

Harness Kit, part number 101-3208-1, as referenced in Raytheon Mandatory Service Bulletin No. 2701, Issued: May, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201-0085. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(e) This amendment becomes effective on June 27, 1998.

Issued in Kansas City, Missouri, on April 30, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 921

[Docket #980427108-8108-01]

RIN 0694-AL16

National Estuarine Research Reserve System Regulations

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is making a correction to its regulations concerning the National Estuarine Research Reserve System (NERRS) to clarify that certain types of financial assistance awards are not subject to specified limits on amounts. The Coastal Zone Protection Act of 1996 amended the Coastal Zone Management Act (CZMA) by, among other things, eliminating the state match requirement in cases where financial assistance was coming from proceeds of a natural resource damage action. In 1997, NOAA issued a rule to amend the NERRS regulations to conform to the statutory amendments. That rule specified that the state match requirement was eliminated in cases where natural resource damage proceeds were being used to fund NERRS activities. However, the rule did not address what the effects of other limits on financial assistance (caps on funding, rather than

state match) would be in these cases. This final rule clarifies that, in cases where financial assistance is coming from natural resource damage funds, the caps on financial assistance to not apply.

EFFECTIVE DATE: May 14, 1998.

FOR FURTHER INFORMATION CONTACT: Mary O'Brien, Attorney-Adviser, Office of General Counsel, 1305 East-West Highway, Silver Spring, Maryland 20910. Telephone: 301-713-2967.

SUPPLEMENTARY INFORMATION:

I. Authority

This final rule is issued under the authority of the Coastal Zone Management Act, CZMA, 16 U.S.C. 1451 *et seq.*, as amended.

II. Background

Section 315 of the CZMA authorizes grants to states for the selection, designation, management, and use of National Estuarine Research Reserves. However, section 315 of the CZMA limits, in most cases, the proportion of federal financial assistance that may be provided to states for program activities. The 1996 amendments to the CZMA provided that notwithstanding these statutory limits, financial assistance provided from amounts recovered as a result of damage to natural resources located in the coastal zone may be used to pay 100 percent of the costs of activities carried out with the assistance. In 1997, NOAA issued a rule, the intent of which was to bring the program regulations into conformity with the statutory change.

Following NOAA's 1997 rule, questions arose as to the effects of the amendment on certain statutory and regulatory limits on amounts. While it was clear the amendments eliminated the match requirement in cases where financial assistance is coming from natural resource damage funds, questions remained as to the appropriate interpretation, in these cases, of provisions limiting the amount of financial assistance that may be granted to any one reserve for certain activities. Specifically, the statute provides a \$5,000,000 cap on federal financial assistance for acquisition activities at any one reserve. The regulations contain not only that cap, but also a \$100,000 cap on federal financial assistance for certain pre-designation activities (site selection, draft management plan and environmental impact statement preparation, and basic characterization studies).

The NERRS was established by Congress to provide for a system of

representative estuarine ecosystems, with each site contributing to the biogeographical and typological balance of the system. It was envisioned that the completed system would ultimately contain 25-35 sites. Throughout the course of the program, there has been a need to ensure that limited appropriations are distributed equitably among reserve sites. Hence, the statute and the regulations provided caps to restrict the amount of funds that could be granted to any one site.

In the case of reserve activities being funded with amounts recovered as a result of natural resource damages, the concern that gave rise to the establishment of the caps does not exist. Natural resource damage funds do not come out of the NERRS appropriation. When such funds are used to establish a reserve or pay for reserve activities, there is no reduction in the appropriation and thus no effect, financial speaking, on other reserves in the system or on states wishing to advance reserve proposals. For this reason, it is not appropriate to apply the NERRS limits on federal financial assistance when activities are being funded from natural resource damage proceeds.

Congress recognized as much in the 1996 amendments to the CZMA. New section 315(e)(3)(C) explicitly stated that notwithstanding the 50 percent/\$5,000,000 cap, financial assistance provided from natural resource damage funds could be used to pay 100 percent of the costs of such activities. Congress did not address the \$100,000 pre-designation cap, because that cap was established by regulation rather than by statute.

III. Discussion of Change

The purpose of this rule is to amend the regulations to clarify that, consistent with the changes made to the CZMA in 1996, the \$5,000,000 and \$100,000 limits on federal financial assistance for certain activities are not applicable with the funding for these activities is being provided from amounts recovered as a result of damage to natural resources.

IV. Rulemaking Requirements

A. This rule was determined to be "not significant" for purposes of Executive Order 12866.

B. This rule relates to public property, loans, grants, benefits, and contracts, and therefore, it is exempt from every requirement of section 553 of the Administrative Procedure Act, 5 U.S.C. 553, including notice and comment and delayed effective date.

C. Because a notice of proposed rulemaking is not required by 5 U.S.C.

553, or by any other law, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act is not required and was not prepared.

D. This rule involves collections of information subject to the Paperwork Reduction Act and cleared by the Office of Management and Budget under control number 0648-0119. The estimated response times for these requirements are 480 hours for management program approval and 8 hours for program amendment and routine program changes. The response estimates shown include the time for reviewing instructions, searching existing data sources, gathering and maintaining needed data, and completing and reviewing the collection of information. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information, subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

E. NOAA has concluded that this regulatory action does not constitute a major federal action significantly affecting the quality of the environment. Therefore, an environmental impact statement under the National Environmental Policy Act, 43 U.S.C. 4321 *et seq.* is not required.

F. This rule contains no mandates, under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, for state, local, or tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

G. NOAA has concluded that this regulatory action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 12612.

List of Subjects in 15 CFR Part 921

Administrative practice and procedure, Coastal zone, Grant programs—Natural resources, Reporting and recordkeeping requirements.

Dated: May 11, 1998.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

For the reasons set forth in the Preamble, 15 CFR part 921 is amended as follows:

PART 921—NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM REGULATIONS

1. The authority citation for part 921 continues to read as follows:

Authority: Section 315 of the Coastal Zone Management Act, as amended (16 U.S.C. 1461).

2. Paragraph (f) of § 921.1 is amended by revising the fourth sentence to read as follows:

§ 921.1 Mission, goals and general provisions.

* * * * *

(f) * * * Notwithstanding any financial assistance limits established by this Part, when financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, such assistance may be used to pay 100 percent of all actual costs of activities carried out with this assistance, as long as such funds are available. * * *

* * * * *

3. Paragraph (a) of § 921.10 is amended by adding a new sentence, after the third sentence, to read as follows:

§ 921.10 General.

(a) * * * Notwithstanding the above, when financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, such assistance may be used to pay 100 percent of all actual costs of activities carried out with this assistance, as long as such funds are available. * * *

4. Paragraph (b) of § 921.10 is amended by adding a new sentence, after the last sentence, to read as follows:

§ 921.10 General.

(b) * * * Notwithstanding the above, when financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, such assistance may be used to pay 100 percent of all actual costs of activities carried out with this assistance, as long as such funds are available.

5. Section 921.20 is amended by revising the last sentence to read as follows:

§ 921.20 General

* * * In any case, the amount of Federal financial assistance provided to a coastal state with respect to the acquisition of lands and waters, or interests therein, for any one National Estuarine Research Reserve may not exceed an amount equal to 50 percent

of the costs of the lands, waters, and interests therein or \$5,000,000, whichever amount is less, except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of all actual costs of activities carried out with this assistance, as long as such funds are available.

6. Section 921.31 is amended by revising the fourth sentence to read as follows:

§ 921.31 Supplemental acquisition and development awards.

* * * Acquisition awards for the acquisition of lands or waters, or interests therein, for any one reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein of \$5,000,000, whichever amount is less, except when the financial assistance is provided from amounts recovered as result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of all actual costs of activities carried out with this assistance, as long as such funds are available. * * *

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 98N-0274]

Food Labeling; Petitions for Nutrient Content and Health Claims, General Provisions

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to define the conditions under which certain petitions for nutrient content and health claims shall be deemed to be denied and to codify the statutory timeframe within which the agency will complete rulemakings on such petitions. FDA is taking this action in response to the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: This regulation is effective May 14, 1998. Submit written comments by June 15, 1998.

ADDRESSES: Submit written comments to the Dockets Management Branch