

development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects 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." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

## XII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final

rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 17, 2004.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

■ 2. In § 180.950, the table in paragraph (e) is amended by adding alphabetically the following entry to read as follows:

#### § 180.950 Tolerance exemptions for minimal risk active and inert ingredients.

* * * * *				
(e)	*	*	*	*
Chemical				CAS No.
*	*	*	*	*
Gellan gum .....				71010-52-1
*	*	*	*	*

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Part 1817

RIN 2700-AC94

#### Performance Period Limitations

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the NASA FAR Supplement (NFS) by clarifying that the five-year limitation on contracts applies to all procurement award instruments including agreements, orders under a Federal Supply Schedule, or other indefinite delivery/indefinite quantity contracts awarded by other agencies. The current NFS language has been interpreted to exclude certain types of award instruments, such as basic ordering agreements or blanket purchase agreements, from the five-year limitation. This change will ensure

consistent application of the five-year performance period limitation and the waiver process for all award instruments.

**EFFECTIVE DATE:** March 3, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Eugene Johnson, NASA, Office of Procurement, Program Operations Division (Code HS), Washington, DC 20546; (202) 358-4703; e-mail: [eugene.johnson-1@nasa.gov](mailto:eugene.johnson-1@nasa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The NFS at 1817.204(e)(i) currently states that the five-year limitation (basic plus option periods) applies to all NASA contracts regardless of type. This has been interpreted to mean that the limitation does not apply to agreements such as basic ordering agreements and blanket purchase agreements. This interpretation is not consistent with the intent of the limitation and does not support NASA's efforts to maximize opportunities for competition. This final rule clarifies that the limitation is applicable to all award instruments. This change to the NFS is being issued as a final rule since it does not have a significant effect beyond the internal operating procedures of NASA. Comments may be submitted to the above address.

##### B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 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 the changes do not impose recordkeeping or information collection requirements which 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. Revise section 1817.204 to read as follows:

### 1817.204 Contracts.

(e)(i) The 5-year limitation (basic plus option periods) applies to all NASA contracts regardless of type and other procurement award instruments. This includes agreements (e.g. basic ordering agreements, blanket purchase agreements), interagency acquisitions, and orders placed under agreements or awarded under a Federal Supply Schedule or other indefinite delivery/indefinite quantity contracts awarded by other agencies.

(ii) When the performance period exceeds 5 years (exclusive of options), the program/project office and the contracting officer shall review the requirement at the mid-point of the performance period to ensure that the products or services continue to fulfill NASA's mission needs and that the procurement award instrument continues to provide the best means of satisfying the requirement.

(iii) Requests for deviations from the 5-year limitation policy shall be sent to the Assistant Administrator for Procurement (Code HS) and shall include justification for exceeding five years. The justification shall discuss planned future assessment of continued performance either prior to exercise of options or at the mid-term of a basic contract with no options. Evidence shall also be included showing that the extended years can be reasonably priced.

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 541

[Docket No. NHTSA-04-17071]

RIN 2127-AJ28

### Federal Motor Vehicle Theft Prevention Standard; Final Listing of Model Year 2005 High-Theft Vehicle Lines

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** This final rule announces NHTSA's determination for model year (MY) 2005 high-theft vehicle lines that

are subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and high-theft MY 2005 lines that are exempted from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria pursuant to the statute relating to motor vehicle theft prevention.

**EFFECTIVE DATE:** The amendment made by this final rule is effective March 3, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Consumer Standards Division, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366-0846. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** The Anti Car Theft Act of 1992, Pub. L. 102-519, amended the law relating to the partsmarking of major component parts on designated high-theft vehicle lines and other motor vehicles. The Anti Car Theft Act amended the definition of "passenger motor vehicle" in 49 U.S.C. 33101(10) to include a "multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight." Since "passenger motor vehicle" was previously defined to include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR part 541).

The purpose of the theft prevention standard is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines selected as high-theft.

The Anti Car Theft Act also amended 49 U.S.C. 33103 to require NHTSA to promulgate a parts-marking standard applicable to major parts installed by manufacturers of "passenger motor vehicles (other than light duty trucks) in

not more than one-half of the lines not designated under 49 U.S.C. 33104 as high-theft lines." NHTSA lists each of the selected lines not designated under 49 U.S.C. 33104 as high-theft lines in Appendix B to part 541. Since § 33103 did not specify marking of replacement parts for below-median lines, the agency does not require marking of replacement parts for these lines. NHTSA published a final rule amending 49 CFR part 541 to include the definitions of MPV and LDT, and major component parts. [See 59 FR 64164, December 13, 1994].

49 U.S.C. 33104(a)(3) specifies that NHTSA shall select high-theft vehicle lines, with the agreement of the manufacturer, if possible. Section 33104(d) provides that once a line has been designated as likely high-theft, it remains subject to the theft prevention standard unless that line is exempted under § 33106. Section 33106 provides that a manufacturer may petition to have a high-theft line exempted from the requirements of § 33104, if the line is equipped with an antitheft device as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the theft prevention standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of the lines which were previously listed as high-theft, and the lines which are being listed for the first time and will be subject to the theft prevention standard beginning in a given model year in Appendix A to part 541. It also identifies in Appendix A-I to part 541 those lines that are exempted from the theft prevention standard for a given model year under § 33104. Additionally, this listing identifies those lines (except light-duty trucks) in Appendix B to part 541 that have theft rates below the 1990/1991 median theft rate but are subject to the requirements of this standard under § 33103.

On July 2, 2003, the final listing of high-theft lines for the MY 2004 vehicle lines was published in the **Federal Register** (68 FR 39471). The final listing identified two vehicle lines, the Toyota Scion xA and Scion xB that were listed for the first time and became subject to the theft prevention standard beginning with the 2004 model year.

For MY 2005, there were no new vehicle lines identified as likely to be high-theft lines, in accordance with the procedures published in 49 CFR part 542.

The vehicle lines listed as being subject to the parts-marking standard have previously been designated as high-theft lines in accordance with the procedures set forth in 49 CFR Part 542.