

action" and is therefore not subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735 (October 4, 1993)). For the same reasons, this action does not impose annual costs of \$100 million or more, will not significantly or uniquely affect small governments, and is not a significant federal intergovernmental mandate. With regard to this action, the Agency thus has no obligations under sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4). Moreover, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, the action is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this document and any other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this document in today's **Federal Register**. This action is not a "major rule" as defined 5 U.S.C. 804(2).

Dated: June 6, 1997.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

Accordingly, for the reason set out above, the publication on December 19, 1996 of the final rule (FR Doc. 96-31839) at 61 FR 67112 is corrected as follows:

§ 76.6 [Corrected]

1. On page 67162, in the third column, in § 76.6, paragraph (a) introductory text is corrected in lines 6 and 7 by removing the words ", Phase II".

[FR Doc. 97-15413 Filed 6-11-97; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 356, 370 and 379

RIN 2125-AE12

Motor Carrier Routing Regulations; Disposition of Loss and Damage Claims and Processing Salvage; Preservation of Records

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document adds to 49 CFR chapter III certain motor carrier transportation regulations, also codified in 49 CFR chapter X, which involve functions delegated to both the FHWA and the Surface Transportation Board (STB). These regulations govern motor carrier routing, the processing of claims for loss or damage, and the preservation of records. The Interstate Commerce Commission Termination Act of 1995 (ICCTA) abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the STB and the DOT. The Secretary of Transportation delegated to the FHWA certain motor carrier functions which were transferred to the DOT from the ICC. On October 21, 1996, the FHWA and the STB issued a final rule which transferred and redesignated those regulations in 49 CFR chapter X involving functions exclusively within the jurisdiction of the FHWA. 61 FR 54706. This document completes the transfer process. Technical changes have been made to the regulations, where appropriate, to conform with current statutory citations and definitions and the transfer of regulatory functions to the Department of Transportation.

EFFECTIVE DATE: June 12, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Grimm, Director, Office of Motor Carrier Information Analysis, (202) 366-4039, or Mr. Michael Falk, Motor Carrier Law Division, Office of the Chief Counsel, (202) 366-1384, at 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: This document adopts certain motor carrier transportation regulations codified in 49 CFR chapter X and incorporates them, with appropriate technical changes, into 49 CFR chapter III. These regulations involve motor carrier routing, processing of claims for loss and damage, and preservation of records. The ICCTA, Pub. L. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the ICC and transferred certain functions and proceedings to the STB and the DOT. Certain motor carrier functions previously under the jurisdiction of the ICC were transferred to the Secretary of Transportation, who subsequently delegated those functions to the FHWA. Implementing regulations for those motor carrier functions delegated exclusively to the FHWA have already been redesignated and transferred to 49 CFR chapter III, where regulations under the authority of the

FHWA are codified. 61 FR 54706 (October 21, 1996).

Unlike the transfer and redesignation procedure employed in that proceeding, the regulations embraced by this proceeding will be added to chapter III but not removed from chapter X. No substantive changes are being made to the regulations at this time. Consequently, prior notice and opportunity for comment are unnecessary.

Summary of Technical Changes From 49 CFR Chapter X Regulations

The regulations being added to chapter III in this proceeding have been modified to reflect current statutory citations, jurisdictional delegations, and regulatory responsibilities. Accordingly, references to the "Interstate Commerce Act" in the chapter X regulations have been changed to "49 U.S.C. subtitle IV, part B" and references to the "ICC" or "Commission" have been changed to either the "Secretary" or "FHWA", where appropriate. Other differences between the chapter X regulations and the regulations being added to chapter III in this proceeding are discussed below.

Interpretations and Routing Regulations (Part 356)

These regulations are currently found in 49 CFR part 1004 and are being added to chapter III as part 356 with the changes noted below.

All references to "household goods" appearing in 49 CFR part 1004 have been deleted from part 356 to reflect the Secretary's registration jurisdiction, which embraces all freight forwarders. Since the part 356 regulations are essentially interpretive and impose no affirmative compliance requirements, including all freight forwarders within this part is not a substantive regulatory change.

The FHWA is not incorporating 49 CFR 1004.26 into part 356 because that section involves claims and disputes relating to the lawfulness of shipment routing, matters which are within the jurisdiction of the Surface Transportation Board under 49 U.S.C. 13701.

Principles and Practices for the Investigation and Voluntary Disposition of Loss and Damage Claims and Processing Salvage (Part 370)

These regulations are currently found in 49 CFR part 1005 and are being added to chapter III as part 370 with the changes noted below.

Section 370.1 does not include the words "railroad" and "express company", which are contained in 49

CFR 1005.1. Inasmuch as 49 CFR 1005.7 pertains solely to rail transportation, it has not been incorporated into part 370.

Preservation of Records (Part 379)

These regulations are currently found in 49 CFR part 1220 and are being added to chapter III as part 379 with the changes noted below.

The words "railroad companies", "electric railway companies", "express companies", "persons furnishing cars to railroads", "ratemaking organizations", and "demurrage and car service bureaus" which appear in 49 CFR 1220 have not been incorporated into part 379. Appendix A does not contain requirements regarding the preservation of records relating to tariffs and rates and rail transportation since such matters fall within the jurisdiction of the STB.

Rulemaking Analyses and Notices

Because the amendments made by this document relate to departmental management, organization, procedure, and practice, prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(A). In addition, prior notice and opportunity for comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B) because the process of incorporating existing regulations into chapter III is merely technical in nature and proposes no substantive changes to which public comment could be solicited. Issuing this document as a final rule is also in the public interest because, once codified in chapter III, the sections now under the FHWA's jurisdiction may be modified or removed readily to correspond with the FHWA's new functions.

This final rule is made effective upon publication in the **Federal Register**. The FHWA believes that good cause exists for this final rule to be exempt from the 30-day delayed effective date requirement of 5 U.S.C. 553(d) for the above reason and because the process of adding the motor carrier transportation regulations to chapter III makes no substantive changes to the regulations. In fact, the sooner the regulations are incorporated into chapter III, the more quickly the FHWA can begin the process of updating those regulations and making necessary changes to them.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of

Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. This final rule simply provides notice to the public that certain motor carrier transportation regulations currently found in 49 CFR chapter X are being incorporated into 49 CFR chapter III. No substantive changes are being made to the existing regulations. The regulations are simply being added to chapter III of title 49 of the Code of Federal Regulations so that the FHWA may administer and execute those motor carrier functions transferred to it from the ICC by the ICCTA.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. As noted above, this final rule simply provides notice to the public that certain motor carrier transportation regulations currently found in 49 CFR chapter X are being incorporated into 49 CFR chapter III. No substantive changes are being made to the regulations which will affect small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* In the course of its ongoing regulatory review process, the FHWA will be reviewing these regulations in the near future and, where appropriate, may propose substantive changes. At that point in time, the FHWA intends to solicit public comment on the

information collection burdens associated with these regulations, and to seek and obtain Office of Management and Budget approval.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification 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 356

Administrative practice and procedure, Freight forwarders, Highways and roads, Motor carriers.

49 CFR Part 370

Claims for property transported, Freight forwarders, Motor carriers.

49 CFR Part 379

Brokers, Freight forwarders, Motor carriers, Recordkeeping requirements.

Issued on: June 4, 1997.

Jane Garvey,

Acting Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends title 49, Code of Federal Regulations, chapter III, by adding parts 356, 370 and 379 as set forth below:

1. Chapter III is amended by adding part 356 to read as follows:

PART 356—MOTOR CARRIER ROUTING REGULATIONS

Sec.

356.1 Authority to serve a particular area—construction.

356.3 Regular route motor passenger service.

356.5 Traversal authority.

356.7 Tacking.

356.9 Elimination of routing restrictions—regular route carriers.

356.11 Elimination of gateways—regular and irregular route carriers.

356.13 Redesignated highways.

Authority: 49 U.S.C. 13301 and 13902; 5 U.S.C. 553; 49 CFR 1.48.

§ 356.1 Authority to serve a particular area—construction.

(a) *Service at municipality.* A motor carrier of property, motor passenger

carrier of express, and freight forwarder authorized to serve a municipality may serve all points within that municipality's commercial zone not beyond the territorial limits, if any, fixed in such authority.

(b) *Service at unincorporated community.* A motor carrier of property, motor passenger carrier of express, and freight forwarder, authorized to serve an unincorporated community having a post office of the same name, may serve all points in the United States not beyond the territorial limits, if any, fixed in such authority, as follows:

(1) All points within 3 miles of the post office in such unincorporated community if it has a population of less than 2,500; within 4 miles if it has a population of 2,500 but less than 25,000; and within 6 miles if it has a population of 25,000 or more;

(2) At all points in any municipality any part of which is within the limits described in paragraph (b)(1) of this section; and

(3) At all points in any municipality wholly surrounded, or so surrounded except for a water boundary, by any municipality included under the terms of paragraph (b)(2) of this section.

§ 356.3 Regular route motor passenger service.

(a) A motor common carrier authorized to transport passengers over regular routes may serve:

(1) All points on its authorized route;

(2) All municipalities wholly within one airline mile of its authorized route;

(3) All unincorporated areas within one airline mile of its authorized route; and

(4) All military posts, airports, schools, and similar establishments that may be entered within one airline mile of its authorized route, but operations within any part of such establishment more than one airline mile from such authorized route may not be over a public road.

(b) This section does not apply to those motor passenger common carriers authorized to operate within:

- (1) New York, NY;
- (2) Rockland, Westchester, Orange, or Nassau Counties, NY;
- (3) Fairfield County, CT; and
- (4) Passaic, Bergen, Essex, Hudson, Union, Morris, Somerset, Middlesex, or Monmouth Counties, NJ.

§ 356.5 Traversal authority.

(a) *Scope.* An irregular route motor carrier may operate between authorized service points over any reasonably direct or logical route unless expressly prohibited.

(b) *Requirements.* Before commencing operations, the carrier must, regarding each State traversed:

(1) Notify the State regulatory body in writing, attaching a copy of its operating rights;

(2) Designate a process agent; and

(3) Comply with 49 CFR 387.315.

§ 356.7 Tacking.

Unless expressly prohibited, a motor common carrier of property holding separate authorities which have common service points may join, or *tack*, those authorities at the common point, or *gateway*, for the purpose of performing through service as follows:

(a) Regular route authorities may be tacked with one another;

(b) Regular route authority may be tacked with irregular route authority;

(c) Irregular route authorities may be tacked with one another if the authorities were granted pursuant to application filed on or before November 23, 1973, and the distance between the points at which service is provided, when measured through the gateway point, is 300 miles or less; and

(d) Irregular route authorities may be tacked with one another if the authorities involved contain a specific provision granting the right to tack.

§ 356.9 Elimination of routing restrictions—regular route carriers.

(a) *Regular route authorities—construction.* All certificates that, either singly or in combination, authorize the transportation by a motor common carrier of property over:

(1) A single regular route or;

(2) Over two or more regular routes that can lawfully be tacked at a common service point, shall be construed as authorizing transportation between authorized service points over any available route.

(b) *Service at authorized points.* A common carrier departing from its authorized service routes under paragraph (a) of this section shall continue to serve points authorized to be served on or in connection with its authorized service routes.

(c) *Intermediate point service.* A common carrier conducting operations under paragraph (a) of this section may serve points on, and within one airline mile of, an alternative route it elects to use if all the following conditions are met:

(1) The carrier is authorized to serve all intermediate points (without regard to nominal restrictions) on the underlying service route;

(2) The alternative route involves the use of a superhighway (i.e., a limited access highway with split-level crossings);

(3) The alternative superhighway route, including highways connecting the superhighway portion of the route with the carrier's authorized service route,

(i) Extends in the same general direction as the carrier's authorized service route and

(ii) Is wholly within 25 airline miles of the carrier's authorized service route; and

(4) Service is provided in the same manner as, and subject to any restrictions that apply to, service over the authorized service route.

§ 356.11 Elimination of gateways—regular and irregular route carriers.

A motor common carrier of property holding separate grants of authority (including regular route authority), one or more of which authorizes transportation over irregular routes, where the authorities have a common service point at which they can lawfully be tacked to perform through service, may perform such through service over any available route.

§ 356.13 Redesignated highways.

Where a highway over which a regular route motor common carrier of property is authorized to operate is assigned a new designation, such as a new number, letter, or name, the carrier shall advise the FHWA by letter, and shall provide information concerning the new and the old designation, the points between which the highway is redesignated, and each place where the highway is referred to in the carrier's authority. The new designation of the highway will be shown in the carrier's certificate when the FHWA has occasion to reissue it.

2. Chapter III is amended by adding part 370 to read as follows:

PART 370—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE

Sec.

370.1 Applicability of regulations.

370.3 Filing of claims.

370.5 Acknowledgment of claims.

370.7 Investigation of claims.

370.9 Disposition of claims.

370.11 Processing of salvage.

Authority: 49 U.S.C. 13301 and 14706; 49 CFR 1.48.

§ 370.1 Applicability of regulations.

The regulations set forth in this part shall govern the processing of claims for loss, damage, injury, or delay to property transported or accepted for transportation, in interstate or foreign commerce, by each motor carrier, water

carrier, and freight forwarder (hereinafter called carrier), subject to 49 U.S.C. subtitle IV, part B.

§ 370.3 Filing of claims.

(a) *Compliance with regulations.* A claim for loss or damage to baggage or for loss, damage, injury, or delay to cargo, shall not be voluntarily paid by a carrier unless filed, as provided in paragraph (b) of this section, with the receiving or delivering carrier, or carrier issuing the bill of lading, receipt, ticket, or baggage check, or carrier on whose line the alleged loss, damage, injury, or delay occurred, within the specified time limits applicable thereto and as otherwise may be required by law, the terms of the bill of lading or other contract of carriage, and all tariff provisions applicable thereto.

(b) *Minimum filing requirements.* A written or electronic communication (when agreed to by the carrier and shipper or receiver involved) from a claimant, filed with a proper carrier within the time limits specified in the bill of lading or contract of carriage or transportation and:

(1) Containing facts sufficient to identify the baggage or shipment (or shipments) of property,

(2) Asserting liability for alleged loss, damage, injury, or delay, and

(3) Making claim for the payment of a specified or determinable amount of money, shall be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage; *Provided, however,* That where claims are electronically handled, procedures are established to ensure reasonable carrier access to supporting documents.

(c) *Documents not constituting claims.* Bad order reports, appraisal reports of damage, notations of shortage or damage, or both, on freight bills, delivery receipts, or other documents, or inspection reports issued by carriers or their inspection agencies, whether the extent of loss or damage is indicated in dollars and cents or otherwise, shall, standing alone, not be considered by carriers as sufficient to comply with the minimum claim filing requirements specified in paragraph (b) of this section.

(d) *Claims filed for uncertain amounts.* Whenever a claim is presented against a proper carrier for an uncertain amount, such as "\$100 more or less," the carrier against whom such claim is filed shall determine the condition of the baggage or shipment involved at the time of delivery by it, if it was delivered, and shall ascertain as nearly as possible the extent, if any, of the loss or damage for which it may be

responsible. It shall not, however, voluntarily pay a claim under such circumstances unless and until a formal claim in writing for a specified or determinable amount of money shall have been filed in accordance with the provisions of paragraph (b) of this section.

(e) *Other claims.* If investigation of a claim develops that one or more other carriers has been presented with a similar claim on the same shipment, the carrier investigating such claim shall communicate with each such other carrier and, prior to any agreement entered into between or among them as to the proper disposition of such claim or claims, shall notify all claimants of the receipt of conflicting or overlapping claims and shall require further substantiation, on the part of each claimant of his/her title to the property involved or his/her right with respect to such claim.

§ 370.5 Acknowledgment of claims.

(a) Each carrier shall, upon receipt in writing or by electronic transmission of a proper claim in the manner and form described in the regulations in the past, acknowledge the receipt of such claim in writing or electronically to the claimant within 30 days after the date of its receipt by the carrier unless the carrier shall have paid or declined such claim in writing or electronically within 30 days of the receipt thereof. The carrier shall indicate in its acknowledgment to the claimant what, if any, additional documentary evidence or other pertinent information may be required by it further to process the claim as its preliminary examination of the claim, as filed, may have revealed.

(b) The carrier shall at the time each claim is received create a separate file and assign thereto a successive claim file number and note that number on all documents filed in support of the claim and all records and correspondence with respect to the claim, including the acknowledgment of receipt. At the time such claim is received the carrier shall cause the date of receipt to be recorded on the face of the claim document, and the date of receipt shall also appear in the carrier's acknowledgment of receipt to the claimant. The carrier shall also cause the claim file number to be noted on the shipping order, if in its possession, and the delivery receipt, if any, covering such shipment, unless the carrier has established an orderly and consistent internal procedure for assuring:

(1) That all information contained in shipping orders, delivery receipts, tally sheets, and all other pertinent records made with respect to the transportation

of the shipment on which claim is made, is available for examination upon receipt of a claim;

(2) That all such records and documents (or true and complete reproductions thereof) are in fact examined in the course of the investigation of the claim (and an appropriate record is made that such examination has in fact taken place); and

(3) That such procedures prevent the duplicate or otherwise unlawful payment of claims.

§ 370.7 Investigation of claims.

(a) *Prompt investigation required.* Each claim filed against a carrier in the manner prescribed in this part shall be promptly and thoroughly investigated if investigation has not already been made prior to receipt of the claim.

(b) *Supporting documents.* When a necessary part of an investigation, each claim shall be supported by the original bill of lading, evidence of the freight charges, if any, and either the original invoice, a photographic copy of the original invoice, or an exact copy thereof or any extract made therefrom, certified by the claimant to be true and correct with respect to the property and value involved in the claim; or certification of prices or values, with trade or other discounts, allowance, or deductions, of any nature whatsoever and the terms thereof, or depreciation reflected thereon; *Provided, however,* That where property involved in a claim has not been invoiced to the consignee shown on the bill of lading or where an invoice does not show price or value, or where the property involved has been sold, or where the property has been transferred at bookkeeping values only, the carrier shall, before voluntarily paying a claim, require the claimant to establish the destination value in the quantity, shipped, transported, or involved; *Provided, further,* That when supporting documents are determined to be a necessary part of an investigation, the supporting documents are retained by the carriers for possible FHWA inspection.

(c) *Verification of loss.* When an asserted claim for loss of an entire package or an entire shipment cannot be otherwise authenticated upon investigation, the carrier shall obtain from the consignee of the shipment involved a certified statement in writing that the property for which the claim is filed has not been received from any other source.

§ 370.9 Disposition of claims.

(a) Each carrier subject to 49 U.S.C. subtitle IV, part B which receives a

written or electronically transmitted claim for loss or damage to baggage or for loss, damage, injury, or delay to property transported shall pay, decline, or make a firm compromise settlement offer in writing or electronically to the claimant within 120 days after receipt of the claim by the carrier; *Provided, however,* That, if the claim cannot be processed and disposed of within 120 days after the receipt thereof, the carrier shall at that time and at the expiration of each succeeding 60-day period while the claim remains pending, advise the claimant in writing or electronically of the status of the claim and the reason for the delay in making final disposition thereof and it shall retain a copy of such advice to the claimant in its claim file thereon.

(b) When settling a claim for loss or damage, a common carrier by motor vehicle of household goods as defined in § 375.1(b)(1) of this chapter shall use the replacement costs of the lost or damaged item as a base to apply a depreciation factor to arrive at the current actual value of the lost or damaged item: *Provided,* That where an item cannot be replaced or no suitable replacement is obtainable, the proper measure of damages shall be the original costs, augmented by a factor derived from a consumer price index, and adjusted downward by a factor depreciation over average useful life.

§ 370.11 Processing of salvage.

(a) Whenever baggage or material, goods, or other property transported by a carrier subject to the provisions in this part is damaged or alleged to be damaged and is, as a consequence thereof, not delivered or is rejected or refused upon tender thereof to the owner, consignee, or person entitled to receive such property, the carrier, after giving due notice, whenever practicable to do so, to the owner and other parties that may have an interest therein, and unless advised to the contrary after giving such notice, shall undertake to sell or dispose of such property directly or by the employment of a competent salvage agent. The carrier shall only dispose of the property in a manner that will fairly and equally protect the best interests of all persons having an interest therein. The carrier shall make an itemized record sufficient to identify the property involved so as to be able to correlate it to the shipment or transportation involved, and claim, if any, filed thereon. The carrier also shall assign to each lot of such property a successive lot number and note that lot number on its record of shipment and claim, if any claim is filed thereon.

(b) Whenever disposition of salvage material or goods shall be made directly to an agent or employee of a carrier or through a salvage agent or company in which the carrier or one or more of its directors, officers, or managers has any interest, financial or otherwise, that carrier's salvage records shall fully reflect the particulars of each such transaction or relationship, or both, as the case may be.

(c) Upon receipt of a claim on a shipment on which salvage has been processed in the manner prescribed in this section, the carrier shall record in its claim file thereon the lot number assigned, the amount of money recovered, if any, from the disposition of such property, and the date of transmittal of such money to the person or persons lawfully entitled to receive the same.

3. Chapter III is amended by adding part 379 to read as follows:

PART 379—PRESERVATION OF RECORDS

Sec.

- 379.1 Applicability.
- 379.3 Records required to be retained.
- 379.5 Protection and storage of records.
- 379.7 Preservation of records.
- 379.9 Companies going out of business.
- 379.11 Waiver of requirements of the regulations in this part.
- 379.13 Disposition and retention of records.

Appendix A to Part 379—Schedule of Records and Periods of Retention

Authority: 49 U.S.C. 13301, 14122 and 14123; 49 CFR 1.48.

§ 379.1 Applicability.

(a) The preservation of record rules contained in this part shall apply to the following:

- (1) Motor carriers and brokers;
- (2) Water carriers; and
- (3) Household goods freight forwarders.

(b) This part applies also to the preservation of accounts, records and memoranda of traffic associations, weighing and inspection bureaus, and other joint activities maintained by or on behalf of companies listed in paragraph (a) of this section.

§ 379.3 Records required to be retained.

Companies subject to this part shall retain records for the minimum retention periods provided in appendix A to this part. After the required retention periods, the records may be destroyed at the discretion of each company's management. It shall be the obligation of the subject company to maintain records that adequately support financial and operational data required by the Secretary. The company

may request a ruling from the Secretary on the retention of any record. The provisions of this part shall not be construed as excusing compliance with the lawful requirements of any other governmental body prescribing longer retention periods for any category of records.

§ 379.5 Protection and storage of records.

(a) The company shall protect records subject to this part from fires, floods, and other hazards, and safeguard the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of ventilation.

(b) The company shall notify the Secretary if prescribed records are substantially destroyed or damaged before the term of the prescribed retention periods.

§ 379.7 Preservation of records.

(a) All records may be preserved by any technology that is immune to alteration, modification, or erasure of the underlying data and will enable production of an accurate and unaltered paper copy.

(b) Records not originally preserved on hard copy shall be accompanied by a statement executed by a person having personal knowledge of the facts indicating the type of data included within the records. One comprehensive statement may be executed in lieu of individual statements for multiple records if the type of data included in the multiple records is common to all such records. The records shall be indexed and retained in such a manner as will render them readily accessible. The company shall have facilities available to locate, identify and produce legible paper copies of the records.

(c) Any significant characteristic, feature or other attribute that a particular medium will not preserve shall be clearly indicated at the beginning of the applicable records as appropriate.

(d) The printed side of forms, such as instructions, need not be preserved for each record as long as the printed matter is common to all such forms and an identified specimen of the form is maintained on the medium for reference.

§ 379.9 Companies going out of business.

The records referred to in the regulations in this part may be destroyed after business is discontinued and the company is completely liquidated. The records may not be destroyed until dissolution is final and all pending transactions and claims are completed. When a company is merged with another company under

jurisdiction of the Secretary, the successor company shall preserve records of the merged company in accordance with the regulations in this part.

§ 379.11 Waiver of requirements of the regulations in this part.

A waiver from any provision of the regulations in this part may be made by the Secretary upon his/her own initiative or upon submission of a written request by the company. Each

request for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques, or that compliance with such prescribed requirements would impose an unreasonable burden on the company.

§ 379.13 Disposition and retention of records.

The schedule in appendix A to this part shows periods that designated records shall be preserved. The

descriptions specified under the various general headings are for convenient reference and identification, and are intended to apply to the items named regardless of what the records are called in individual companies and regardless of the record media. The retention periods represent the prescribed number of years from the date of the document and not calendar years. Records not listed in appendix A to this part shall be retained as determined by the management of each company.

Appendix A to Part 379

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item and category of records	Retention period
A. Corporate and General	
1. Incorporation and reorganization:	
(a) Charter or certificate of incorporation and amendments	Note A.
(b) Legal documents related to mergers, consolidations, reorganization, receiverships and similar actions which affect the identity or organization of the company	Note A.
2. Minutes of Directors, Executive Committees, Stockholders and other corporate meetings	Note A.
3. Titles, franchises and authorities:	
(a) Certificates of public convenience and necessity issued by regulating bodies	Until expiration or cancellation.
(b) Operating authorizations and exemptions to operate	Until expiration or cancellation.
(c) Copies of formal orders of regulatory bodies served upon the company	Note A.
(d) Deeds, charters, and other title papers	Until disposition of property.
(e) Patents and patent records	Note A.
4. Annual reports or statements to stockholders	3 years.
5. Contracts and agreements:	
(a) Service contracts, such as for operational management, accounting, financial or legal services, and agreements with agents	Until expiration or termination plus 3 years.
(b) Contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided in (a) above	Until expiration or termination plus 3 years.
(c) Contracts for the purchase or sale of material and supplies except as provided in (a) above	Until expiration.
(d) Shipping contracts for transportation or caretakers of freight	Until expiration.
(e) Contracts with employees and employee bargaining groups	Until expiration.
(f) Contracts, leases and agreements, not specifically provided for in this section	Until expiration or termination plus 1 year.
6. Accountant's auditor's, and inspector's reports:	
(a) Certifications and reports of examinations and audits conducted by public accountants	3 years.
(b) Reports of examinations and audits conducted by internal auditors, time inspectors, and others	3 years.
7. Other	Note A.
B. Treasury	
1. Capital stock records:	
(a) Capital stock ledger	Note A.
(b) Capital stock certificates, records of or stubs of	Note A.
(c) Stock transfer register	Note A.
2. Long-term debt records:	
(a) Bond indentures, underwritings, mortgages, and other long-term credit agreements	Until redemption plus 3 years.
(b) Registered bonds and debenture ledgers	Until redemption plus 3 years.
(c) Stubs or similar records of bonds or other long-term debt issued	Note A.
3. Authorizations from regulatory bodies for issuance of securities including applications, reports, and supporting papers	Note A.
4. Records of securities owned, in treasury, or held by custodians, detailed ledgers and journals, or their equivalent	Until the securities are sold, redeemed or otherwise disposed of.
5. Other	Note A.
C. Financial and Accounting	
1. Ledgers:	
(a) General and subsidiary ledgers with indexes	Until discontinuance of use plus 3 years.
(b) Balance sheets and trial balance sheets of general and subsidiary ledgers	3 years.
2. Journals:	
(a) General journals	Until discontinuance of use plus 3 years.
(b) Subsidiary journals and any supporting data, except as otherwise provided for, necessary to explain journal entries	3 years.
3. Cash books:	

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item and category of records	Retention period
(a) General cash books	Until discontinuance of use plus 3 years.
(b) Subsidiary cash books	3 years.
4. Vouchers:	
(a) Voucher registers, indexes, or equivalent	3 years.
(b) Paid and canceled vouchers, expenditure authorizations, detailed distribution sheets and other supporting data including original bills and invoices, if not provided for elsewhere.	3 years.
(c) Paid drafts, paid checks, and receipts for cash paid out	3 years.
5. Accounts receivable:	
(a) Record or register of accounts receivable, indexes thereto, and summaries of distribution	3 years after settlement.
(b) Bills issued for collection and supporting data	3 years after settlement.
(c) Authorization for writing off receivables	1 year.
(d) Reports and statements showing age and status of receivables	1 year.
6. Records of accounting codes and instructions	3 years after discontinuance.
7. Other	Note A.

D. Property and Equipment

Note.—All accounts, records, and memoranda necessary for making a complete analysis of the cost or value of property shall be retained for the periods shown. If any of the records elsewhere provided for in this schedule are of this character, they shall be retained for the periods shown below, regardless of any lesser retention period assigned.

1. Property records:	
(a) Records which maintain complete information on cost or other value of all real and personal property or equipment.	3 years after disposition of property.
(b) Records of additions and betterments made to property and equipment	3 years after disposition of property.
(c) Records pertaining to retirements and replacements of property and equipment	3 years after disposition of property.
(d) Records pertaining to depreciation	3 years after disposition of property.
(e) Records of equipment number changes	3 years after disposition of property.
(f) Records of motor and engine changes	3 years after disposition of property.
(g) Records of equipment lightweighed and stenciled	Only current or latest records.
2. Engineering records of property changes actually made	3 years after disposition of property.
3. Other	Note A.

E. Personnel and Payroll

1. Personnel and payroll records	1 year.
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F. Insurance and Claims

1. Insurance records:	
(a) Schedules of insurance against fire, storms, and other hazards and records of premium payments	Until expiration plus 1 year.
(b) Records of losses and recoveries from insurance companies and supporting papers	1 year after settlement.
(c) Insurance policies	Until expiration of coverage plus 1 year.
2. Claims records:	
(a) Claim registers, card or book indexes, and other records which record personal injury, fire and other claims against the company, together with all supporting data.	1 year after settlement.
(b) Claims registers, card or book indexes, and other records which record overcharges, damages, and other claims filed by the company against others, together with all supporting data.	1 year after settlement.
(c) Records giving the details of authorities issued to agents, carriers, and others for participation in freight claims.	3 years.
(d) Reports, statements and other data pertaining to personal injuries or damage to property when not necessary to support claims or vouchers.	3 years.
(e) Reports, statements, tracers, and other data pertaining to unclaimed, over, short, damaged, and refused freight, when not necessary to support claims or vouchers.	1 year.
(f) Authorities for disposal of unclaimed, damaged, and refused freight	3 years.
3. Other	Note A.

G. Taxes

1. Taxes.	Note A.
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H. Purchases and Stores

1. Purchases and stores.	Note A.
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I. Shipping and Agency Documents

1. Bills of lading and releases:	
(a) Consignors' shipping orders, consignors' shipping tickets, and copies of bills of lading, freight bills from other carriers and other similar documents furnished the carrier for movement of freight.	1 year.
(b) Shippers' order-to-notify bills of lading taken up and canceled	1 year.
2. Freight waybills:	
(a) Local waybills	1 year.
(b) Interline waybills received from and made to other carriers	1 year.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item and category of records	Retention period
(c) Company freight waybills	1 year.
(d) Express waybills	1 year.
3. Freight bills and settlements:	
(a) Paid copy of freight bill retained to support receipt of freight charges:	
(1) Bus express freight bills provided no claim has been filed	1 year.
(2) All other freight bills	1 year.
(b) Paid copy of freight bill retained to support payment of freight charges to other carriers:	
(1) Bus express freight bills provided no claim has been filed	1 year.
(2) All other freight bills	1 year.
(c) Records of unsettled freight bills and supporting papers	1 year after disposition.
(d) Records and reports of correction notices	1 year.
4. Other freight records:	
(a) Records of freight received, forwarded, and delivered	1 year.
(b) Notice to consignees of arrival of freight; tender of delivery	1 year.
5. Agency records (to include conductors, pursers, stewards, and others):	
(a) Cash books	1 year.
(b) Remittance records, bank deposit slips and supporting papers	1 year.
(c) Balance sheets and supporting papers	1 year.
(d) Statements of corrections in agents' accounts	1 year.
(e) Other records and reports pertaining to ticket sales, baggage handled, miscellaneous collections, refunds, adjustments, etc..	1 year.
J. Transportation	
1. Records pertaining to transportation of household goods:	
(a) Estimate of charges	1 year.
(b) Order for service	1 year.
(c) Vehicle-load manifest	1 year.
(d) Descriptive inventory	1 year.
2. Records and reports pertaining to operation of marine and floating equipment:	
(a) Ship log	3 years.
(b) Ship articles	3 years.
(c) Passenger and room list	3 years.
(d) Floatmen's barge, lighter, and escrow captain's reports, demurrage records, towing reports and checks sheets.	2 years.
3. Dispatchers' sheets, registers, and other records pertaining to movement of transportation equipment	3 years.
4. Import and export records including bonded freight and steamship engagements	2 years.
5. Records, reports, orders and tickets pertaining to weighting of freight	3 years.
6. Records of loading and unloading of transportation equipment	2 years.
7. Records pertaining to the diversion or reconsignment of freight, including requests, tracers, and correspondence.	2 years.
8. Other	Note A.
K. Supporting Data for Reports and Statistics	
1. Supporting data for reports filed with the Federal Highway Administration, the Surface Transportation Board, the Department of Transportation's Bureau of Transportation Statistics and regulatory bodies:	
(a) Supporting data for annual financial, operating and statistical reports	3 years.
(b) Supporting data for periodical reports of operating revenues, expenses, and income	3 years.
(c) Supporting data for reports detailing use of proceeds from issuance or sale of company securities	3 years.
(d) Supporting data for valuation inventory reports and records. This includes related notes, maps and sketches, underlying engineering, land, and accounting reports, pricing schedules, summary or collection sheets, yearly reports of changes and other miscellaneous data, all relating to the valuation of the company's property by the Federal Highway Administration, the Surface Transportation Board, the Department of Transportation's Bureau of Transportation Statistics or other regulatory body.	3 years after disposition of the property.
2. Supporting data for periodical reports of accidents, inspections, tests, hours of service, repairs, etc.	3 years.
3. Supporting data for periodical statistical of operating results or performance by tonnage, mileage, passengers carried, piggyback traffic, commodities, costs, analyses of increases and decreases, or otherwise.	3 years.
M. Miscellaneous	
1. Index of records	Until revised as record structure changes.
2. Statement listing records prematurely destroyed or lost	For the remainder of the period as prescribed for records destroyed.

Note A.—Records referenced to this note shall be maintained as determined by the designated records supervisory official. Companies should be mindful of the record retention requirements of the Internal Revenue Service, Securities and Exchange Commission, State and local jurisdictions, and other regulatory agencies. Companies shall exercise reasonable care in choosing retention periods, and the choice of retention periods shall reflect past experiences, company needs, pending litigation, and regulatory requirements.

[FR Doc. 97-15441 Filed 6-11-97; 8:45 am]
BILLING CODE 4910-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970429101-7101-01; I.D. 060397A]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Closure from Cape Arago, OR, to the Oregon-California Border

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

ACTION: Closure.

SUMMARY: NMFS announces that the commercial salmon fishery in the area from Cape Arago, OR, to the Oregon-California border was closed at 2400 hours, May 28, 1997. The Regional Administrator, Northwest Region, NMFS (Regional Administrator), has determined that the commercial quota of 5,300 chinook salmon has been reached. This action is necessary to conform to the 1997 management measures and is intended to ensure conservation of chinook salmon.

DATES: Effective 2400 hours local time, May 28, 1997, through 2400 hours local time May 31, 1997, at which time the season remains closed under the terms of the 1997 management measures. Comments will be accepted through June 26, 1997.

ADDRESSES: Comments may be mailed to William Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070. Information relevant to this action is available for public review during business hours at the office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: William Robinson, 206-526-6140.

SUPPLEMENTARY INFORMATION:

Regulations governing the ocean salmon fisheries at 50 CFR 660.409(a)(1) state that when a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Administrator to be reached on or by a certain date, the Secretary will, by an inseason action issued under 50 CFR 660.411, close the commercial or recreational fishery, or

both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached.

In the 1997 management measures for ocean salmon fisheries (62 FR 24355, May 5, 1997), NMFS announced that the commercial fishery in the area between Cape Arago, OR, and the Oregon-California border would open on April 15 and continue through May 31 or attainment of the 5,300 chinook salmon quota, whichever occurred first.

The best available information on May 27 indicated that the chinook salmon quota had been reached based on catch and effort data and projections. To provide for an orderly shutdown of the commercial fishery in this area, closure was made effective at 2400 hours, May 28. The Regional Administrator consulted with representatives of the Pacific Fishery Management Council and the Oregon Department of Fish and Wildlife. The State of Oregon will manage the commercial fishery in state waters adjacent to this area of the exclusive economic zone in accordance with this Federal action. As provided by the inseason notification procedures of 50 CFR 660.411, actual notice to fishermen of this action was given prior to 2400 hours local time, May 28, 1997, by telephone hotline number 206-526-6667 and 800-662-9825 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. Because of the need for immediate action to stop the fishery upon achievement of the quota, NMFS has determined that good cause exists for this action to be issued without affording a prior opportunity for public comment. This action does not apply to other fisheries that may be operating in other areas.

Classification

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 6, 1997.

Rebecca Lent,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 97-15361 Filed 6-11-97; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334-7025-02; I.D. 053097F]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Gulf of Alaska Statistical Area 620

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the second seasonal allowance of total allowable catch (TAC) for pollock in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 9, 1997, until 1200 hrs, A.l.t., September 1, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907-486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final specification of pollock TAC in Statistical Area 620 of the GOA was established by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997) as 31,250 mt, determined in accordance with § 679.20(a)(5)(ii)(A). In accordance with § 679.20(a)(5)(ii)(B) and § 679.20(a)(5)(ii)(B)(2) the second seasonal allowance of pollock TAC in Statistical Area 620 is 7,231 mt. As of May 24, 1997, 9,556 mt of pollock has been harvested from Statistical Area 620. This amount represents a combination of the amounts taken during the first season and into the second.

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal allowance of TAC for pollock in Statistical Area 620 soon will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 7,031 mt, and is