

*Socially and economically disadvantaged individuals* has the meaning given such terms in section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6)) and includes women for purposes of this clause.

(b) The NASA Administrator is required to ensure, to the fullest extent possible, that at least 8% of the funding provided for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, is made available to designated entities.

(c)(1) A mandatory goal of \_\_\_\_ percent (the Contracting Officer shall insert the goal) for the use of designated entities as subcontractors is established for this acquisition. This designated entity subcontracting goal is stated as a percentage of the total contract value, not the total planned subcontracting dollars. The goal shall include the value of subcontracts with designated entities that contribute directly to contract performance.

(2) The offeror should make an independent assessment of its subcontracting opportunities and is encouraged to propose a goal higher than that specified in paragraph (c)(1) of this clause. The designated entity subcontracting goal proposed by the offeror, and the methods for achieving the proposed goal, will be evaluated as indicated in the solicitation.

(3) To effectively achieve the goal specified in paragraph (c)(1) of this clause consistent with efficient contract performance, the Contractor shall perform the functions listed in paragraph (e) of the clause at (FAR) 48 CFR 52.219-9, Small Business and Small Business Disadvantaged Subcontracting Plan, for all designated entities which may become potential subcontractors.

(d) The Contractor may rely in good faith on a written representation of a subcontractor that such subcontractor has the status of a designated entity.

(e) Failure of the Contractor to comply in good faith with the requirements of this clause shall constitute a material breach of the contract.

(End of clause)

**Alternate I (XXX 1994)**

When contracting by sealed bidding rather than by negotiation, substitute the following paragraph (c)(2) for paragraph (c)(2) of the basic clause:

(c)(2) Failure of the bidder to accept the goal specified in paragraph (c)(1) of this clause may make the bidder ineligible for award.

**Alternate II (XXX 1994)**

When the solicitation and contract do not contain the clause at (FAR) 48 CFR 52.219-9, Small Business and Small Disadvantaged Business subcontracting Plan, and when the contract amount is expected to exceed the small purchase limitation, substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) The Contractor agrees to assist NASA to achieve the statutory goal described in paragraph (b) of this clause by using its best efforts to award subcontracts to designated entities to the fullest extent consistent with efficient contract performance.

**PART 1870—NASA SUPPLEMENTARY REGULATIONS**

4. In Appendix I to section 1870.303, Chapter 3, the introductory text to paragraph 301.1.a is revised to read as follows:

**Appendix I to 1870.303—NASA Source Evaluation Board Procedures (Handbook)**

\* \* \* \* \*

**Chapter 3—Evaluation Factors, Subfactors and Elements**

\* \* \* \* \*

**301 Mission Suitability**

**1. Evaluation subfactors**

a. Evaluation subfactors are the weighted areas within the Mission Suitability factor that further identify, for proposal preparation and evaluation purposes, the content of the factor. Examples of Mission Suitability subfactors found by experience to be relevant to many procurements are: understanding of the Requirement; Management Plan; Key Personnel; Corporate or Company Resources; and Excellence of Proposed Design for hardware procurements. Citation of these specific subfactors is not intended to be restrictive or all inclusive. However, as stated in NFS 1815.608-72, evaluation of the designated entities subcontracting goal shall be accomplished, at a minimum, as a separate element under a management subfactor under the Mission Suitability factor. The nature and thrust of the requirements and objectives of the procurement may logically call for the use of some subfactors titled and described in a somewhat different manner than those described below:

\* \* \* \* \*

5. In Appendix I to section 1870.303, chapter 3, paragraph 301.1.e.(1) is revised to read as follows:

**Appendix I to 1870.303—NASA Source Evaluation Board Procedures (Handbook)**

\* \* \* \* \*

**Chapter 3—Evaluation Factors, Subfactors and Elements**

\* \* \* \* \*

**301 Mission Suitability**

1. \* \* \*

e. (1) In structuring evaluation subfactors and elements, emphasis should be placed on identification of

significant discriminators, or "key swingers"—the essential information required to support a source selection decision. Too many subfactors and elements are detrimental to effective evaluation of proposals and may result in a leveling or averaging out of scores over all proposals. To avoid this negative effect, the number of subfactors under Mission Suitability shall be no more than 4 and the number of elements no more than 8 except for the separate evaluation of designated entities either as a separate element or a separate subfactor under Mission Suitability (See NFS 1815.608-72). Other evaluation factors shall also be limited to only essential subfactors and elements. Further, care should be taken to avoid overlap and redundancy by clearly defining each evaluation subfactor and element. Avoiding such overlap assures an offeror is not scored in two or more areas for the same work.

\* \* \* \* \*

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**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**49 CFR Parts 171-180**

[Docket No. HM-221; Notice No. 94-9]

RIN 2137-AC62

**Alternate Standards for Open Head Fiber Drum Packaging**

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

**ACTION:** Advance notice of proposed rulemaking (ANPRM).

**SUMMARY:** On August 29, 1994, the President signed the "Hazardous Materials Transportation Authorization Act of 1994" (the Act). Section 122 of the Act requires RSPA to examine requirements that pertain to open head fiber drum packaging in domestic transportation. Specifically, RSPA is to determine whether there are standards other than the performance-based standards adopted under RSPA's rulemaking Docket No. HM-181, that will provide an equal or greater level of safety for the transportation of liquid hazardous materials. The purpose of this ANPRM is to solicit comments and proposals for alternate standards for open head fiber drum packaging.

**DATES:** Comments must be received on or before December 12, 1994.

**ADDRESSES:** Comments to this ANPRM should be addressed to the Dockets

Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington DC 20590-0001. Comments should identify the Docket (HM-221) and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard showing the docket number. The Dockets Unit is located in Room 8419 of the Nassif Building, 400 Seventh Street, SW, Washington, DC 20590-0001. Telephone: (202) 366-5046. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** John Potter, Office of Hazardous Materials Standards, (202) 366-4488, RSPA, U.S. Department of Transportation, 400 Seventh Street SW, Washington DC 20590-0001.

**SUPPLEMENTARY INFORMATION:** Section 122 of the Act (Pub. L. 103-311) reads as follows:

**SEC. 122.—USE OF FIBER DRUM PACKAGING.**

(a) **INITIATION OF RULEMAKING PROCEEDING.**—Not later than the 60th day following the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation) as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

(b) **ISSUANCE OF STANDARDS.**—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

(c) **COMPLETION OF RULEMAKING PROCEEDING.**—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

(d) **LIMITATIONS.**—

(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.

Detailed comments and proposals are requested that will assist RSPA in developing an appropriate regulatory proposal consistent with the requirement quoted above. Of particular importance is the determination called for in paragraph (b) of Section 122 that a packaging standard to be adopted provide an equal or greater level of safety for domestic transportation of liquid hazardous materials than would be provided if the performance-oriented packaging standards specified in 49 CFR part 178 subparts L and M were applied. Any interested person is invited to present a proposal, preferably in the form of a draft standard, that would assist RSPA in accomplishing the intended effect of this law. The proposal should include a methodology for evaluating comparative levels of safety and estimates, where available, of cost differences between present and proposed packaging.

In addition, comments are invited on the issue of whether alternate standards for open head fiber drums should be limited to domestic transportation of liquid hazardous materials. If packagings authorized by alternate standards would cost less than the performance standard packaging adopted under HM-181, but were not authorized for international shipments, an unfair competition issue could be raised in relation to international trade agreements.

**Regulatory Analyses and Notices**

**A. Executive Order 12866 and DOT Regulatory Policies and Procedures**

This advance notice of proposed rulemaking is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. This advance notice of proposed rulemaking is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034; February 26, 1979).

**B. Executive Order 12612**

RSPA will evaluate any proposed rule in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism").

**C. Regulatory Flexibility Act**

RSPA will evaluate any proposed rule to determine whether it would have a significant economic impact on a substantial number of small entities.

**D. Paperwork Reduction Act**

There are no new information collection requirements in this advance notice of proposed rulemaking.

**E. Regulations 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.

Issued in Washington, DC on October 4, 1994, under authority delegated in 49 CFR Part 106, Appendix A.

**Robert A. McGuire,**

*Deputy Administrator for Hazardous Materials Safety.*

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**National Highway Traffic Safety Administration**

**49 CFR Part 571**

[Docket No. 74-14; Notice 92]

RIN 2127-AF30

**Federal Motor Vehicle Safety Standards; Occupant Crash Protection**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** This notice proposes to allow manufacturers the option of installing a manual device that motorists could use to deactivate the front passenger-side air bag in a vehicle without rear seats for the purpose of allowing them to place rear-facing infant restraints in the front seat. NHTSA research indicates that rear-facing infant restraints should not be placed in the front seat of a vehicle equipped with a passenger-side air bag. This poses a problem because manufacturers are beginning to install, and soon will be required to install, passenger-side air bags in passenger cars and light trucks, some of which have only front seats.

**DATES: Comment Dates:** Comments must be received by December 6, 1994.

**ADDRESSES:** Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. (Docket Room hours are 9:30 a.m.-4 p.m., Monday through Friday.)