

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: September 23, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1817

RIN 2700-AC78

Interagency Acquisition Approvals

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule amends the NASA Federal Acquisition Regulation Supplement (NFS) by establishing a five-year limitation on interagency acquisitions. Individual orders or successive non-competitive orders for the same requirement with the same servicing agency that will exceed five years require approval of a deviation. This final rule also requires determinations and findings (D&Fs) for interagency acquisitions to identify the period of performance and whether the acquisition is for a non-competitive follow-on for the same requirement with the same servicing agency. These changes result from NASA's agreement with OMB on an action plan regarding the President's Management Agenda Competitive Sourcing element. These changes will establish greater consistency in the approval requirements for contracts, grants, cooperative agreements, and interagency acquisitions with anticipated periods of performance exceeding five years.

EFFECTIVE DATE: October 6, 2003.

FOR FURTHER INFORMATION CONTACT: Joseph Le Cren, NASA Headquarters, Office of Procurement, Program Operations Division (Code HS), Washington, DC 20546-0001, (202) 358-0431, e-mail: jlecren@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

OMB and NASA entered into an agreement on an action plan regarding the President's Management Agenda Competitive Sourcing element. That agreement called for NASA to put in place plans for reviews and recompetitions of contracts, interagency acquisitions, and partnerships identified in inventories submitted to OMB in September 2002. In developing NASA's

plan for reviews and recompetitions, existing guidance pertaining to interagency acquisitions was reviewed and areas requiring revision or coverage were identified.

Contracts (inclusive of options), grants, and cooperative agreements that are planned to exceed five years, generally require the prior approval of the Assistant Administrator for Procurement. However, there are no limits for interagency acquisitions. This final rule establishes a similar requirement for interagency acquisitions, as well as the information to be provided for a deviation from the rule.

The FAR specifies information that is to be included in the D&Fs for interagency acquisitions. However, there is no requirement for the period of performance to be identified. This final rule establishes such a requirement in order to restrict the use of long-term acquisitions (greater than five years) that preclude the opportunity for competition. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This final rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for public comment is not required. However, NASA will consider comments from small entities concerning the affected NFS Part 1817 in accordance with 5 U.S.C. 610.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any recordkeeping or information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 1817

Government procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

■ Accordingly, 48 CFR Part 1817 is amended as follows:

■ 1. The authority citation for 48 CFR Part 1817 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1817—SPECIAL CONTRACTING METHODS

■ 2. Amend section 1817.7201 by redesignating the existing text as

paragraph (a) and adding paragraphs (b) and (c) to read as follows:

1817.7201 Policy.

* * * * *

(b) Individual orders or successive non-competitive interagency orders for the same requirement with the same servicing agency shall not exceed five years.

(c) Requests for deviation from the five year limitation in paragraph (b) of this section shall require the approval of the Center Director if the estimated value of the order is \$5 million or less, or the Assistant Administrator for Procurement (Code HS) if the estimated value of the order exceeds \$5 million. Requests for deviation shall address:

- (1) Why more than five years is required;
- (2) Why the work must be performed by the same servicing agency; and
- (3) How long beyond the current order the requirement is expected to continue.

■ 3. Amend section 1817.7202 by redesignating existing paragraphs (c) and (d) as (d) and (e) respectively, and adding a new paragraph (c) to read as follows:

1817.7202 Determinations and findings requirements.

* * * * *

(c) In addition to the requirements in FAR 17.503, the D&F must identify the period of performance and whether the acquisition is a non-competitive follow-on for the same services from the same servicing agency. (*See* 1817.7201(b).)

* * * * *

[FR Doc. 03-25290 Filed 10-3-03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 175, 176, 177, 178, and 179

[Docket No. RSPA-03-16099 (HM-189V)]

RIN 2137-AD85

Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR). The

intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are minor changes and do not impose new requirements.

DATES: Effective date: October 1, 2003.

FOR FURTHER INFORMATION CONTACT:

Darral Relerford, Office of Hazardous Materials Standards, (202) 366-8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

The Research and Special Programs Administration (RSPA, we) annually reviews the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to identify errors that may confuse readers. Inaccuracies corrected in this final rule include typographical and printing errors, incorrect references to regulations in the CFR, inconsistent use of terminology, and misstatements of certain regulatory requirements. In addition, we are making certain other changes to improve the clarity of certain HMR requirements.

Because these amendments do not impose new requirements, notice and public procedure are unnecessary. For this same reason, we are making these amendments effective without the customary 30-day delay following publication.

The following is a section-by-section summary of the amendments made under this final rule. It does not discuss all minor editorial corrections (for example, typographical and punctuation errors) and certain other minor adjustments to enhance the clarity of the HMR.

II. Section-by-Section Review

Part 171

Sections 171.15 and 171.16. In §§ 171.15(b) and 171.16(b), we are updating the term "FAA Civil Aviation Security Office" to read "FAA Regional or Field Security Office."

Part 172

Section 172.101 Hazardous Materials Table (HMT). We are amending the HMT by correcting certain entries as follows:

—The hazard class for the entry "Combustible liquid, n.o.s.," NA1993, is revised by correcting Column (3) to read "Combustible liquid." Due to a typographical error, the entry currently reads "Combustible."

—For the entry "Self-reactive liquid type F," UN3229, we are correcting the reference "114" to read "224."

Section 172.102. We are correcting Special Provision 15 by removing text that conflicts with the assigned packaging authorization section, § 173.161, for the entries "Chemical kits," and "First aid kits." This correction is based on comments from the public stating that the text is confusing.

Section 172.201. We are revising paragraph (e) to clarify that the use and retention of a permanent shipping paper for multiple shipments of one or more hazardous materials being transported on a regular basis over an extended period is authorized. In the final rule published on July 12, 2002 (67 FR 46123) under Docket HM-207B, we authorized operators to retain a single copy of such permanent shipping papers for the period in which the shipping paper is used and 375 days thereafter, provided that the operator also retains a record of each shipment made under the shipping paper. Also, see § 177.817.

Section 172.321. We are editorially revising paragraph (c)(5) by removing the semi-colon and the word "and."

Section 172.332. We are revising paragraph (b)(3) by adding "0.25 inches" as the conversion for "18 points."

Part 173

Section 173.32. We are editorially revising paragraph (c)(2) for clarity by changing the word "it" to read "the portable tanks."

Section 173.134. In paragraph (c)(1)(ii), we are changing the wording "the specific packaging requirements of this section" to read "the specific packaging requirements of § 173.197."

Section 173.164. We are removing paragraph (a)(2) because it is redundant with the introductory paragraph (a).

Section 173.166. As revised in the final rule, HM-215E (68 FR 44992), published on July 31, 2003, we are editorially revising introductory paragraph (e) by adding "as follows" to connect the introductory paragraph to its subparagraphs.

Section 173.197. We are revising paragraph (e)(1)(i) by correcting two American Society for Testing and Materials Standard numbers.

Section 173.241. In paragraph (c), we are adding a sentence to refer the reader to the portable tank requirements in § 176.340 applicable to combustible liquids being transported by vessel.

Section 173.304a. In the table in paragraph (d), we are correcting the entry for hydrogen sulfide, in column 3,

to remove an inconsistency with provisions in §§ 173.40(b) and 173.301a(d)(3) that state the pressure of a gas at 55 °C (131 °F) may not exceed the cylinder's service pressure. The service pressure of hydrogen sulfide at 55 °C (131 °F) exceeds the marked service pressure, 480 psi, specified in the table.

Section 173.315. In paragraph (b)(1), we are correcting the word "That" to read "that'."

Section 173.337. In paragraph (a), we are removing an incorrect reference to "3ALM" cylinders.

Section 173.412. In paragraph (l), we are correcting "40 TBq (1000Ci)" to read "40 TBq (1080Ci)" because it is a more precise conversion of the activity of 40 TBq to curies.

Section 173.420. In paragraph (a)(2)(i), we are removing the edition dates for American National Standard (ANSI) N 14.1 because they are indicated in § 171.7.

Part 175

Section 175.31 In paragraph (a), we are updating the term "FAA Civil Aviation Security Office" to read "FAA Regional or Field Security Office."

Part 176

Section 176.340 We are revising paragraph (a) to clarify the type of authorized portable tanks by adding the word "Specification."

Part 177

Section 177.817 We are revising paragraph (f) to clarify that the use and retention of a permanent shipping paper for multiple shipments of one or more hazardous materials being transported on a regular basis over an extended period is authorized. Also, see § 172.201.

Section 177.854. We are revising paragraph (f)(1) by correcting the spelling of the word "motor."

Part 178

Section 178.61. We are revising paragraph (g) to correct the location in 49 CFR for the heat treatment methods. The methods are contained in Table 1 of Appendix A to Part 178—Specifications for Steel. Currently, the paragraph incorrectly cites paragraph (b), which contains requirements for authorized steel and references Table 1 of Appendix A for chemical composition limits and makes no reference to heat treatment.

Section 178.274. We are revising paragraph (b)(1) to clarify that portable tanks used for Zone A or B toxic-by-inhalation liquids are required to have an ASME Certification and U Stamp.

This revision is consistent with § 178.273(b)(6). We are also correcting the section reference § 178.247(a)(2) in paragraph (i) (1) to read “§ 178.274(a)(2).”

Section 178.337–10. In paragraph (a), we are revising the wording “safety relief devices” to read “pressure relief devices.”

Section 178.337–17. In paragraph (d), we are correcting the section reference § 178.337(3)(b) to read “§ 178.337–3(b).”

Section 178.338–3. In paragraphs (c)(3)(ii), (c)(3)(iii), (c)(3)(iv), (c)(3)(v), (c)(3)(vi) and (c)(4), we are removing the wording “and (c)” as an incorrect paragraph reference.

Section 178.338–9. In paragraph (c)(2), we are correcting the section reference § 178.320 (a) (3) to read “§ 178.320(a).”

Section 178.338–18. In paragraph (d), we are removing the wording “and (c)” as an incorrect reference.

Part 179

Section 179.102–4. We are revising the section heading to correct a proper shipping name.

Sections 179.300–12 and 179.500–12. In paragraph (b) of each section, we are revising the wording “safety relief devices” to read “pressure relief devices.”

III. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3 (f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Because there is no economic impact of this rule, preparation of a regulatory impact analysis is not warranted.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 13132 (“Federalism”). This final rule does not adopt any regulation that: (1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law.

RSPA is not aware of any State, local, or Indian tribe requirements that would

be preempted by correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

C. Executive Order 13175

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”). Because this rule does not have tribal implications and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor regulatory changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses or other organizations.

E. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

F. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

G. Regulation Identifier Number (RIN)

A regulation identifier 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

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Incorporation by reference, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 2. In § 171.15, the introductory text to paragraph (b) is revised to read as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

* * * * *

(b) Except for transportation by aircraft, each notice required by paragraph (a) of this section shall be given to the National Response Center by telephone (toll-free) on 800–424–8802. Notice involving shipments transported by aircraft must be given to the nearest FAA Regional or Field Security Office by telephone at the

earliest practical moment after each incident in place of the notice to the National Response Center. Notice involving infectious substances may be given to the Director, Centers for Disease Control, U.S. Public Health Service, Atlanta, Ga. (800) 232-0124, in place of the notice to the Department or (toll call) on 202-267-2675; however, a written report is still required as stated in paragraph (c) of this section.

* * * * *

■ 3. In § 171.16, paragraph (b) is revised to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

* * * * *

(b) Each carrier making a report under this section shall send the report to the Information Systems Manager, DHM-63, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590-0001; and, for incidents involving transportation by aircraft, a copy of the report shall also be sent to the FAA Regional or Field Security Office, nearest the location of the incident. A copy of the report shall be retained for a period of two years at the carrier's principal place of business or at other places as authorized and approved in writing by an agency of the Department of Transportation.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

■ 4. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

§ 172.101 [Amended]

■ 5. In § 172.101, the Hazardous Materials Table is amended as follows:

■ a. For the entry "Combustible liquid, n.o.s., NA1993", in Column (3), the word "Combustible" is removed and "Combustible liquid" is added in its place.

■ b. For the entry "Self-reactive liquid type F, UN3229", in Column (8B), as amended at 68 FR 45024, the reference "114" is removed and "224" is added in its place.

§ 172.102 [Amended]

■ 6. In § 172.102, paragraph (c)(1) in Special Provision 15, as amended at 68 FR 44992, the third and fourth sentences are removed.

■ 7. In § 172.201, in paragraph (e), the fifth sentence is revised to read as follows:

§ 172.201 Preparation and retention of shipping papers.

* * * * *

(e) * * * A motor carrier (as defined in § 390.5 of subchapter B of chapter III of subtitle B) using a shipping paper without change for multiple shipments of one or more hazardous materials having the same shipping name and identification number may retain a single copy of the shipping paper, instead of a copy for each shipment made, if the carrier also retains a record of each shipment made, to include shipping name, identification number, quantity transported, and date of shipment.

■ 8. In § 172.321, paragraph (c)(5), as amended at 68 FR 45031, is revised to read as follows:

§ 172.321 Air eligibility mark.

* * * * *

(c) * * * (5) Packages or articles which are excepted from the marking requirements of this subchapter (for example, non-spillable batteries, vehicles).

* * * * *

■ 9. In § 172.332, paragraph (b)(3) is revised to read as follows:

§ 172.332 Identification number markings.

* * * * *

(b) * * * (3) The name and hazard class of a material may be shown in the upper left border of the orange panel in letters not more than 18 points (0.25 in.) high.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 10. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101-5127, 44701; 49 CFR 1.45, 1.53.

§ 173.32 [Amended]

■ 11. In § 173.32, in the first sentence of paragraph (c)(2), the wording "and provided it conforms to the periodic inspection and tests" is revised to read "and provided the portable tanks conform to the periodic inspection and tests".

■ 12. In § 173.134, paragraph (c)(1)(ii) is revised to read as follows:

§ 173.134 Class 6, Division 6.2—Definitions and exceptions.

* * * * *

(c) * * *

(1) * * *

(ii) For other than a waste culture or stock of an infectious substance, the specific packaging requirements of § 173.197, if packaged in a rigid non-bulk packaging conforming to the general packaging requirements of §§ 173.24 and 173.24a and packaging requirements specified in 29 CFR 1910.103.

* * * * *

§ 173.164 [Amended]

■ 13. In § 173.164, paragraph (a) (2) is removed and reserved.

§ 173.166 [Amended]

■ 14. In § 173.166, as amended at 68 FR 45034, effective October 1, 2003, in introductory paragraph (e), the wording "performance level are authorized" is revised to read "performance level are authorized as follows".

■ 15. In § 173.197, paragraph (e)(1)(i) is revised to read as follows:

§ 173.197 Regulated medical waste.

* * * * *

(e) * * *

(1) * * *

(i) The film bag may not exceed a volume of 175 L (46 gallons). The film bag must be marked and certified by its manufacturer as having passed the tests prescribed for tear resistance in ASTM D 1922, "Standard Test Method for Propagation Tear Resistance of Plastic Film and Thin Sheeting by Pendulum Method" (IBR, § 171.7 of this subchapter) and for impact resistance in ASTM D 1709, "Standard Test Methods for Impact Resistance of Plastic Film by the Free-Falling Dart Method" (IBR, § 171.7 of this subchapter). The film bag must meet an impact resistance of 165 grams and a tearing resistance of 480 grams in both the parallel and perpendicular planes with respect to the length of the bag.

* * * * *

■ 16. In § 173.241, in paragraph (c), a new sentence is added at the end of the paragraph to read as follows:

§ 173.241 Bulk packagings for certain low hazard liquid and solid materials.

* * * * *

(c) * * * For transportation by vessel, also see § 176.340 of this subchapter.

* * * * *

§ 173.304a [Amended]

■ 17. In § 173.304a, in the paragraph (a)(2) Table entry for "Hydrogen sulfide", the third column is revised to read "DOT-3A; DOT-3AA; DOT-3B; DOT-4A; DOT-4B; DOT-4BA; DOT-4BW; DOT-3E1800; DOT-3AL."

■ 18. In § 173.315, paragraph (b) (1) is revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tanks.

* * * * *

(b) * * *

(1) *Odorization.* All liquefied petroleum gas shall be effectively odorized as required in Note 2 of this paragraph to indicate positively, by a distinctive odor, the presence of gas down to a concentration in air of not over one-fifth the lower limit of combustibility provided, however, that odorization is not required if harmful in the use or further processing of the liquefied petroleum gas, or if odorization will serve no useful purpose as a warning agent in such use or further processing.

* * * * *

■ 19. In § 173.337, paragraph (a) is revised to read as follows:

§ 173.337 Nitric oxide.

* * * * *

(a) Transportation in DOT 3AL cylinders is authorized only by highway or rail.

* * * * *

§ 173.412 [Amended]

■ 20. In paragraph (l), the wording “40 TBq (1000Ci)” is revised to read “40 TBq (1080Ci)”.

* * * * *

■ 21. In § 173.420, paragraph (a) (2) (i) is revised to read as follows:

§ 173.420 Uranium hexafluoride (fissile, fissile excepted and non-fissile).

(a) * * *

(2) * * *

(i) ANSI N14.1 in effect at the time the packaging was manufactured;

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

■ 22. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 23. In § 175.31, the introductory text to paragraph (a) is revised to read as follows:

§ 175.31 Reports of discrepancies.

(a) Each person who discovers a discrepancy, as defined in paragraph (b) of this section, relative to the shipment of a hazardous material following its acceptance for transportation aboard an aircraft shall, as soon as practicable, notify the nearest FAA Regional or Field Security Office, by telephone or

electronically, and shall provide the following information:

* * * * *

PART 176—CARRIAGE BY VESSEL

■ 24. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 25. In § 176.340, paragraph (a) is revised to read as follows:

§ 176.340 Combustible liquids in portable tanks.

* * * * *

(a) Specification portable tanks authorized in § 173.241 of this subchapter.

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

■ 26. The authority citation for Part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 27. In § 177.817, in paragraph (f), the last sentence is revised to read as follows:

§ 177.817 Shipping papers.

* * * * *

(f) * * * A motor carrier (as defined in § 390.5 of subchapter B of chapter III of subtitle B) using a shipping paper without change for multiple shipments of one or more hazardous materials having the same shipping name and identification number may retain a single copy of the shipping paper, instead of a copy for each shipment made, if the carrier also retains a record of each shipment made that includes shipping name, identification number, quantity transported, and date of shipment.

■ 28. In § 177.854, paragraph (f) (1) is revised to read as follows:

§ 177.854 Disabled vehicles and broken or leaking packages; repairs.

* * * * *

(f) * * *

(1) For motor vehicles other than cargo tank motor vehicles used for the transportation of Class 3 (flammable liquid) or Division 2.1 (flammable gas) materials and not transporting Division 1.1, 1.2, or 1.3 (explosive) materials, warning devices must be set out in the manner prescribed in § 392.22 of this title.

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

■ 29. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 178.61 [Amended]

■ 30. In § 178.61, in the first sentence of paragraph (g), remove the wording “referenced in paragraph (b) of this section” and add “referenced in Table 1 of appendix A to this part” in its place.

* * * * *

§ 178.274 [Amended]

■ 31. In § 178.274, the following changes are made:

■ a. In paragraph (b)(1), in the fourth sentence, the wording “used for non-refrigerated” is revised to read “used for Zone A or B toxic by inhalation liquids or non-refrigerated”.

■ b. In paragraph (i)(1), in the list following the third sentence in the fifth entry, the wording “Alternative Arrangements (see § 178.247(a)(2))” is revised to read “Alternative Arrangements (see § 178.274(a)(2))”.

* * * * *

■ 32. In § 178.337–10, paragraph (a) is revised to read as follows:

§ 178.337–10 Protection of fittings.

(a) All valves, fittings, pressure relief devices, and other accessories to the tank proper shall be protected in accordance with paragraph (b) of this section against such damage as could be caused by collision with other vehicles or objects, jack-knifing and overturning. In addition, pressure relief valves shall be so protected that in the event of overturn of the vehicle onto a hard surface, their opening will not be prevented and their discharge will not be restricted.

* * * * *

■ 33. In § 178.337–17, as amended at 68 FR 19281, paragraph (d) is revised to read as follows:

§ 178.337–17 Marking.

* * * * *

(d) The design weight of lading used in determining the loading in §§ 178.337–3(b), 178.337–10(b) and (c), and 178.337–13(a) and (b), must be shown as the maximum weight of lading marking required by paragraph (c) of this section.

§ 178.338–3 [Amended]

■ 34. In § 178.338–3, in paragraphs (c)(3)(ii), (c)(3)(iii), (c)(3)(iv), (c)(3)(v), (c)(3)(vi) and (c)(4), the wording “and (c)” is removed each place it appears.

§ 178.338–9 [Amended]

■ 35. In § 178.338–9, in paragraph (c) (2), in the last sentence, the section reference “§ 178.320(a) (3)” is revised to read “§ 178.320 (a)”.

* * * * *

■ 36. In § 178.338–18, as amended at 68 FR 19283, paragraph (d) is revised to read as follows:

§ 178.338–18 Marking.

* * * * *

(d) The design weight of lading used in determining the loading in §§ 178.338–3 (b), 178.338–10 (b) and (c), and 178.338–13 (b), must be shown as the maximum weight of lading marking required by paragraph (c) of this section.

PART 179—SPECIFICATIONS FOR TANK CARS

■ 37. The authority citation for part 179 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 38. In § 179.102–4, the section heading is revised to read as follows:

§ 179.102–4 Vinyl fluoride, stabilized.

* * * * *

■ 39. In § 179.300–12, paragraph (b), the second sentence is revised to read as follows:

§ 179.300–12 Protection of fittings.

* * * * *

(b) * * * Pressure relief devices shall not be covered by the housing.

■ 40. In § 179.500–12, paragraph (b) is revised to read as follows:

§ 179.500–12 Pressure relief devices.

* * * * *

(b) Pressure relief devices shall open at a pressure not exceeding the marked test pressure of tank and not less than $\frac{7}{10}$ of marked test pressure. (For tolerance for pressure relief valves, see § 179.500–16(a).)

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Issued in Washington, DC, on September 24, 2003, under authority delegated in 49 CFR part 1.

Samuel G. Bonasso,
Acting Administrator.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 021212307–3037–02; I.D. 092603C]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea Subarea

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

ACTION: Reallocation.

SUMMARY: NMFS is reallocating projected unused amounts of Bering Sea subarea (BS) pollock from the incidental catch account to the directed fisheries. This action is necessary to allow the 2003 total allowable catch (TAC) of pollock to be harvested.

DATES: Effective October 1, 2003, until 2400 hrs, A.l.t., December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(5)(i)(A)(1) and the American Fisheries Act (AFA) (Public Law 105–277, Division C, Title II), NMFS specified a pollock incidental catch allowance equal to 3.5 percent of the pollock total allowable catch after subtraction of the ten percent Community Development Quota reserve in the final 2003 harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003).

On August 29, 2003 NMFS apportioned the projected unused

amount, 6,500 mt, of pollock from the incidental catch account to the directed fishing allowances established pursuant to § 679.20(a)(5)(i)(A)(68 FR 51,928, August 29, 2003).

As of September 13, 2003, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that approximately 8,616 metric tons (mt) of pollock remain in the incidental catch account. Based on projected harvest rates of other groundfish species and the expected incidental catch of pollock in those fisheries, the Regional Administrator has determined that 4,000 mt of pollock specified in the incidental catch account will not be necessary as incidental catch. Therefore, NMFS is apportioning the projected unused amount, 4,000 mt, of pollock from the incidental catch account to the directed fishing allowances established pursuant to § 679.20(a)(5)(i)(A).

Pursuant to the pollock allocation requirements set forth in 679.20(a)(5)(i), this transfer will increase the allocation to catcher vessels harvesting pollock for processing by the inshore component by 2,000 mt, to catcher/processors and catcher vessels harvesting pollock for processing by catcher processors in the offshore component by 1,600 mt and to catcher vessels harvesting pollock for processing by motherships in the offshore component by 400 mt. Pursuant to § 679.20(a)(5)(i)(A)(4), no less than 8.5 percent of the 1,600 mt allocated to catcher processors in the offshore component, 136 mt, will be available for harvest only by eligible catcher vessels delivering to listed catcher processors. Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), an additional 8 mt or 0.5 percent of the catcher/processor sector allocation of pollock will be available to unlisted AFA catcher/processors.

Pursuant to § 679.20(a)(5)(i)(A)(3), Table 1 revises the final 2003 BS subarea allocations for the seven inshore catcher vessel pollock cooperatives that have been approved and permitted by NMFS and the open access AFA vessels for the 2003 fishing year consistent with this reallocation.