

(c) \* \* \*

\* \* \* \* \*

(7) \* \* \*

(iv) Targets located on any hand grip or vertical stanchion bar.

(v) All of S6 of 571.201 in any case in which the disability necessitates raising the roof or door, or lowering the floor of the vehicle.

\* \* \* \* \*

(14) S4.1.5(a)(1), S4.1.5.1(a)(3), S4.2.6.2, S5, S7.1, S7.2, S7.4, S14, S15, S16, S17, S18, S19, S20, S21, S22, S23, S24, S25, S26 and S27 of 49 CFR 571.208 for the designated seating position modified, provided Type 2 or Type 2A seat belts meeting the requirements of 49 CFR 571.209 and 571.210 are installed at that position.

\* \* \* \* \*

(16) 49 CFR 571.225 in any case in which an existing child restraint anchorage system, or built-in child restraint system relied upon for compliance with 571.225 must be removed to accommodate a person with a disability, provided the vehicle contains at least one tether anchorage which complies with 49 CFR 571.225 S6, S7 and S8 in one of the rear passenger designated seating positions. If no rear designated seating position exists after the vehicle modification, a tether anchorage complying with the requirements described above must be located at a front passenger seat. Any tether anchorage attached to a seat that is relocated shall continue to comply with the requirements of 49 CFR 571.225 S6, S7 and S8.

\* \* \* \* \*

Issued on: August 25, 2005.

Jeffrey W. Runge,  
Administrator.

[FR Doc. 05-17244 Filed 8-30-05; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

#### 49 CFR Part 1540

RIN 1652-ZA05

#### Prohibited Items; Allowing Scissors for Ostomates

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

**ACTION:** Interpretive rule.

**SUMMARY:** This document amends the Transportation Security Administration's (TSA) interpretive rule that provides guidance to the public on the types of property that TSA considers

weapons, explosives, and incendiaries prohibited in airport sterile areas, in the cabins of aircraft, or in passengers' checked baggage. This document also amends TSA's guidance on the types of items permitted in sterile areas, the cabins of aircraft, and in passengers' checked baggage. This document adds as permitted items certain small scissors that persons with ostomies need.

**DATES:** Effective August 29, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Sandra Cammoroto, Office of the Chief Operating Officer, TSA-18, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202-4220; telephone (571) 227-1823.

#### SUPPLEMENTARY INFORMATION:

##### Availability of Documents

You can get an electronic copy using the Internet by—

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);

(2) 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 TSA's Law and Policy Web page at <http://www.tsa.gov> and accessing the link for "Law and Policy" at the top of the page.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

##### Statutory and Regulatory Background

TSA is an agency in the Department of Homeland Security (DHS), operating under the direction of the Assistant Secretary for Homeland Security (Transportation Security Administration). TSA is responsible for security in all modes of transportation, including aviation. See 49 U.S.C. 114(d). Under TSA's regulation on acceptance and screening of individuals and accessible property, 49 CFR 1540.111, 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;

(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.”

On February 14, 2003, TSA published an interpretive rule that provided guidance to the public on the types of property TSA considers to be weapons, explosives, and incendiaries prohibited on an individual's person or accessible property, items permitted on an individual's person or accessible property, and items prohibited in checked baggage (68 FR 7444). On March 3, 2003, TSA subsequently published technical corrections to the interpretive rule at 68 FR 9902.

On December 17, 2004, the President signed into law the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) (Pub. L. 108-458). Section 4025 of IRTPA in part requires TSA to add butane lighters to its list of prohibited items and to make any other modifications to the prohibited items list that TSA considers appropriate. Accordingly, on March 1, 2005, TSA published an amendment to the interpretive rule (70 FR 9877) adding all lighters to the list of prohibited items. TSA now is modifying the interpretive rule to provide an exception for certain scissors used by ostomates.

#### Small Ostomy Scissors Are Now Permitted

Under the interpretive rule, TSA presently considers all metal scissors with pointed tips to be weapons. Therefore, individuals are prohibited from carrying these types of scissors in an airport sterile area or in the cabin of an aircraft. Metal scissors with blunt tips and plastic scissors are permitted.

TSA is modifying the interpretive rule to exempt from the prohibited items list ostomy scissors. An ostomate is a person who has undergone a surgical procedure known as ostomy, which involves creating an opening in the person's abdomen. The opening is called a stoma. Human waste passes through the stoma into a collection pouch. An ostomy appliance consists of a positioning plate (or wafer or flange) that attaches to the collection pouch surrounding the stoma. Because no two stomas are alike, few ostomates can use manufactured pre-cut wafers. The ostomate, by using a chart provided with the collection pouch, must use pointed scissors to cut out the appropriate size of the cut-to-fit positioning plate. Round or dull scissors will not easily penetrate or cut through the positioning plate's heavy rubber or neoprene material. The adhesive backing that attaches the plate to the skin around the stoma increases the solidity of the material.

The collection pouch must be changed, and the stoma cleaned, each time the pouch fills up. The schedule

for changing collection pouches varies for each person, from every 3 to 24 hours. If the collection pouch is not emptied when it fills, and the stoma cleaned thoroughly and timely, the accumulation of waste can lead to infection.

There are estimated to be 750,000 ostomates in the United States. While there are no statistics on the number of ostomates who use air transportation, it is likely that a large proportion of these individuals currently are unable to travel by air because they cannot carry scissors needed to care for their condition. TSA has heard from individuals with ostomies that they avoid air travel in part because they cannot have the scissors they need.

Allowing this limited exception to TSA's prohibition on metal pointed scissors removes a significant barrier to ostomates traveling by air without weakening aviation security. There have been a number of enhancements to civil aviation security since TSA first assumed responsibility for security screening. These improvements include improved screening procedures and equipment as well as better and more thorough training for security screeners. As mandated by the Federal Aviation Administration, domestic and foreign air carriers serving the United States have installed hardened cockpit doors on aircraft in order to protect and secure the flight deck. The Bureau of Immigration and Customs Enforcement has greatly increased the deployment of Federal Air Marshals to detect, deter, and defeat hostile acts onboard flights. Under the Federal Flight Deck Officer Program (FFDO) there are an increasing number of volunteer pilots who are trained and equipped to defend the flight decks of passenger aircraft against acts of criminal violence and air piracy. Based on these and other improvements to civil aviation security, TSA has determined that measures are in place to mitigate any threat posed by the limited number of scissors that may be carried aboard aircraft by ostomates.

This action is consistent with other exceptions TSA has created to address medical needs in other situations, such as the exception for syringes, jet injectors, lancets, and needles used by individuals in the treatment of diabetes. In recognition of the special needs of ostomates and in light of the additional security measures now in place, TSA is creating an exception to the prohibition against carrying metal pointed scissors. In general, metal scissors with pointed tips will continue to be prohibited. However, TSA will no longer prohibit ostomy scissors with pointed tips with an overall length, including blades and

handle, of four inches or less, when accompanied by an ostomate supply kit containing related supplies, such as collection pouches, wafers, positioning plates, tubing, or adhesives.

#### **Other Technical Changes**

TSA also is making three technical changes to the interpretive rule. First, we are removing section III.5 (now section III. E.), because it duplicates section III.1 (now section III A.). Second, we are amending section II.B(2), which makes clear that toy Transformer<sup>TM</sup> robots are permitted. The amendment broadens the current category to cover similar toys and adds a trademark designation. Finally, we are adjusting the format of section III in order to make it consistent with the other sections.

#### **Regulatory Impact Analyses**

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. Fourth, the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation).

#### **Executive Order 12866 Assessment**

This rule explains to the public, airport personnel, screeners, and airlines how TSA interprets certain terms used in an existing rule, 49 CFR 1540.111. This interpretative rule is not considered an economically significant regulatory action for purposes of Executive Order 12866. However, there has been significant public interest in aviation security issues since the terrorist attacks of September 11, 2001. Therefore, this rule is significant for purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB).

#### **Regulatory Flexibility Determination**

The Regulatory Flexibility Act (RFA) of 1980 requires that agencies perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. For purposes of the RFA, small entities include small businesses, not-for-profit organizations, and small governmental jurisdictions. Individuals and States are not included in the definition of a small entity.

The RFA does not apply to this interpretive rule and TSA is not preparing an analysis for the Act, since under 5 U.S.C. 553, TSA is not required to publish a notice of proposed rulemaking. Nonetheless, because this rule will not impose any costs on the public, we have determined and certify that this rule does not have a significant economic impact on a substantial number of small entities.

#### **International Trade Impact Assessment**

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, 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 interpretative 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 Assessment**

The Unfunded Mandates Reform Act of 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (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 deemed to be a "significant regulatory action."

This rulemaking does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply and TSA has not prepared a statement under the Act.

**Executive Order 13132, Federalism**

TSA has analyzed this interpretive rule under the principles and criteria of Executive Order 13132, Federalism. We have determined that this action will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore will not have federalism implications.

**Environmental Analysis**

TSA has reviewed this action for purposes of the National Environmental 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 action has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major regulatory action under the provisions of the EPCA.

**Amendments to Interpretation**

TSA is making the following changes to the prohibited items list:

1. Section I.B(10) is amended to read “Scissors, metal with pointed tips, except ostomy scissors with pointed tips with an overall length, including blades and handle, of four inches or less, when accompanied by an ostomate supply kit containing related supplies, such as collection pouches, wafers, positioning plates, tubing, or adhesives.”

2. Section II.A(17) is amended to read “Scissors, plastic or metal with blunt tips; and ostomy scissors with pointed tips with an overall length, including blades and handle, of four inches or less, when accompanied by an ostomate supply kit containing related supplies, such as collection pouches, wafers, positioning plates, tubing, or adhesives.”

3. Section II.B(2) is amended to read “Toy Transformer® robots and the like.”

4. Section III(5) (now section III E.) is amended to read “Reserved.”

5. Sections III(1) through (5) are redesignated as Sections III.A. through E.

**Text of Interpretive Rule**

The following is the list of prohibited items and permitted items reprinted in its entirety, with the changes inserted.

**Prohibited Items and Permitted Items 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, except ostomy scissors with pointed tips with an overall length, including blades and handle, of four inches or less, when accompanied by an ostomate supply kit containing related supplies, such as collection pouches, wafers, positioning plates, tubing, or adhesives.

- (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.
- (9) All lighters.

**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) [Reserved]

(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; and ostomy scissors with pointed tips with an overall length, including blades and handle, of four inches or less, when accompanied by an ostomate supply kit containing related supplies, such as collection pouches, wafers, positioning plates, tubing, or adhesives.

(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(R) robots and the like.

(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.

*A. 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).

*B. 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).

*C. 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).

*D. 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.

*E. [Reserved.]*

*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.

Issued in Arlington, Virginia, August 26, 2005.

**Kip Hawley,**

*Assistant Secretary.*

[FR Doc. 05-17392 Filed 8-29-05; 8:47 am]

**BILLING CODE 4910-62-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 050816224-5224-01; I.D. 081005A]

RIN 0648-AT69

#### Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Pacific Whiting; Fishery Closure

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

**ACTION:** Temporary rule; request for comments.

**SUMMARY:** This emergency rule, implemented under the authority of the Pacific Coast groundfish fishery management plan (FMP), establishes a salmon conservation zone for the primary Pacific whiting (whiting) fishery, shoreward of a boundary line approximating the 100-fm (183-m) depth contour. Under this rule, fishing for Pacific whiting within the salmon conservation zone is prohibited.

**DATES:** Effective August 26, 2005, until February 27, 2006. Comments must be received no later than 5 p.m., local time on September 26, 2005.

**ADDRESSES:** You may submit comments, identified by I.D. 081105A by any of the following methods:

- E-mail:

2005hakesalmon.nwr@noaa.gov;

Include 081105A in the subject line of the message.

- Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.

- Fax: 206-526-6736, Attn: Becky Renko

- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, Attn: Becky Renko.

Copies of the Final Environmental Impact Statement (FEIS) for the harvest specifications and management measures for the 2005-2006 groundfish fisheries are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280. Copies of the Record of Decision, final regulatory flexibility analysis (FRFA), and the Small Entity Compliance Guide for the groundfish harvest specifications for 2005-2006 are available from D.