March 17, 2009, FMCSA published a notice in the **Federal Register** (74 FR 11318) extending the effective date of its January 16, 2009 final rule entitled "Elimination of Route Designation Requirement for Motor Carriers Transporting Passengers Over Regular Routes" until June 15, 2009. This allowed for the solicitation of additional public comments on the final rule and gave the incoming Administration sufficient time to consider and respond to comments. After reviewing the one comment that was received, FMCSA decided to allow the January 19, 2009 final rule to go into effect. This notice addresses the comment that was submitted.

**DATES:** The effective date for the rule amending 49 CFR Parts 356, 365, and 374 published at 74 FR 2895 on January 16, 2009, was June 15, 2009. The compliance date for this rule was July 15, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Miller, Regulatory Development Division, (202) 366-5370 or by e-mail at: [FMCSAregs@dot.gov](mailto:FMCSAregs@dot.gov).

**SUPPLEMENTARY INFORMATION:**

On January 16, 2009, FMCSA published a final rule announcing the discontinuation of the administrative requirement that applicants seeking for-hire authority to transport passengers over regular routes submit a detailed description and a map of the route(s) over which they propose to operate (74 FR 2895). The Agency indicated that it will register such carriers as regular-

route carriers without requiring the designation of specific regular routes and fixed end-points. Once motor carriers have obtained regular-route, for-hire operating authority from FMCSA, they will no longer need to seek additional FMCSA approval in order to change or add routes. The rule amended certain provisions of 49 CFR Parts 356, 365 and 374 to make them consistent with the Agency's discontinuation of the route designation requirement. Each registered regular-route motor carrier of passengers will continue to be subject to the full safety oversight and enforcement programs of FMCSA and its State and local partners.

The effective date of the rule was originally March 17, 2009, with a compliance date of July 15, 2009. In accordance with the January 20, 2009 memorandum from the Assistant to the President and Chief of Staff (74 FR 4435), FMCSA published a notice on March 3, 2009 seeking comment on a proposal to delay the effective date of the final rule for 90 days (74 FR 9172).

Based on comments submitted in response to the March 3 notice, FMCSA extended the effective date of the final rule from March 17, 2009, to June 15, 2009, for the purpose of allowing the new leadership of the Department of Transportation to review the proceeding and to seek additional public comment (74 FR 11318, March 17, 2009).

**Comments to the March Notice**

Greyhound Lines, Inc. (Greyhound) submitted the only comment to the March 17 notice. Greyhound expressed concern that the Agency's proposal would prevent meaningful implementation of the Over-The-Road Bus Transportation Accessibility Act of 2007, Public Law 110-291, 122 Stat. 2915, July 30, 2008 because, without route designations, FMCSA would be unable to assess whether an applicant for new operating authority has adequate equipment and systems to comply with the Americans with Disabilities Act (ADA). Moreover, eliminating the need for existing carriers to seek new authority before expanding their operations would eliminate FMCSA's ability to assess ADA compliance before allowing route expansion.

Greyhound also took issue with the Agency's statement, in the preamble to the final rule, that FMCSA and its predecessor agencies have not used route designations in determining whether an applicant could operate safely over a specific route, but provided no cases to support its position. Greyhound reiterated arguments, made previously in this

rulemaking proceeding, that FMCSA adopt a new process that would give greater scrutiny to a passenger carrier's willingness and ability to comply with safety fitness and ADA requirements at the application stage.

**Response to Greyhound's Comment**

FMCSA has not used the route filings for any of its safety enforcement or other program purposes. The Department of Transportation has signed the statutorily-required Memorandum of Understanding on ADA enforcement with the Department of Justice, which

has the primary ADA enforcement role, and FMCSA will use other existing authorities to consider and, where appropriate, take enforcement action with respect to complaints of ADA non-compliance. These existing authorities do not require establishment of a separate enforcement process. Accordingly, FMCSA allowed the final rule to become effective on June 15, 2009.

The OP-1(P) application form has also been changed to eliminate the current route-designation and mapping

requirements. Because changes to the OP-1(P) form had to be approved by the Office of Management and Budget, FMCSA delayed implementation of the new procedures until July 15, 2009. The rule is now in effect and compliance is required by all regular-route motor carriers of passengers.

Issued on: July 17, 2009.

**Rose A. McMurray,**

*Acting Deputy Administrator.*

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