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Tuesday
May 5, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: June 9, at 9 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: Gertrude E. Belton, 202-523-5237

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Reader Aids
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Presidential Documents

Title 3—

The President

Proclamation 5645 of May 1, 1987

Loyalty Day, 1987

By the President of the United States of America

A Proclamation

For nearly 30 years, Americans have celebrated May 1 as Loyalty Day. This is a day to reaffirm our loyalty to our land of liberty and to recall with pride and gratitude the generations of our countrymen who preserved our freedom by their loyalty to America.

Loyalty to our country means being faithful to our heritage of liberty and justice for all. During this Bicentennial year of the Constitution, let us make our observance of Loyalty Day one of reflection on all the profound good that our experiment in individual liberty and limited government has meant for the United States of America and for the hope of the world. Let us rekindle in every heart the unshakeable strength and purpose that was our forefathers'. Let us ask the Author of Liberty, as did they, to bless and protect the United States. In these ways we will, in loyalty, fulfill our sacred trust to "secure the Blessings of Liberty to ourselves and our Posterity."

To foster loyalty and love of country, the Congress, by joint resolution approved July 18, 1958 (72 Stat. 369, 36 U.S.C. 162), has designated May 1 of each year as "Loyalty Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 1, 1987, as Loyalty Day and call upon all Americans and patriotic, civic, fraternal, and educational organizations to observe that day with appropriate ceremonies. I also call upon all government officials to display the flag of the United States on all government buildings and grounds on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 87-10323
Filed 5-1-87; 4:39 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 52, No. 86
Tuesday, May 5, 1987

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 252

Food Distribution Program; National Commodity Processing Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule will extend the National Commodity Processing (NCP) Program until June 30, 1988. NCP was established in the June 23, 1983 rule and extended through June 30, 1987 in the June 30, 1986 interim rule. This action will promote a regular supply of processed end products to eligible recipient agencies for the 1987–88 agreement year.

EFFECTIVE DATE: July 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph E. Shepherd, Director, Nutrition and Technical Services Division, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3585.

SUPPLEMENTARY INFORMATION:

Background

The Department had decided to extend the operations of the NCP Program through June 30, 1988. The Department believes that the current regulations governing the NCP are adequate for the extension period, during which time the Department will continue to work on an alternate to the current program. The interim rules published on June 30, 1986 (51 FR 23518) will remain in effect for the extension period. Only one change is being made to the interim rule—removal of all references to the termination dates specified in the June 30, 1986 rule.

List of Subjects in 7 CFR Part 252

Agricultural commodities, Grant programs-social programs, Price support programs, Surplus agricultural commodities.

PART 252—NATIONAL COMMODITY PROCESSING PROGRAM

1. The authority citation for Part 252 continues to read as follows:

Authority: Sec. 416, Agricultural Act of 1949 (7 U.S.C. 1431).

2. In § 252.4, paragraph (b) is revised to read as follows:

§ 252.4 Application to participate and agreement.

* * * * *

(b) *Agreement between FNS and Participating Food Processors.* Upon approval of an application for participating in the NCP Program, FNS shall enter into an agreement with the applicant food processor. All agreements under the NCP Program will terminate June 30 of 1988.

* * * * *

Dated: April 29, 1987.

S. Anna Kondratas

Acting Administrator.

[FR Doc. 87–10098 Filed 5–4–87; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 907

Navel Oranges Grown in Arizona and Designated Part of California; Termination of Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule terminates § 907.930 Navel orange regulation 630, which is a minimum size requirement of 2.32 inches in diameter for fresh domestic shipments of California-Arizona navel oranges during the 1986–87 marketing season. This action recognizes the size composition of the remaining 1986–87 California-Arizona navel orange crop and current and prospective market conditions.

EFFECTIVE DATE: May 5, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202/475–3914.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this regulation on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "Act", and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The California-Arizona navel orange industry is characterized by a large number of producers located over a wide area. The production area is divided into four districts which cover Arizona and a part of California. The highest proportion of the production is located in Central California (District 1), which represented 87 percent of the total production in 1985–86. District 2 is located in the southern coastal area of California and represented 12 percent of 1985–86 production; District 3 is the desert area of California and Arizona, which represented 1 percent last season; and District 4, northern California, less than 1 percent.

The Navel Orange Administrative Committee (NOAC) reports that there were 4,065 producers during the 1985–86 season and 123 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.1 (1985)) as those having average annual gross revenues for the last three fiscal years of less than $100,000. Handlers are considered small entities if revenues are less than $3.5 million. The California-Arizona navel orange industry is characterized by small entities. The 1985–86 industry total value of

production (at the on-tree level) was $190 million which would average $47,000 per producer.

This action terminates § 907.930 Navel orange regulation 630, which is issued pursuant to §§ 907.63 and 907.64 of Marketing Order No. 907, as amended, regulating the handling of navel oranges grown in Arizona and a designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 through 674). The termination was unanimously recommended by the Navel Orange Administrative Committee, which locally administers the marketing order.

Section 907.930 Navel orange regulation 630 was published in the **Federal Register** on February 3, 1987 (52 FR 3214) and became effective on that date. The regulation proscribed the shipment of small sized navel oranges during the remainder of the 1986–87 season, which ends July 31, 1987. Navel oranges are classified into categories which indicate the number of oranges packed in a standard carton of 37.5 pounds. For instance, size 56's would be a size category designating very large size oranges and size 210's very small oranges. The regulation prohibited the shipment of size 180's and smaller or, in other words, oranges smaller than 2.32 inches in diameter. A 5 percent tolerance for oranges 2.32 inches in diameter or smaller was included in the regulation.

The regulation was established based on a projection that 1 to 2 percent of the 1986–87 navel orange crop would be size 180's or smaller. It was determined at that time that implementation of the regulation would require the handling of larger sized oranges and, thereby, improve producers' returns by strengthening the price patterns of navel oranges.

It is now projected that less than 1 percent of the remaining 1986–87 crop of navel oranges will be size 180's or smaller. It is not expected that shipments of these oranges will be size 180's or smaller. It is not expected that shipments of these oranges would have a significant effect on the price structure of the market if released at this time for shipment during the remainder of the 1986–87 season. Therefore, § 907.930 Navel orange regulation 630 should be terminated.

Based on the above, the Administrator of the Agricultural Marketing Service has determined that the issuance of this rule will not have a significant economic impact on a substantial number of small entities.

It is hereby found that continuing § 907.930 for the remainder of the season would no longer tend to effectuate the declared policy of the Act and such regulation should be terminated.

It is further found that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice, and to engage in public procedure with respect to this action and good cause is found for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because this final rule provides relief from restrictions on handlers and should be issued as soon as possible since shipments of 1986–87 crop navel oranges are underway and are expected to continue through July 1987.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read as follows:

Authority: Secs 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 907.930 [Removed]

Section 907.930 Navel orange regulation 630 is removed.

Dated: April 28, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87–10181 Filed 5–4–87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 212, 241, 242 and 287

[INS # 1005–87]

Documentary Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole Judical Recommendations Against Deportation Proceedings To Determine Deportability of Aliens in the United States; Apprehension, Custody, Hearing, and Appeal Field Officers; Powers and Duties

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: These changes amend the present rules by (1) addition of supplementary definitions to those already found in the regulations; (2) establishment of procedures for expeditious processing of aliens convicted of offenses which render them deportable from the United States; and (3) establishment of procedures for making determinations necessary as to issuing detainers against aliens arrested for controlled substance violations. These changes are necessitated by the provisions of two recently passed statutes relating to criminal aliens and alien narcotics traffickers, which amended certain provisions of the Immigration and Nationality Act: The Anti-Drug Abuse Act of 1986, Pub. L. 99–570; and the Immigration Reform and Control Act of 1986, Pub. L. 99–603. Prompt establishment of the procedures contained in these interim regulations is necessary in order to ensure that Service operations are conducted in a manner consistent with the Congressional intent of both Acts. For this reason, these rules will go into effect on an interim basis, while soliciting commentary which will be taken into consideration upon receipt, in formulating the final regulations for publication.

DATE: Interim rules effective May 5, 1987; comments must be received on or before June 4, 1987.

ADDRESS: Submit written comments in duplicate to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, Room 2011, 425 Eye Street, NW., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Walter D. Cadman, Acting Deputy Assistant Commissioner, Investigations Division, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633–2997.

SUPPLEMENTARY INFORMATION:

1. Changes Based on the Anti-Drug Abuse Act of 1986

On October 27, 1986 the President signed into law the Anti-Drug Abuse Act of 1986, Pub. L. 99–570. Subtitle M (section 1751) of that Act, entitled the Narcotics Trafficers Deportation Act, amended sections 212(a)(23), 241(a)(11) and 287 of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(a)(23), 1251(a)(11) and 1357, as follows:

Section 212(a)(23) was amended to render excludable any alien convicted of a violation involving controlled substances, as defined in 21 U.S.C. 802.

Section 241(a)(11) was amended to render deportable any alien convicted of a violation involving controlled substances, also as defined in 21 U.S.C. 802. (Parenthetically, any conviction(s),

including those occurring in foreign countries, suffice to render an alien excludable or deportable, provided that the controlled substances underlying the conviction are incorporated into the noted regulations issued thereunder.)

Section 287 was amended by addition of new subsection (d) to require that when the Immigration and Naturalization Service (INS) is expeditiously informed that an alien has been arrested for a violation of any law relating to controlled substances, the Service must promptly determine whether or not to issue a detainer.

The public should be aware that the Immigration Reform and Control Act (IRCA) also amended section 287 of the INA through addition of a new subsection (d), although it is substantially different in nature from that subsection included in the Anti-Drug Abuse Act. The added subsection contained in IRCA establishes the necessity for Service officers to obtain warrants of search and entry onto the premises of farms or other outdoor agricultural operations, in order to interrogate suspended aliens as to their right to be or remain in the United States. It is anticipated that this editoral oversight will be annotated by footnote, and possibly numerical redesignation, in the printed final revision of the amended Title 8 of the United State Code.

Subtitle M also provides for a one-year pilot project in four cities to be designated by the Attorney General, designed for enhanced automated exchange of information between INS and states and local agencies, and calls for increase in INS Investigations personnel.

The statute defines controlled substances for the purposes of sections 212(a)(23) and 241(a)(11) of the INA by reference to 21 U.S.C. 802, as noted above. However, the statute does not enumerate a specific listing of those substances, which may be found in Schedules I through V, which are enumerated in 21 CFR Part 1308. The statute does not define the term controlled substance for section 287. Nor does it define other key phrases utilized. For that reason, and for purposes of continuity with the aforementioned sections and other existing sections of the Immigration and Nationality Act, these amendment establish uniform definitions to be adopted by Service officers, on an interim basis, in complying with the new provisions of law:

—The term "arrested by a Federal, State, or local law enforcement official" has been defined to require that an alien must have been (1) physically taken into custody, and (2) officially booked or charged. This term has been defined due to concern that the Service not be placed in the difficult position of being required to legally react to situations involving assumption of custody, and possible removal, of an alien whose civil rights may have been violated through illegal or unconstitutional detention by law enforcement officials, prior to any resulting litigation. By requiring that the aliens have been officially processed, such concerns are minimized.

—The term "law enforcement (or other) official" has been defined to interpret the nature and kind of official agencies to which the Service must respond, i.e., criminal justice agencies, courts and correctional or probation and parole departments.

—The term "controlled substance" has been defined consonant with the revised provisions of sections 212(a)(23) and 241(a)(11) of the INA, i.e., as defined in 21 U.S.C. 802, and in accordance with the schedules enumerated in 21 CFR Part 1308.

Having established the operational definitions, the proposed regulations next establish a set of uniform procedures to be followed by Service officials in making the determinations required by law.

2. Changes Based on the Immigration Reform and Control Act of 1986

On November 6, 1986, the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99–603, was signed into law almost simultaneous with the enactment of the provisions of the Anti-Drug Abuse Act. Certain provisions of the Act are, at least superficially, inconsistent with the requirements of Subtitle M. For instance, although Subtitle M requires determinations regarding aliens illegally in the United States who have been arrested for controlled substance violations, absent a conviction, such aliens remain eligible to apply for legalization under the provisions of the Immigration Reform and Control Act, if they have been in the United States continuously since 1982 in an unlawful status.

Other provisions of IRCA, specifically Titles V and VII, also deal with the issue of criminal aliens in the United States. Section 701 of Title VII of that Act amends the provisions of section 242 of the INA, 8 U.S.C. 1252, as follows:

Section 242 was amended by addition of new subsection (i) to require that the Attorney General must expeditiously commence deportation proceedings against an alien upon conviction of an offense for which he or she is rendered amenable to deportation from the United States.

The statute calls for expeditious commencement of proceedings against criminal aliens who are convicted of an offense which renders them amenable to deportation from the United States. However, it does not define the terms, "commencement" or "conviction." For that reason, the proposed interim rules do so, consistent with the revised and present laws, regulations, and precedent decisions of various courts and the Board of Immigration Appeals (BIA), which maintains appellate jurisdiction over the administrative expulsion proceedings of the Service. Because these laws, regulations and precedent decisions vest actual commencement and completion of proceedings with immigration courts and the BIA under the jurisdiction of the Executive Office of Immigration Review, an independent entity within the Department of Justice, the definitions address those procedures under Service control and jurisdiction, upon which commencement of deportation proceedings operate, i.e., issuance and filing of orders to show cause with the immigration judge who has administrative control over the record of proceeding. The uniform definitions and procedures set forth in these rules follows:

—The authority to issue detainers against aliens incarcerated as the result of criminal convictions has been delegated to immigration officers as presently defined by law and regulation;

—The term "commencement of proceedings" is defined as issuance and filing of an order to show cause with the immigration judge who has administrative control over the record of proceeding, upon notice by another agency that an alien has been convicted of an offense which renders the alien amenable to deportation proceedings;

—The term "conviction" has been defined to require (1) a judicial finding of guilt, (2) that all judicial appeals have been waived, exhausted, or the appeal period has lapsed, and (3) that the action taken by the court results in a finding which is considered as a conviction under the statutes of jurisdiction.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary and impracticable as the changes have been mandated by law.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have significant impact on a substantial number of small entities. This is not a major rule as defined in section 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 212

Administrative practice and procedure, Aliens, Passports and visas.

8 CFR Part 241

Administrative practice and procedure, Aliens, Controlled substance definition, Deportability, Judicial recommendations against deportation.

8 CFR Part 242

Administrative practice and procedure, Aliens, Authority delegation, Cancellation proceeding, Detention, Order to show cause.

8 CFR Part 287

Criminal violations, Definitions, Detainers, Disposition of cases of aliens arrested without warrant, Immigration law enforcement officers, Power and authority to administer oaths, Proof of official records, Subpoena.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS; NONIMMIGRANTS: WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for Part 212 is revised to read as follows:

Authority: Secs. 101, 103, 212, 214, 235, 236, 238, 242, 8 U.S.C. 1101, 1103, 1182, 1184, 1225, 1226, 1228, 1252, 1182b, 1182c; 100 Stat. 3207.

2. A new § 212.11 is added to read as follows:

§ 212.11 Controlled substance violations.

In determining the admissibility of an alien who has been convicted of a controlled substance violation, the term "controlled substance" used in section 212(a)(23) of the Act, as amended by the Anti-Drug Abuse Act of 1986, Pub. L. 99–570, shall have reference to any substance contained in Schedules I through V of 21 CFR 1308.1, or to any substance analogue of an essentially similar chemical structure to a substance contained in those schedules.

PART 241—JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION; CONTROLLED SUBSTANCE VIOLATIONS

3. The authority citation for Part 241 of Title 8 is revised to read as follows:

Authority: Secs. 103, 241, 242, 287; 66 Stat. 173, as amended; 8 U.S.C. 1103, 1251, 1252, 1357; 100 Stat. 3207.

4. The title of this part is revised to read as set forth above.

5. A new § 241.2 is added to read as follows:

§ 241.2 Controlled substance violations.

In determining the deportability of an alien who has been convicted of a controlled substance violation, the term "controlled substance" used in section 241(a)(11) of the Act, as amended by the Anti-Drug Abuse Act of 1986, Pub. L. 99–570, shall have reference to any substance contained in Schedules I through V of 21 CFR 1308.1, or to any substance analogue of an essentially similar chemical structure to a substance contained in those schedules.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

6. The authority citation for Part 242 of Title 8 is revised to read as follows.

Authority: Secs. 103, 242, 244, 292; 8 U.S.C. 1103, 1182, 1252, 1254, 1362; E.O. 12356; Title 1 of Pub. L. 95–145; 100 Stat. 3359.

7. Section 242.2 is amended by redesignating existing paragraphs (a) through (e) as (b) through (f) respectively and adding new paragraphs (a) and (g) to read as follows:

§ 242.2 Apprehension, custody and detention.

(a) *Authority to issue detainers.* (1) Only an immigration officer as defined in section 101(a)(18) of the Act, or § 103.1(q) of this chapter shall be authorized to issue a detainer.

(2) Detainers are authorized to be filed against any alien amenable to proceedings under any provision of the law; *Provided That,* if the alien is illegally or unlawfully in the United States but is eligible to apply, or has applied, for legalization or special agricultural worker status under the provisions of section 245A or 210 of the Act, no detainer shall be issued unless the Service has denied, or issued notice of intent to deny, the benefit applied for.

(3) In order that a Service officer may accurately determine the propriety of issuing a detainer against, serving an order to show cause upon, or taking custody of, an alien, a Federal, State or local law enforcement official requesting such a determination or notifying of a conviction under section 242(i) of the Act, shall provide all documentary information available from the agency regarding that alien, and which reasonably relates to the alien's status in the United States or which may have an impact on conditions of release.

(4) Issuance of a detainer against an alien by a Service officer may be authorized telephonically. However, such authorizations shall be subsequently confirmed in writing by use of Form I–247, or by electronic communications transfer media, such as the National Law Enforcement Telecommunications System (NLETS), within twenty-four hours of the telephonic authorization; *Provided That,* messages transmitted by electronic means shall contain substantially the same language which is contained on Form I–247.

(5) Upon a determination by an officer of the Service to issue a detainer against an alien who is not otherwise being detained by Federal, State or local law enforcement officials, such officials shall maintain custody of the alien for a period not to exceed forty-eight hours at the request of the Service officer, in order to permit assumption of Service custody.

* * * * *

(g) *Commencement of proceedings upon final conviction.* The term "commencement of proceedings" is defined as issuance and filing of an order to show cause with the immigration judge who has administrative control over the record of proceeding, upon notice by another agency that an alien has been convicted of an offense which renders the alien amenable to deportation proceedings. For purposes of this section, a conviction exists when the following elements are presented:

(1) There has been a judicial finding of guilt;

(2) All judicial appeals have been waived, exhausted, or the appeal period has lapsed; and

(3) The action taken by the court results in a finding which is considered a conviction under the laws of the Federal, State or local government for at least some purpose.

PART 287—FIELD OFFICERS; POWERS AND DUTIES

8. The authority citation for Part 287 of Title 8 is revised to read as follows:

Authority: Secs. 103, 212, 235, 236, 241, 242, 287; 66 Stat. 173, 198, 200, 208, as amended, 233; 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; 100 Stat. 3207.

9. Section 287.1 is amended by adding new paragraphs (g) through (i) to read as follows:

§ 287.1 Definitions.

* * * * *

(g) *Arrested by a Federal, State, or local law enforcement official.* The term "arrested," as used in section 287(d) of the Act (as amended by section 1701 of

Subtitle M of the Anti-Drug Abuse Act of 1986, Pub. L. 99–507), means an alien physically taken into custody for a criminal violation of the controlled substance laws and subsequently booked, charged or otherwise officially processed.

(h) *Law enforcement or other official.* The phrase "law enforcement official (or another official)," as used in section 287(d) of the Act, means an officer or employee of an agency charged with the enforcement or administration of criminal justice, including departments of police, sheriffs, corrections, probation and parole, prosecutors, magistrates, judges or other officers of the courts or judiciary.

(i) *Controlled substance.* The term "controlled substance" means a substance as defined in 21 U.S.C. 802, as amended by the Anti-Drug Abuse Act of 1986, Pub. L. 99–570. In determining whether a substance is a controlled substance within that meaning, reference should be made to Schedules I through V as enumerated in 21 CFR Part 1308. Any substance analogue of an essentially similar chemical structure to a substance contained in those schedules shall also be considered as a controlled substance.

10. The following new § 287.7 is added to read as follows:

§ 287.7 Determination by an immigration officer as to filing of detainers under the provisions of section 287(d)(3) of the Act.

(a) *Authority to issue detainers.* Only an immigration officer as defined in section 101(a)(18) of the Act, or § 103.1(q) of this chapter shall be authorized to issue a detainer.

(b) *General.* (1) In complying with the provisions of section 287(d)(3) of the Act, an officer of the Service shall not issue a detainer against an alien unless the alien is amenable to deportation proceedings under any provision of law at the time the detainer is issued.

(2) If the alien is illegally or unlawfully in the United States but is eligible to apply, or has applied, for legalization or special agricultural worker status under the provisions of section 245A or 210 of the Act, no detainer shall be issued unless the Service has denied, or issued notice of intent to deny, the benefit applied for.

(c) *Documentary information requests.* In order that a Service officer may accurately determine the propriety of issuing a detainer against, or taking custody of, an alien pursuant to section 287(d)(3) of the Act, a Federal, State, or local law enforcement official requesting such a determination shall provide all documentary information available from the agency regarding that alien, and which reasonably relates to the alien's status in the United States or which may have an impact on conditions of release.

(d) *Telephonic issuance of detainers.* Issuance of a detainer against an alien by a Service officer under the provisions of section 287(d)(3) of the Act may be authorized telephonically. However, such authorizations shall be subsequently confirmed in writing by use of Form I–247, or by electronic communications transfer media, such as the National Law Enforcement Telecommunications System (NLETS), within twenty-four hours of the telephonic authorization; *Provided That,* messages transmitted by electronic means shall contain substantially the same language which is contained on Form I–247.

(e) *Temporary detention at Service request.* Upon a determination by an officer of the Service to issue a detainer against an alien who is not otherwise being detained by Federal, State or local law enforcement officials, such officials shall maintain custody of the alien for a period not to exceed forty-eight hours at the request of the Service officer or employee, in order to permit assumption of Service custody.

(f) *Financial responsibility for detention.* No detainer issued as a result of a determination made under section 287(d)(3) of the Act shall incur any fiscal obligation on the part of the Service, until actual assumption of custody of the alien by the Service, *except* in the circumstances provided in paragraph (e) of this section.

Dated: April 15, 1987.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 87–9000 Filed 5–4–87; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 87–66]

Customs Regulations; Amendment Relating to Changes in the Customs Service Preclearance Offices in Foreign Countries

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: The Customs Service, the Immigration and Naturalization Service, and the Animal and Plant Health Inspection Service have established preclearance facilities in Canada, the Bahamas, and Bermuda to provide Customs and other necessary clearances for United States-bound airline passengers. This document amends the list of preclearance offices set forth in the Customs Regulations to reflect changes in the supervision over these offices recently made to attain more uniformity in administrative functions.

EFFECTIVE DATE: Changes in the supervision of the preclearance facilities became effective on January 28, 1987. The changes in the regulations are effective on May 5, 1987.

FOR FURTHER INFORMATION CONTACT: Samuel McLinn, Office of Inspection and Control (202) 566–5607.

SUPPLEMENTARY INFORMATION:

Background

To assist airlines and the traveling public, officers of the Customs Service ("Customs"), the Immigration and Naturalization Service ("INS"), and the Animal and Plant Health Inspection Service ("APHIS") are stationed at selected airports in Canada, the Bahamas, and Bermuda to provide Customs and other necessary clearances to airline passengers on direct flights to the U.S. The purpose of this procedure is to provide quicker and more efficient service to international travelers by clearning passengers before departure from the foreign country instead of at the point of first entry into the U.S. Preclearance of passengers and their baggage enables inspecting officers to carry out their responsibilities while helping to prevent delays, minimize inconvenience to travelers, and reduce baggage handling. After a review of operations and the administration of these offices, it was determined that to attain more uniformity in administrative functions, the supervision of the preclearance offices should be consolidated. Accordingly, effective January 18, 1987, the supervision of all the offices in Canada was transferred from the various district directors to the Regional Commissioner of the North Central Region (Chicago, Illinois). The Deputy Assistant Regional Commissioner (Inspection and Control) will be overseeing the operation of the offices.

At the same time, supervision over the offices in the Behamas and Bermuda was transferred to the Regional Commissioner of the Southeast Region (Miami, Florida), and the Deputy Assistant Regional Commissioner (Inspection and Control) will oversee these offices.

To reflect these changes, the list is being revised.

Change in Existing Regulations

Section 101.5, Customs Regulations (19 CFR 101.5), lists the preclearance facilities in foreign countries where Customs officers are stationed and the Customs officer having supervision over the Customs functions at each preclearance office. It is necessary to amend § 101.5 to reflect the changes in supervision over these offices.

Notice and Public Procedure Unnecessary

Because this amendment involves matters relating only to agency organization and administration and does not impose any additional affirmative duty on the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary, and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Executive Order 12291 and Regulatory Flexibility Act

Because this document relates to agency organization it is not subject to E.O. 12291. Accordingly, a regulatory impact analysis and the review prescribed by the E.O. is not required. Similarly, this document is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

Amendments to the Regulations

PART 101—GENERAL PROVISIONS

1. The authorization citation for Part 101, Customs Regulations (19 CFR Part 101), continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1, 66, 1202 (Gen. Hdnote. 11), 1624, Reorganization Plan 1 of 1965, 3 CFR 1965 Supp.

2. To reflect this change, § 101.5 is revised to read as follows:

§ 101.5 Customs preclearance offices in foreign countries.

Listed below are the preclearance offices in foreign countries where U.S. Customs offices are stationed and the Customs officers under whose supervision they function:

Country	Customs office	Customs officer having supervision
The Bahamas	Freeport	Regional Commissioner, Miami, Florida.
	Nassau	Do.
Bermuda	Kindley Field	Do.
Canada	Calgary, Alberta	Regional Commissioner, Chicago, Illinois.
	Edmonton, Alberta	Do.
	Montreal, Quebec	Do.
	Toronto, Ontario	Do.
	Vancouver, British Columbia.	Do.
	Winnipeg, Manitoba	Do.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: April 10, 1987.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 87-10148 Filed 5-4-87; 8:45 am]

BILLING CODE 4820-02-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1154

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs

AGENCY: United States Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Final rule.

SUMMARY: This regulation requires that the Architectural and Transportation Barriers Compliance Board (ATBCB or the Board) operate all of its programs and activities so that qualified handicapped persons are not subjected to discrimination by the ATBCB. It sets forth standards for what constitutes discrimination on the basis of mental or physical handicap, provides a definition of handicapped person and qualified handicapped person, and establishes a complaint mechanism for resolving allocations of discrimination against the ATBCB. This regulation is issued under the authority of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in program or activities conducted by Federal executive agencies.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Nicholas L. Chiarkas, General Counsel, ATBCB, Room 1010, 330 C Street SW., Washington, DC 20202 (202) 245-1591 (Voice or TDD). This is not a toll-free number. Copies of this notice are also available on tape for visually impaired persons.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the ATBCB. As amended by the Rehabilitation, Comprehensive Services, and Development Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95-602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that:

> No otherwise qualified handicapped individual in the United States, . . . shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance *or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Development Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.*
>
> (29 U.S.C. 794) (amendment italicized).

On March 11, 1985, the ATBCB published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**. 47 FR 9686. The ATBCB received four comments (two of which were submitted jointly by several organizations) on the NPRM. In addition, the ATBCB considered the Department of Justice's (DOJ) Supplemental Notice, published March 1, 1984 (49 FR 7792), as part of its rulemaking record. After analysis of the comments received, DOJ's Supplemental Notice, and the final section 504 regulation that DOJ issued for its own programs and activities, the ATBCB decided to adopt this final rule.

Section 504 requires that regulations that apply to the programs and activities of Federal executive agencies be submitted to the appropriate authorizing committees of Congress and that such regulations take effect no earlier than the thirtieth day after they have been so submitted. The ATBCB has today submitted these regulations to the Senate Committee of Labor and Human Resources and its Subcommittee on the Handicapped and to the House Committee on Education and Labor and its Subcommittee on Select Education. The regulation will become effective on July 6, 1987.

The substantive nondiscrimination obligations of the ATBCB, as set forth in this rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. *See* 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id;* 124 Cong. Rec. 13,897 (remarks of Rep. Brademas); *id.* at 38,552 (remarks of Rep. Sarasin).

There are however, some language differences between this final rule and the Federal government's section 504 regulations for federally assisted programs. These changes are based on the Supreme Court's decision in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), and the subsequent circuit court decisions interpreting *Davis* and section 504. See *Dopico v. Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association v. Lewis*, 655 F.2d 1272 (D.C. Cir. 1981) (*APTA*); *see also Rhode Island Handicapped Action Committee v. Rhode Island Public Transit Authority*, 718 F.2d 490 (1st Cir. 1983).

This interpretation is supported by the recent decision of the Supreme Court in *Alexander v. Choate*, 105 S. Ct. 712 (1985), where the Court held that the regulations for federally assisted programs did not require a recipient to modify its durational limitation on Medicaid coverage of inpatient hospital care for handicapped persons. Clarifying its *Davis* decision, the Court explained that section 504 requires only "reasonable" modifications, 105 S. Ct. at 721, and explicitly noted that "[t]he regulations implementing section 504 [for federally assisted programs] are consistent with the view that *reasonable* adjustments in the nature of the benefit offered must at times be made to assure meaningful access" (*id.*, n.21) (emphasis added).

Incorporation of these changes, therefore, makes this section 504 federally conducted regulation consistent with the Federal government's section 504 federally assisted regulations, as interpreted by the Supreme Court. Many of these federally assisted regulations were issued prior to the judicial interpretation of *Davis*, subsequent lower court cases interpreting *Davis*, and *Alexander*; therefore their language does not reflect the interpretation of section 504 provided by the Supreme Court and by the various circuit courts. Of course, these federally assisted regulations must be interpreted to reflect the holdings of the Federal judiciary. Hence the ATBCB believes that there are no significant differences between this final rule for federally conducted programs and the Federal government's interpretation of section 504 regulations for federally assisted programs.

This regulation has been reviewed by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298). It is an adaptation of a prototype prepared by the Department of Justice and distributed to Executive agencies.

It has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206). The ATBCB submitted this regulation to the Office of Management and Budget for review in accordance with Executive Order 12291. This regulation carries out current policies of the ATBCB and, therefore, it is not considered a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127). Accordingly, a regulatory impact analysis has not been prepared. This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601–612).

Section-by-Section Analysis and Response to Comments

Section 1154.101 Purpose.

Section 1154.101 states the purpose of the rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

No comments were received on this section and it remains unchanged from the proposed rule.

Section 1154.102 Application.

The regulation applies to all programs or activities conducted by the ATBCB. Under this section, a federally conducted program or activity is, in simple terms, anything a Federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by this regulation: those involving general public contact as part of ongoing agency operations and those directly administered by the ATBCB for program beneficiaries and participants. Activities in the first part include communication with the public (telephone contacts, office walk-ins, or interviews) and the public's use of the ATBCB's facilities. Activities in the second category include programs that provide Federal services or benefits (technical assistance activities, processing of complaints alleging violations of the Architectural Barriers Act). No comments were received on this section.

Section 1154.103 Definitions.

"Agency." For purposes of this regulation, "agency" is defined as the Architectural and Transportation Barriers Compliance Board.

"Assistant Attorney General." "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice. The Assistant Attorney General is a member of the Board and may serve as Chairperson. Nevertheless, the functions assigned to the Assistant Attorney General and the Chairperson are distinct, and the Board finds no conflict in having one individual function in both capacities.

"Auxiliary Aids." "Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Auxiliary aids are addressed in § 1154.160(a)(1). Comments on the definition of "auxiliary aids" are discussed in connection with that section.

"Complete complaint." "Complete complaint" is defined to include all the information necessary to enable the agency to investigate the complaint. The definition is necessary, because the 180 day period for the agency's investigation (*see* § 1154.170(i)) begins when it receives a complete complaint.

"Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted. As explained in DOJ's Supplemental Notice, the term "facility," as used in this regulation, refers to

structures, and does not include intangible property rights. The definition, therefore, has no effect on the scope of coverage of programs, including those conducted in facilities not included in the definition. The phrase has been omitted because the requirement that facilities be accessible would be a logical absurdity if applied to a lease, life estate, mortgage, or other intangible property interest. The regulation applies to all programs and activities conducted by the agency regardless of whether the facility in which they are conducted is owned, leased, or used on some other basis by the agency. Sixty commenters supported the clarification of this issue in the Supplemental Notice. The term "facility" is used in §§ 1154.149, 1154.150, and 1154.170(h).

"Handicapped person." The definition of "handicapped person" has been revised to make it identical to the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31).

"Qualified handicapped person." The definition of "qualified handicapped person" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Subparagraph (1) of the definition states that a "qualified handicapped person" with regard to any program under which a person is required to perform services or to achieve a level of accomplishment is a handicapped person who can achieve the purpose of the program without modifications in the program that the agency can demonstrate would result in a fundamental alteration in its nature. This definition is based on the Supreme Court's *Davis* decision.

In *Davis*, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." 442 U.S. at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways." *id.* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program." *Id.* at 410.

The ATBCB has incorporated the Court's language in the definition of "qualified handicapped person" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable a handicapped applicant to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some handicapped people from some programs, it requires that a handicapped person who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

In determining whether a modification fundamentally alters the nature of the program, the mission of the agency—achieving accessibility for handicapped persons—must be given considerable weight. Considerable weight must also be given to the fact that the vast majority of people served by the agency are handicapped. In keeping with the spirit of its mission, the agency must be particularly careful about investigating all possible alternatives when it determines that an action is not required by section 504.

The agency has the burden of demonstrating that a proposed modification would constitute a fundamental alteration in the nature of its program or activity. Furthermore, in demonstrating that a modification would result in such an alteration, the agency must follow the procedures established in §§ 1154.150(a)(2) and 1154.160(d), which are discussed below, for demonstrating that an action would result in undue financial and administrative burdens. That is, the decision must be made by the agency head of his/her designee in writing after consideration of all resources available for the program or activity and must be accompanied by an explanation of the reasons for the decision. If the agency head or his/her designee determines that an action would result in a fundamental alteration, the agency must consider options that would enable the handicapped person to achieve the purpose of the program but would not result in such an alteration.

Subparagraph (2) of the definition adopts the existing definition in the coordination regulation of "qualified handicapped person" with respect to services for programs receiving Federal financial assistance (28 CFR 41.32(b)). Under this part of the definition, a qualified handicapped person is a handicapped person who meets the essential eligibility requirements for participation in the program or activity.

"Qualified handicapped person" is defined for purposes of employment in 29 CFR 1613.702(f) which is made applicable to this part by § 1154.140. Nothing in this part changes existing regulations applicable to employment.

"Section 504." This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section 1154.110 Self-evaluation.

This section requires that the agency conduct a self-evaluation of its compliance with section 504 within one year of the effective date of this regulation. The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with handicapped persons that promotes both effective and efficient implementation of section 504.

The section uses the same provision adopted by the Department of Justice in its final rule implementing section 504 for its federally conducted programs. 28 CFR 39.110. The Department of Justice determined that this regulatory language was appropriate after it had analyzed the Federal Advisory Committee Act (5 U.S.C. app.), Executive Order 12024, and 41 CFR Part 101–6, the regulation of the General Services Administration implementing the Act.

The final rule provides that the agency shall provide an opportunity for interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the self-evaluation process and development of transition plans by submitting comments (both oral and written).

Section 1154.111 Notice.

Section 1154.111 requires the agency to disseminate sufficient information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them effectively of rights and protections afforded by

section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio. The word "effectively" was added in response to a commenter's suggestion.

One commenter questioned the omission of the DOJ prototype requirement (at § –.160(d)) that the agency provide handicapped persons with information concerning their rights. Section 1154.111 is, in fact, a broader and more detailed version of that requirement. Because § 1154.111 encompasses the requirements of the DOJ prototype requirement §–.160(d), that latter paragraph has been deleted as duplicative.

Section 1154.130 General prohibitions against discrimination.

Section 1154.130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.51). This regulatory provision attracted relatively few public comments and has not been changed from the proposed rule.

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § 1154.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. If the agency violates a provision in any of the subsequent sections, it will also violate one of the general prohibitions found in § 1154.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of handicapped persons. The agency may not refuse to provide a handicapped person with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (e.g., epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question. It would be permissible, therefore, to exclude without an individual evaluation all persons who are blind in both eyes from eligibility for a license to operate a commercial vehicle in interstate commerce; but it may not be permissible to disqualify automatically all those who are blind in just one eye.

In addition, section 504 prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a programs if the faciities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to a handicapped person be as effective as that afforded to others. The later sections on program accessibility (§§ 1154.149–1154.151) and communications (§ 1154.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, paragraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide handicapped persons with equal opportunity to participate in or benefit from the agency's programs or activities. Paragraph (b)(1)(iv) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, paragraph (b)(2) provides that a qualified handicapped person still has the right to choose to participate in the program that is not designed to accommodate handicapped persons.

Paragraph (b)(1)(v) prohibits the agency from denying a qualified handicapped person the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(1)(vi) prohibits the agency from limiting a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny handicapped persons access to the agency's programs or activities. The phrase "criteria or methods of administration" referes to official written agency policies and to the actual practices of the agency. This subparagraph prohibits both blatantly exclusionary polices or practices and nonessential policies and practices that are neutral on their face, but deny handicapped persons an effective opportunity to participate.

Paragraph (b)(4) specifically applies the prohibition enunciated in § 1154.130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Subparagraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the agency, in the selection of procurement contractors, from using criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executvie order that are designed to benefit only handicapped persons or a given class of handicapped persons may be limited to those handicapped persons.

Paragraph (d), discussed above, provides that the agency must administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

Section 1154.140 Employment.

Section 1154.140 prohibits discrimination on the basis of handicap in employment by the agency. Courts have held that section 504, as amended in 1978, covers the employment practices of Executive agencies. *Gardner* v. *Morris*, 752 F.2d 1271, 1277 (8th Cir. 1985); *Smith* v. *U.S. Postal Service*, 742 F.2d 257, 259–60 (6th Cir. 1984); *Prewitt* v. *United States Postal Service*, 662 F.2d 292, 302–04 (5th Cir. 1981). *Contra McGuiness* v. *U.S. Postal Service*. 744 F.2d 1318, 1320–21 (7th Cir. 1984); *Boyd* v. *U.S. Postal Service*, 752 F.2d 410, 413–14 (9th Cir. 1985).

Courts uniformly have held that in order to give effect to section 501 of the Rehabilitation Act, which covers Federal employment, the administrative procedures of section 501 must be followed in processing complaints of employment discrimination under section 504. *Smith*, 742 F.2d at 262; *Prewitt*, 662 F.2d at 304. Accordingly, § 1154.140 (Employment) of this rule adopts the definitions, requirements and procedures of section 501 as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613. In addition to this section, § 1154.170(b) specifies that the agency will use the existing EEOC

procedures to resolve allegations of employment discrimination.

The final rule has not been changed, except that a reference to the Equal Employment Opportunity Commission has been added. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR Part 1978 Comp. p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap. While this rule could define terms with respect to employment and enumerate what practices are covered and what requirements apply, the agency has adopted EEOC's recommendation that to avoid duplicative, competing, or conflicting standards with respect to Federal employment, reference in these regulations to the government-wide EEOC rules is sufficient. The class of Federal employees and applicants for employment covered by section 504 is identical to or subsumed within that covered by section 501. To apply different or lesser standards to persons alleging violations of section 504 could lend unnecessarily to confusion in the enforcement of the Rahabilitation Act with respect to Federal employment.

Section 1154.149 Program accessibility: Discrimination prohibited.

Section 1154.149 states the general nondiscrimination principle underlying the program accessibility requirements of sections 1154.150 and 1154.151.

Section 1154.150 Program accessibility: Existing facilities.

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.57), with certain modifications. Thus, § 1154.150 requires that the agency's program or activity, when viewed in its entirety, be readily accessible to and usable by handicapped persons. The regulation also makes clear that the agency is not required to make each of its existing facilities accessible (§ 1154.150(a)(1)). However, § 1154.150, unlike 28 CFR 41.56–41.57, places explicit limits on the agency's obligation to ensure program accessibility (§ 1154.150(a)(2)).

The "undue financial and adminstrative burdens" language (found at §§ 1154.150(a)(2) and 1154.160(d)) is based on the Supreme Court's *Davis* holding that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of two "undue burdens" would be created as a result of modification sought to be imposed under section 504. *See, e.g., Dopico* v. *Goldschmidt, supra; American Public Transit Association* v. *Lewis, supra (APTA).*

This interpretation is also supported by the Supreme Court's recent decision in *Alexander* v. *Choate*, 105 S. Ct. 712 (1985). *Alexander* involved a challenge to the State of Tennessee's reduction of inpatient hospital care coverage under Medicaid form 20 to 14 days per year. Plaintiffs argued that this reduction violated section 504 because it had an adverse impact on handicapped persons. The Court rejected the defendent's argument that section 504 prohibits only intentional discrimination, but held that the reduction was not "the sort of disparate impact" discrimination prohibited by section 504 or its implementing regulation (*id.* at 720).

Relying on *Davis*, the Court said that section 504 guarantees qualified handicapped persons "meaningful access to the benefits that the grantee offers" (*id.* at 721) and that "*reasonable adjustments* in the nature of the benefit being offered must at times be made to assure meaningful access." (*Id.*, n.21) (emphasis added). However, section 504 does not require " 'changes,' ' 'adjustments,' or 'modifications' to existing programs that would be 'substantial'. . .or that would constitute 'fundamental alteration(s) in the nature of a program.' (*Id.* n. 20) (citations omitted).

Alexander supports the position, based on *Davis* and the earlier, lower court decisions, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. Thus the failure to include such an "undue burdens" provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation. This provision is therefore unchanged from the proposed rule.

Some commenters asserted that the holding in *Davis* was that the plaintiff was not a qualified handicapped person and that the subsequent reference to "undue financial and administrative burdens" was mere *dicta*. This view overlooks the interpretations of *Davis* provided by the Federal circuit court cases mentioned above. The *APTA* and *Dopico* decisions make it clear that financial burdens can limit the obligation to comply with section 504. *See also New Mexico Association for Retarded Citizens* v. *New Mexico*, 678 F. 2d 847 (10th Cir. 1982). In addition, the Court in *Alexander* held that the "administrative costs" of subjecting any action affecting Medical recipients to a detailed analysis of its effects on handicapped people "would be well beyond the accommondations that are required under *Davis*."(105 S. Ct. at 725).

The Department of Justice carefully considered the comments on the process that the Department should follow in determining whether a program modification would result in undue financial and administrative burdens and adopted procedural reqirements for application of the "fundamental alterations" and "undue financial and administrative burden" language. The agency is also adopting those requirements.

The agency believes that, in most cases, making an agency program acessible will not result in undue burdens. In determining whether an action will result in a fundamental alteration or undue financial and administrative burdens, the mission of the agency—achieving accessibility for handicapped persons—must be given considerable weight. Considerable weight must also be given to the fact that the vast majority of people served by the agency are handicapped. In keeping with the spirit of its mission, the agency must be particularly careful about investigating all possible alternatives when it determines that an action is not required by section 504.

Moreover, is determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity are to be considered. The burden of proving that compliance with § 1154.150(a) would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head or his/her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance

procedures established in § 1154.170. Finally, even if there is a determination that making a program accessible will fundamentally alter the nature of the program, or will result in undue financial and administrative burden, the agency must still take action, short of that outer limit, that will open participation in the agency program to disabled persons to the fullest extent possible.

A commenter argued that the decision that an action would result in undue burdens should be based on the resources of the agency as a whole. The agency believes that its entire budget is an appropriate touchstone for making determinations as to undue financial and administrative burdens. Parts of the agency's budget can be earmarked for specific purposes and are simply not available for use in making the agency's programs accessible to disabled persons.

Paragraph (b) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of handicapped persons. Structural changes in existing facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

Section 1154.151 Program accessibility: New construction and alterations.

Overlapping coverage exists with respect to new construction under section 504, seciton 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section 1154.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by handicapped persons in accordance with 41 CFR 101–19.600 to 101–19.607. This standard, promulgated by the General Services Administration (GSA) pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), incorporates the Uniform Federal Accessibility Standard developed by GSA, the United States Postal Service, the Department of Defense, and the Department of Housing and Urban Development (49 FR 31527 (1984)). It is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards. However, the ATBCB is encouraged to utilize the Minimum Guidelines and Requirements for Accessible Design, 36 CFR 1190, where to do so would enhance accessibility. The Minimum Guidelines, established by the ATBCB, are the basis for the Uniform Federal Accessibility Standard and represent current ATBCB policy.

Section 1154.160 Communications.

Section 1154.160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps include procedures for determining when auxiliary aids are necessary under § 1154.160(a)(1) to afford a handicapped person equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They also include an opportunity for handicapped persons to request the auxiliary aid of their choice. This expressed choice shall be given primary consideration by the agency (§ 1154.160(a)(1)(i)). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 1154.160(d). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (*see supra* preamble § 1154.150(a)(2)). Unless not required by § 1154.160(d), the agency shall provide auxiliary aids at no cost to the handicapped person.

It is our view that compliance with § 1154.160 would in most cases not result in undue financial and administrative burdens on the agency. In determining whether an action will result in a fundamental alteration or undue financial and administrative burdens, considerable weight must be given to the fact that the mission of the agency is to achieve accessibility for handicapped persons. Considerable weight must also be given to the fact that the vast majority of people served by the agency are handicapped and many are vision, speech, and hearing-impaired. In keeping with the spirit of its mission, the agency must be particularly careful about investigating all possible alternatives when it determines that an action is not required by section 504.

Moreover, in determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operating of the conducted program or activity should be considered. The burden of proving that compliance with § 1154.160 would fundamentally alter the nature of a program or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head or his/her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 1154.170.

In some circumstances, a note pad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly when the information being communicated is complex or exchanged for a lengthy period of time (*e.g.*, a meeting) or where the hearing-impaired applicant or participant is not skilled in spoken or written language. In these cases, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency intends to inform the public of (1) the communications services it offers to afford handicapped persons an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids

when several different modes are effective.

When sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature (§ 1154.160(a)(1)(ii)). For example, the agency need not provide eyeglasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the agency to provide wheelchairs to persons with mobility impairments.

A commenter suggested that the language in proposed § 1154.160(a)(1)(ii) that states that the agency need not provide individually prescribed devices or readers for personal use or study be modified to state that such devices are not required for "nonprogram material." This suggestion has not been adopted because it is less clear than the existing formulation, which is intended to distinguish between communications that are necessary to obtain the benefits of Federal programs and those that are not, and which parallels the requirements of the Federal government's section 504 regualtions for federally assisted programs. For example, a federally operated library would have to ensure effective communication between its librarian and a patron, but not between the patron and a friend who had accompanied him or her to the library.

Several commens suggested that the definition of auxiliary aids should include attendant services that may be needed to aid disabled persons to travel to meetings. Others comments recommended that in some cases attendant services may be an appropriate auxiliary aid to achieve program accessibility.

The ATBCB has not adopted the approach recommended by these comments. To the extent that the services of an attendant are not directly related to a federally conducted program or activity, it would be inappropriate to require them at Federal expense. For example, the services of a sign language interpreter make a workshop as available to any deaf participant as it is to other participants. The need for services of interpreters arises directly out of the presentation of information in a form that can be understood by hearing persons. However, the ATBCB views the services of an attendant for a disabled person as generally personal in nature and not directly related to the federally conducted program.

A different conclusion, however, might be reached for Federal employees or other persons traveling for the agency. Where a disabled person who is unable to travel without an attendant is required to perform official travel, the travel expenses of an attendant including per diem and transportation expenses may be paid by the ATBCB. See 5 U.S.C. 3102(d) (1982).

Paragraph (b) requires the agency to provide information to handicapped persons concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signage at inaccessible facilities that directs users to locations with information about accessible facilities.

Section 1154.170 Compliance procedures.

Paragraph (a) specifies that paragraphs (c) through (n) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the agency will process employment complaints according to procedures established in existing regulations of the EEOC (29 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

Paragraph (c) designates the Equal Employment Opportunity Director as the person responsible for implementation and operation of the section. Paragraph (d) provides the address to which complaints may be sent.

The agency is required to accept and investigate all complete complaints (§ 1154.170(e)). If a complaint is not complete when it is filed, the Equal Employment Opportunity Director must notify the complainant within 30 days that additional information is needed. The complainant must furnish the necessary information within 30 days of receipt of the notice, or the complaint will be dismissed without prejudice, and the complainant will be notified of such dismissal. (§ 1154.170(f)).

If the agency determined that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal government (§ 1154.170(g)).

Paragraph (h) requires the agency to notify its Director of Compliance and Enforcement upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act or section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) was designed, constructed, or altered in a manner that does not provide ready access to and use by handicapped persons.

Paragraph (i) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal (§ 1154.170(i)). One appeal within the agency shall be provided (§ 1154.170(k)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance (§ 1154.170(k)).

The ATBCB received comments expressing concern that the existence of an internal compliance procedure might curtail complainants' right to a *de novo* review of the agency decision. It is beyond our jurisdiction to specify that a *de novo* review is available to complainants seeking judicial review of final agency's decisions. This issue is for the courts to decide. That is also true for the issue of the availability of a private right of action, either without invoking our compliance procedures or after the issuance of letters of findings.

Paragraph (n) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

List of Subject in 36 CFR Part 1154

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

By vote of the Board on June 25, 1986.

Charles Hauser,

Chairperson, Architectural and Transportation Barriers Compliance Board.

For the reasons set forth in the preamble, Chapter XI of Title 36 of the Code of Federal Regulations is amended as follows:

Part 1154 is added to 36 CFR to read as follows:

PART 1154—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

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1154.171–1154.999 [Reserved]

Authority: 29 U.S.C. 794.

§ 1154.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Service, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 1154.102 Application.

This part applies to all programs or activities conducted by the agency.

§ 1154.103 Definitions.

For purposes of this part, the term—

"Agency" means the Architectural and Transportation Barriers Compliance Board.

"Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" means service or devices that enable persons with impaired sensory, manual, and/or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephones handset amplifiers, telephone compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

"Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discriminations.

"Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

"Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase:

(1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment thaqt substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in subparagraph (1) of this definition but is treated by the agency as having such an impairment.

"Qualified handicapped person" means—

(1) With respect to any agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamantal alteration in its nature; and

(2) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(3) "Qualified Handicapped Person" is defined for purposes of employment in 29 CFR 1613.702(f) which is made applicable to this part by section 1154.140.

"Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

§§ 1154.104–1154.109 [Reserved]

§ 1154.110 Self-evaluation.

(a) By July 6, 1988, the agency shall evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, for all least three years following completion of the evaluation required under paragraph (a) of this section, maintain on file and make available for public inspection—

(1) a description of areas examined and any problems identified; and

(2) a description of any modifications made.

§ 1154.111 Notice

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and made such information available to them in such manner as the agency head finds necessary to apprise effectively such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ 1154.112–1154.129 [Reserved]

§ 1154.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or servcies to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate of different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive Order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive Order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§§ 1154.131–1154.139 [Reserved]

§ 1154.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR Part 1613, shall apply to employment in federally-conducted programs or activities.

§§ 1154.141–1154.148 [Reserved]

§ 1154.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 1154.150, no qualified handicapped person shall, because the agency's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ 1154.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons; or

(2) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 1154.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his/her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not required to make structural changes in existing facilities where other methods

are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualfied handicapped persons in the most integrated setting appropriate.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section by September 4, 1987 except that where structural changes in facilities are undertaken, such changes shall be made by July 6, 1990, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop by January 6, 1988, a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementatin of the plan.

§ 1154.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 1154.152–1154.159 [Reserved]

§ 1154.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, the program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants, beneficiaries, and members of the public by telephone, telecommunications devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested person, including persons with impaired vision, speech or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) The agency shall make efforts to provide captioning in training films and video tapes.

(e) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.

In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 1154.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his/her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ 1154.161–1154.169 [Reserved]

§ 1154.170 Compliance procedure.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsiblity for implementation and operation of this section shall be vested in the Equal Employment Opportunity Director.

(d) Complaints may be delivered or mailed to the Equal Employment Opportunity Director, ATBCB, 330 C Street, SW., Rm. 1010, Washington, DC 20202.

(e) The agency shall accept and investigate all complete complaints over which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(f) If the Equal Employment Opportunity Director receives a complaint that is not complete, he or she shall notify the complainant, within 30 days of receipt of the incomplete complaint, that additional information is needed. If the complainant fails to complete the complaint within 30 days of receipt of this notice, the Equal Employment Opportunity Director shall dismiss the complaint without prejudice, and shall notify the complainant of such dismissal.

(g) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(h) The agency shall notify the Director of the Compliance and Enforcement Division of any complaint alleging that a building or facility is not readily accessible to and usable by handicapped persons. The Director of the Compliance and Enforcement Division shall determine whether or not the building or facility is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792).

(i) Within 180 days of the receipt of a complete complaint over which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(j) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § 1154.170(g). The agency may extend this time for good cause.

(k) Timely appeals shall be accepted and processed by the head of the agency.

(l) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he/she shall have 60 days from the date of receipt of the additional information to make his/her determination on the appeal.

(m) The time limits cited in paragraphs (i) and (l) of this section may be extended with the permission of the Assistant Attorney General.

(n) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

§§ 1154.171–1154.999 [Reserved]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL–3195–1]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The USEPA is approving a revision to the Illinois State Implementation Plan (SIP) for TSP. The revision pertains to the incorporation of revised coke oven pushing and charging rules into the SIP. It also pertains to the recodification of certain rules now in the SIP. USEPA's action is based upon a request which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on June 4, 1987.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano, at (312) 886–6036, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

A copy of today's revision to the Illinois SIP is available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region, V, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION: Under Section 107 of the Act, USEPA has designated certain areas in each State as not attaining the National Ambient Air Quality Standards (NAAQS) for particulate matter (total suspended particulates—TSP). See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). For these areas, Part D of the Act requires that a State revise its SIP to provide for attaining the primary TSP NAAQS by December 31, 1982. These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

Background

On September 3, 1981 (46 FR 44172), USEPA disapproved Illinois Rule 203 (d)(5)(B)(ii) for coke oven charging and Rule 203(d)(5)(B)(iii) for coke oven pushing. The charging rule was disapproved because the procedure for determining compliance was vague and because the State did not demonstrate that its charging limit of 170 seconds of visible emissions for five charges met section 172 of the Act's requirement for reasonably available control technology (RACT). The pushing rule was disapproved because of the following deficiencies:

(1) The regulation is ambiguous about whether a 0.03 or 0.06 gr/dscf limitation applies to traveling hood stationary gas control systems;

(2) The term "stationary hood system" applies to coke side sheds and an emission limitation of 0.03 gr/dscf is excessively lenient because of unique shed dilution effects;

(3) The regulation lacks testing definitions; and

(4) The 90 percent design efficiency provision is not a quantifiable emission limitation and the rule lacks opacity standards for pushing.

The Illinois Environmental Protection Agency (IEPA) agreed to correct the first, third, and fourth deficiencies in source operating permits and to submit these permits to USEPA. (The second deficiency became moot because there are no coke side sheds in Illinois.) On November 24, 1982 (47 FR 53057), USEPA proposed to approve Rule 203(d)(5)(B)(iii) with the understanding that the State was to ensure the application of RACT by including test methods and pushing opacity limits in source operating permits. The State was also to apply the 0.03 gr/dscf emission limit to traveling hood stationary gas cleaning control systems and submit the revised operating permits to USEPA.

On August 9, 1983, the State provided USEPA operating permits for coke batteries at Interlake, Incorporated, and Granite City Steel. These permits did not contain the provisions that the State had agreed to include in them. USEPA proposed to disapprove Rule 203(d)(5)(B)(iii) on March 27, 1985 (50 FR 12943), because the State had not implemented the terms of the agreement reached with USEPA which would have provided RACT-level controls. USEPA disapproved Rule 203(d)(5)(B)(iii) on January 16, 1986 (51 FR 2399).

IEPA developed amended Rules 212.443(b) for charging and 212.443(c) for pushing to correct deficiencies in Illinois' TSP SIP. Amended Rules 212.443(b) and (c) were submitted to the Illinois Pollution Control Board (Board) by IEPA, Citizens for a Better Environment (CBE), and affected steel

companies as a joint proposal on January 3, 1986.[1]

The Board finally adopted these coke oven pushing and charging rules in a September 25, 1986, Final Order for Docket R85–33. This Final Order was submitted to USEPA as a proposed revision to the Illinois SIP on October 30, 1986.

The proposed rulemaking noted that Illinois recodified its environmental regulations. These regulations are now part of Title 35 of the Illinois Administrative Code (35 IAC), more specifically subtitle B: Air Pollution, Chapter 1: Pollution Control Board. The revised designation of these rules reflects the new codification system. See the Recodification discussion below:

Recodification and Description and Analysis of Revisions

USEPA's detailed evaluation of this proposed SIP revision is contained in a March 17, 1986, technical support document and a December 5, 1986, addendum to that document. Both of these documents are available for inspection at the Region V Office listed above.

The charging rule, 212.443(b) provides for a visual emission limit of 125 seconds over 5 charges with an exemption of 1 in 20 charges. The pushing rule, 212.443(c) provides for a visual emission limit of 20 percent opacity averaged over four consecutive pushes, considering the highest average of six consecutive readings in each pushing operation. The rule also imposes both a visual emission limit and mass emission limitation on control equipment devices. The visual emission limit requires a 20 percent opacity limit averaged over 6 minutes. The mass emission limit sets a limit of 0.040 pounds of TSP per ton of coke pushed. USEPA believes that Rules 212.443(b) and (c) represent RACT, and that they will correct the present deficiencies related to coke oven pushing and charging in the Illinois TSP SIP, and that they are enforceable.

In addition to providing revised coke oven pushing and charging regulations, this September 25, 1986, Final Order recodifies the remaing coke oven rules. The following table summarizes this recodification.

RECODIFICATION TABLE

	Old number	Recodified number
General	203(d)(5)(B)(i)	212.443(a)
Doors	203(d)(5)(B)(iv)(aa) & (bb).	212.443(d)(1)&(2)
Lids	203(d)(5)(B)(v)	212.443(e)
Offtake piping	203(d)(5)(B)(vi)	212.443(f)
Combustion stack	203(d)(5)(B)(vii)	212.443(g)
Quenching	203(d)(5)(B)(viii)	212.443(h)
Work rules	203(d)(5)(B)(ix)	212.443(i)

USEPA Analysis of the Recodification

Rule 203(d)(5)(B)(i) provides that Rule 202 (the general visible emission limitation) shall not apply to by-product coke plants and was approved on September 3, 1981 (46 FR 44172).

Rule 212.443(a) provides that Subpart B of Part 212 (recodified general visual emission limitation) shall not apply to by-product coke plants. Rule 212.443(a) is approvable, but the general visual emission limitation that is in the SIP is Rule 202(b). The recodification (Subpart B of Part 212) has not been federally approved.

It should be noted that the notice of proposed rulemaking was not sufficiently clear on this point. On page 5317 in the third column under the heading: *USEPA Analysis of the Recodification,* the proposed rulemaking stated that Subpart B of Part 212 is not a valid part of the Illinois SIP. This is correct since Subpart B of Part 212 has never been submitted for incorporation in the SIP since its recodification. However, an identical rule was incorporated in the SIP on May 31, 1972 (37 FR 10862) as rule 202(b). Although, Rule 202(b) was invalidated by the decision reached by the Illinois Appellate Court in *Commonwealth Edison* v. *Pollution Control Board* (25 Ill. App. 3d 271, 323 NE 2d 84), it only was invalidated as it relates to visible emissions from coal fired boilers. It remains in effect for other particulate sources.

Rules 203(d)(5)(B)(iv)(bb) and 203(d)(5)(B)(vii) were approved by USEPA on September 3, 1981. The recodifications of these rules 212.443(d)(2) and 212.443(g) are approvable.

Rule 203(d)(5)(B)(ix) was approved by USEPA on October 4, 1983 (48 FR 45245), and the recodification of this rule is approvable.

Rules 203(d)(5)(B)(iv)(aa), 203(d)(5)(B)(v), 203(d)(5)(B)(vi), and 203(d)(5)(B)(viii) were conditionally approved by USEPA on September 3, 1981 (46 FR 44172). The conditions have not been satisfied. The recodifications of these rules can be incorporated into the SIP as conditionally approved rules.

A second statement which could be misconstrued, was presented in the *Proposed Rulemaking Action* section. On page 5318 in the first column, under the heading *Proposed Rulemaking Action* the following sentence appears: USEPA cautions that because 35 IAC 212.443(d)(1), §§ 212.443(e), 212.443(f) and 212.443(h) were conditionally approved on September 3, 1981 (46 FR 44172), the recodified rules are also proposed for incorporation as conditionally approved. USEPA wishes to clarify that these rules were initially incorporated in the SIP using the original numbering in the accompanying *Recodification Table.*

Final Rulemaking Action

On February 20, 1987 (52 FR 5316) USEPA proposed to approve the incorporation of these revised coke oven pushing and charging rules into the SIP. At the same time USEPA proposed to recodify additional regulations related to iron and steel emissions which were already in the SIP. Public comment was solicited on the proposed SIP revisions and on USEPA's proposed approval of their incorporation in the SIP. No public comments were received in response to USEPA's proposed rulemaking action. USEPA today approves the incorporation of these revisions into the Illinois SIP.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 6, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

[1] This joint proposal is an outgrowth of a suit filed by CBE in the U.S. District Court for the Northern District of Illinois. *CBE* v. *EPA* (No. 80–C–003 N.D. Ill.).

Dated: April 30, 1987.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Illinois

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.720 is amended by adding paragraph (c)(74) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(74) On October 30, 1986, the Illinois Environmental Protection Agency submitted a September 25, 1986, Final Order of the Illinois Pollution Control Board R85–33 revises the State's coke oven pushing and charging rules and recodifies some related rules.

(i) *Incorporation by reference.* (A) Order of the Illinois Pollution Control Board R85–33, which was adopted September 25, 1986.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[FCC 87–153]

Radio Broadcasting; New Indecency Enforcement Standards

AGENCY: Federal Communications Commission.

ACTION: Announcement of Policy Statement.

SUMMARY: This document gives notice to all broadcast and amateur radio licensees of the new standards that the Federal Communications Commission will apply in enforcing the prohibition against obscene and indecent transmissions.

The Commission took action in the four cases described in this Public Notice in response to complaints that certain licensees had broadcast or transmitted indecent material in violation of Federal law.

EFFECTIVE DATE: May 5, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: James C. McKinney, Chief, Mass Media Bureau, (202) 632–6460.

SUPPLEMENTARY INFORMATION:

New Indecency Enforcement Standards To Be Applied to All Broadcast and Amateur Radio Licensees

Adopted: April 27, 1987.

Released: April 29, 1987.

The Commission, by this public notice, puts all broadcast and amateur radio licensees on notice as to new standards that the Commission will apply in enforcing the prohibition against obscene and indecent transmissions.

Reaffirming its authority to regulate the broadcast and amateur radio transmission of indecent or obscene material, the Commission took action on April 16, 1987, against four licensees and articulated standards to clarify when it will exercise its enforcement authority over such situations in the future. The actions reflect the Commission's intent to apply the definition of indecent transmissions set forth in the *Pacifica* case, which was affirmed by the Supreme Court in 1978. *Pacifica Foundation,* 56 FCC 2d 94 (1975); *aff'd, FCC* v. *Pacifica Foundation,* 438 U.S. 726 (1978). Prior to the Commission's April 16 actions, the Commission had limited its enforcement efforts to the specific material involved in *Pacifica,* that is, to seven particular words that were broadcast in a George Carlin monologue.

On April 16, however, the Commission determined that it is more appropriate to apply the *generic* definition of broadcast indecency advanced in *Pacifica,* which is:

> language or material that depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs.

The Commission specifically ruled that such indecency will be actionable if broadcast or transmitted at a time of day when there is a "reasonable risk that children may be in the audience," a standard also upheld by the Supreme Court in the *Pacifica* case.

Section 1464 of the Criminal Code, 18 U.S.C. 1464, prohibits the broadcast of obscene or indecent material; and the Communications Act of 1934 empowers the Commission to impose a range of civil sanctions when a violation of section 1464 occurs, including the issuance of warnings, the imposition of fines and, in severe cases, the revocation of licenses. *See* 47 U.S.C. 312(a)(6), 503(b)(1)(D).

With respect to indecent speech, the Commission stated that repetitive use of specific sexual or excretory words or phrases is not the only material that can constitute indecency. It further stated, however, that if a broadcast consists solely of the use of expletives, then deliberate and repetitive use of such expletives in a patently offensive manner would be a requisite to a finding of indecency. If a broadcast goes beyond the use of expletives, the Commission noted, then the context in which the allegedly indecent language is broadcast will serve as an important factor in determining whether it is, in fact, indecent.

The Commission reaffirmed the *Pacifica* test that indecency will be actionable when there is a reasonable risk that children may be in the audience, but found that this benchmark is not susceptible to a uniform standard. The Commission addressed the risk of children in the audience during the time frame and with regard to the market before it in each case. The Commission found that, despite prior assumptions that children were not in the broadcasting audience at 10:00 p.m., recent evidence for the markets involved indicates that there is still a reasonable risk that children may be in the listening audience at the hours during which the relevant broadcasts were made. The Commission further stated that indecent broadcasts could be made at times when there is not a reasonable risk that children may be in the audience and that, when such broadcasts were made, advance warnings would continue to be required.

In reaffirming its authority to regulate indecent broadcasts and amateur transmissions, the Commission specifically rejected the rationale that scarcity of the airwaves gives it the requisite authority to regulate indecency. The Commission also explained that it was not diminishing the First Amendment rights of broadcasters. Rather, the Commission pointed out that the regulation of indecency by channeling it to hours when there is not a reasonable risk that children may be in the audience is consistent with the First Amendment rights afforded newspapers and magazines.

The Commission relied on the nuisance rationale propounded in *Pacifica,* which generally speaks to channeling behavior rather than prohibiting it. Furthermore, the Commission found its action consistent with the principle established by the Supreme Court in *Young* v. *American Mini-Theatres,* 427 U.S. 50 (1976), and

reaffirmed in *Renton* v. *Playtime Theatres, Inc.*, 106 S. Ct. 925 (1986), that reasonable time, place and manner restrictions may be imposed on the dissemination of indecent material consistent with the First Amendment. The Commission concluded that, in order to limit children's access to such material on radio and television, time channeling is a reasonable time, place and manner restriction. The Commission noted that the owner of a movie theater is able to separate adults from children and can be forced to refuse children admission to certain films, and, likewise, the owner of a book store is able to separate adults from children and can be required not to sell certain publications to children. For the broadcast medium, however, the Commission reasoned that the only practicable means for separating adults from children in the broadcast audience is to impose time restrictions.

In applying the newly articulated standards to the three broadcast cases and the amateur radio case before it, the Commission determined that each of the licensees in question had broadcast or transmitted material that would constitute actionable indecency. The Commission also acknowledged, however, that prior rulings may have indicated to licensees that only repetitive use of the specific words at issue in the 1978 *Pacifica* case would be actionable if broadcast prior to 10:00 p.m. Accordingly, the FCC limited its sanctions in the broadcast cases to issuing a warning to each licensee. The Commission stated however, that violations by these licensees occurring after their receipt of their respective warnings would render them liable to more severe sanctions. The Commission hereby notifies all other broadcasters and amateur radio licensees that violations of the Commission's new standards occurring after the publication of this Public Notice will subject them to the full range of sanctions available to the Commission.

The broadcast of obscene material, by contrast, is prohibited at all times. To be obscene, material must meet a three-prong test: (1): An average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest; (2) the material must depict or describe, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (3) the material, taken as a whole, must lack serious literary, artistic, political, or scientific value. *See Miller* v. *California*, 413 U.S. 15 (1973).

In each of the cases before it, the Commission noted that, although it was addressing the particular facts therein, the decisions will have a precedential effect on all broadcast and amateur licensees. The Commission also noted that there have been questions as to the Commission's enforcement policy in this complicated area of the law and, through its authority to issue declaratory rulings in order to remove uncertainty, *see* 5 U.S.C. 554(e), it has sought to resolve those questions in these proceedings.

Action was taken in three broadcast cases and one amateur radio case as follows:

KPFK–FM, Los Angeles, CA

In its action against Pacifica Foundation, Inc., licensee of KPFK–FM, Los Angeles, CA (*Pacifica Foundation, Inc.*, Memorandum Opinion and Order [FCC 87–138] adopted April 16, 1987) the Commission responded to complaints of indecent broadcasts made during programs entitled "IMRU" and "Shocktime U.S.A."

The program "IMRU," which was broadcast at 10:00 p.m. and was preceded by a warning as to content, contained excerpts from a play entitled "Jerker" that included explicit descriptions of sexual encounters. The Commission determined that the material broadcast described sexual and excretory activities and organs in a patently offensive manner as measured by contemporary community standards for the broadcast medium and was thus indecent.

The evidence demonstrated that there was a reasonable risk that children may have been in the listening audience. Consequently, the FCC issued a warning that the "IMRU" broadcast would have been actionable indecency pursuant to the standard of indecency clarified by the Commission on April 16, 1987. Also, because the Commission found that the material might also meet the legal definition of obscenity, in which case its broadcast would have been prohibited regardless of the time of day or advance warning, it referred the "IMRU" broadcast to the U.S. Department of Justice for possible criminal prosecution for obscenity.

The "Shocktime U.S.A." program involved the broadcast of certain expletives that one member of a local performing arts group made on a live program. Because no transcript or recording of the broadcast was available, the Commission was unable to make a determination as to whether the "Shocktime U.S.A." broadcast was indecent. Furthermore, because the remarks were not part of a planned script and were made during a live broadcast of the program, and because action to remedy the violation was taken immediately by expelling the member from the group and withdrawing the program from KPFK, the Commission determined that it would take no further action on the complaint.

WYSP–FM, Philadelphia, PA

In its action against Infinity Broadcasting Corporation of Pennsylvania, licensee of WYSP–FM, Philadelphia, PA, (*Infinity Broadcasting Corporation of Pennsylvania*, Memorandum Opinion and Order [FCC 87–140] adopted April 16, 1987) the Commission responded to complaints of indecent broadcasts made during various episodes of the Howard Stern radio program, which airs from 6:00 a.m. to 10:00 a.m., Monday through Friday, as a simulcast of Infinity's WXRK–FM in New York City. The licensee had argued that the broadcasts consisted solely of sexual innuendo and double entendre, did not use the seven particular words from the *Pacifica* case, and hence were not unlawful. The Commission stated, that in certain circumstances, innuendo or double entendre may be rendered explicit or capable of only one meaning when intermingled with explicit references that make the meaning of the entire discussion clear and thus may give rise to actionable indecency. The Commission stated that because such determinations are difficult, it would approach this issue cautiously.

In examining the broadcasts in context, the Commission found that in a number of instances they did not consist merely of an occasional off-color reference or expletive, but instead dwelt on sexual and excretory matters in a pandering and titillating fashion that was patently offensive as measured by contemporary community standards for the broadcast medium. The Commission further found there was a reasonable risk that children may have been in the audience at the time of the broadcast. However, because prior rulings, including some involving the Howard Stern program, may have indicated that avoidance of the repetitive use of the seven particular words at issue in *Pacifica* prior to 10:00 p.m. would make the broadcast nonactionable, the Commission limited the sanction to a warning.

KCSB–FM, Santa Barbara, CA

In its action against The Regents of the University of California, licensee of KCSB–FM, Santa Barbara, CA, (*The Regents of the University of California*,

Memorandum Opinion and Order [FCC 87–140] adopted April 16, 1987) the Commission responded to a complaint alleging that certain recorded music broadcast by a student-run, noncommercial radio station was indecent. The Commission found that the music broadcast contained a number of patently offensive references to sexual organs and activities as measured by contemporary community standards for the broadcast medium. Furthermore, the Commission determined that even though the material was aired at 10:00 p.m., there was still a reasonable risk that children may have been in the audience at that time. Accordingly, the Commission found that KCSB–FM's broadcast would constitute actionable indecency under the standard clarified on April 16. In addition to warning the licensee, the Commission directed the Mass Media Bureau to make further inquiries as to whether the University of California exercises the degree of control over KCSB–FM required of Commission licensees.

Amateur Radio

In the matter of David Hildebrand, [PR Dockets 81–302, 81–303, Memorandum Opinion and Order [FCC 87–142] adopted April 16, 1987) the Commission reversed a Review Board decision that held that the Commission could not regulate indecent broadcasts on the amateur radio service because the *Pacifica* case did not explicitly apply to that service. The Commission noted that § 97.119 of its rules specifically governs indecent transmissions in the amateur service and that Commission licensees should presume that Commission rules will be enforced. The Commission also found that its application of *Pacifica's* nuisance rationale and the principle of reasonable time, place and manner restrictions to the broadcast complaints decided on the same day are equally applicable to the amateur radio service. It noted that the nuisance rationale is applicable to the amateur service because the channels are shared by many amateurs and because children are actively encouraged to become amateur licensees to involve them in radio communications. The Commission also found that this service is like broadcasting insofar as it is not possible to separate adults from children in advance of specific transmissions. Rather, time channeling restrictions are the only appropriate means of limiting access by children.

The Commission determined that, because the licensee in the case had in fact used, in transmissions made prior to 10:00 p.m., several of the very words found indecent in *Pacifica*, he had violated the Commission's existing standards governing indecent transmissions and therefore ought to be fined. Because that sanction was not provided for in the original hearing designation order, however, the Commission could not impose it. The Commission therefore limited its action to a declaratory ruling and admonished Hildebrand against further violations of § 97.119 of the Commission's rules, which could result in a monetary forfeiture or license revocation.

Action by the Commission April 27, 1987, by Public Notice (FCC 87–153) was adopted April 27, 1987, by Commissioners Fowler (Chairman), Quello, Dawson, Patrick and Dennis.

For further information contact James C. McKinney, (202) 632–6460.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 87–10041 Filed 5–4–87; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 61

[CC Docket No. 86–125]

Termination of Investigation of Revised Tariff Terms and Conditions

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order; Waiver of rules.

SUMMARY: This document terminates the investigation of the revised tariff terms and conditions in local exchange carriers' July 1985 tariff filings. It also waives certain Sections of Part 61 of the Commission's Rules to permit carriers to file modified tariff provisions.

EFFECTIVE DATE: May 5, 1987.

FOR FURTHER INFORMATION CONTACT: Jacqueline Holmes, (202) 632–6917.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in CC Docket No. 86–125, FCC 87–50, adopted February 3, 1987, released March 9, 1987; Erratum, released April 7, 1987, and Order, released April 22, 1987.

The full text of this decision and the erratum are available for public inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M St., NW., Washington, DC.

The complete text of this decision has been printed at 2 FCC Rcd 1416. The decision and the erratum may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M St., NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. This Memorandum Opinion and Order (Order) completes the investigation of the revised tariff terms and conditions contained in local exchange carriers' (LECs) July 2, 1985 annual interstate access tariff filings. In the Order, the Commission rules on the recommendations made by the Common Carrier Bureau in the Designation Order, *Annual 1985 Tariff Filings*, CC Docket No. 86–125, Phase II, Order Designating Issues for Investigation, Mimeo No. 4963, released June 9, 1986.

2. The Commission concluded that the LECs had not justified increased mimimum monthly usage charges (MMUC) for each line they provide to interexchange carriers (ICs) for local transport and directed the LECs to apply MMUCs based upon the minute-of-use thresholds stated in their tariffs effective at the time of their July 2, 1985 filings. The Commission also directed the LECs to delete from their tariffs any provisions that apply MMUCs to components other than local transport and to exclude the cost of any component other than dedicated transport from their development of MMUCs. The Commission also directed the LECs to refund overcharges resulting from improper application of MMUCs within 90 days of release of the Order.

3. The Commission accepted the LECs' explanations of their credit allowances for service interruptions and declined to adopt the Bureau's tentative conclusion that those tariff provisions should be modified.

4. The Commission adopted the Bureau's proposal to require the LECs to apply their general liability provisions, holding them responsible for willful misconduct or gross negligence, to presubscription errors. The Commission declined, however, to require that the LECs disclaim liability for ordinary negligence in assigning an end user to an IC other than the one the end user had requested. The Commission directed the LECs to waive all charges to reassign to an IC an incorrectly assigned end user, regardless of whether that misassignment resulted from ordinary or gross negligence on the part of the telephone company, and to refund any charges assessed to date as a result of such misassignments.

5. The Commission adopted the Bureau's tentative conclusion that, where extended area access service is provided in two states by one telephone company, the "same state" requirement should be eliminated from the tariff provisions implementing § 69.5(b) of the Commission's Rules, 47 CFR 69.5(b). Otherwise resellers of MTS/WATS or MTS/WATS-type services might be required to pay certain access charges twice to the same telephone company.

6. The Commission adopted the Bureau's tentative conclusion allowing tariff provisions that require ICs to provide the LECs with estimates of the amount of FGB traffic they expect to generate.

7. The Commission adopted the Bureau's tentative conclusion that the LECs must retain an option permitting ICs to order FGD service in trunks to the first point of switching. The Commission also agreed with the Bureau that the LECs should be permitted to prohibit the ICs from mixing orders in Busy Hour Minutes of Capacity and trunks.

8. Regarding calculation of cancellation charges, the Commission found that although the LECs had submitted insufficient information to allow a determination of how individual percentages were derived, the percentages used in the LECs' cancellation tables were not unreasonable. The Commission eliminated the requirement that LECs assess cancellation charges according to the method prescribed in the *ECA Tariff Order*. The Commission required, however, that LECs proposing changes in methodology or cancellation percentages provide sufficient supporting information to allow the Commission to assess the reasonableness of the percentages established for each critical date and each service. The Commission permitted LECs to use scheduled dates rather than actual dates to calculate cancellation charges but required that they indicate, in future filings, the extent to which they are adjusting their cancellation tables to reflect differences between scheduled and actual dates. Finally, the Commission required the LECs to provide customers with a list of critical events and projected completion dates before any cancellation charge could apply. The Commission required the LECs to indicate in their tariffs: (1) The point at which this information would be provided; (2) that no cancellation charges would apply before the customers were properly notified of such charges; (3) where additional information relating to cancellation charges is published; and (4) that they will provide this information to customers upon reasonable request and within a reasonable period.

9. The Commission adopted the Bureau's tentative conclusion that the methodology proposed by NYNEX for calculation of expedited order charges was permissible. LECs are free either to use this methodology or to use a methodology based on the actual costs of expediting an order. The Commission required LECs to provide customers in advance an estimate of the charges for expediting an order and to cap the charges at no more than 10 percent over that estimate.

10. The Commission adopted the Bureau's tentative conclusion that it would be reasonable for the LECs to allow the ICs a 30-day grace period before they must accept available service. LECs wishing to delay activation of service for a longer period after the scheduled date should permit customers to delay accepting service for a similar period.

11. The Commission adopted the Bureau's recommendation that the LECs be granted a waiver of § 61.74 of the Commission's Rules, 47 CFR 61.74, to permit them to reference in their tariffs outside materials containing information on service ordering intervals and scheduled critical events in their ordering processes. LECs not including service interval tables in their tariffs must state in their tariffs that they will provide such tables and associated information to all customers within a reasonable time after request.

12. The Commission agreed with the Bureau's tentative decision that the LECs could not justify information requirements as to use of certain services except in certain limited circumstances, *e.g.*, in order to calculate credits for resold MTS, MTS-type and WAT-type services. The Commission required the LECs to modify their tariffs to eliminate unnecessary references to resale of circuits.

13. The Commission agreed with the Bureau that advance payments for Planned Facilities Orders set at compensatory levels and in lieu of cancellation charges would be not unreasonable.

14. Regarding discontinuance of service provisions, the Commission adopted the Bureau's preliminary conclusions that LECs should not charge customers for services after the customer requests discontinuance if the minimum service period has expired. LECs may require written notice from customers before service is disconnected.

15. The Commission agreed with the Bureau that LECs should be required to provide customers, upon reasonable request and within a reasonable time, sufficient information to verify LECs' calculations of estimated usage and estimated usage measurements. Regarding the information that should be provided on monthly statements, the Commission deferred to the recommendations of the Ordering and Billing Forum (OBF) and asked the LECs and ICs to cooperate with the OBF in deciding this issue. In addition, the Commission directed the LECs to inform the ICs whenever they update the subscriber line ratio and to make available on reasonable request information regarding the underlying data used to derive this ratio.

16. The Commission agreed with the Bureau that the LECs' tariff provisions as to minimum period obligations and cancellation charges when the "customer of record" changes were not unreasonable. The Commission also agreed that it was within the LECs' discretion to determine the length of time a routing option would be available to ICs replacing FGB and FGD, but that the LECs' tariffs should state the duration of the option.

17. The Commission stated that it would consider waiving the requirement that message unit credits be calculated exchange-by-exchange upon a showing that exchange-by-exchange measurement was impossible or impracticable. The Commission deferred the requirement that LECs file revised MUCs computed exchange-by-exchange until the October 1987 access tariff filing to allow time for consideration of any such waivers. The Commission declined to adopt the Bureau's recommended methodology for calculation of MUCs but stated that the LECs' calculation of MUCs should properly credit customers for the message unit charges already paid by end users so as to preclude double recovery.

18. The Commission terminated, without reaching a decision on the merits, its investigation into tariff provisions that may restrict ICs' ability to perform their own billing and collection services. ICs with concerns as to whether a LEC is offering recording services on reasonable terms may file a complaint pursuant to the procedures established in the Commission's Rules.

19. Regarding presubscription charges, the Commission concluded that, (1) except for Rochester Telephone Company, LECs had not supported increased presubscription charges; (2) LECs might reasonably be able to support charging multiline and Centrex

customers a reduced rate for presubscription changes; and (3) declined to prohibit intrastate change charges.

Ordering Clauses

20. Accordingly, it is ordered, pursuant to sections 4(i), 201, 202, 203, 204(a) and 205 of the Communications Act, 47 U.S.C. 154 (i), (j), 201, 202, 203, 204(a) and 205, that the tariff material submitted under the transmittals referenced above is unlawful to the extent indicated herein.

21. It is further ordered that the Investigation in CC Docket No. 86–125, Phase II, initiated June 9, 1986, is terminated.

22. It is further ordered that the local exchange carriers shall file revised tariff material in compliance with this Order on May 8, 1987, with an effective date of 45 days thereafter.

23. It is further ordered that the local exchange carriers shall, by June 9, 1987, refund any minimum monthly charges or presubscription change charges improperly assessed as described in paras. 44, 45 and 72, *supra*.

24. It is further ordered that §§ 61.58, 61.59 and 61.74 of the Commission's Rules, 47 CFR 61.58, 61.59 and 61.74 are waived to the extent required to file tariff revisions implementing this Order. We assign Special Permission No. 86–957 for this purpose.

25. This Order is exempt from the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*. It involves a rule applicable to particular rates and to practices relating to such rates within the meaning of the exemption contained in 5 U.S.C. 601(2).

List of Subjects in 47 CFR Part 61

Communications common carriers, Terms and conditions, Just and reasonable terms and conditions, Tariff, Investigation.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–9781 Filed 5–4–87; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 519, 552 and 553

[APD 2800.12 CHGE 43]

General Services Administration Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5, is amended to revise Part 519 to conform to the Federal Acquisition Regulation (FAR) requirements regarding set-asides for small business concerns, to reflect the function of the GSA Small Business Technical Advisors and to make other miscellaneous changes, to revise Part 552 to provide the text of the Small Business Concern Representation provision to be used instead of the FAR provision, and to provide the text of the Standard Industrial Classification Code and Small Business Size Standard provision; and to revise Part 553 to illustrate the August 1986 edition of the GSA Form 3503, Representations and Certifications. The intended effect is to improve the regulatory coverage by conforming to the FAR and providing uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: April 22, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Ida M. Ustad, Office of GSA Acquisition Policy and Regulations on (202) 566–1224.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1984, the General Services Administration (GSA) published in the **Federal Register** (49 FR 29982) inviting comments from interested parties on proposed changes to the regulation regarding Small Business and Small Disadvantaged Business Concerns and provided a 30-day comment period. Comments received from the Central Maine Indian Association, Inc., Mexican American Legal Defense and Educational Fund, Small Business Administration and various GSA offices have been reviewed, reconciled, and incorporated, when appropriate, in this final rule.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The rule merely amends the GSAR to make it conform to the FAR regarding items that are/are not set aside for small business concerns, to provide information to offerors on product or service classifications and small business size standards and to reflect the functions of the GSA Small Business Technical Advisors. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.).

List of Subjects in 48 CFR Parts 519, 552 and 553

Government procurement.

1. The authority citation for 48 CFR Parts 519, 552 and 553 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 519—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

2. The table of contents for Part 519 is amended by deleting section 519.502–2 and adding sections 519.001, 519.304, 519.502, 519.502–70, and Subpart 519.6, to read as follows:

Sec.

519.001 Definitions.

Subpart 519.3—Determination of Status as a Small Business Concern

519.304 Solicitation provisions.

Subpart 519.5—Set-Asides for Small Business

519.502 Setting aside acquisitions.

519.502–70 Review of non-set-aside deteminations.

Subpart 519.6—Certificates of Competency and Determinations of Eligibility

519.602 Procedures.

519.602–1 Referral.

519.602–3 Resolving differences between the agency and Small Business Administration.

3. Section 519.001 is added to read as follows:

519.001 Definitions.

"Agency small business technical advisors" as used in this part, means the directors of the Business Service Center (or designees) in the regions and the individuals in the Federal Supply Service, Public Building Service, Information Resources Management Service, and Federal Property Resources Service that have been designated to serve as small business technical advisors in the Central Office. In addition to the duties outlined at FAR 19.201(c), the agency small business technical advisors perform the functions of the small and disadvantaged business utilization specialist/representative described in FAR 19.506 (a) and (b) and 19.705–4(d)(5).

519.201 [Removed]

4. Section 519.201 is removed.

5. Section 519.202 is amended by revising paragraphs (a), (b), (c), and (e) to read as follows:

519.202 Specific policies.

(a) Each contracting activity shall make its best effort to identify procurements where a potential exists for increasing the small business share of contract awards. Contracting officers should seek the assistance of the agency small business technical advisor and Small Business Administration (SBA) procurement center representatives in locating qualified small business sources.

(b) The head of each contracting activity shall ensure that contracting personnel participate in training programs that emphasize the importance of the small business programs.

(c) Each Business Service Center (BSC) will keep all other BSC's and the Office of Small and Disadvantaged Business Utilization (AU) informed on items of mutual interest under the small business programs.

* * * * *

(e) Proposed regulations and procedures affecting the operation of the small business program must be coordinated with the Office of Small and Disadvantaged Business Utilization (AU) prior to issuance.

6. Section 519.202–5 is revised to read as follows:

519.202–5 Data collection and reporting requirements.

(a) *Responsibilities.* (1) The Office of Small and Disadvantaged Business Utilization (AU) is responsible for collecting section 8(a) award information from regional office Business Service Centers and Central Office Small Business Technical Advisors and preparing a cumulative report.

(2) Regional contracting officers are responsible for submitting section 8(a) contract award information to the regional Business Service Center (BSC).

(3) Central Office contracting officers are responsible for submitting the section 8(a) contract award information to their respective Central Office Small Business Technical Advisors.

(4) The regional Business Service Centers and the Central Office Small Business Technical Advisors are responsible for submitting the section 8(a) contract award information to AU as an attachment to the GSA Form 3077, FY 19—, Procurement Preference Program Goal Achievement. This data is required on the 20th calendar day following the end of each quarter.

(b) *Reporting procedures.* (1) The contracting officer shall complete and submit a GSA Form 2677, Minority Contract Fact Sheet, to the regional BSC or the appropriate Central Office Small Business Technical Advisory at the time of award. The BSC or Central Office Small Business Technical Advisor shall forward the GSA 2677's to the Office of Small and Disadvantaged Business Utilization (AU) on a quarterly basis as an attachment to the GSA Form 3077.

(2) All amendments or modifications to existing section 8(a) contracts must be reported on a separate GSA Form 2677.

7. Section 519.302 is revised to read as follow:

519.302 Protesting a small business representation.

In connection with the processing of a protest of a small business representation of an offeror, if the SBA determines that the offeror is not a small business and there is any evidence that the offeror knowingly or willfully misrepresented itself as a small business, the contracting officer should refer the matter to the Office of the Inspector General (J) for investigation and referral to the Department of Justice and/or the GSA debarring official if appropriate.

8. Section 519.304 is added to read as follows:

519.304 Solicitation provisions.

(a) The contracting officer shall insert the provision at 552.219–1, Small Business Concern Representation, in all solicitations instead of the provision at FAR 52.219–1.

(b) The contracting officer shall insert a provision substantially the same as one of the provisions at 552.219–70, Standard Industrial Classification and Small Business Size Standard, in each solicitation, including requests for quotations issued under small purchase procedures. In accordance with FAR 19.102(b)(3) and FAR 19.303(a), the contracting officer shall determine the appropriate product or service classification and related size standard and include them in the solicitation using one of the provisions at 552.219–70.

519.501 [Removed]

9. Section 519.501 is removed.

10. Section 519.502–1 is amended by revising paragraphs (a), (b), (c), (d), (f), (g), (h), (i) and (j) to read as follows:

519.502–1 Requirements for setting aside acquisitions.

(a) *General.* Contracting officers shall set aside all procurements qualifying therefor, as provided in FAR Subpart 19.5, and as required by paragraphs (c) through (j) of this section. Consideration must be given to establishing class set-asides. Contracting officers shall periodically review individual set-asides to identify commodities and services suitable for class set-asides.

(b) *Small purchases.* Procurements that have an anticipated dollar value of $25,000 or less and are subject to small purchase procedures must be reserved exclusively for small business concerns. Offers shall be solicited from small business concerns only unless the contracting officer makes a determination that there is no reasonable expectation that two or more small business concerns will submit acceptable offers at a reasonable price. If the procurement is not reserved for small business, the contract file must be documented accordingly.

(c) *Class set-aside determination.* Except for construction contracts subject to 519.502–1(d) and (e), small business class set-asides are normally made by the contracting officer and documented in accordance with 519.503.

(d) *Construction contracts from $25,000 to $500,000.* Based upon an understanding with the SBA, each proposed procurement for construction, including alteration, maintenance, and repair estimated to be in excess of $25,000 and under $500,000 must be considered individually as though the SBA had initiated a set-aside request and must be set aside, except as otherwise provided in 519.502–1(f).

* * * * *

(f) *Exemption of certain construction and repair contracts.* All separate construction contracts under a construction-management-phased construction project and contracts for repair of mechanical systems, such as elevators, steam generators, air-conditioners, or distributing systems are exempt from the requirements of 519.502–1(d) or (e). However, contracting officers shall review each such exempt procurement for set-aside in accordance with FAR 19.502.

(g) *Building service contracts in excess of $25,000.* Contracting Officers shall arrange for the making of small business set-asides on all building service contracts which qualify therefor as provided in FAR Subpart 19.5.

(h) *Architect-Engineer contracts.* (1) All architect-engineer contracts for construction projects with an estimated construction contract amount not exceeding $2.5 million must be set-aside for small business.

(2) A synopsis message indicating that the architect-engineer contract is set-aside for small business must be

prepared and forwarded to the Commerce Business Daily as provided by FAR 5.207.

(i) *All other contracts.* All contracts other than those contracts subject to the provisions of 519.502–1(c), (d), (e), (f), (g), and (h) may be set aside in accordance with the provisions of FAR 19.502–1 and 519.502–1(a).

(j) *Determination not to set aside.* Where the contracting officer determines that a small business set-aside of a procurement is not feasible, the procedures defined in 519.502–70 must be followed.

519.502–2 [Removed]

11. Section 519.502–2 is removed.

12. Section 519.502–3 is revised to read as follows:

519.502–3 Partial set-asides.

(a) *Initiating partial set-asides.* Contracting officers shall continuously review the items for which they have procurement responsibility (both national and regional requirements) and make partial small business set-asides as provided herein. Particular attention must be given to high volume items which are not totally set aside and which have a potential for being partially set-aside. Partial set-asides for stock items may be made when the following Economic Order Quantity (EOQ) factors are present:

(1) For annual contracts, an EOQ factor not exceeding 3 months; and

(2) For 6-month contracts, an EOQ factor not exceeding 1 month.

(b) *Preparation of solicitation.* The contracting officer shall insert the clause at 552.219.71, Allocation of Orders—Partially Set-Aside Items, in solicitations for requirements type supply contracts that ate partially set aside for small business.

(c) *Contract award.* When the set-aside portion of an item is to be awarded to the same concern as the corresponding non-set-aside portion of an item, such an award must be documented by issuing a separate contract as if two different concerns are involved.

(d) *Procurement of unawarded set-aside portions.* If the entire set-aside portion cannot be awarded under the partial set-aside procedures, the unawarded portion must be procured by sealed bidding or negotiation, as appropriate, in accordance with FAR 19.502–3.

(e) *Partial coverage.* When only the non-set-aside portion of the procurement is awarded prior to the expiration of the current contract, contractual documents covering the transaction must be distributed to the ordering activities to provide at least partial coverage of the requirements.

(f) *Contract coding.* To assure that set-asides are properly identified for reporting purposes, information regarding awards based on partial or total set-asides shall be included on GSA Form 1535, Recommendation for Award(s), as appropriate. Further, if a class set-aside is involved, the face of the GSA Form 1535 must be annotated as follows: "Class set-asides apply to items ———."

(g) *Ordering procedures.* The Inventory Manager is responsible for ensuring that the specified division of orders is made in accordance with the clause at 552.219–71 in those cases where two contractors are to supply the same item(s).

13. Section 519.502–70 is added to read as follows:

519.502–70 Review of non-set-aside determinations.

(a) If the contracting officer decides that a procurement that is expected to exceed $25,000 cannot be set aside for small business, the reasons for the decision must be recorded on the GSA Form 2689, Procurement Not Set Aside. The GSA Form 2689 must be submitted to the agency small business technical advisor for review and coordination with the Small Business Administration (SBA).

(b) The agency small business technical advisor will provide a copy of the GSA Form 2689 to the SBA representative as soon as possible so that the review of the contracting officer's determination can be made by GSA and SBA within the timeframe provided in paragraph (c) of this section.

(c) Review of the contracting officer's determination should normally be completed by GSA and SBA officials within 5 workdays. GSA and SBA reviewing officials should notify the contracting officer if additional time is needed and request an extension of time to complete the review.

(d) Before the GSA or SBA reviewing Officials provide additional small business sources to the contracting officer when requesting reconsideration of the non-set-aside determination, the reviewing officials shall contact the sources to ensure the source is interested in submitting an offer and to obtain information regarding the capability of the source to fulfill the Government's requirements. The information obtained should be provided to the contracting officer for consideration.

(e) If the agency small business technical advisor recommends that the contracting officer set the procurement aside and the contracting officer still believes the procurement should be unrestricted, the matter must be referred to the contracting director's first level supervisor for a decision.

(f) If the SBA representative recommends that the contracting officer set the procurement aside and the contracting officer rejects the recommendation, the contracting officer shall comply with the provisions of FAR 19.505.

(g) The contracting officer shall suspend action on the acquisition when there is a disagreement on the set aside determination unless the contracting officer determines that proceeding to contract award and performance is in the public interest. The contracting officer shall not make a public interest determination under FAR 19.505(f) of this section, unless the acquisition represents a case of unusual and compelling urgency where the Government would be seriously injured if the contracting officer does not proceed.

14. Section 519.503 is revised to read as follows:

519.503 Setting aside a class of acquisitions.

(a) *Clarification of class set-aside definition.* In further explanation of FAR 19.503, a class set-aside may consist of an item (or service), a group of related items under a Federal Supply Class (FSC), or a whole FSC class when restricted to small business on more than a one-time basis, as distinct from a one-time basis. Under this definition, a single item or a group of items restricted to small business on more than a one time basis, even though constituting only a small portion of an FSC class, is defined as a class set-aside.

(b) Class set-aside determinations must be documented in the format set forth below:

Small Business Class Set-Aside Determination

In accordance with FAR 19.502.2, it is hereby determined that procurements by the (*name of contracting activity*) of the following commodities or services shall be set aside for small business concerns on a class basis. This determination does not apply to any individual procurement for which small purchase procedures are to be used and applies only to the contracting activity named above.

(List items or services)

The above format should be appropriately modified with respect to any class of procurements proposed to be partially set-aside. It must be signed by the contracting officer having procurement responsibility for the class

of commodities or services involved, approved by the appropriate contracting director or a designee, and placed in the contract file.

519.505 [Removed]

15. Section 519.505 is removed.

519.506 [Removed]

16. Section 519.506 is removed.

17. Sections 519.602, 519.602–1 and 519.602–3 are added to read as follows:

519.602 Procedures.

519.602–1 Referral.

When a small business concern has been determined to be nonresponsible, the contracting officer shall refer the matter to the cognizant SBA Regional Office. The referral must be prepared in accordance with FAR 19.602–1(c).

519.602–3 Resolving differences between the agency and the Small Business Administration (SBA).

(a) The SBA Regional Office will provide advance notice to the contracting officer of its intention to issue or recommend issuance of a Certificate of Competency (COC). If there are sufficient grounds to appeal the action, the contracting officer shall request that the SBA Regional Office refer the case to the SBA Central Office and, within 5 working days after making the request, shall prepare and forward the following information to the GSA Office of Small and Disadvantaged Business Utilization (AU):

(1) Copies of all correspondence between GSA and SBA concerning the case, including initial notice to SBA that a small business has been found nonresponsible;

(2) Copies of all technical documents sent to SBA along with the notice (i.e., solicitation, preaward surveys, abstract of offers, if any, etc.);

(3) A fact sheet detailing all pertinent information to support an appeal action to SBA, including any new information and a justification of the contracting officer's decision to continue the appeal.

(b) If the SBA Central Offices informs the contracting officer that it concurs with its Regional Office's intention to issue a COC, the documentation available clearly supports an appeal, and the contracting officer believes an appeal to be in the best interest of the Government, the contracting officer shall contact the Office of Small and Disadvantaged Business Utilization (AU) and request that AU formally appeal the SBA decision on the agency's behalf. After considering all the facts and conferring with the applicable contracting activity, AU will decide whether or not to file a formal appeal. Before a decision is made not to appeal, AU shall notify the applicable Central Office Service. Once a decision is made regarding the appeal, the contracting officer will be notified.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

18. The table of contents for Part 552 is amended to revise the title of Section 552.219–70 and to add section 552.219–1 to read as follows:

Subpart 552.2—Text of Provisions and Clauses

* * * * *

552.219–1 Small Business Concern Representation.

552.219–70 Standard Industrial Classification and Small Business Size Standard.

* * * * *

19. Section 552.219–1 is added to read as follows:

552.219–1 Small Business Concern Representation.

As prescribed in 519.304(a), insert the following provision:

Small Business Concern Representation (Aug. 1986) (Deviation FAR 52.219–1)

The offeror represents and certifies as part of its offer that it ☐ is, ☐ is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(End of Provision)

20. Section 552.219–70 is amended by revising the title and text to read as follows:

552.219–70 Standard Industrial Classification Code and Small Business Size Standard.

(a) As prescribed in 519.304(b), insert the following provision when the same classification applies to all of the products or services being procured:

Standard Industrial Classification and Small Business Size Standard (Mar 1987)

The Standard Industrial Classification Code applicable to the supplies/services being procured is No. [1]———, and the applicable small business size standard is [2]———.

(End of Provision)

(b) As prescribed in 519.304(b), insert the following provisions when different classification codes apply to the various products or services being procured:

Standard Industrial Classification and Small Business Size Standard (Mar 1987)

The Standard Industrial Classification (SIC) Codes and the small business size standards applicable to the items being procured are as follows:

Item Nos.

———

———

———

SIC Code

(1)

———

———

———

Small Business Size Standard

(2)

———

———

———

(End of Provision)

Editorial note.—The revised GSA Form 3503, Representation and Certification mentioned in the summary is illustrated and made a part of the regulation. However, the form is not illustrated in the **Federal Register** or the Code of Federal Regulations. A copy of the form may be obtained from any GSA contracting activity or the Director of the Office of GSA Acquisition Policy and Regulations (VP), 18th and F Streets, NW., Washington, DC 20405.

Dated: April 22, 1987.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 87–10086 Filed 5–4–87; 8:45 am]

BILLING CODE 6820–61–M

[1] Insert the SIC Code for the supplies or services being procured. See FAR 19.102.

[2] Insert (for example) "500 employees," or "$2 million annual receipts," or a similar appropriate entry. See FAR 19.102.

Proposed Rules

Federal Register
Vol. 52, No. 86
Tuesday, May 5, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Cotton Marketing Services; Regulatory Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS), in compliance with the requirements for the periodic review of existing regulations, has reviewed the regulations regarding the classification of cotton under the United States Cotton Standards Act, cotton linters classification and cotton classification and market news services for producers. As a result of the review, certain changes in the regulations are being proposed. These changes would amend the wording of the regulations to conform with organizational changes within the Cotton Division of AMS and would update terms and definitions.

DATE: Comments must be received on or before May 26, 1987.

ADDRESS: Written comments may be sent to Paul Dickson, Chief, Grading Branch, Cotton Division, AMS, USDA, 4841 Summer Avenue, Memphis, Tennessee 38122.

FOR FURTHER INFORMATION CONTACT: Paul Dickson, (901) 521–2921.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. No new costs or additional requirements are being imposed on the affected industry or others.

The Administrator of the Agricultural Marketing Service has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (i) The proposals reflect AMS organizational changes and other changes made for classification purposes; (ii) costs of compliance would not be increased; (iii) recordkeeping burdens would not be increased; (iv) the proposed changes in the regulations would not affect the competitive position or market access of small entities in the cotton industry.

Background

Part 28 of Title 7 of the Code of Federal Regulations is divided into five subparts containing regulations governing cotton classing, testing, and standards.

Subpart C—Standards, and Subpart E—Cotton and Fiber Processing Tests, have previously been reviewed and updated by AMS (Subpart C—48 FR 16873, April 20, 1983 and 51 FR 23037, June 25, 1986; and Subpart E 46 FR 30073, June 5, 1981).

Subpart A sets forth in detail the procedures and requirements for cotton classification under the United States Cotton Standards Act. Other regulations in Subpart A provide for the preparation and sale of practical forms of cotton standards, for the establishment of Universal Cotton Standards, and for the classification of cotton linters.

Regulations covering the classification of foreign growth cotton under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et. seq.*) are in Subpart B.

Pursuant to the authority of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471 *et seq.*), Subpart D provides for cotton classification and market news service for cotton producers.

The regulations described above also establish the fees to be charged for such services and delineate the responsibilities and duties of the Cotton Division of AMS in administering these cotton marketing service programs.

Regulation Review

The Cotton Division of AMS has undertaken a general review of existing regulations in Subparts A, B, and D or Part 28. The review was conducted in accordance with the requirements of Executive Order 12291 and under Departmental Regulation 1512–1.

The regulations have been examined for their effectiveness. It is determined that the procedures currently in effect are useful and efficient methods of providing cotton classification, practical forms of cotton standards, market news, and other cotton marketing services. The fees for services provided under Part 28 have been reviewed and have been revised as appropriate, effective July 1, 1986 (51 FR 22059). These fees are periodically reviewed by AMS and adjusted as necessary. Accordingly, no changes to fees are proposed in this rulemaking.

Proposed Changes

The changes proposed by AMS in Subparts A, B, and D of Part 28 would not affect the services provided or the procedures for providing those services. AMS proposes to eliminate masculine references in favor of gender neutral language. Also, to reflect the nomenclature changes made when the Cotton Division was reorganized in 1978 and in 1986, AMS proposes to substitute the term "Classing Office" for "Board of Cotton Examiners," to substitute the term "Quality Control Section" for "Appeal Board of Review Examiners," to substitute the term "Area Director" for "Chairman of the Board of Cotton Examiners," to substitute the term "Quality Control Section" for Board of Cotton Linters Examiners," and to substitute the term "cotton classer" for "cotton examiner."

Specifically, AMS proposes to amend the following sections:

1. Sections 28.2, 28.15, 28.16, 28.25, 28.29, 28.36, 28.45, 28.56, 28.60, 28.105, 28.117, 28.138, 28.146, 28.177, 28.178, and 28.182 by eliminating masculine references in favor of gender neutral language.

2. Sections 28.2, 28.4, 28.7, 28.8, 28.15, 28.17, 28.18, 28.25, 28.26, 28.27, 28.28, 28.32, 28.37, 28.40, 28.47, 28.55, 28.56, 28.59, 28.60, 28.66, 28.115, 28.177, 28.178, 28.180, and 28.181 by substituting the term "Classing Office" for "Board of Cotton Examiners."

3. Sections 28.6, 28.7, 28.18, 28.19, 28.25, 28.36, 28.37, 28.59, 28.60, 28.115, 28.177, 28.178, 28.180, and 28.182 by substituting the term "Area Director" for "Chairman of the Board of Cotton Examiners."

4. Sections 28.66, 28.177, and 28.181 by substituting the term "Quality Control Section" for "Appeal Board of Review Examiners."

5. Sections 28.139, 28.140, 28.142, and 28.146 by substituting the term "Quality

Control Section" for "Board of Cotton Linters Examiners."

6. Section 28.8 by substituting the term "cotton classers" for "cotton examiners."

The term "Quality Control Section" would be added to the list of terms defined in § 28.2. The new term would be designated paragraph (j) in § 28.2, and the present paragraphs (j) through (u) would be redesignated paragraphs (k) through (v) respectively.

The term "cotton examiner", also defined in § 28.2, would be changed to "cotton classer" and the definition would be revised to reflect the requirement that classers must pass the practical cotton classing examination.

Section 28.4 would be condensed to delete the obsolete term "Board of Supervising Cotton Examiners," the duties of which had been previously transferred to the "Appeal Board of Review Examiners" which under this proposal would be renamed the "Quality Control Section" and defined in § 28.2.

Sections 28.5 and 28.6 describe the duties of the secretary of the board of cotton examiners and the acting secretary. In the 1978 Cotton Division reorganization, secretaries were reclassified as office assistants and the responsibilities of the office assistants were transferred to the Area Directors of the then Marketing Services Offices. Under this proposal the boards would be renamed Classing Offices in accordance with a 1986 Cotton Division reorganization. Accordingly, §§ 28.5 and 28.6 would be removed and § 28.7 would be revised to reflect these changes. References to secretaries in §§ 28.17 and 28.178 are also proposed to be deleted. Duplicative language in § 28.17 would also be deleted.

Additional conforming changes are also proposed. Section 28.19 would be amended to reflect that authority to reject classification requests is with Area Directors and the Head of the Quality Control Section instead of with the Chairman of the Board or the Director. Section 28.28 would be amended to state that the Area Director instead of the secretary of the board is responsible for informing applicants of lost or damaged samples. Section 28.36 would be changed to reference Area Directors instead of the Chairman of the Board and would permit Area Directors more discretion than the present emergency criteria in assigning classification priority. With the proposed new definition of the Quality Control Section in § 28.2, § 28.137 would become unnecessary and it would be removed in this proposal.

Obsolete references to the Board of Cotton Linter Examiners and its secretary would be deleted. Their duties would be added to the proposed "Quality Control Section " defined in § 28.2. Accordingly, all references to the secretary and the board would be removed from §§ 28.139, 28.142, and 28.146.

Section 28.105 would be amended to substitute the term "Administrator" for all references to the term "Secretary" in this section including with regard to signatures on practical forms. Presently practical forms are to be certified under the Seal of the United States Department of Agriculture and under the Secretary's own signature or some other official or employee of the Department duly authorized by the Secretary.

Section 28.107 would be amended by removing the requirement that the Second Reserve Set of each Universal Cotton Standards Conference be retained by the Cotton Division until a new or revised set of standards is adopted. This requirement is not necessary since the First Reserve Set will continue to be retained, along with the original Universal Standards. The First Reserve Set would be sufficient as true copies of the standards approved at each of the Universal Cotton Standards Conferences, and recent practice has been to refer directly to the original standards when revisions to the standards are at issue. The Second Reserve Set would be retained, if that set is used in place of the First Reserve Set.

It is further proposed to delete § 28.165, Publications media, from the regulations. This section states that publications under the U.S. Cotton Standards Act would be made through service and regulatory announcements. Service and regulatory announcements are no longer issued by AMS.

A 20 day comment period is deemed adequate because: (1) The majority of the proposed changes reflect organizational changes within the Cotton Division of AMS and the updating of terms and definitions and (2) the proposed changes to the sections concerning practical forms of cotton standards and original cotton standards and reserve sets should be made final, if adopted in sufficient time to prepare the same for the Annual Cotton Standards Conference which is to be held in early June.

List of Subjects in 7 CFR Part 28

Cotton, Samples, Standards, Cotton linters, Grades, Staple, Market news, Testing.

PART 28—[AMENDED]

For the reasons set forth in the preamble, it is proposed Subparts A, B, and D of Part 28, Chapter I, Title 7 of the Code of Federal Regulations be amended as follows. The Table of Contents would be amended accordingly.

1. The authority citation for Subpart A of Part 28 is revised to read as follows:

Authority: Sec. 5, 50 Stat. 62, as amended (7 U.S.C. 55); Sec. 10, 42 Stat. 1519 (7 U.S.C. 61), unless otherwise noted.

2. The authority citation for Subpart B of Part 28 continues to read as follows:

Authority: Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1624).

3. The authority citation for Subpart D of Part 28 is revised to read as follows:

Authority: Sec. 3a, 50 Stat. 62 as amended (7 U.S.C. 473a); Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c).

4. Section 28.2 is amended by redesignating paragraphs (j) through (u) as paragraphs (k) through (v) respectively, by adding a new paragraph (j), and by revising paragraphs (d), (f), (h), (i), and the redesignated paragraph (k) to read as follows:

§ 28.2 Terms defined.

* * * * *

(d) *Secretary.* The Secretary of Agriculture of the United States, or any officer or employee of the Department who has been delegated, or who may hereafter be delegated the authority to act for the Secretary.

* * * * *

(f) *Administrator.* The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, who has been delegated, or who may hereafter be delegated the authority to act for the Administrator.

* * * * *

(h) *Director.* The Director of the Cotton Division, or any officer or employee of the Division who has been delegated, or who may hereafter be delegated the authority to act for the Director.

(i) *Classing Office.* A facility of the Cotton Division established under the act at any point.

(j) *Quality Control Section.* The national classing supervision office at Memphis, Tennessee performing final review of cotton classification and the classification of cotton linters.

(k) *Cotton classer.* An employee of the Department so designated by the Director after having passed the

prescribed practical cotton classing examination.

* * * * *

5. Section 28.4 is revised to read as follows:

§ 28.4 Classing Offices.

Classing Offices shall be maintained at points designated by the Administrator. Requests for the review of the classification and/or comparison of cotton performed by Classing Offices may be referred to the Quality Control Section.

§§ 28.5 and 28.6 [Removed]

6. Sections 28.5 and 28.6 are removed.

7. Section 28.7 is revised to read as follows:

§ 28.7 Area Director, Classing Office; responsibility.

Subject to this subpart and the instructions of the Director, the Area Director of each Classing Office shall be responsible for the proper performance of the duties imposed on such office and on the persons connected therewith. The Area Director shall be responsible for receiving all correspondence relating to the classification of cotton under the act and for providing that all samples are prepared for classification and/or comparison in such manner that the name of the owner and/or the custodian shall be unknown to the cotton classers until after the samples are classified.

8. Section 28.8 is revised to read as follows:

§ 28.8 Classification of cotton; determination.

For the purposes of the act, the classification and comparison of any cotton, samples, or types submitted to the Department shall be determined or made only by cotton classers properly qualified and designated as such by the Director, and the certificate of a Classing Office or the Quality Control Section with respect to any cotton shall be deemed to be the certificate of the Department.

9. Section 28.15 is amended by revising paragraphs (a) and (c) to read as follows:

§ 28.15 Classification and comparison; requests.

* * * * *

(a) *Form A determination.* The classification or comparison of samples freshly drawn and submitted to a Classing Office direct from a licensed warehouseman, at the request of the owner of the cotton or the owner's agent. Such classification or comparison shall be evidenced by a Form A memorandum which shall be subject to review as provided in § 28.66.

* * * * *

(c) *Form D determination.* The classification or comparison of samples submitted by the owner of the cotton or the owner's agent. Such classification or comparison shall be evidence by a Form D memorandum which shall be subject to review as provided in § 28.66.

* * * * *

10. Section 28.16 is revised to read as follows:

§ 28.16 Request for return of samples.

Any applicant desiring return of the samples after classification or comparison is completed, at the applicant's expense shall indicate this service on the form used for requesting such classification or comparison.

11. Section 28.17 is revised to read as follows:

§ 28.17 Filing of requests for classification or comparison.

All requests for classification or comparison leading to Form A, Form D memoranda or, Form C certificates shall be filed with the Classing Office which serves the territory in which the cotton is located. Samples which are submitted to any Classing Office for classification or comparison may be referred by such Classing Office to another Classing Office for classification or comparison.

12. Section 28.18 is revised to read as follows:

§ 28.12 One request only for classification.

Not more than one request for a Form A determination, or a Form C determination, or a Form D determination of the same cotton, except a request for a review determination, shall be filed by the same owner within any 30-day period. Any subsequent request shall be accompanied by redrawn samples and the Area Director may require that any Form A or Form D memoranda, Form C certificates, or other classification data previously issued by a Classing Office with respect to samples purporting to represent the same cotton shall be returned before such redrawn samples are classed.

13. Section 28.19 is revised to read as follows:

§ 28.19 Withdrawal or rejection of classification request.

Any classification request may be withdrawn by the applicant at any time before the classification of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed in these regulations. Any classification requests may be rejected by the Area Director or the Head of the Quality Control Section for noncompliance with the act or this subpart.

14. Section 28.25 is amended by revising the introductory text and paragraphs (f), (g), and (h) to read as follows:

§ 28.25 Samples for Form A determination.

Samples for Form A determination shall be drawn, handled, identified, and shipped by a licensed warehouse according to the methods and procedures specified in this section. Any samples or set of samples which do not meet these specified requirements may be rejected by the Area Director.

* * * * *

(f) Samples shall be identified and sacked immediately after they are cut without further handling prior to shipment to the Classing Office.

(g) Samples shall be addressed to and mailed, shipped, or delivered direct to the Classing Office serving the territory in which the warehouse is located. Samples shall in no case be consigned or routed through the owner or custodian of the cotton. Samples mailed or shipped shall be prepaid.

(h) The Area Director may require that any licensed warehouse shall provide the crop year, gin name and gin bale number for each sample submitted whenever the Area Director deems that such information is necessary in order to assure that each sample is properly identified with the correct bale of cotton.

* * * * *

15. Section 28.26 is revised to read as follows:

§ 28.26 Samples for Form C determination.

Samples submitted for Form C determination shall be drawn under the supervision of a Division employee who shall retain custody or control of the samples until they are shipped prepaid or delivered at the applicant's expense to the Classing Office serving the territory in which the bales of cotton are located.

16. Section 28.27 is revised to read as follows:

§ 28.27 Samples for Form D determination.

Samples for Form D determination shall be shipped or delivered at the owner's expense to the Classing Office serving the territory in which the samples are located. A tag or coupons showing the bale number of the bale from which the sample was drawn, or other identification, shall be placed between the two portions of each samples.

17. Section 28.28 is revised to read as follows:

§ 28.28 Lost or damaged samples.

If any samples are lost, damaged, or mutilated, the Area Director shall inform the applicant.

18. Section 28.29 is revised to read as follows:

§ 28.29 Return of samples.

When so stipulated in the classification request for Form A, C or D determination, the samples submitted shall be returned to the applicant at the applicant's expense, at the time the memorandum is issued or when the request for classification is withdrawn or rejected.

19. Section 28.32 is amended by revising paragraph (a) to read as follows:

§ 28.32 Misrepresentation; deceptive or fraudulent acts or practices; violations.

* * * * *

(a) Any knowing misrepresentation or deceptive or fraudulent act or practice made or committed, or attempted to be committed, by any person in connection with—

(1) Any request for classificaiton,

(2) The drawing, handling, identifying, or submitting of any samples for classification,

(3) The making, issuing, or using of any memorandum or certificate of classification issued by a Classing Office or the Quality Control Section or

(4) The changing of any warehouse bale tags or numbers after the cotton has been sampled for classification.

* * * * *

20. Section 28.36 is revised to read as follows:

§ 28.36 Order of classification.

All samples for which classification requests are pending shall be classified, as far as practicable, in the order in which the samples are delivered for classification. When in the opinion of the Area Director there is a need to deviate from this order of classification, the Area Director shall designate which samples will be given priority in classification.

21. Section 28.37 is revised to read as follows:

§ 28.37 Exposing of samples for classification.

Classification shall not proceed until the samples, after being delivered to the Classing Officer, shall have been exposed for such length of time as in the judgment of the Area Director shall be sufficient to put them in proper condition for the purpose.

22. Section 28.40 is amended by revising paragraph (b) to read as follows:

§ 28.40 Terms defined; cotton classification.

* * * * *

(b) *Micronaire (mike) reading.* The measurement of the fiber fineness and maturity, in combination, of cotton as determined by an airflow instrument. For any cotton that has a micronaire reading of 2.6 or lower, the Classing Office will enter the micronaire reading on all classification memoranda issued for such cotton.

* * * * *

23. Section 28.45 is revised to read as follows:

§ 28.45 Scope of comparison; requests.

A comparison of cotton samples with a type may be requested with respect to grade, or to staple, including any of the component qualities embodied in the grade, or to all these factors. The classification of the type and the samples in accordance with the official cotton standards of the United States may also be requested. The applicant must specify in a written request the scope of service desired.

24. Section 28.47 is revised to read as follows:

§ 28.47 Statement of finding of Classing Office in comparisons.

For each quality factor (grade, staple, etc.) of the samples that the applicant has requested to be compared to the type, the Classing Office shall state in its findings whether such quality factor for each sample is "better," "equal," or "deficient" in comparison with the type. When appropriate, the findings of the Classing Office may also show the amount of difference in grade and in length between the sample and the type as measured by the official cotton standards of the United States, and other explanatory notations as needed.

25. Section 28.55 is revised to read as follows:

§ 28.55 Issuance of memoranda and certificates.

As soon as practicable after the classification of cotton has been completed by a Classing Office, there shall be issued a cotton class memorandum or certificate of the appropriate kind showing the results of such classification. Upon request from an applicant, classification results may be issued in preliminary form on record sheets.

26. Section 28.56 is amended by revising paragraphs (a) and (b) to read as follows:

§ 28.56 Form A and Form D memorandum.

(a) When a classification and/or comparison has been made of any samples submitted to a Classing Office direct from a public warehouse, the results of such classification and/or comparison may be stated in a Form A memorandum.

(b) When a classification and/or comparison has been made of any samples submitted by the owner of the cotton or the owner's agent, the results of such classification and/or comparison may be stated in a Form D memorandum.

* * * * *

27. Section 28.59 is revised to read as follows:

§ 28.59 Lost memorandum or certificate may be replaced by duplicate.

Upon the written request of the last holder of a valid Form A or Form D memorandum, or Form C Certificate and a showing to the satisfaction of the Area Director of the Classing Office which issued such memorandum or certificate that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new memorandum or certificate shall be issued without the reclassification of the cotton. Such new memorandum or certificate shall bear the same number and date of issuance as the lost or destroyed memorandum or certificate and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

28. Section 28.60 is revised to read as follows:

§ 28.60 Surrender of memoranda or certificates.

For good cause, any memorandum or certificate issued under this subpart shall be surrendered to the Area Director of the Classing Office which issued it, upon the Area Director's request or upon the request of the Director. A new memorandum or certificate complying with this subpart may be issued in substitution therefor. If such memorandum or certificate be not surrendered upon such request, it shall nevertheless be invalid for the purposes of the act and this subpart.

29. Section 28.66 is revised to read as follows:

§ 28.66 Review procedure.

A review of any Form A, C, or D determination may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after the issuance of the original memorandum. Such review shall cover

all of the quality factors for which the original determination was made. Requests for review of Form A or D determination may be filed with, and the review made by, the Classing Office which issued such memorandum or the Quality Control Section. Requests for reviews of Form C determinations shall be filed with, and the reviews made by, the Quality Control Section. Redrawn samples shall required for reviews of Form A and F determinations except in cases where the original samples have remained, identity preserved, in the custody of the Division. When redrawn samples are necessary, they shall be drawn and submitted as prescribed in this subpart. As evidence of a review determination, a Form A or D memorandum or Form C certificate appropriately marked to indicate that it represents a review determination shall be issued to the applicant requesting the review. The applicant may be required by the Classing Office or the Quality Control Section issuing such review determination to surrender the original classification memorandum or certificate. In any event the review determination shall supersede and invalidate the original determination.

30. Section 29.105 is amended by revising paragraphs (a) and (b)(2) to read as follows:

§ 28.105 Practical forms of cotton standards.

(a) Practical forms of the cotton standards of the United States prepared in physical form, each certified under the seal of the U.S. Department of Agriculture and under the signature of the Administrator, thereto affixed by the Administrator or by some other official or employee of the Department duly Authorized by the Administrator, and in the case of the standards for grade accompanied by photographs representing the cotton in such practical forms on the date of certification, are available for sale to any person requesting the same, subject to the other conditions of this section.

(b) * * *

(2) That said practical forms and the photographs accompanying them shall be subject to inspection on any business day, between the hours of 9 a.m. and 4 p.m., by the Administrator or by an officer or agent of the Department authorized by the Administrator for that purpose.

(3) That the signature of the Administrator certifying to any practical form, or any photograph of said practical form accompanying the same, or both, may be cancelled if it be found, upon such inspection, either that copy of said forms for any reason misrepresents the cotton standards or that any such photographs has been altered or mutilated.

31. Section 28.107 is amended by revising paragraph (d) to read as follows:

§ 28.107 Original cotton standards and reserve sets.

* * * * *

(d) The First Reserve Set of each conference or the Second Reserve Set, if it has been used in place of the First Reserve Set, as provided in paragraph (c) of this section ahall be retained by the Division until the currently adopted standards which they represent have been superseded by new or revised standards.

32. Section 28.115 is revised to read as follows:

§ 28.115 Fees and costs; payment.

All charges for practical forms of cotton standards and all fees and expenses for services of inspection of bales and supervision of sampling, classification, comparison, or review by a Classing Office shall be paid at the time of filing the request for the service desired, except that in the discretion of the Director bills may be delivered to persons from whom payment or charges or fees may become due. Such bills shall be rendered as soon as practicable after the last day of each month for amounts due and unpaid on such dates. When necessary, in the discretion of the Area Director, any will may be rendered at an earlier date for any charges or fees then due from the person to whom such bill may be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than the expiration of 2 weeks thereafter.

33. Section 28.117 is revised to read as follows:

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder, thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for the holder's business conveninence, the person requesting such substitution shall pay a fee of $3.00 per sheet.

§ 28.137 [Removed]

34. Section 28.137 is removed.

35. Section 28.138 is amended by revising the introductory test to read as follows:

§ 28.138 Classification and comparison; requests, memorandums and certificates.

For each lot or mark of linters which the applicant desires classified or compared spearately the applicant shall make a separate written request specifying which of the following forms of service is desired. Only one request within a 30-day period shall be made by the same owner for the classification or comparison of the same linters, except a request for a review determination. If the applicant desires that the samples be returned at the applicant's expense, this must be indicated in the request for classification or comparison. If the return of samples is not requested they shall become the property of the Government and shall be disposed of in accordance with law and applicable regulations.

* * * * *

36. Section 28.139 is revised to read as follows:

§ 28.139 Filing of requests.

All requests for classification or comparison leading to Form D memoranda or Form C certificates shall be filed with the Quality Control Section unless otherwise directed by the Director.

37. Section 28.140 is amended by revising the introductory text to read as follows:

§ 28.140 Samples; weight; drawing.

Each sample submitted to the Quality Control Section shall weigh not less than 8 ounces; shall be wrapped separately; shall contain a coupon or tag showing the bale number or identity of bale from which drawn; and shall be drawn in the following manner:

* * * * *

38. Section 28.142 is revised to read as follows:

§ 28.142 Submission of samples.

All samples submitted to the Quality Control Section for classification or comparison under this subpart shall be delivered or sent to the Quality Control Section with all transportation charges thereto prepaid.

39. Section 28.146 is revised to read as follows:

§ 28.146 Reviews.

A review of any Form C or Form D determinatin may be requested by the owner of the linters from which the sample was drawn, or the owner's agent, within 30 days after the issuance of the original certificate. Such request shall be filed with the Quality Control Section and shall be accompanied by

the original classification memorandum or certificate or a statement explaining why the original classification document cannot be submitted. Redrawn samples will be required for reviews except in cases where the original samples have remained in the custody of the Quality Control Section. When redrawn samples are necessary, they shall be drawn and submitted in accordance with the applicable provisions of §§ 28.138, 28.140, and 28.142. A Form C certificate or Form D memorandum appropriately marked to indicate that it represents a review determination, shall be issued to the applicant requesting the review. The review classification document shall supersede the original classification document.

§ 28.165 [Removed]

40. Section 28.165 is removed.

41. Section 28.177 is revised to read as follows:

§ 28.177 Requests for classification and comparison of cotton.

The applicant shall make a separate written request, on a form supplied by the Division, for each lot or mark of cotton which the applicant desires classified or compared separately. The same applicant shall not file more than one request for the classification or comparison of the same cotton within any 30-day period except for a review classification or comparison as provided in § 28.181. All requests for classification or comparison in the United States shall be filed with the Classing Office which serves the territory in which the samples are located. If the cotton is stored outside the United States the request shall be filed with the Classing Office designated by the Director. The Area Director of any Classing Office may refer any request and the samples submitted to another office or to the Quality Control Section for classification or comparision.

42. Section 28.178 is revised to read as follows:

§ 28.178 Submission of cotton samples.

Samples of cotton submitted to a Classing Office for classification and/or comparison shall be drawn from both sides of the bale and shall be delivered to the Classing Office with which the request was filed, as soon as possible after the filing of such request. All such samples shall be enclosed in one or more wrappers, which shall be labeled or marked, or both, in such manner as to show the name and address of the owner, the lot number or marks, if any, the number of bales represented by the samples in each wrapper, and such other information as may be necessary in accordance with the instructions of the Area Director. All transporation charges incident to the submission of samples shall be prepaid by the party making the request or the requester's agent.

43. Section 28.180 is amended by revising the introductory text and paragraph (e) as follows:

§ 28.180 Issuance of cotton classification memoranda.

As soon as practicable after the classification or comparison of cotton has been completed by a Classing Office, there shall be issued a cotton classification memorandum which shall embody within its written or printed terms:

* * * * *

(e) The signature of the Area Director of the Classing Office, the location of the office, and the date of issuance of the memorandum.

44. Section 28.181 is revised to read as follows:

§ 28.181 Review of cotton classification.

A review of any classification or comparison made pursuant to this subpart may be requested by the owner or custodian of the cotton from which the sample was drawn with 30 days after the issuance of the original memorandum. Such request, accompanied by the original memorandum, may be filed with either the Classing Office which issued the original memorandum or the Quality Control Section. Redrawn samples shall be required except in cases where the original samples have remained, identity preserved, in the custody of the Classing Office which issued the original memorandum. As evidence of any review determination, a classification memorandum marked to indicate that it represents a review determination shall be issued to the applicant requesting the review.

45. Section 28.182 is revised to read as follows:

§ 28.182 Surrender of memoranda.

For good cause, any memorandum issued under this subpart shall be surrendered to the Area Director which issued it, upon the Area Director's request or upon the request of the Director, and a new memorandum complying with this subpart issued in substitution therefor. If the memorandum be not surrendered upon such request, it shall nevertheless be invalid for the purposes of this subpart.

Dated: April 28, 1987.

J. Patrick Boyle,

Administrator.

[FR Doc. 87-10113 Filed 5-4-87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 51

Table Grapes; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes to revise the United States Standards for Grades of Table Grapes (European or Vinifera Type). The Agricultural Marketing Service (AMS) is proposing to revise these standards to bring them into conformity with recently revised Arizona maturity regulations, which are applicable under the standards. AMS is also proposing to revise the definition of "container" in the grade standards to specify that the determination of all factors of grade be made on the basis of master containers when the grapes are packed in individual packages containing five pounds or less and placed in master containers for shipment. AMS has the responsibility to keep U.S. grade standards up to date with current industry marketing practices.

DATE: Comments must be received on or before June 4, 1987.

ADDRESS: All persons interested in commenting on this proposal should submit written comments in duplicate to the following: Docket Clerk, USDA, Fruit and Vegetable Division, Room 2085, South Building, Washington, DC 20250.

Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Michael V. Morrelli, Fresh Products Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250, (202) 447-2011.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Departmental Regulation 1512-1 and Executive Order 12291 and has been designated as "non major." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment,

investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. Compliance with these standards will not impose substantial direct economic costs, record keeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses.

These grade standards were last revised in April 1983 to bring them into conformity with the California table grape maturity regulations and to provide uniform size specifications for seedless varieties exhibiting similar characteristics.

Prior to the 1986 harvest, Arizona Fruit and Vegetable Standardization revised the section of the Arizona Official Compilation of Administrative Rules and Regulations pertaining to maturity of table grapes grown in Arizona. In summary, the revision allows a refractometer instead of a hydrometer to be used for determining soluble solids and, in addition to current soluble solids requirements for other varieties, establishes 16 percent soluble solids as the minimum maturity requirement for the Flame Seedless variety. AMS is proposing to bring the US grade standards in line with current Arizona marketing practices by deleting the current incorporation by reference of the 1982, Arizona Rules and Regulations and adding the 1986, revised Arizona Rules and Regulations to the U.S. grade standards (7 CFR 51.887 (a) (1)).

This would eliminate the dual maturity testing procedures now existing between the U.S. grade standards and the revised Arizona Rules and Regulations. Arizona grape shippers would benefit from this change because it would eliminate an extra maturity testing procedure now required to determine if their grapes comply with both State laws and the U.S. grade standards.

AMS is also proposing to revise the definition of "container" in the grade standards (7 CFR 51.910). Currently, individual containers weighing five pounds or less and placed in larger master containers for shipment must be used as sample units for determining percentages of defects. The revised definition would specify that the master container be used as the sample unit.

During recent seasons, a small number of table grape packers have shipped a minor portion of their crop in film bags each containing one and one-half to two pounds of grapes. A varying number of the bags are placed in a normal size table grape lug (master container) that will contain approximately 22 pounds of grapes when filled to capacity. Many industry members recognize this type of packaging as protective material. This packaging method tends to contain loose berries and/or reduce the incidence of nests of decayed berries that frequently occur under long term storage or transit conditions. It is anticipated that this and similar protective type packaging methods will increase in future seasons.

In addition, the current tolerance limitations on individual containers are overly restrictive when applied to small packages of this type. It is possible for a shipment of table grapes to fail to meet a grade only because one sample unit exceeds a specified tolerance, even though the average tolerances for the lot are well below the maximum allowed.

In order to make this change in the definition of container complete, it is also necessary to remove footnote 2 from the tolerance section of the grade standards (§ 51.885(b)), Tables I and II. This footnote refers to samples of grapes in packages weighing less than five pounds. Samples of this size of packages would not be applicable under the proposed change in the definition of "container."

The following proposed changes in §§ 51.885(b), 51.887(a)(1), and 51.910 of the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) would facilitate inspection methods and the application of the grade standards but would not alter current tolerances or grade requirements.

List of Subjects in 7 CFR Part 51

Inspection, Certification, Standards.

PART 51—[AMENDED]

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 51 be amended as follows:

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended (7 U.S.C. 1622, 1624).

§ 51.885 [Amended]

2. In Subpart—United States Standards for Grades of Table Grapes (European or Vinifera Type), § 51.885, paragraph (b), Tables I and II, the following change is proposed: Footnote 2, following the word "bunches" in line D of each table, and the corresponding footnote description at the end of the tables, would be removed.

3. Section 51.887, the introductory text of paragraph (a) introductory text and paragraph (a)(1) would be revised as follows:

§ 151.887 Maturity requirements.

(a) In the case of grapes grown in Arizona or California, "mature" means grapes in any lot shall meet the maturity requirements for the variety as set forth in the applicable State Agricultural Laws and Regulations in effect on the date or dates specified in this section.

(1) Applicable Arizona maturity regulations, contained in Title 3, Chapter 7, Article 1, Section R3–7–104, Subsection 7d through f of the 1986 Arizona Official Compilation of Administrative Rules and Regulations, Arizona Fruit and Vegetable Standardization, are as follows:

(i) *Arizona standard 7d.* In all varieties the testing of soluble solids in the juice shall be determined by the hand refractometer.

(ii) *Arizona standard 7e.* The term "mature" shall be applied when the following conditions exist in each bunch of grapes tested:

(A) All varieties shall be considered mature if the juice contains soluble solids equal to, or in excess of 18 parts to every part of acid contained in the juice (the acidity of the juice to be calculated as tartaric acid without water of crystallization.)

(B) Cardinals and Robins; at least 14 1/2 percent soluble solids.

(C) Perlettes; at least 15 percent soluble solids.

(D) Thompson Seedless and Flame Seedless varieties; at least 16 percent soluble solids.

(E) Exotic variety; at least 14 percent soluble solids.

(iii) The maturity of varieties named in this regulation shall be determined by testing the juice of entire bunches representative of the least mature grapes in any container and consisting of not less than 10 percent by weight of the contents of the container; however, no lot of grapes shall be considered as failing to meet the maturity requirements of this section because the sample of grapes from one container fails to meet the required test.

* * * * *

4. Section 51.910 is revised to read as follows:

§ 51.910 Container.

"Container" as used in these standards shall, for the purposes of determining maturity and other factors

of grade of grapes in packages containing 5 pounds or less, mean the master container in which the individual packages are packed for shipment.

Done at Washington, DC, on: April 16, 1987.

J. Patrick Boyle,

Administrator.

[FR Doc. 87-9876 Filed 5-4-87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 918

[Georgia Peach Regulation 3; Amdt. 4]

Fresh Peaches Grown in Georgia; Change in Size Requirements for 1987 and Subsequent Seasons

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a recommended change to current minimum size requirements applicable to fresh peaches grown in Georgia. If adopted, the minimum diameter allowed to be shipped would be increased from 1-⅝ to 1-¾ inches. This change is intended to provide the market with slightly larger fruit without shorting the market. Because larger peaches have more edible flesh than smaller peaches, the change is expected to improve the image of Georgia peaches, encourage repeat purchases, and result in better industry returns. The maturity requirements, decay tolerance, and undersize tolerance in effect during the 1986 season would remain the same. This change was unanimously recommended by the Georgia Peach Industry Committee, which cooperates with the Department in administering this program. This proposal would also remove a regulatory section that is no longer applicable.

DATE: Comments must be received on or before May 15, 1987.

ADDRESS: Written comments concerning this proposal should be submitted in triplicate to: Docket Clerk, Fruit and Vegetable Division, Room 2085-South Building, AMS-USDA, Washington, DC 20250. All comments submitted will be made available for public inspection in the above office during regular business hours. Copies should reference the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administrative Branch, F&V, AMS, USDA, Washington, DC 20250, 202-447-5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action would not have a signficant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601-674), and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 18 handlers of Georgia peaches will be subject to regulation under this marketing order during the coming season. In addition, about 180 producers would be affected. The majority of these handlers and producers may be classified as small entities as defined by the Small Business Administration (SBA). The SBA defines agricultural service firms, which would include handlers, as those gross annual receipts are less than $3.5 million and small agricultural producers as those having average annual gross revenue for the last three years of less than $100,000 (13 CFR 121.2).

This proposed rule is issued under Marketing Order No. 918 regulating the handling of fresh peaches produced in the State of Georgia. It is based on a unanimous recommendation and information submitted by the Georgia Peach Industry Committee (the Committee) and upon other available information. The Committee and USDA cooperate in administering this marketing order.

The Committee recently recommended a change in the minimum size requirements for fresh peaches marketed during the 1987 and subsequent seasons. The minimum diameter requirement would be increased by ⅛ inch, from 1-⅝ inches to 1-¾ inches. The applicable undersize tolerance would remain the same as it was during the 1986 season. In addition, the minimum maturity requirements and the maximum decay tolerance level would also remain the same.

Typically, the first peaches offered in the marketplace each season have a great influence on consumer purchases and the tone of the market for the entire season. The proposed change would provide consumers with slightly larger peaches. Such peaches are more desirable in the marketplace because they have more edible flesh than smaller fruit. This improvement in size is expected to encourage repeat purchases by consumers throughout the season. Increased purchases would provide producers and handlers with higher economic returns. Experience has shown that less desirable fruit in the marketplace drives the price down for all shipments regardless of size or quality.

The Committee's 1986 Annual Report shows that interstate shipments of Georgia peaches during the previous season (May 15 through August 28, 1986) totaled approximately 1.2 million bushel equivalents. Less than two percent of this total consisted of fruit that ranged between 1⅝ and 1¾ inches in diameter. Therefore, an increase of ⅛ inch in the required minimum diameter to 1¾ inches would have a negligible affect on total interstate shipments of peaches in Georgia. The overall effect of the change would be to provide peaches that are more desirable and appealing to the consumer, and provide greater economic returns to the Georgia peach industry overall.

Exemptions to this proposed size requirement would continue to be available to handlers. Peaches shipped to adjacent markets in bulk would be exempt from maturity, size, decay, and inspection requirements. also, growers could obtain exemption certificates pursuant to §§ 918.62 and 918.121 to ship, or have shipped, peaches free of quality and size requirements. Finally peaches shipped for consumption by a charitable institution, for distribution for relief purposes, for distribution by a relief agency, for distribution by non-profit school lunch agencies, for manufacturing, processing, canning, or conversion into by-products on a commercial scale, peaches shipped by express or parcel post, or peaches included in shipments to any person during any day by any handler if such shipments do not aggregate more than five (5) bushels are not subject to regulation.

On the basis of the foregoing, the impact of this change on growers and handlers of Georgia peaches is expected to be favorable. Any additional costs incurred by these groups in implementing this proposed change

would be outweighed by the potential benefits of this action.

Section 918.326, Georgia Peach Regulation 3, specifies various handling requirements. However, the requirements of § 918.326 are not appled and should have been removed with the addition of § 918.325 on May 1, 1985 (50 FR 19322; May 8, 1985). Thus, § 918.326 is proposed to be removed.

A 10-day comment period is deemed appropriate because the harvest and shipment of Georgia peaches is anticipated to begin in late April, and it is important that any change resulting from this rulemaking be in effect at the time of harvest and shipments. Furthermore, growers and handlers of peaches in the production area are already aware of this recommended change.

List of Subjects in 7 CFR Part 918

Marketing agreements and orders, Peaches, Georgia.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 918 be amended as follows:

PART 918—FRESH PEACHES GROWN IN GEORGIA

1. The authority citation for 7 CFR Part 918 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 918.326 [Removed]

2. Section 918.326 is removed.

3. Section 918.325 is revised to read as follows:

§ 918.325 Peach Regulations 3; Amendment 4.

(a) On and after (insert effective date) no handler shall ship peaches unless such peaches are mature as provided in § 918.400, contain no more than one percent decay, and are not smaller than 1¾ inches in diameter, except that not more than 10 percent, by count, of such peaches in any lot, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1¾ inches in diameter: *Provided*, That peaches shipped to adjacent markets in bulk are exempt from such maturity, decay, and size requirements and the inspection requirements in § 918.64 shall not apply

(b) "Diameter," as used in this section, means the shortest distance measured through the center of the peach at right angles to a line running from the stem to the blossom end.

Dated: April 28, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–10115 Filed 5–4–87; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Proposed Suspension of a Certain Provision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of a rule.

SUMMARY: This notice invites written comments on a proposal to suspend a portion of the "producer milk" definition of the Southwest Plains order for the months of May–August 1987. The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents a substantial number of producers who supply the Southwest Plains market. Proponent requested that the "touch-base" provision, which requires that one day of a producer's milk production be physically received at a pool plant during the month to qualify such dairy farmer's milk for diversion to nonpool manufacturing plants, be suspended. Mid-Am contends that the action is necessary to eliminate uneconomic milk movements solely to qualify the milk of producers who have been supplying the market's fluid needs for pool participation.

DATE: Comments are due on or before May 12, 1987.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and tend to ensure that dairy farmers who supply the market's fluid milk needs continue to have their milk pooled and priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provision of the order regulating the handling of milk in the Southwest Plains marketing area is being considered for the months of May–August 1987:

In § 1106.13, paragraph (d)(1) in its entirety:

All persons who want to send written data, views or arguments about the proposed suspension should send two copies to the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include May in the suspension period if this is found appropriate.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents a substantial number of producers who supply milk for the Southwest Plains market, requested that a portion of the "producer milk" definition be suspended for the months of May–August 1987. Proponent asked that the order's "touch-base" provision, which requires that each dairy farmer's milk be physically received at a pool plant at least once each month, be suspended. Specifically, the order provision stipulates that a dairy farmer's milk is not eligible to be diverted to nonpool plants during the month unless one day of such dairy farmer's milk production is physically received at a pool plant in such month.

Mid-Am states that the proposed suspension is warranted because of changes in marketing conditions. Associated Milk Producers, Inc., another cooperative that represents a substantial number of producers supplying milk for this market, has indicated its support for Mid-Am's proposal.

Proponent contends that the cooperative must make uneconomic milk movements solely to qualify its milk for pool participation under the terms and conditions of the current order provisions. Mid-Am states that since the

Foremost distributing plant at Springfield closed last last year, the cooperative has experienced difficulty pooling all of its milk supplies located in the heavy production area of southwest Missouri that have been associated with the Southwest Plains market. Because a distributing plant must use at least 50 percent of its milk supply in Class I route disposition each month to qualify as a pool plant, Mid-Am is unable to attach all of the milk of its southwest Missouri producers with the conveniently located remaining distributing plant of Hiland Dairy at Springfield. Because of the touch-base and Class I route disposition requirements that producers and plants must meet each month to qualify milk for pool status under the Southwest Plains order, some of Mid-Am's milk was not pooled during March.

To prevent this from happening in the future, Mid-Am reassigned several producers located in the Springfield area to its pool balancing plant at Lebanon, Missouri, which is about 50 miles from Springfield and represents the nearest available pool plant. By hauling the milk to the Lebanon pool plant, the cooperative assures that such producers have met the touch-base requirement and that their milk now is eligible to be diverted to nonpool plants for manufacturing. However, since the Lebanon plant does not have manufacturing facilities, the milk is reloaded and hauled back to the cooperative's nonpool manufacturing plant in Springfield.

Mid-Am claims that a suspension is needed to prevent these uneconomic milk movements. Without a suspension for the months requested, the cooperative states that it would be necessary to make inefficient milk movements to ensure that the milk of dairy farmers who have been associated with the market will continue to share in the proceeds from the higher-valued fluid milk sales under the order.

Accordingly, it may be appropriate to suspend the "touch-base" provision for the months of May–August 1987.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1106 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Signed at Washington, DC, on: April 24, 1987.

J. Patrick Boyle,

Administrator.

[FR Doc. 87–10114 Filed 5–4–87; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

Definition of "High-Level Radioactive Waste"; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking: Extension of comment period.

SUMMARY: On February 27, 1987, the Nuclear Regulatory Commission (NRC) published for comment an advance notice of proposed rulemaking (ANPRM) indicating its intention to amend the definition of "hight-level radioactive waste" (HLW) in its regulations governing disposal of HLW (52 FR 5992). The notice proposed to revise this definition to conform more closely to the statutory definition of HLW in the Nuclear Waste Policy Act of 1982. The comment period for the notice expired April 29, 1987. The NRC has received a request for a 60-day extension of the comment period. This request indicates that the public needs additional time to examine and prepare comments on the numerous legal and technical considerations in a proposed rulemaking of this scope. The NCR agrees that additional time may be needed to prepare comments on an issue of this scope, and, therefore, extends for 60 days the original comment period to June 29, 1987.

DATES: Submit comments by June 29, 1987, a 60-day extension of the original comment period. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received before this date.

ADDRESSES: Submit written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Examine copies of comments received at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: W. Clark Prichard, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–433–7668.

Dated at Washington, DC, this 29th day of April 1987.

For the Nuclear Regulatory Commisison.

Samuel J. Chilk,

Secretary of the Commisison.

[FR Doc. 87–10180 Filed 5–4–87; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 247 and 886

[Docket No. R–87–1328; FR–1950]

Termination of Tenancy—Section 8 Housing Assistance Payments Program—Special Allocations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 24 CFR Part 886, which governs policies and procedures for the Section 8 Loan Management Program (Subpart A) and the Section 8 Property Disposition Program (Subpart C). The rule would: (1) Remove requirements for public housing agency (PHA) and HUD participation in terminations of tenancy; (2) remove provisions stating that public housing lease and grievance procedures are applicable to PHA-owned Section 8 projects under Subpart C; (3) delete existing termination of tenancy requirements and apply 24 CFR Part 247—Evictions from Certain Subsidized and HUD-Owned Projects, to all terminations of tenancy under Part 886; and (4) modify requirements governing lease provisions.

DATE: Comments due July 6, 1987.

ADDRESS: Interested persons are invited to submit comments regarding the rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Planning and Procedures Division, Office of Housing, (202) 426–3970, 451 Seventh Street SW., Washington DC 20410. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD regulations at 24 CFR Part 886 govern

policies and procedures for the Section 8 Loan Management Program (Subpart A) and the Section 8 Property Disposition Program (Subpart C). This proposed rule would (1) remove requirements for public housing agency (PHA) and HUD participation in terminations of tenancy; (2) remove provisions stating that public housing lease and grievance procedures are applicable to certain PHA-owned Section 8 projects under Subpart C; (3) deleted existing termination of tenancy requirements and apply 24 CFR Part 247—Evictions from Certain Subsidized and HUD-Owned Projects, to all terminations of tenancy under Part 886; and (4) modify requirements governing lease provisions.

I. PHA and HUD Participation in the Termination Process

In order to evict a tenant in a project assisted under Part 886, the owner is, under certain circumstances, required to obtain PHA or HUD approval of the eviction. Under § 886.128 (Loan Management), the project owner is required to obtian the PHA's authorization for eviction, if the PHA is a party to the housing assistance payments contract between HUD and the owner. Under § 886.328(c) (Property Disposition), the project owner must obtain HUD's authorization for eviction or the PHA's authorization, if the PHA is a party to the contract between HUD and the owner.

The Part 886 requirements for PHA or HUD authorization of eviction were originally imposed in response to section 8(d)(1)(B) of the United States Housing Act of 1937 (the Act), in effect before enactment of the Housing and Community Development Amendments of 1981. This section provided, "Contracts to make assistance payments entered into by a PHA with an owner of existing housing shall provide (with respect to any unit) that— . . . (B) the agency shall have the sole right to give notice to vacate, with the owner having the right to make representation to the agency for termination of tenancy." Section 326(e)(1) of the Housing and Community Development Amendments of 1981 (effective October 1, 1981), revising section 8(d)(1)(B) by eliminating any statutory requirement for HUD or PHA participation in proceedings for termination of tenancy under Section 8.

This rule proposes the elimination of the regulatory requirement for HUD or PHA participation in the eviction process. The elimination of this requirement would correspond to Congressional recognition that such participation is not needed, and would permit the management of Section 8 housing to be more in conformity with private rental industry practice. Moreover, as demonstrated by HUD's past experience with this requirement under Part 886 (and similar requirements now removed from the existing Section 8 certificate program), the revision would permit the elimination of a requirement that is administratively burdensome to PHAs and to HUD, and that is detrimental to the owner's ability to administer projects effectively for the benefit of the assisted tenants. Further, the retention of this requirement is not necessary for the protection of essential Federal rights of assisted tenants. Under Federal law, a landlord must have good cause for the termination of tenancy. HUD believes that the local landlord-tenant court is the most appropriate forum for making the legal and factual determination regarding the existience or nonexistence of good cause. Accordingly, this proposed rule would remove from §§ 886.128 and 886.328 the existing requirement for HUD and PHA participation in the eviction process. Conforming amendments would also be made to §§ 886.101(b), 886.106, 886.119(a)(5), 886.305 and 886.306.

II. Nonapplicability of Public Housing Lease and Grievance Procedures (Part 966)

Current § 886.327 provides that the lease and grievance procedures established by HUD for PHA-owned low-income public housing (Part 966) are applicable only to PHA-owned projects operated under section 8 commitments pursuant to Subpart C. The public housing lease and grievance procedures are not otherwise applicable to assistance under the Section 8 programs, and are not applicable to PHA-owned projects under the loan management program. (Compare § 886.127.)

Section 8 projects are excluded from coverage of the public housing lease and grievance procedures under Part 966, because such lease and grievance procedures are inappropriate for Section 8 housing (including Section 8 housing operated by PHAs). Section 8 housing is intended to be operated in a manner similar to private rental housing, rather than as government-run subsidized housing. Moreover, we note that the statutory lease and grievance requirements (see sections 6 (k) and (*l*) of the 1937 Act) only apply to public housing. Because HUD believes that PHAs operating Section 8 housing under the property disposition program should be subject to the same regulatory requirements as other owners under the program, and because HUD does not believe that the imposition of additional requirements on PHA-owners under this program benefits assisted tenants under the program, HUD is proposing to make the public housing lease and grievance procedures inapplicable to all projects covered under Part 886.

III. Adoption of Part 247 Procedures for Evictions From Subsidized Projects

a. Consolidation of Requirements for Termination and Evictions

With the revisions above, only minor differences would remain between the procedures for termination of tenancy in the property disposition program, the loan management program and the programs under Part 247. The loan management terminations are currently subject to Part 247, plus additional provisions governing PHA and HUD involvement in the termination process, rights under State and local law, and tenants' rights to respond to termination notices. The property disposition terminations are subject to Part 247, "as modified" by the property disposition regulation. The property disposition regulation substantially duplicates most of the Part 247 requirements for termination of tenancy, and is stated in identical or substantially identical regulatory language, with a few editorial or minor technical differences.

There is no practical need for retaining different termination procedures under Part 247 and the subparts of Part 886. There are no relevant operational or managerial differences between the individual project-based housing subsidy programs under Part 886, or between the Part 886 programs and the other programs covered by Part 274, that would mandate or support differing requirements governing grounds or procedures for termination of tenancy. Conformity among these regulations would make it easier for HUD and owners to administer the various programs and would benefit project owners that administer several projects under different HUD programs.

Moreover, the small or technical differences between the regulatory provisions tend to create unnecessary legal and compliance issues. For example, the property disposition program, as noted above, is subject to both Part 247 and similar, substantially parallel provisions contained in Part 886, Subpart C. There may be issues of regulatory construction brought on by differences between the two sets of applicable provisions. In any event, the current regulations require parties affected by the rules to consult and compare two sets of rules. HUD believes that such duplications should be

eliminated and that potential conflict and uncertainty among different provisions should be resolved.

Accordingly, because Part 247 sets forth a comprehensive scheme for the protection of tenant interests, this rule proposes to apply the Part 247 procedures to all terminations of tenancy and evictions under Part 886.

b. Effect of Adoption of Part 247 Procedures on Terminations of Tenancy Under the Property Disposition Program

To ensure that the public is aware of the effect of the proposed change, the major provisions of Parts 247 and 886 are discussed below. (Because the loan management provisions are already subject to Part 247 with only the minor differences highlighted above, this discussion will focus on the differences between Part 247 and § 886.328.)

1. Grounds for Termination

Currently, both Part 247 and § 886.328 provide three grounds for termination of the lease: (1) Material noncompliance with the rental agreement, (2) material failure to carry out obligations under any State landlord and tenant act, and (3) other good cause. Existing Section 8 housing units under Part 886 are subject to Section 8(d)(1)(B)(ii) of the Act, which provides "the owner shall not terminate the tenancy except for serious or repeated violations of the terms and conditions of the lease, for violation of applicable Federal, State or local law or for other good cause." The three grounds for termination in the regulations are consistent with these statutory standards.

Under both sets of regulatory provisions, material noncompliance with the rental agreement includes one or more substantial violations of the rental agreement or repeated minor violations which disrupt the livability of the project, adversely affect the health or safety of any person or the right of quiet enjoyment of the leased premises and related project facilities, interfere with the management of the project, or have an adverse effect on the project. A tenant's failure to timely supply requested information on income and composition of the household, and the nonpayment of rent or other financial obligations due under the agreement beyond the grace period permitted under State law, are specifically cited as substantial violations. The payment of rent or other financial obligations after the due date, but within the grace period provided under State law, is a minor violation.

Part 247 and the Section 8 property disposition regulations contain slight editorial differences between provisions governing material noncompliance with the rental agreement and material failure to carry out obligations under a State landlord and tenant act. For example, under § 247.3(a), a termination based on either of these two grounds is not valid "to the extent it is based upon a rental agreement or a provision of State law permitting termination of a tenancy without good cause." Section 886.328(b), on the other hand, invalidates such a termination if "it is based upon a lease or provision of State law permitting termination of a tenancy solely because of the expiration of an initial or subsequent lease term."

As noted above, both regulations permit terminations for "other good cause." Currently, there are slight editorial differences between the two "other good cause" provisions. First, while both regulations provide that tenant conduct cannot be considered to be good cause unless the owner has given prior notice to the tenant, the notification requirements are at slight variance. (*I.e.*, under § 247.3(b), the owner must notify the tenant that "*said conduct* shall henceforth constitute a basis for termination of tenancy." Under § 886.328(b)(2), the tenant must be notified that "*the grounds* constitute a basis for termination of tenancy.")

The second variation between "other good cause" provisions involves the refusal of tenants to accept a HUD-approved modified lease form. Section 886.328(b)(1)(ii) specifically states that "other good cause" may include such a refusal. While § 886.328 is more specific than Part 247, the Department does not believe that this specificity is necessary, since the lease modification provisions in § 247.5(d) envision the possibility of termination on such a basis (§ 247.5(d)).

2. Contents of Termination Notice

Both Part 247 and § 886.328 require the landlord to serve a written notice which states that the tenancy will be terminated on a specific date and the reasons for the termination. Part 247, however, contains three additional provisions which (1) require that the notice state the reasons for termination with sufficient specificity to enable the tenant to prepare a defense (24 CFR 247.4(a)(2)); (2) require that the notice advise the tenant that if he or she remains in the unit on the termination date, the landlord may seek to enforce the termination only by judicial action, at which time the tenant may present a defense (24 CFR 247.4(a)(3)); and (3) provide that a notice based on failure to pay rent is sufficiently specific if it states the dollar amount due and the date of the computation (24 CFR 247.4(e)). The greater specificity of Part 247 ensures that tenants have adequate knowledge of the grounds for termination and the method available to the landlord to enforce termination.

3. Service of Notice

Currently, Part 247 and § 886.328 contain different requirements for the service of notices (including the notice of good cause and notice for termination). Section 247.4(b) provides that notices must be mailed and personnally served on the tenant and that service is not effective until both are accomplished. Moreover, § 247.6(c) provides that the tenant may rely on State and local law governing eviction procedures where the law provides tenants with procedural rights in addition to those set out in the subpart. Current § 886.328(c), on the other hand, merely provides that notices must be served in accordance with State and local law.

In addition to provisions governing the service of notices, Part 247 and § 886.328 contain requirements governing the time of service. These are identical and provide (1) that termination notices based on "other good cause" will be effective at the end of a term and in accordance with the termination provisions of the rental agreement, but in no case earlier than 30 days after receipt of the notice and (2) that when the termination notice is based on material noncompliance with the lease or material failure to carry out obligations under the State landlord and tenant act, the time of service must be in accordance with the rental agreement and State law.

4. Tenant Response to Termination Notice

Section 886.128(a) currently provides that the owner must give the family notice that it has ten days (or a greater period if required by local law) to respond to the owner concerning the termination notice. Section 886.328 states that the owner must give the family 15 calendar days (or a greater period if required by local law) to respond. Part 247 does not contain a provision for tenant response. The model lease governing projects subject to Part 247 (HUD Handbook 4350.3—Occupancy Requirements of Subsidized Multifamily Housing Programs, Appendix 19a) gives tenant ten days to discuss a proposed termination.

5. State and Local Law

In addition to the provisions discussed above governing State and local law, § 886.128 states that the owner shall not evict the family unless the owner

complies with the provisions of State and local law. Section 886.328(b)(1) provides that all terminations must be in accordance with any State and local landlord and tenant law. Section 247.6(c) contains provisions that permit the tenant to rely on State or local law governing eviction procedures, where the law provides the tenant with procedural rights in addition to those found in Part 247 (except where preempted under Part 246 or by other Federal action). Moreover, § 247.6(a) provides that the landlord may not evict any tenant except by judicial action pursuant to State or local law and in accordance with Part 247.

6. Eviction Proceedings

In addition to the provisions governing the application of State and local law in judicial proceedings, discussed above, Part 247 and § 886.328 address other aspects of the eviction process. For example, both § 247.6(b) and § 886.328(c)(3) prohibit the owner from relying on grounds for eviction that are different from those stated in the termination notice. In this instance, however, Part 247 contains an additional provision, protective of owners, stating that the owner may not be precluded from relying on grounds about which he or she had no knowledge at the time of the termination.

7. Modification of Lease Form

Part 247 and § 886.328 contain similar provisions governing the modification of the rental agreement. Both permit the owner, with prior approval of HUD, to modify the terms and conditions of the rental agreement, effective at the end of an initial term or a successive term, by serving an appropriate notice on the tenant, together with a revised lease or addendum. The notice and offer must be received at least 30 days before the last date on which the tenant has the right to terminate the tenancy without being bound by the modified terms. The tenant may accept the terms by executing the rental agreement or addendum, or may reject the terms by giving the owner written notice that he or she intend to terminate the tenancy. Increases in rents are governed by other applicable HUD regulations.

8. Inapplicability to Substantial Rehabilitation

Part 247 states that the subpart does not apply in any case in which the landlord terminates the occupancy of a tenant as a direct result of a determination, concurred in by HUD, to substantially rehabilitate or demolish the project, or to dispose of the project to a purchaser who purchases for the purpose of substantial rehabilitation or demolition. Section 886.328 has no equivalent provision.

IV. Lease Provisions

Sections 886.122 (loan management) and 886.322 (property disposition) contain lease requirements. In this rule, HUD is proposing several revisions to the lease requirements, described below. Additionally, to ensure that lease requirements are located near closely related termination of tenancy provisions, lease requirements would be transferred from §§ 886.122 and 886.322 to §§ 886.127 and 886.327, respectively.

a. Lease Term

In addition to removing requirements for PHA involvement in terminations of tenancy, section 326(c)(1) of the 1981 Amendments amended section 8(d)(1)(B)(i) to state that in Section 8 existing housing, the lease between the tenant and the owner shall be for at least one year or for the term of the assistance contract, whichever is shorter.

Existing § 886.122(a) provides: "The term of the lease shall be for not less than one month, nor more than one year. The lease may contain a provision permitting termination (on) up to 30 days advance written notice by either party." Section 886.322(a) provides: "The term of the lease shall be for not less than 1 year. The lease may, or in the case of a lease of a term of more than one year must, contain a provision permitting termination on 30 days advance written notice by the family."

To ensure that the cited lease provisions comply with the statutory language, minimum lease term requirements would be included at §§ 886.127(a) and 886.327(a). The proposed rule would provide that the term of the lease, including a new lease or a lease amendment, executed by the owner and the family shall be for at least (1) one year, or (2) the remaining term of the contract, if the remaining term is less than one year. This language would make it clear that only a new contractual act by the owner and the family would start the running of a minimum lease term. (*I.e.*, significant changes, such as an increase in contract rents in accordance with HUD requirements, may occur without the commencement of a new lease term, if the lease provides for such contingencies and the changes do not require further agreement by the parties.)

The proposed rule would also provide that during the first year of the lease term, the owner may not terminate the tenancy of the family for "other good cause" under § 247.3(a)(3), unless the termination is based on family malfeasance or nonfeasance. For example, during the first year of the lease term, an owner may not terminate a tenancy for good cause based on the failure by the family to accept the offer of a new lease. This provision conforms Part 886 to the holding in *Levy* v. *HUD*, No. C 84–7983, WWS, N.D. Cal., March 22, 1985.

Finally, proposed §§ 886.127(a)(3) and 886.327(a)(3) preserve existing provisions permitting the family to terminate the tenancy upon 30 days written notice. (Existing § 886.122 also permits termination upon 30 days advance written notice of the owner. Because this provision would overlap or possibly conflict with Part 247, which describes all owner termination procedures, and because an owner may only terminate the tenancy for cause, HUD would remove § 886.122 in the proposed rule.)

b. Required and Prohibited Lease Provisions

The proposed rule would modify the regulation governing lease provisions. Existing §§ 886.122 and 886.322 provide that leases must contain certain required provisions and cannot contain specified prohibited provisions. While the requirements governing prohibited lease provisions would, with some minor editorial clarifications, be retained in the proposed rule for the protection of the tenant, the proposed rule would remove the recital of required lease provisions. HUD believes that it is more appropriate to prescribe the text of required lease provisions through the model lease currently contained in HUD Handbook 4350.3-Occupancy Requirements of Subsidized Multifamily Housing Programs, Appendix 19a.

Accordingly, the proposed rule governing lease provisions would provide that the lease shall be in accordance with HUD regulations and requirements; must conform to the form of the lease approved by HUD; and shall not contain any of the specified prohibited provisions. In addition, the definitions of "lease" in §§ 886.102 and 886.302 would be revised to conform to the revised lease provisions.

V. Miscellaneous Revision

The definition of "project or eligible project" under Part 886, Subpart A would be moved from § 886.101(a) to § 886.102 and the definition would be clarified to indicate that the subpart does not apply to those projects for the elderly financed under section 202 of the

Housing Act of 1959 that receive assistance under 24 CFR Part 885.

Findings

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. Changes included in this rule involve clarifications of tenant eviction procedures. The proposed rule does not alter the goals of the programs covered under Part 886. Any effect on small entities should be minor.

This rule was listed as item 943 in the Department's Semiannual Agenda of Regulations published on April 27, 1987 (52 14362, 14384) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program number and title is: 14.156, Lower Income Housing Assistance Program (Section 8).

List of Subjects in 24 CFR Part 247

Low and moderate income housing, Public housing, Tenant eviction.

24 CFR Part 886

Grant programs: housing and community development, Low and moderate income housing, Rent subsidies.

Accordingly, the Department proposes to amend 24 CFR Parts 247 and 886, as follows:

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

1. The authority citation for 24 CFR Part 247 would be revised to read as follows:

Authority: Sec. 101, Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); Secs. 211, 221, and 236 National Housing Act (12 U.S.C. 1715b, 1715*l*, and 1715z–1); Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 247.1 [Amended]

2. In § 247.1, the word "occupacy" would be removed and the word "occupancy" would be added in its place.

3. Section 247.2(e) would be revised to read as follows:

§ 247.2 Definitions.

* * * * *

(e) "Subsidized project" means a multifamily housing project (with the exception of a project owned by a cooperative housing mortgagor corporation or association) that receives the benefit of subsidy in the form of:

(1) Below market interest rates under section 221(d)(3) and (5), or interest reduction payments under section 236 of the National Housing Act;

(2) rent supplement payments under section 101 of the National Housing and Urban Development Act of 1965; or

(3) direct loans under section 202 of the Housing Act of 1959 (including a project assisted under 24 CFR Part 885). Subsidized project also includes a multifamily housing project that receives the benefit of subsidy in the form of housing assistance payments under the Section 8 Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages (24 CFR Part 886, Subpart A) or housing assistance payments under the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects (24 CFR Part 886, Subpart C).

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

4. The Authority citation for 24 CFR Part 886 continues to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

5. In § 886.101, paragraph (b) would be removed, paragraph (c) would be redesignated as paragraph (b), and paragraph (a) would be revised to read as follows:

§ 886.101 Applicability.

(a) The policies and procedures of this subpart apply to Housing Assistance Payments made on behalf of Eligible Families in eligible projects under Section 8 of the United States Housing Act of 1937.

* * * * *

6. Section 886.102 would be amended by revising the definitions for the terms "eligible project" and "lease" to read as follows:

§ 886.102 Definitions.

* * * * *

Eligible project or project. Any existing subsidized or unsubsidized multifamily residential project that is subject to a mortgage insured under any section of the National Housing Act; any such project subject to a mortgage that has been assigned to the Secretary; and such project acquired by the Secretary and thereafter sold under a Secretary-held purchase money mortgage; or a project for the elderly financed under Section 202 of the Housing Act of 1959 (except projects receiving assistnce under 24 CFR Part 885).

* * * * *

Lease. A written agreement between the owner and a family for leasing of a decent, safe and sanitary dwelling unit to the family.

* * * * *

§ 886.106 [Amended]

7. In § 886.106, paragraph (c) would be removed.

8. Section 886.119(a)(5) would be revised to read as follows:

§ 886.119 Responsibilities of owner.

(a) * * *

(5) Termination of tenancies, including evictions;

* * * * *

§ 886.122 [Removed and reserved]

9. Section 866.122 would be removed and the section would be reserved.

10. Section 886.127 would be revised to read as follows:

§ 886.127 Lease requirements.

(a) *Term of lease.* (1) The term of a lease, including a new lease or a lease amendment, executed by the owner and the family must be for at least one year, or the remaining term of the contract if the remaining term of the contract is less than one year.

(2) During the first year of the lease term, the owner may not terminate the tenancy for "other good cause" under 24

CFR 247.3(a)(3), unless the termination is based on family malfeasance or nonfeasance. For example, during the first year of the lease term, the owner may not terminate the tenancy for "other good cause" based on the failure by the family to accept the offer of a new lease.

(3) The lease may contain a provision permitting the family to terminate the lease on 30 days advance written notice to the owner. In the case of a lease term for more than one year, the lease must contain this provision.

(b) *Required and prohibited provisions.* The lease between the owner and the family must comply with HUD regulations and requirements, and must be in the form required by HUD. The lease may not contain any of the following types of prohibited provisions:

(1) Confession of judgment. Agreement by the family (i) to be sued, (ii) to admit guilt, or (iii) to a judgment in favor of the owner, in a court proceeding against the family in connection with the lease.

(2) Treatment of family property. Agreement by the family that the owner may take or hold family property, or may sell family property, without notice to the family and a court decision on the rights of the parties.

(3) Excusing owner from responsibility. Agreement by the family not to hold the owner or the owner's agents responsible for any action or failure to act, whether intentional or negligent.

(4) Waiver of notice. Agreement by the family that the owner does not need to give notice of a court proceeding against the family in connection with the lease, or does not need to give any notice required by HUD.

(5) Waiver of court proceeding for eviction. Agreement by the family that the owner may evict the family (i) without instituting a civil court proceeding in which the family has the opportunity to present a defense, or (ii) before a decision by the court on the rights of the parties.

(6) Waiver of jury trial. Agreement by the family to waive any right to a trial by jury.

(7) Waiver of appeal. Agreement by the family to waive the right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

(8) Family chargeable with legal costs regardless of outcome. Agreement by the family to pay lawyer's fees or other legal costs of the owner, even if the family wins in a court proceeding by the owner against the family. (However, the family may have to pay these fees and costs if the family loses.)

11. Section 886.128 would be revised to read as follows:

§ 886.128 Termination of tenancy.

Part 247 of this title applies to the termination of tenancy and eviction of a family assisted under this subpart.

12. Section 886.302 would be amended by revising the definition for the term "lease" to read as follows:

§ 886.302 Definitions.

* * * * *

Lease. A written agreement between the owner and a family for leasing of decent, safe and sanitary dwelling unit to the family.

* * * * *

§ 886.305 [Removed and reserved]

13. Section 886.305 would be removed and the section would be reserved.

14. Section 886.306 would be revised to read as follows:

§ 886.306 Notices.

Before a project is approved for sale in accordance with this subpart, and as a part of the process of preparing a disposition recommendation in accordance with 24 CFR Part 290, the field office manager must notify in writing the chief executive officer of the unit of general local government in which the project is located (or the designee of that officer) of the proposed sale with housing assistance, and must afford the unit of local government an opportunity to review and comment upon the proposed sale in accordance with 24 CFR Part 791. Local government review should address consistency with the housing needs and strategy of the community, rather than strict conformance to the limitations on variations from housing assistance plan goals which are contained in Part 791.

§ 886.309 [Amended]

15. In § 886.309(e), the reference to "§ 886.328" would be removed and "Part 247 of this title" would be added in its place.

§ 886.322 [Removed and reserved]

16. Section 886.322 would be removed and the section would be reserved.

17. Section 886.327 would be revised to read as follows:

§ 886.327 Lease requirements.

(a) *Term of lease.* (1) The term of a lease, including a new lease or a lease amendment, executed by the owner and the family must be for at lease one year, or the remaining term of the contract if the remaining term of the contract is less than one year.

(2) During the first year of the lease term, the owner may not terminate the tenancy for "other good cause" under 24 CFR 247.3(a)(3), unless the termination is based on family malfeasance or nonfeasance. For example, during the first year of the least term, the owner may not terminate the tenancy for "other good cause" based on the failure of the family to accept the offer of a new lease.

(3) The lease may contain a provision permitting the family to terminate on 30 days advance written notice to the owner. In this case a lease term for more than one year, the least must contain this provision.

(b) *Required and prohibited provisions.* The lease between the owner and the family must comply with HUD regulations and requirements, and must be the form required by HUD. The lease may not contain any of the following types of prohibited provisions:

(1) Confession of judgment. Agreement by the family (i) to be sued, (ii) to admit guilt, or (iii) to a judgment in favor of the owner, in a court proceeding against the family in connection with the lease.

(2) Treatment of family property. Agreement by the family that the owner may take or hold family property, or may sell family property, without notice to the family and a court decision on the rights of the parties.

(3) Excusing owner from responsibility. Agreement by the family not to hold the owner or the owner's agents responbile for any action or failure to act, whether intentional or negligent.

(4) Waiver of notice. Agreement by the family that the owner does not need to give notice of a court proceeding against the family in connection with the lease, or does not need to give any notice required by HUD.

(5) Waiver of court proceeding for eviction. Agreement by the family that the owner may evict the family (i) without instituting a civil court proceeding in which the family has the opportunity to present a defense, or (ii) before a decision by the court on the rights of the parties.

(6) Waiver of jury trial. Agreement by the family to waive any right to a trial by jury.

(7) Waiver of appeal. Agreement by the family to waive the right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

(8) Family chargeable with legal costs regardless of outcome. Agreement by the family to pay lawyer's fees or other legal costs of the owner, even if the family wins in a court proceeding by the owner against the family. (However, the

family may have to pay these fees and costs if the family loses.)

18. Section 886.328 would be revised to read as follows:

§ 886.328 Termination of tenancy.

Part 247 of this title applies to the termination of tenancy and eviction of a family assisted under this subpart.

Dated: April 27, 1987.

Thomas T. Demery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 87-10023 Filed 5-4-87; 8:45 am]

BILLING CODE 4210-27-M

VETERANS ADMINISTRATION

38 CFR Part 42

Standards Implementing the Program Fraud Civil Remedies Act

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration (VA) proposes to issue regulations to implement the Program Fraud Civil Remedies Act of 1986 (Pub. L. 99-509). As required by the Act, the regulations permit VA to bring administrative proceedings against persons who knowingly make, present, or submit a false claim or statement against the agency.

DATE: Comments must be received on or before June 4, 1987.

ADDRESS: Interested persons are invited to submit written comments, suggestions, or objections regarding these proposed regulations to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, Room 132, of the above address, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until June 18, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Audley Hendricks, (202) 233-3671.

SUPPLEMENTARY INFORMATION: The proposed regulations carry out the requirements of the Program Fraud Civil Remedies Act, Pub. L. 99-509, sections 6101-6104, 100 Stat. 1874. Basically, this law permits agencies to bring administrative proceedings against persons who knowingly make, present, or submit a false claim or statement against the agency. From the false claimant, an agency could recover up to twice the amount falsely claimed plus impose a civil penalty of up to $5,000 for each separate false claim. An agency may impose civil penalties of up to $5,000 for each false statement. Any penalty or assessment can be set off against any amount the person liable is due from the Government, including VA benefits, except Federal tax refunds. All recoveries would be deposited in the United States Treasury.

These proposed regulations are based on model regulations drafted by the Department of Health and Human Services at the request of the President's Council on Integrity and Efficiency. The chairman of the Council urges that all agencies required to promulgate regulations adopt the model regulations. The VA has employed the model regulations in drafting its version to be contained in 38 CFR Part 42.

In accord with the Act's requirements, these proposed regulations prescribe the following procedures for VA when it receives allegations of a false claim:

(a) Investigation by the Inspector General, who will report the findings and conclusions to the reviewing official if an action under the Act may be warranted;

(b) Review of the investigation by a reviewing official from the Office of the General Counsel to determine whether the evidence supports a belief of potential liability;

(c) Referral by the reviewing official to the Department of Justice. If the Attorney General approves, the reviewing official will notify the person of the allegations and of the right to a hearing. The reviewing official can compromise or settle any case up until the time a decision is rendered by a hearing examiner;

(d) A hearing, if requested, administered by an examiner who is an Administrative Law Judge (ALJ), with all the due process protections under the Administrative Procedure Act. The ALJ would also determine liability and the amount of the penalty and assessment.

(e) If found liable, an appeal to the agency head and then the United States District Court.

While the Act generally permits VA to take action against anyone who makes a false claim or statement to the agency, such as contractors, employees, veterans' guardians, loan appraisers, and private insurers and hospitals, the remedies under this law may *not* be asserted for overpayment frauds against individual recipients of specified benefits, such as VA pension, compensation, or health-care benefits. But, actions could still be brought against individuals for fraud involving their *basic* eligibility to receive these benefits.

The Administrator hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Based on investigations and other past experience, VA anticipates that less than a significant number of false claims or statements, as defined in these regulations, would be submitted or made to the agency by small entities. In addition, these regulations simply address administrative proceedings to be used by VA in complying with the requirements of the Program Fraud Civil Remedies Act. Pursuant to 5 U.S.C. 605(b), these regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

These proposed regulations have also been reviewed under E.O. 12291, Federal Regulation, and have been determined to be non-major because they would not increase costs to consumers, individual industries, Federal, State, and local government agencies or geographic regions.

There is no Catalog of Federal Domestic Assistance number.

List of Subjects in 38 CFR Part 42

False claims, False statements, Fraud, Veterans.

Approved: April 6, 1987.

Thomas K. Turnage,

Administrator.

38 CFR is amended by adding Part 42, Standards Implementing the Program Fraud Civil Remedies Act, to read as follows:

PART 42—STANDARDS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT

Sec.

42.1 Basis and purpose.
42.2 Definitions.
42.3 Basis for civil penalties and assessments.
42.4 Investigation.
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Sec.
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42.46 Compromise and settlement.
42.47 Limitations.

Authority: Pub. L. 99–509, secs. 6101–6104, 100 Stat. 1874, to be codified at 31 U.S.C. 3801–3812.

§ 42.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. 99–509, 6101–6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801–3812. Section 3809 of Title 31, United States Code, requires each authority head, such as the Administrator of Veterans Affairs, to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part:

(1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 42.2 Definitions.

For the purposes of this part, the following definitions apply:

"ALJ" means an Administrative Law Judge in the Veterans Administration pursuant to 5 U.S.C. 3105 or detailed to the Veterans Administration pursuant to 5 U.S.C. 3344.

"Benefits" means, except as the context otherwise requires, anything of value, including, but not limited to, any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

"Claim" means any request, demand, or submission—

(a) Made to the Veterans Administration for property, services, or money (including money representing grants, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from the Veterans Administration or to a party to a contract with the Veterans Administration—

(1) For property or services if the United States—

(i) Provided the property or services;

(ii) Provided any portion of the funds for the purchase of the property or services; or

(iii) Will reimburse the recipient or party for the purchase of the property or services; or

(2) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse the recipient or party for any portion of the money paid on the request or demand; or

(iii) Made to the Veterans Administration which has the effect of decreasing an obligation to pay or account for property, services, or money.

"Complaint" means the administrative complaint served by the reviewing official on the defendant under § 42.7 of this part.

"Defendant" means any person alleged in a complaint under § 42.7 of this part to be liable for a civil penalty or assessment under § 42.3 of this part.

"Government" means the United States Government.

"Individual" means a natural person.

"Initial Decision" means the written decision of the ALJ required by § 42.10 or § 42.37 of this part, and includes a revised initial decision issued following a remand or a motion for reconsideration.

"Investigating official" means the Inspector General of the Veterans Administration or an officer or employee of the Office of the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

"Knows or has reason to know" means that a person, with respect to a claim or statement—

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(b) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

"Makes", wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, *making* or *made*, shall likewise include the corresponding forms of such terms.

"Person" means any individual, partnership, corporation, association, private organization, State, political subdivision of a State, municipality, county, district, and Indian tribe, and includes the plural of that term.

"Representative" means any person designated by a party in writing.

"Reviewing official" means the General Counsel of the Veterans Administration or designee who is—

(a) Not subject to supervision by, or required to report to, the investigating official; and

(b) Not employed in the organizational unit of the Veterans Administration in which the investigating official is employed.

"Statement" means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(a) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(b) With respect to (including relating to eligibility for)—

(1) A contract with, or a bid or proposal for a contract with; or

(2) A grant, loan, or benefit from, the Veterans Administration, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under the contract or for the grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under the contract or for the grant, loan, or benefit.

§ 42.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making the statement has a duty to include the material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed,

shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the Veterans Administration, or to a recipient or party when such claim is actually made to an agency, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of the Veterans Administration, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether the property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of the claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages by the Government because of the claim.

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in the statement; and

(ii) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement,

shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to the Veterans Administration when the statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of the Veterans Administration.

(c) *Applications for certain benefits.* (1) In the case of any claim or statement made by any individual relating to any of the benefits listed in paragraph (c)(2) of this section received by the individual, the individual may be held liable for penalties and assessments under this section only if such claim or statement is made by the individual in making application for such benefits with respect to the individual's eligibility to receive or continue to receive the benefits.

(2) For purposes of this paragraph, the term "benefits" means benefits under Chapters 11, 13, 15, 17, and 21 of Title 38 which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

(3) For purposes of this paragraph, the term "application" shall include, but is not limited to, any report or statement made or submitted by or for applicant or recipient of a benefit under Chapter 11, 13, or 15 of Title 38, United States Code, to establish eligibility or to remain eligible for the benefit.

(d) No proof of specific intent to defraud is required to establish liability under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each person making the claim or statement may be held liable for a civil penalty under this section.

(f) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made a payment (including transferred property or provided services), an assessment may be imposed against any of these persons or jointly and severally against any combination of these persons.

§ 42.4 Investigation.

(a) All allegations of liability under § 42.3 shall be promptly referred to the investigating official.

(b) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued and shall identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving the subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that the documents are not available and the reasons therefor, or that the documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(c) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of the investigation to the reviewing official.

(d) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to preclude or limit the official's discretion to defer or postpone a report or referral to avoid interference with a criminal investigation or prosecution.

(e) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

§ 42.5 Review by the reviewing official.

(a) The report of the investigating official will be examined by the reviewing official to determine if there is adequate evidence to believe a person is liable under § 42.3 of this part. The review will be completed within 90 days.

(b) If, based on the report of the investigating official under § 42.4(b) of this part, the reviewing official determines that there is adequate evidence to believe that a person is liable under § 42.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 42.7 of this part.

(c) The notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 42.3 of this part;

(5) A statement of any exculpatory or mitigating circumstances that may relate

to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. The statement may be based upon information then known or an absence of any information indicating that the person may be unable to pay such an amount.

(d) If the reviewing official finds that there is not adequate evidence that a person is liable, the reviewing official will inform the department or office of the Veterans Administration concerned with the claim or statement and the investigating official.

§ 42.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 42.7 of this part only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1), and

(2) In the case of allegations of liability under § 42.3 of this part with respect to a claim, the reviewing official determines that, with respect to the claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 42.3(a) of this part does not exceed $150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (e.g., grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person's claims that are unrelated or were not submitted simultaneously, regardless of the amount of money or the value of property or services demanded or requested.

§ 42.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 42.8 of this part.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from the claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal.

(c) The reviewing official shall serve the defendant with a copy of these regulations at the same time as service of the complaint.

§ 42.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual making service;

(2) An acknowledged United States Postal Service return receipt card; or

(3) Written acknowledgment of the defendant or his or her representative.

§ 42.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

§ 42.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 42.9(a) of this part, the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on the defendant in the manner prescribed in § 42.8 of this part, a notice that an initial decision will be issued under this section.

(c) The ALJ shall assume the facts alleged in the complaint to be true, and, if such facts establish liability under § 42.3 of this part, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before the initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision in paragraph (c) of this section, if the decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) is not subject to reconsideration under § 42.38 of this part.

(h) The defendant may appeal to the Administrator of Veterans Affairs the decision denying a motion to reopen by filing a notice of appeal with the Administrator within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the Administrator decides the issue.

(i) If the defendant files a timely notice of appeal with the Administrator of Veterans Affairs, the ALJ shall forward the record of the proceeding to the Administrator.

(j) The Administrator of Veterans Affairs shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the Administrator of Veterans Affairs decides that extraordinary circumstances excuse the defendant's failure to file a timely answer, the

Administrator shall remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the Administrator of Veterans Affairs decides that the defendant's failure to file a timely answer is not excused, the Administrator shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

§ 42.11 Referral of complaint and answer to the Administrative Law Judge (ALJ).

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

§ 42.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 42.8 of this part. At the same time, the ALJ shall send a copy of such notice to the representative for the Government.

(b) The notice shall include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Government and the defendant if any; and

(6) Other matters the ALJ deems appropriate.

§ 42.13 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and the Veterans Administration.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 42.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the veterans Administration who takes part in investigating, preparing, or presenting a particular case may not, in the case or a factually related case—

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the Administrator of Veterans Affairs, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ shall not be responsible to, or subject to, the supervision or direction of the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be employed anywhere in the Veterans Administration, including in the offices of either the investigating official or the reviewing official.

§ 42.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 42.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. The motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) The motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) The affidavit shall state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of the facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of the motion and affidavit, the ALJ shall proceed no further in the case until the ALJ resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case shall he reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the Administrator of Veterans Affairs may determine the matter only as part of the review of the initial decision upon appeal, if any.

§ 42.17 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

§ 42.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at deposition or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise any other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to decide upon the validity of Federal statutes or regulations.

§ 42.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations and admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Other matters that may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 42.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 42.4(b) of this part are based unless the documents are subject to a privilege under Federal law. Upon payment of fees for duplication, the defendant may obtain copies of the documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 42.5 of this part is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provision of this section. The motion may only be filed with the ALJ following the filing of an answer pursuant to § 42.9 of this part.

§ 42.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 42.22 and 42.23 of this part, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) *Motions for discovery.*

(1) A party seeking discovery may file a motion with the ALJ. The motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 42.24 of this part.

(3) The ALJ may grant a motion for discovery only if the ALJ finds that the discovery sought—

(i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 42.24 of this part.

(e) *Depositions.* (1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 42.8 of this part.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 42.22 Exchange of witness lists, statements, and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 42.33(b) of this part. At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 42.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. The request shall specify any documents to be produced and shall designate the

witnesses and describe the address and location thereof with sufficient particularity to permit the witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 42.8 of this part. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 42.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation only be disclosed in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 42.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witnesses subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the Veterans Administration, a check for witness fees and mileage need not accompany the subpoena.

§ 42.26 Form, filing and service of papers.

(a) *Form.* (1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the ALJ, and a designation of the paper (e.g. motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of, the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than the complaint or notice of hearing shall be made by delivering or mailing a copy to the party's last known address. When a party is represented by a representative, service shall be made upon the representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 42.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the date following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal government shall be excluded from the computation.

(c) Where a document has been served or issued by mail, an additional five days will be added to the time permitted for any response.

§ 42.28 Motions.

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any part may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny the motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 42.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with the order from introducing evidence concerning, or otherwise relying upon testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with the request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

§ 42.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 42.3 of this part and, if so, the appropriate amount of any civil penalty or assessment considering any aggravating or mitigating factors.

(b) The Veterans Administration shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 42.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the Administrator of veterans Affairs, upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating the conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the Administrator of Veterans Affairs in determining the amount of penalties and assessments to impose with respect to the misconduct (i.e., the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which the claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of the programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying or prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have enagaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the Administator of Veterans Affairs from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 42.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) Any place as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at a place and time ordered by the ALJ.

§ 42.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena the witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 42.22(a) of this part.

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to:

(1) Make the interrogation and presentation effective for the ascertainment of the truth,

(2) Avoid needless consumption of time, and

(3) Protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of the direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize the exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government

engaged in assisting the representative for the Government.

§ 42.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided in this part, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence where appropriate, e.g., to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 42.24 of this part.

§ 42.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the Administrator of Veterans Affairs.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 42.24 of this part.

§ 42.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing the briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. The briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 42.37 Initial decision.

(a) The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 42.3 of this part;

(2) If the person is liable for penalties or assessments, the appropriate amount of the penalties or assessments considering any mitigating or aggravating factors that the ALJ finds in the case, such as those described in § 42.31 of this part.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired.

The ALJ shall at the same time serve all defendants with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the Administrator of Veterans Affairs. If the ALJ fails to meet the deadline contained in this paragraph, the ALJ shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the Administrator of Veterans Affairs, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the Administrator and shall be final and binding on the parties 30 days after it is issued by the ALJ.

§ 42.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. The motion shall be accompanied by a supporting brief.

(c) Responses to the motions shall be allowed only upon request of the ALJ.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) If the ALJ denies a motion for reconsideration, the initial decision shall constitute the final decision of the Administrator of Veterans Affairs and shall be final and binding on the parties 30 days after the ALJ denies the motion, unless the initial decision is timely appealed to the Administrator in accordance with § 42.39 of this part.

(g) If the ALJ issues a revised initial decision, that decision shall constitute the final decision of the Administrator of Veterans Affairs and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the Administrator in accordance with § 42.39 of this part.

§ 42.39 Appeal to the Administrator of Veterans Affairs.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal the decision to the Administrator of Veterans Affairs by filing a notice of appeal with the Administrator in accordance with this section.

(b)(1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 42.38 of this part has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The Administrator of Veterans Affairs may extend the initial 30 day period for an additional 30 days if the defendant files with the Administrator a request for an extension within the initial 30 day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the Administrator of Veterans Affairs, the ALJ shall forward the record of the proceeding to the Administrator.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the Administrator of Veterans Affairs.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the Administrator of Veterans Affairs shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the Administrator of Veterans Affairs that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present the evidence at the hearing, the Administrator shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The Administrator of Veterans Affairs may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the ALJ in any initial decision.

(k) The Administrator of Veterans Affairs shall promptly serve each party to the appeal with a copy of the decision of the Administrator. At the same time, the Administrator shall serve the defendant with a statement describing the defendant's right to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the Administrator of Veterans Affairs serves the defendant with a copy of the Administrator's decision, a determination that a defendant is liable under § 42.3 of this part is final and is not subject to judicial review.

§ 42.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or Assistant Attorney General designated by the Attorney General transmits to the Administrator of Veterans Affairs a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to the claim or statement, the Administrator shall stay the process immediately. The Administrator may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 42.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the Administrator of Veterans Affairs.

(b) No administrative stay is available following a final decision of the Administrator of Veterans Affairs.

§ 42.42 Judicial review.

Section 3805 of Title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the Administrator of Veterans Affairs imposing penalties or assessments under this part and specifies the procedures for the review.

§ 42.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of Title 31, United States Code, authorizes actions for collection of civil penalties and assessments imposed under this part and specify the procedures for the action.

§ 42.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 42.42 or § 42.43 of this part, or any amount agreed upon in a compromise or settlement under § 42.46 of this part, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 42.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(b).

§ 42.46 Compromise and settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The Administrator of Veterans Affairs has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 42.42 of this part or during the pendency of any action to collect penalties and assessments under § 42.43 of this part.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 42.42 of this part, or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the Administrator of Veterans Affairs, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the Administrator, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 42.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 42.8 of this part within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 42.10(b) of this part shall be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

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FEDERAL MARITIME COMMISSION

46 CFR Parts 502 and 503

[Docket No. 87-8]

Filing of Comments Pertaining to Agency Meetings; Extension of Comments

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule; enlargement of time to comment.

SUMMARY: The Commission instituted this proposed rulemaking by Federal Register Notice of April 15, 1987 (51 FR 12212-12214), and established May 5, 1987, as the date comments were due. Counsel for the Transpacific Westbound Rate Agreement (TWRA) has now filed a request to extend the time for comments until May 15, 1987. TWRA's request for additional time is based on the original short notice period and the resultant lack of opportunity for TWRA members to determine whether comments are appropriate. Therefore, for good cause shown, the request for an enlargement of time will be granted.

DATE: Comments due on or before May 15, 1987.

ADDRESS: Joseph C. Polking Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC, 20573 (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street,

NW., Washington, DC 20573 (202) 523–5725.

Joseph C. Polking,

Secretary

[FR Doc. 87–10157 Filed 5–4–87; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 604 and 652

[Docket No. 70484–7084]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement conservation and management measures as prescribed in Amendment 7 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP). The intent of the rule is to allocate fairly among fishermen the limited Atlantic surf clam resource.

DATE: Comments on the proposed rule must be received on or before June 11, 1987.

ADDRESSES: Comments on the proposed rule, the amendment, or supporting documents should be sent to Richard Schaefer, Acting Regional Director, Northeast Regional Office, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930–3799. Mark the outside of the envelope "Surf Clam Comments".

Copies of the amendment, the environmental assessment, and the draft regulatory impact review/initial regulatory flexibility analysis are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, 617–281–3600, ext. 232.

SUPPLEMENTARY INFORMATION:

Background

Amendment 7 was prepared by the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England Fishery Management Council. A notice of availability for the proposed amendment was published in the **Federal Register** on April 17, 1987 (52 FR 12575). Copies of the amendment are available from the Council upon request at the address above. The amendment revises managment measures for Atlantic surf clams.

The amendment would: (1) Change the quarterly quota allocation for the Georges Bank Area from 10%–40%–40%–10% to 25% for each quarter; (2) remove for all areas the 5,000 bushel threshold for transfer of unharvested quota from one quarter to the next; (3) add the provision that any unharvested quota from the Nantucket Shoals and Georges Bank areas be distributed proportionately among the remaining quarters in the year; (4) remove the 10% limit on carryover of unharvested quota from one year to the next, but provide that any such carryover in the Nantucket Shoals and Georges Bank areas be distributed proportionately to each quarter; (5) provide for annual renewal of vessel permits; and (6) change the regulations to enhance enforcement and prosecution.

The amendment would change the relevant paragraphs of section XIII.B.2.a. of the FMP as follows:

1. In the Georges Bank Area, the annual quota is divided into equal quarterly quotas, the quarters being: 1 January–31 March, 1 April–30 June, 1 July–30 September, and 1 October–31 December. If the first day of a calendar quarter does not fall on a Sunday, then the fishing quarter will begin on the first Sunday of the new calendar quarter.

2. In the Mid-Atlantic Area, if the actual catch of surf clams in any quarter falls short of the specified quarterly quota, the Regional Director shall add the amount of the shortfall to the next succeeding quarterly quota. If the actual catch of surf clams in any quarter exceeds the specified quarterly quota, the Regional Director shall subtract the amount of the excess from the next succeeding quarterly quota. The Regional Director shall publish a notice in the **Federal Register** whenever the quarterly quota for surf clams is adjusted. It is understood that this process would also operate between years, that is, between the last quarter of one year and the first quarter of the next year.

3. In the Nantucket Shoals Area, if the actual catch of surf clams in any quarterly period falls short of the specified quarterly quota, the Regional Director will add the amount of the shortfall proportionately to the quotas of the remaining quarters of the year. If the actual catch of surf clams exceeds the quarterly quota, the Regional Director will subtract the amount of the excess from the succeeding quarterly quota. The Regional Director shall publish a notice in the **Federal Register** whenever any quarterly quota for surf clams is adjusted as described above. The shortfall or excess will carry over from the last quarter of one year to the next year, and any such carryover shall be distributed proportionately to each quarter of the new year.

4. In the Georges Bank Area, if the actual catch of surf clams in any quarterly period falls short of the specified quarterly quota, the Regional Director will add the amount of the shortfall equally to the quotas of the remaining quarters of the year. If the actual catch of surf clams exceeds the quarterly quota, the Regional Director will subtract the amount of the excess from the succeeding quarterly quota. The Regional Director shall publish a notice in the **Federal Register** whenever any quarterly quota for surf clams is adjusted as described above. The shortfall or excess will carry over from the last quarter of one year to the next year, and any such carryover shall be distributed equally to each quarter of the new year.

With regard to the annual permit provision, the amendment would change the relevant paragraphs of section XIII.B.2.a. of the FMP as follows:

Permits expire when the owner or operator retires the vessel from the fishery (it is a rebuttable presumption that failure to land any surf clams or ocean quahogs for 52 consecutive weeks constitutes retirement from the fishery); or when the ownership of the vessel changes, however, the Regional Director may authorize continuation of a vessel permit for the surf clam fishery if the new owner so requests and the vessel meets the relevant eligibility criteria; or on 31 December of each year.

Vessels that establish eligibility to fish in both the Mid-Atlantic and New England Areas pursuant to XIII.A.2 need not reestablish such eligibility as part of the annual permit renewal.

In addition to being revised to implement the foregoing changes to the FMP, the regulations would be amended to facilitate enforcement and prosecution for infractions of the FMP. Those changes are explained in the FMP and the regulatory text which follows.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended by Pub. L. 99–659, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 15 days of receipt of the FMP amendment and proposed regulations. At this time the Secretary has not determined that the FMP amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act,

and other applicable law. The Secretary, in making these determinations, will take into account the information, views, and comments received during the comment period.

The Council prepared an environmental assessment (EA) for this FMP amendment and concluded that there will be no significant impact on the environment as a result of this rule. A copy of the EA is available from the Council at the address above.

The Administrator of NOAA determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the draft regulatory impact review (DRIR) prepared by the Council which demonstrates positive net short-terms and long-term economic benefits to the fishery under the proposed management measures. A copy of this review may be obtained from the Council at the address above.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 99–659, require the Secretary to publish this proposed rule 15 days after its receipt. The proposed rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act, which has been approved by the Office of Management and Budget under control number 0648–0097.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Virginia have concurred with the Council's evaluation. Maine, Rhode Island, and Maryland made no response.

List of Subjects

50 CFR Part 604

Reporting and recordkeeping requirements.

50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Parts 604 and 652 are proposed to be amended as follows:

PART 604—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 604 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

2. In the table in § 604.1, the following entry is added in numerical order by section number:

§ 604.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

50 CFR part or section where the information collection requirement is located	Current OMB control numbers (all numbers begin 0648)
* * * * *	
§ 652.22(a)	—0097
* * * * *	

* * * * *

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

1. The authority citation for Part 652 continues to read as follows:

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

2. In § 652.1, the existing text is designated as paragraph (a) and a new paragraph (b) is added, to read as follows:

§ 652.1 Purpose.

* * * * *

(b) These regulations implement the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries.

3. In § 652.2, a new definition *Areas of custody* is added in alphabetical order, to read as follows:

§ 652.2 Definitions.

* * * * *

Areas of custody means any vessels, buildings, vehicles, piers, or dock facilities where surf clams or ocean quahogs may be found.

* * * * *

4. In § 652.4, paragraph (h), the introductory text is revised, paragraph (2) is redesignated as (3), and a new pragraph (2) is added, to read as follows:

§ 652.4 Permits.

* * * * *

(h) *Expiration.* Except as provided in paragraph (h)(3), a permit will expire:

* * * * *

(2) On December 31 of each year, or

* * * * *

5. In § 652.7, paragraph (a), introductory text, and paragraph (f)(1) are revised, paragraphs (m) and (n) are redesignated as (n) and (o), and a new paragraph (m) is added, to read as follows:

§ 652.7 Prohibitions.

(a) No permit holder may fish for any surf clams or ocean quahogs:

* * * * *

(f) * * *

(1) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control no matter where that vessel may be located, or to enter areas of custody subject to such a person's control, for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, these regulations, or any other regulations issued under the Magnuson Act;

* * * * *

(m) No dealer, vessel owner, operator, or other person may knowlingly submit false information in records and reports required to be kept and filed under § 652.5.

* * * * *

6. In § 652.21, paragraph (a)(3), (b)(3), (c)(2), and (c)(3) are revised to read as follows:

§ 652.21 Catch quotas.

(a) * * *

(3) *Adjustments.* If the actual catch of surf clams in any one quarter falls short of the specified quarterly quota, the Regional Director will add the amount of the shortfall to the succeeding quarterly quotas. If the actual catch of surf clams in any quarter exceeds the specified quarterly quota, the Regional Director will subtract the amount of the excess from the succeeding quarterly quotas. The amount from the last quarter will be carried over to the first quarter of the next year.

(b) * * *

(3) *Adjustments.* If the actual catch of surf clams in any one quarter falls short of a quarterly quota, the Regional Director will add the amount of the shortfall proportionately to the remaining quarterly quotas of the year. If the actual catch of surf clams exceeds a quarterly quota, the Regional Director will subtract the amount of the excess proportionately from the succeeding quarterly quotas for the year. The amount from the last quarter will be carried over proportionately to the four quarterly periods of the next year.

(c) * * *

(2) *Quarterly quotas.* This annual quota will be divided into four equal quarterly quotas, the quarters being January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31. Each fishing quarter will begin on the first Sunday of the new calender quarter.

(3) *Adjustment.* If the actual catch of surf clams in any one quarter falls short of a quarterly quota, the Regional Director will add the amount of the shortfall proportionately to the remaining quarterly quotas of the year. If the actual catch of surf clams exceeds a quarterly quota, the Regional Director will subtract the amount of the excess proportionately from the succeeding quarterly quotas for the year. The amount from the last quarter will be carried over proportionately to the four quarterly periods of the next year.

* * * * *

7. In § 652.22, paragraphs (a)(4) and (f)(1) are revised, to read as follows:

§ 652.22 Effort restrictions.

(a) * * *

(4) *Make-up periods.* Commencing at 0001 hours on the first Sunday of November and ending at 1800 hours on the last Thursday of April, and during the intervening months, fishermen may claim a make-up period, if in the opinion of the vessel operator, weather or sea conditions would prevent effecting fishing or endanger the vessel or crew.

* * * * *

(f) *Presumption.* (1) The presence of surf clams or ocean quaghogs aboard any vessel permitted in the surf clam or ocean quahog fishery, or the presence of any part of a vessel's gear in the water, more than 12 hours after a closure occurs under this section, will be *prima facie* evidence that such vessel was fishing for surf clams or ocean quahogs in violating of these regulations.

* * * * *

[FR Doc. 87–10139 Filed 4–30–87; 4:33 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 52, No. 86
Tuesday, May 5, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

VISTA Program; Supervision and Transportation Support Guidelines

AGENCY: ACTION.

ACTION: Final Notice of VISTA Supervision and Transportation Support Guidelines.

SUMMARY: The following notice sets forth Final Guidelines for VISTA Supervision and Transportation Support. This Notice replaces VISTA Supervision and Transportation Support Guidelines which were published in the **Federal Register**, February 5, 1975 (40 FR 5388). The Notice describes the circumstances under which ACTION may contribute support for VISTA Volunteer on-the-job transportation and/or supervision costs.

DATE: These Guidelines shall take effect June 19, 1987.

FOR FURTHER INFORMATION CONTACT: Diana London, VISTA Branch Chief, ACTION, 806 Connecticut Avenue, NW., Washington, DC 20525, (202) 634–9424.

SUPPLEMENTARY INFORMATION: Pursuant to section 105(b) of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113), the Director of ACTION shall provide VISTA Volunteers such transportation and supervision support as deemed necessary and appropriate, and shall insure that each volunteer has available such support as will enable the volunteer to effectively perform the work to which the volunteer is assigned.

Section 420 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5060) was amended in 1979 to define the term regulation and to detail the procedures to be followed in prescribing regulations. Through its broad definition of a regulation, the section requires that "any rule, regulation, guideline, interpretation, order, or requirement of general applicability" issued by the Director of ACTION must be published with a 30-day comment period except in certain limited circumstances. These Guidelines, although not regulations under the Administrative Procedure Act (5 U.S.C. 551, *et seq.*) were published in proposed form for comments.

A Notice of Proposed Revisions to the VISTA Supervision and Transportation Support Guidelines was published in the **Federal Register** on March 2, 1987 (52 FR 6201). No written comments from the public were received by the Agency. Therefore, the revisions originally proposed are hereby incorporated into the Final Guidelines without further modification.

Implementation

These Guidelines apply to all VISTA Volunteer supervision and/or on-job transportation support grant applications submitted to ACTION on or after the effective date of this Notice.

1. Purpose

Section 105(b) of the Domestic Volunteer Service Act of 1973, Pub. L. 93–113, as amended, requires the Director of ACTION to ensure that each Volunteer serving under Title I, Part A of the Act has available such allowances and support as will enable them to carry out the purpose and provisions of the Act and to perform their assignments effectively. In accordance with section 105(b) and these guidelines, ACTION may make a commitment through a grant, agreement, or other arrangement with a sponsor to pay for on-the-job transportation and supervisory support of such Volunteers.

This order establishes the policy and guidelines for determining:

a. The circumstances under which grants or other arrangements for ACTION contributions to on-the-job transportation expenses of VISTA Volunteers may be negotiated between ACTION and the sponsor; and

b. The circumstances under which grants or other arrangements for ACTION contributions to the cost of providing supervision for VISTA Volunteers may be negotiated between ACTION and the sponsor.

2. Scope

Provisions of this policy and guidelines apply to VISTA sponsors and Volunteers serving under Title I, Part A of Pub. L. 93–113, as amended.

3. Background

While ACTION/VISTA must ensure that Volunteers have available such allowances and support as will enable them to perform their project assignments effectively, the provision of adequate on-the-job transportation and supervision for VISTA Volunteers is primarily the responsibility of the project sponsor.

ACTION/VISTA recognizes, however, that in some instances sponsoring organizations requesting Volunteers for projects that conform to ACTION/VISTA's programming criteria may need assistance in providing this support. ACTION Regional Offices are provided with limited obligational authority for the purposes of entering into transportation and/or supervision arrangements with VISTA project sponsors.

When such arrangements are established with a sponsoring organization, they are to provide for the direct support of Volunteer transportation and supervision. They are not intended to provide for other support needed to accomplish the goals of the project. All other overhead expenses such as supplies, materials, and equipment are the sole responsibility of the sponsoring organization.

4. Policy

ACTION/VISTA will provide full or partial funding for on-the-job transportation of VISTA Volunteers and/or for hiring of persons responsible for supervision of the Volunteers, but only in those cases where such support is deemed by the ACTION Regional Director to be:

(1) Necessary to the effective functioning of the Volunteers on the project, and

(2) Within these guidelines.

a. In all such cases, except as noted in Paragraph 7a below, the transportation and/or supervision arrangements will provide for a phase-down of ACTION support after the first year of the project and the gradual assumption of this support by the sponsoring organization over the life of the VISTA project. The Memorandum of Agreement negotiated between ACTION and the sponsoring organization will reflect a decreasing level of ACTION provided project support in the subsequent year(s) of the

VISTA project. The sponsor will be required to assume at least 10% of the original amount of ACTION-provided project support costs for supervision and/or transportation in each of the subsequent funding periods.

Although subsequent Memoranda of Agreement, except as noted in Paragraph 7a below, will reflect a decrease in ACTION funding support, they will not reflect a decrease in the level of effort. However, if a change in the level of effort, as negotiated between ACTION and the sponsor, results in a decrease, or increase, in volunteer strength in the subsequent year(s) of the VISTA project, the level of project support provided by ACTION and the sponsor will be proportionately adjusted.

b. When a supervision and/or transportation arrangement is approved, the nature of the agreement between ACTION and the sponsor will be reflected in the Memorandum of Agreement. Any Agreement whereby ACTION/VISTA provides funds for these purposes will include provision to ensure that:

(1) Services are furnished at a reasonable rate;

(2) The rate conforms to sponsor's hiring policies and/or local prevailing salary levels;

(3) Any expense incurred by the sponsoring organization over the agreed amount will be at its own expense.

c. In developing new projects, State Offices shall take into account the travel and supervisory requirements of the proposed project. When possible, attempts should be made to develop projects so that a minimum of volunteer transportation, consistent with the needs of the project, is required, and so that supervisory responsibility can be readily absorbed into the existing structure of the organization. ACTION/VISTA project support funds will be provided only when the needs of the VISTA project and the assigned VISTA Volunteers cannot be met by the sponsor's own structure and resources.

5. Guidelines for Transportation Arrangements

The Regional Director will establish the following facts before approving provision of ACTION funds to support on-the-job transportation for VISTA Volunteers:

a. Necessity of transportation for Volunteers to achieve the goals/objectives of the project as outlined in the project application;

b. Inability of the sponsoring organization to provide adequate transportation;

c. Prohibition against using ACTION-provided on-the-job transportation funds to transport Volunteers to and from their regularly assigned post, or to transport or provide delivery services to members of the target population.

The Regional Director will consider budget constraints, available resources, and program and geographic priorities in distributing VISTA on-the-job transportation funds.

6. Guidelines for Supervision Arrangements

The Regional Director will establish the following facts before approving provision of ACTION funds to support on-the-job supervision of VISTA Volunteers:

a. Necessity of full or part-time supervision for Volunteers to achieve the goals/objectives of the project as outlined in the project application;

b. Inability of the sponsoring organization to provide adequate supervision;

c. Number of VISTA Volunteers assigned to the project during the period covered by the Memorandum of Agreement:

(1) ACTION will not fund a full-time supervisory position on a project which averages fewer than eight Volunteers over the course of the Agreement. Regional Directors may, however, reduce this requirement in the case of first-year supervisory grants to grassroots sponsoring organizations as defined in Paragraph 7a below.

(2) Projects averaging 3 or fewer Volunteers over the course of the Agreement will not be eligible for *any* ACTION supervisory funding.

d. Less than full-time supervision may be funded by ACTION if:

(1) At least an average of 4 volunteers serve on the project during the term of the Agreement; and

(2) The supervisor(s) spends at least 50% time directly supervising the VISTA Volunteers, with ACTION funding up to 50% of the salary(ies).

The Regional Director will consider budget constraints, available resources, and program and geographic priorities in distributing VISTA supervision funds.

7. Procedures for Determining Conformance to Guidelines

In order to determine the applicability of the guidelines for supervision and/or transportation grants (paragraphs 5 and 6 above), ACTION Regional Directors will use the following standards:

a. Grassroots organizations which are under the operational policy direction of members of the group that the organization is designed to serve, with limited budget and staff, are eligible for up to 100 percent ACTION funding of transportation and/or supervision needs in the first year of the VISTA project. The phase-out funding schedule described in Paragraph 4 above may be waived by the Regional Director for up to three years for grass roots project sponsors, umbrella sponsors of grassroots project components, and tribal governments.

b. Large, well-established non-profit organizations or institutions with sizable budgets and staffs may be considered for ACTION funding of volunteer on-the-job transportation and/or supervision if necessary for the effective functioning of Volunteers on the project.

However, such organizations will receive a lower priority in the awarding of ACTION project support grants than those in category a. above, and no waiver of the phaseout funding schedule is allowed.

In determining the level of resources provided to large, well-established organizations, ACTION will take into consideration the resources, or access to resources, already enjoyed by the organization as well as the needs of the VISTA project.

c. Federal, State and large, local government agencies are eligible for ACTION funding of volunteer transportation and/or supervision only in the first year of a project's operation. This one-year restriction does not apply, however, to small local government agencies and to tribal governments.

Government agencies will receive a lower priority in the awarding of ACTION project grants than those in categories a. and b. above.

8. Elimination or Reduction of Transportation and/or Supervision Funding

a. As a general rule, the level of funding contained in an ACTION project support grant will be maintained throughout the term of the annual Memorandum of Agreement between ACTION and the sponsoring organization. However, types of conditions which may cause the reduction or elimination of project support during the term of the annual Agreement area:

(1) Amendment by mutual agreement between ACTION and the sponsor;

(2) Termination by the sponsor for any reason;

(3) Reassignment, resignation, or termination of Volunteers from the project before their term of service has ended with no replacements during that budget year;

(4) Substantial changes in volunteer assignments; or

(5) Suspension or termination in accordance with 45 CFR Part 1206, Subpart A.

b. All VISTA project support Notices of Grant Award will contain language indicating that the grant may be reduced or eliminated in accordance with the provisions of this Order and the Memorandum of Agreement.

Signed at Washington, DC this 27th day of April, 1987.

Donna M. Alvarado,

Director.

[FR Doc. 87-10104 Filed 5-4-87; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 87-059]

Availability of Environmental Assessment and Finding of No Significant Impact for Field Testing of a Recombinant Derived Live Pseudorabies Virus Vaccine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document provides notice that an environmental assessment and finding of no significant impact has been prepared by the Animal and Plant Health Inspection Service concerning authorization to the Upjohn Company and to the Diamond Scientific Company to conduct limited field trials using an experimental veterinary biological product consisting of a recombinant derived live pseudorabies virus vaccine. The assessment indicates that the field testing of the live recombinant derived pseudorabies virus vaccine will not cause any significant impact on the environment. Based upon this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

DATE: The field trials will commence 30 days following publication of this notice.

ADDRESS: Copies of the environmental assessment and finding of no significant impact are available for public inspection at the Veterinary Biologics Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Copies of the environmental assessment are also available upon request at this same address.

FOR FURTHER INFORMATION CONTACT: Dr. David Espeseth, Senior Staff Veterinarian, Veterinary Biologics Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8245.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment and finding of no significant impact relative to a request for authorization to conduct limited field trials using an experimental recombinant derived live pseudorabies virus vaccine produced by the Upjohn Company and the Diamond Scientific Company.

Under the Virus-Serum Toxin Act (VSTA) (21 U.S.C. 151 *et seq.*), before a veterinary biological product can be licensed, it must be shown to be pure, safe, potent, and efficacious. Field testing is necessary in order to satisfy vaccine safety requirements as a prerequisite to licensing of a live virus vaccine under the VSTA. In the course of reviewing the testing protocol for the recombinant derived live pseudorabies virus vaccine, APHIS assessed the impact to the environment of authorizing the manufacturer to conduct field testing of the product in six States as set forth in the environmental assessment.

The environmental assessment and finding of no significant impact provides the public with documentation of APHIS' review and analysis of environmental effects which may be associated with the gathering of information in these limited field trials.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. Genetic engineering procedures were employed to facilitate two gene deletions in the pseudorabies virus genome. One deletion destroyed the viral thymidine kinase (tk) gene which is required for the virus to replicate in the host's nervous system and hence cause disease. A second deletion destroyed a gene coding for a viral glycoprotein (gX) which then prevents antibodies from being elicited to this glycoprotein, thus allowing vaccinated animals to be distinguished from those infected with a wild-type virus.

2. The recombinant derived live pseudorabies vaccine virus was shown to be avirulent and yet fully capable of eliciting an immune response that protects pigs from PRV, but not able to elicit antibodies to gX which allows the differentiation between infected pigs and vaccinates.

3. Transmission of the vaccine virus derived from recombinant DNA techniques could not be demonstrated in that vaccine virus was not detected on nasal swabs taken from either vaccinated pigs or from sentinel animals.

4. Vaccination by the recombinant vaccine reduces replication and shedding of wild-type virus that could subsequently infect other animals. Therefore, the vaccine will reduce the dissemination of the virulent virus into the environment.

5. The tk gene deletion is a stable characteristic of the vaccine virus with a probability of reversion being essentially zero.

6. The wild-type pseudorabies virus is found widely distributed in nature and it does not contain an oncogene or cancer-causing substance. Because the recombinant derived virus does not contain any new genetic information, there is no likelihood of its being oncogenic.

7. The wild-type pseudorabies virus is not considered pathogenic to man. Since the recombinant vaccine differs from wild-type pseudorabies by two gene deletions, it is also considered nonpathogenic in man.

8. The master seed virus prepared and characterized by the Diamond Scientific Company has the same biologic properties as Upjohn's parent strain. Data is on file at APHIS which establishes the correlation between both virus stocks which are being utilized to prepare vaccine for experimental use.

Based on the foregoing, APHIS has determined that the field testing of the recombinant derived live pseudorabies virus vaccine would have no significant environmental impact on the human environment.

The environmental assessment and finding of no significant impact has been prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*); (2) Regulations of the Council of Environmental Quality for Implementing the Procedural Provisions of NEPA (Title 40, Code of Federal Regulations (CFR) Parts 1500-1508); (3) USDA regulations implementing NEPA (7 CFR Part 1b); and (4) APHIS guidelines implementing NEPA (44 FR 50381-50384 and 44 FR 51272-51274).

Done at Washington, DC, this 30th day of April, 1987.

B.G. Johnson,

Acting Deputy Administrator Veterinary Services Animal and Plant Health Inspection Service.

[FR Doc. 87-10184 Filed 5-4-87; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Vegetation Management Program in the Southern Region; Revised Notice of Intent To Prepare Three Environmental Impact Statements

The revised Notice of Intent revises the Notice of Intent published in the Federal Register on Page 32345, September 11, 1986. Changes have been made in the methods that will be considered in treating vegetation, in the scheduled dates for public review of the three Draft EISs, and in completion dates for the three Final EISs. The revised Notice of Intent follows:

The Department of Agriculture, Forest Service, will prepare three Environmental Impact Statements (EISs) for proposed vegetation management programs in three areas of the Southern Region: Appalachian Mountains, Ozark and Ouachita Mountains, and Coastal Plains/Piedmont. These documents will cover National Forest System lands within the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and a portion of West Virginia.

The analyses for the EISs will consider a range of alternative Vegetation Management Programs. The alternatives will identify the methods to be used in treating the vegetation and the activities that involve vegetation management. Methods under consideration include herbicide application, mechanical and manual techniques, prescribed burning, and grazing as a biological tool. Activities that involve treatment of vegetation include site preparation for natural and artificial reforestation, pre-commercial thinning, timber stand improvement, conifer and hardwood release, pre-harvest treatment for oak regeneration, wildlife habitat improvement, right-of-way maintenance (roads, trails, utilities and railroads), range improvement and fuels treatment. These activities are performed by USDA Forest Service personnel, cooperators, and contractors.

Federal, State and local agencies, any affected Indian tribes, and other individuals or organizations who may be interested in or affected by the decision will be invited by letter to participate in the process. Other interested publics may send comments as indicated below. No formal hearings or public meetings are planned at this time. The process for each of the three areas will include:

1. Defining the scope of the analysis and nature of the decision to be made.
2. Identifying the Regional and local issues to be considered and analyzed.
3. Determining the disciplines needed on the interdisciplinary team.
4. Focusing on social, physical, and biological issues for each EIS.
5. Identifying cooperating agencies.
6. Identifying groups or individuals interested or affected by the decisions.

John E. Alcock, Regional Forester, Southern, Region, Atlanta, Georgia is the responsible official.

The analyses for, and preparation of all three EISs are expected to take about 24 months. The Draft EIS on the Coastal Plain/Piedmont Forest and National Grasslands should be available for public review by November 1987, with the Final EIS scheduled to be completed by April 1988.

The Draft EIS for the Appalachian Forest should be available for public review by July 1988, with the Final EIS scheduled to be completed by October 1988. The Draft EIS for the Ozark/Ouachita Forests should be available for public review by September 1988, with the Final EIS scheduled to be completed by December 1988.

Written comments and suggestions concerning the analyses, the EISs, or EIS process should be sent to Regional Forester, Southern Region, 1720 Peachtree Road, NW, Atlanta, Georgia 30367.

Questions about the proposed actions and EIS should be directed to Stephen McCorquodale, Vegetation Management EIS Team Leader, Southern Region, Phone (404) 347-7076.

Dated: April 28, 1987.

John E. Alcock,

Regional Forester, Region 8.

[FR Doc. 87-10153 Filed 5-4-87; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Watkins Branch Watershed; Buchanan County, VA

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, give notice that an environmental impact statement is not being prepared for the Watkins Branch Watershed, Buchanan County, Virginia.

FOR FURTHER INFORMATION CONTACT: George C. Norris, State Conservationist, Soil Conservation Service, 400 North Eight Street, Richmond, Virginia 23240-9999, telephone (804) 771-2457.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts to the environment. As a result of these findings, George C. Norris, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan to reduce flood damages. The planned works of improvement include a single purpose floodwater retarding structure with a wet sediment pool.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting George C. Norris.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: April 24, 1987.

George C. Norris,

State Conservationist.

[FR Doc. 87-10084 Filed 5-4-87; 8:45 am]

BILLING CODE 3410-16-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 10:00 to 12 noon, on Wednesday, May 13, 1987, to take place in Department of Transportation (DOT) Conference Room 2230, 400 Seventh Street, SW., Washington, DC.

ITEMS ON THE AGENDA: Election of Chairperson, Vice-Chairperson, and Executive Committee Members; TDD Relay Exchange; FY 1989 Budget; Incorporation of ANSI and UFAS requirements in MGRAD Technical Provisions.

DATE: Wednesday, May 13, 1987—10:00–12 noon.

ADDRESS: Department of Transportation Conference Room 2230, 400 Seventh Street, SW., Washington, DC.

Committees of the ATBCB will meet on Monday and Tuesday, May 11 and 12, 1987, also in DOT Conference Room 2230, 400 Seventh Street, SW.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Communications Manager, (202) 245–1591 (voice or TDD).

Margaret Milner,

Executive Director.

[FR Doc. 87–10152 Filed 5–4–87; 8:45 am]

BILLING CODE 6820–BP–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Minority Business Development Agency

Title: MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance

Form Number: Agency—NA; OMB—NA

Type of Request: New collection

Burden: 475 respondents; 627 reporting hours

Needs and Uses: President Reagan has directed recipients of Federal financial assistance to increase minority business participation through subcontracting. The proposed standard form will collect data on recipients' progress in meeting the President's directive

Affected Public: Individuals or households, state or local governments, farms, businesses or other for-profit institutions, non-profit institutions, small businesses or organizations

Frequency: Quarterly

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Don Arbuckle, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: April 29, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–10191 Filed 5–4–87; 8:45 am]

BILLING CODE 3510–CW–M

Foreign-Trade Zones Board

[Docket No. 8–86]

Foreign-Trade Zone 83—Huntsville, AL, Application for Subzone—Chrysler Electronic Plant; Amendment of Application

Notice is hereby given that the application submitted by the Huntsville-Madison County Airport Authority, grantee of Foreign-Trade Zone 83, for a special-purpose subzone at the auto electronic components plant of Chrysler Corporation in Huntsville, Alabama (51 FR 9235, 3–18–86) has been amended to include a 158-acre site on Wall-Triance Highway, adjacent to the Huntsville-Madison County Airport, on which the company's new electronics plant is being built. The applicant has also provided more detailed information as to the parts that may be sourced abroad. The list now covers switches, transistors, diodes, rectifiers, parts of semiconductors, hardware, as well as cassettee heads, semiconductors, and capacitors, which were listed in the original notice. The application remains otherwise unchanged.

The comments period is reopened until May 29, 1987.

The application and amendment material are available for public inspection at the following locations:

Port Director's Office, U.S. Customs Service, Huntsville-Madison County Airport, Huntsville, AL 35806

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Rm 1529, 14th and Pennsylvania NW., Washington, DC 20230.

Dated: April 29, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–10194 Filed 5–4–87; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–351–605]

Antidumping Duty Order; Frozen Concentrated Orange Juice From Brazil

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In separate investigations concerning frozen concentrated orange juice (FCOJ) from Brazil, the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that FCOJ from Brazil is being sold at less than fair value and that an industry in the United States is threatened with material injury by reason of imports of FCOJ from Brazil. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of FCOJ from Brazil except those from Sucocitrico Cutrale, S.A. (Cutrale), made on or after April 29, 1987, the date on which the ITC published its final affirmative injury determination in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register.**

EFFECTIVE DATE: May 5, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond Busen (202) 377–3464 or Mary Clapp (202) 377–1769, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The merchandise covered by this order is frozen concentrated orange juice (FCOJ) in a highly concentrated form for transport and further processing, sometimes referred to as frozen concentrated orange juice for manufacturing currently provided for

under the Tariff Schedules of the United States (TSUS) item number 165.29.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on October 16, 1986, the Department made its preliminary determination that there was reason to believe or suspect that FCOJ from Brazil was being sold at less than fair value (51 FR 37613, October 23, 1986). On March 9, 1987, the Department made its final determination that these imports were being sold at less than fair value (52 FR 8324, March 17, 1987).

On April 22, 1987, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department of its determination that an industry in the United States is threatened with material injury by imports of FCOJ from Brazil.

The ITC also determined, pursuant to section 735(b)(4)(B) of the Act (19 U.S.C. 1673d(b)(4)(B)) that material injury would not have been found but for the suspension of liquidation of entries of FCOJ from Brazil.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of FCOJ from Brazil, except those from Cutrale. These antidumping duties will be assessed on all unliquidated entries of FCOJ (except those from Cutrale) entered, or withdrawn from warehouse, for consumption on or after April 29, 1987, the date on which the ITC published notice of its final affirmative injury determination. Pursuant to section 736(b)(2) of the Act (19 U.S.C. 1673e(b)(2)), the Department also directs that suspension of liquidation be lifted for all entries of FCOJ from Brazil entered, or withdrawn from warehouse, for consumption, before April 29, 1987, and that all estimated antidumping duties deposited on such entries be refunded and the appropriate bonds or other security be released.

On and after April 29, 1987, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin of 1.96 percent.

This determination constitutes an antidumping duty order with respect to FCOJ from Brazil, except from Cutrale, pursuant to section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping duty findings and orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1674e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 29, 1987.

[FR Doc. 87-10193 Filed 5-4-87; 8:45 am]

BILLING CODE 3510-DS-M

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

A meeting of the Electronic Instrumentation Technical Advisory Committee will be held June 2 and 3, 1987. On June 2, the meeting will convene at 9:30 a.m. in Room 15018, The Federal Building, 450 Golden Gate Ave., San Francisco, California. The meeting will continue to its conclusion on June 3 in Room 15018, the Federal Building.

The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to electronics and related equipment and technology.

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers of comments by the public.
3. Presentation of papers on electronic equipment, 1529A, by Hewlett-Packard, John Fluke Manufacturing, Tektronix.
4. Continuation of discussion concerning the export controls on ECCN 1529A (Eletronic Test Equipment).
5. Public comments are also invited on the following entries on the Commodity Control List (CCL):

CCL 1522A—Lasers and Laser Systems
CCL 1531A—Frequency Synthesizers
CCL 1541A—Cathode Ray Tubes
CCL 1568A—Electromechanical Equipment
CCL 1572A—Recording and Reproducing Equipment.

Comments should consider the need for revision (strengthening, relaxation or decontrol) of the current regulations based on technological trends, foreign availability and national security. The committee is also interested in proposals for revision to the People's Republic of China guidelines and G-COM regulations relating to these CCL numbers.

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting and can be directed to: Technical Support Staff, Office of Technology & Policy Analysis, Room 4073, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce. Telephone: 202-377-4217. For further information or copies of the minutes contact Betty A. Ferrell, 202/377-2583.

Dated: April 30, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff Office of Technology & Policy Analysis.

[FR Doc. 87-10192 Filed 5-4-87; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Crustacean Advisory Panel and Crustacean Plan Monitoring Team will convene separate public meetings at 1164 Bishop Street,

Conference Room 602, Honolulu, HI, as follows:

Crustacean Advisory Panel—On May 15, 1987, at 1:30 p.m., will: (1) Review the annual report of the Northwestern Hawaiian Islands (NWHI) lobster fishery; (2) receive an update on the status of the third phase of the economic analysis of the NWHI lobster fishery; (3) discuss the time allowance necessary before requiring all traps used in the fishery to have escape panels; (4) discuss limited access as a management alternative for the NWHI lobster, as well as discuss other business.

Crustacean Plan Monitoring Team—On May 19, 1987, at 1:30 p.m., in addition to discussing the same agenda items (1), (2), (3) and (4) mentioned above for the Crustacean Advisory Panel, the Crustacean Plan Monitoring Team will discuss the comments made at a public hearing on: (a) Escape vents; (b) the recommended minimum legal size for the common slipper lobster (*Scyllarides squammosus*), as well as discuss other Team business. For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: April 29, 1987.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 87–10124 Filed 5–4–87; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Amendment to a General Permit

On February 13, 1987, a Category 1: Towed or Dragged Gear" General Permit was issued under authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder, to VEB Fischfang Rostock, German Democratic Republic to take up to 10 cetaceans in the North Atlantic Ocean during the course of commercial fishing operations. On March 12, 1987, A Notice of Receipt of a request for Amendment was published (52 FR 7647). The permit holder requested an additional 20 cetaceans be authorized during the 1987 fishing season. No comments were received during the thirty day comment period on the Amendment.

Notice is hereby given that on April 28, 1987 the amendment as requested was authorized.

The General Permit and Amendment are available for public review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Washington, DC.

Dated: April 28, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87–10125 Filed 5–4–87; 8:45 am]

BILLING CODE 3510–22–M

[P342B]

Marine Mammals; Application for Permit: Cascadia Research Collective

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant: Cascadia Research Collective, 2181/2 West Fourth Avenue, Waterstreet Building, Suite 201, Olympia, Washington 98501.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals:

Blue whales (*Balaenoptera musculus*)	100/year
Humpback whales (*Megaptera novaeangliae*)	250/year
Fin whales (*Balaenoptera physalus*)	20/year
Sei whales (*Balaenoptera borealis*)	20/year
Minke whales (*Balaenoptera acutorostrata*)	20/year
Harbon propoise (*Phocoena phocoena*)	500/year
Dall's porpoise (*Phocoenoides dalli*)	500/year

4. Type of Take: Animals will be taken by harassment.

5. Location of Activity: Coastal and estuarine waters of California, Oregon and Washington.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data of views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Fisheries Service, U.S. Deparment of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Rm. 805, Washington, DC;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: April 28, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87–10126 Filed 5–4–87; 8:45 am]

BILLING CODE 3510–22–M

[P394]

Marine Mammals; Application for Permit: Glacier Bay National Park and Preserve

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant: Glacier Bay National Park and Preserve, Bartlett Cove, Gustavus, Alaska 99826.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: Humpback whales (*Megaptera novaeangliae*), 100/year.

4. Type of Take: The animal will be taken by harassment in the process of photo-identifying, recording, and sampling prey of humpback whales.

5. Location of Activity: Glacier Bay and adjacent waters in southeast Alaska.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federa Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Rm. 805, Washington, DC; and

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Dated: April 28, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87-10127 Filed 5-4-87; 8:45 am]

BILLING CODE 3510-22-M

[P2S]

Marine Mammals; Issuance of Permit: Sea World, Inc.

On February 27, 1987, notice was published in the **Federal Register** (52 FR 6048) that an application had been filed by Sea World, Inc., 1720 South Shores Road, San Diego, California 92109 for a permit to import two (2) white whales (*Delphinapterus leucas*) for the purpose of public display.

Notice is hereby given that on April 28, 1987 and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above importation subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following office:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC 20235;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: April 28, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87-10196 Filed 5-4-87; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Xoma Corp.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Xoma Corporation having a place of business in Berkeley, CA 94710, an exclusive right in the United States to manufacture, use, and sell products embodied in the invention entitled "Monocolonal Antibody Against Ovarian Cancer Cells," U.S. Patent Application S.N. 6-888,960. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to George Kudravetz, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 87-1010 Filed 5-4-87; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products for Indonesia

April 30, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 6, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)377-4212. For Information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

A CITA directive dated June 25, 1986 (51 FR 23807) established limits for certain specified categories of cotton, wool and man-made fiber textile products within the agrregate limit, including categories subject to specific limits (Group I) and those categories not subject to specific limits (Group II), produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1986 and extends through June 30, 1987.

The Governments of the United States and Indonesia have exhanged diplomatic notes, dated February 3 and March 10, 1987, to further amend the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 25 and October 3, 1985, as amended, to establish specific limits for cotton and man-made fiber textile products in Categories 342/642, 345, 350, 369-D, 636, 637 and 651, within Group II, produced or manufactured in Indonesia and exported during the period which began on January 1, 1987 and extends through June 30, 1988.

The agreement establishes the following specific limits for cotton and

man-made fiber textile products, produced or manufactured in Indonesia and exported during the six-month period which began on January 1, 1987 and extends through June 30, 1987:

Category	6 mo. limit
342/642	80,000 dozen.
345	102,500 dozen.
350	29,000 dozen.
369-D	425,000 pounds.
636	105,000 dozen.
637	65,000 dozen.
651	51,500 dozen.

The agreement also establishes the following specific limits for cotton and man-made fiber textile products, produced or manufactured in Indonesia and exported during the twelve-month period which begins on July 1, 1987 and extends through June 30, 1988:

Category	12 mo. limit
342/642	169,600 dozen.
345	217,300 dozen.
350	61,480 dozen.
369-D	901,000 pounds.
636	222,600 dozen.
637	137,800 dozen.
651	109,180 dozen.

In addition, the two governments also agreed that 1985–1986 overshipments, amounting to 771,371 pounds, in Category 369–S would be charged in four equal parts to each of the restraint limits established for Categories 369–D for the periods beginning July 1, 1986 and July 1, 1987, and for 369–S for the periods beginning January 1, 1987 and July 1, 1987.

Accordingly, Category 369–S will reopen for 460,129 pounds for the control period July 1, 1987 through June 30, 1987. The limit for Category 369–S, for the period July 1, 1986 through June 30, 1987, is being reduced to account for carryforward used.

The new definition for Category 369–O, a part of Group II, shall consist of all TSUSA numbers in Category 369, except 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 266.2440 and 366.2860.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 342/642, 345, 350, 369–D, 636, 637 and 651, produced or manufactured in Indonesia and exported during the six-month period which began on January 1, 1987 and extends through June 30, 1987, in excess of designated restraint limits. Included in the imports that the Commissioner of Customs is directed to charge to the above categories for the period which began on January 1, 1987, are charges of 192,843 pounds to Category 369–D, made under the amendment of February 3 and March 10, 1987 to the agreement. Charges made to the restraint limits for Categories 342/642, 345, 350, 369–D 636, 637 and 651 are being deducted from the restraint limit for Group II for the period July 1, 1986 through June 30, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amened on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30,1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1987 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1987).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

April 30, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on June 25, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1986 and extends through June 30, 1987.

Effective on May 6, 1987, the directive of June 25, 1986 is further amended to include the following new restraint limits for cotton and man-made fiber textile products, produced or manufactured in Indonesia and exported during the six-month period which began on January 1, 1987 and extends through June 30, 1987:

Category	Restraint limit [1]
342/642	80,000 dozen.
345	102,500 dozen.
350	29,000 dozen.
369–D [2]	425,000 dozen.
636	105,000 dozen.
637	65,000 dozen.
651	51,500 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

[2] In category 369–D, only TSUSA numbers 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440 and 366.2860.

The levels set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of September 25 and October 3, 1985, as amended, between the Government of the United States and Indonesia.

Effective on May 6, 1987, you are directed to deduct 578,529 pound from the charges made to the import restraint limit established in the directive of June 25, 1986 for Category 369–S [1] for the twelve-month period which began on July 1, 1986 and extends through June 30, 1987. This deduction will reopen Category 369–S for 460,129 pounds.

The following amounts are to be charged to the import restraint limits established in this letter for Categories 342/642, 345, 350, 369–D, 636, 637 and 651 for imports during the period January 1–February 28, 1987. These amounts, converted to square yards equivalent, should also be deducted from the charges to Group II for those categories:

Category	Amount to be charged/deducted
342/642	29,978 dozen, of which 19,256 dozen shall be in Category 342, and 10,722 dozen shall be in Category 642.
345	3,736 dozen.
350	11 dozen.
369–D	0.
636	29,959 dozen.
637	11,614 dozen.
651	4,525 dozen.

An additional charge of 192,843 pounds should be made to Category 369–D.

In addition, reduce the limit for the period July 1, 1986 to June 30, 1987 for Category 369–S to account for carryforward used.

Category	12-mo. limit
369–S	966,780 pounds.

Also, effective on May 6, 1987, Category 369–O, a part of Group II shall consist of all TSUSA numbers in Category 369, except 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440, 366.2840 and 366.2860.

[1] In Category 369, only TSUSA number 366.2840 (formerly 366.2740).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for the consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provision of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-10195 Filed 5-4-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Organization of the Joint Chiefs of Staff; National Defense University Board of Visitors Meeting

AGENCY: National Defense University, DOD

ACTION: Notice of meeting.

SUMMARY: The President, National Defense University has scheduled a meeting of the Board of Visitors.

DATE: The meeting will be held between 0830–1200 and 1330–1600, June 5, 1987.

ADDRESS: The meeting will be held in the Hill Conference Center of Theodore Roosevelt Hall (Building 61), Fort Lesley J. McNair, Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Director, University Plans and Programs, National Defense University, Fort Lesley J. McNair, Washington, DC 20319–6000, phone 475–1145, to reserve space.

SUPPLEMENTARY INFORMATION: The agenda will include present and future educational and research plans for the National Defense University and its components. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis.

P.H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 29, 1987.

[FR Doc. 87-10106 Filed 5-4-87; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Privacy Act of 1974; Blanket Routine Use Amendment to DoD Systems of Records

AGENCY: Office of the Secretary of Defense (OSD), DOD.

ACTION: Notice of an amended Blanket Routine Use for DoD system of records.

SUMMARY: The Office of the Secretary of Defense is publishing for public comment a notice of an amended Blanket Routine Use which is applicable to all the existing systems of records of the DoD Components subject to the Privacy Act of 1974.

DATE: This proposed action will be effective, without further notice, June 4, 1987, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Aurelio Nepa, Jr., Defense Privacy Office, Room 205, 400 Army Navy Drive, Arlington, VA 22202–2803. Telephone: 202–694–3027, Autovon: 224–3027.

FOR FURTHER INFORMATION CONTACT: Aurelio Nepa, Jr. at the above address and telephone number.

SUPPLEMENTARY INFORMATION: Certain blanket "routine uses", as defined under the Privacy Act of 1974 (5 U.S.C. 552a(a)(7)) have been established within the Department of Defense and, unless specifically stated otherwise within a particular record system, these blanket routine uses are applicable to every record system maintained within the DoD. These blanket routine uses of the records are published only once at the beginning of each DoD Component's listing of record systems notices to the Privacy Act. They are used in the interest of simplicity, economy and to avoid redundancy by avoiding having to repeat them all in each individual record system. The DoD now proposes to amend a blanket routine use. This routine use amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) which requires the submission of an altered system report to OMB and Congress. The specific change to the routine use is set forth below followed by the routine use, as amended, published in its entirety.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 29, 1987.

The following DoD Blanket Routine Use applicable to all DoD Components is amended as follows:

Routine Use-Counterintelligence Purposes (52 FR 4645) February 13, 1987.

Changes: In line four, after the words "outside the DoD" add "or the U.S. Government * * *"

Routine Use-Conterintelligence Purposes

A record from a system of records maintained by this component may be disclosed as a routine use outside the DoD or the U.S. Government for the purpose of counterintelligence activities authorized by U.S. Law or Executive Order or for the purpose of enforcing laws which protect the national security of the United States.

[FR Doc. 87-10107 Filed 5-4-87; 8:45 am]

BILLING CODE 3810-01-M

Organization of the Joint Chiefs of Staff; Joint Strategic Target Planning Staff (JSTPS), Scientific Advisory Group; Closed Meeting

AGENCY: Joint Strategic Target Planning Staff, DOD.

ACTION: Notice of closed meeting.

SUMMARY: The Director, Joint Strategic Target Planning Staff has scheduled a closed meeting of the Scientific Advisory Group.

DATE: The meeting will be held on 3 and 4 June 1987.

ADDRESS: The meeting will be held at Offutt AFB, Nebraska.

FOR FURTHER INFORMATION CONTACT: The Joint Strategic Target Planning Staff, Scientific Advisory Group, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss strategic issues which relate to the development of the Single Intergrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12356, 2 April 1982. Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense. Accordingly, the meeting will be closed in accordance with 5 U.S.C. 552 b(c)(1).

P. H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 30, 1987.

[FR Doc. 87-10159 Filed 5-4-87; 8:45 am]

BILLING CODE 3810-01-M

Commercial Activities Inventory Report and Five Year Review Schedule for FY 1986; Announcement of Publication

AGENCY: DoD.

ACTION: Notice.

SUMMARY: This notice announces the publication of the DoD Commercial Activities Inventory Report and Five Year Review Schedule for Fiscal Year 1986. This document may be obtained by writing to the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402, referring to stock number 008–000–00477–3, and enclosing a check in the amount of $20.00, payable to the Superintendent of Documents.

SUPPLEMENTARY INFORMATION: This document is published under the provisions of OMB Circular A–76, which requires the Department of Defense to publish an annual inventory report of all commercial activities. The OMB also requires that the Department of Defense publish a five year schedule for reviewing all in-house commercial activities. The purpose of the review is to determine whether the in-house method of operation should continue or whether an in-house versus contract cost comparison should be performed to determine the most cost effective method of operation.

Patricia Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 29, 1987.

[FR Doc. 87–10105 Filed 5–4–87; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Scoping Meeting on Environmental Impact Statement on the Safety Enhancement Program for the N Reactor Located at the Hanford Site Near Richland, WA

AGENCY: Department of Energy (DOE).

ACTION: Announcement of Additional Public Scoping Meeting.

SUMMARY: The DOE announces its intent to hold an additional public scoping meeting on the Environmental Impact Statement (EIS) to be prepared on the proposed Safety Enhancement Program (SEP) (Ref.: DOE/RL 87–05, N Reactor Safety Enhancement Program Summary Description, April 1987) for the N Reactor at the Hanford Site near Richland, Washington. The DOE previously announced public scoping meetings to be held in Portland, Oregon; Richland, Washington; and Spokane, Washington (52 FR 12453, April 23, 1987).

The purpose of this notice is to amend the previous Notice of Intent (NOI) to prepare an EIS, by announcing that a public scoping meeting will also be held in Lewistown, Idaho at the date, time and location indicated below. The addition of this scoping meeting also extends the written comment period to May 27, 1987. All Federal, state and local agencies, interested organizations and individuals desiring to submit comments or suggestions for consideration in the preparation of this EIS are invited to do so. Upon completion of the Draft EIS (DEIS), its availability will be announced in the **Federal Register**, at which time comments from the public will again be solicited. Comments received during the DEIS public review period will be used in preparing the Final EIS.

ADDRESSES: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meetings may be submitted to: Mr. Tom Bauman, Office of Communications, U.S. Department of Energy, P.O. Box 550, Richland, Washington 99352.

DATES: To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions on the proposed scope of the EIS are invited from all interested parties. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS are requested by May 27, 1987. Written comments received after this time will be considered to the degree practicable. Written comments should be submitted to Mr. Tom Bauman at the address above.

Public Scoping Meetings: In addition to the scoping meetings announced in the previous Notice of Intent, a public scoping meeting will also be held at the following time and location:

Date: *May 19, 1987* Place: Lewiston High School Auditorium, 1114 9th Avenue, Lewiston, Idaho.

Time: 2:00 p.m.—5:00 p.m. and 7:00 p.m.—10:00 p.m.

Additional information concerning the place and time of day of these scoping meetings may also be announced through local news media and will be available by calling Ofice of Communications, DOE-Richland telephone number (509) 376–7501.

COMMENTS AND SCOPING: All interested parties are invited to submit written comments or suggestions concerning the scope of the issues that should be addressed in the Draft EIS. They may also attend public scoping meetings at which oral comments and suggestions will be received.

DOE will establish procedures governing the conduct of the public scoping meetings. The meetings will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To provide DOE with as much pertinent information as possible and as many views as can be reasonably obtained, and to provide interested persons with equitable opportunities to express their views, the following procedures will be used:

1. Those individuals desiring to make oral comments should mail their requests to Mr. Tom Bauman at the address listed above. DOE reserves the right to arrange the times and schedules of presentations to be heard and to establish procedures governing the conduct of the meeting. By May 8, 1987, interested individuals and organizations should notify DOE in writing of their desire to speak at the Lewiston meeting. Before the meetings DOE will, in turn, notify prospective speakers of the times and schedules for presentations.

Requests should include a telephone number for such notification. Those persons wishing to speak on behalf of an organization should identify their affiliation in their request. Also persons who have not submitted a request to speak in advance may register to speak at the scoping meeting and will be called on to present their comments if time permits. To assure that all persons wishing to make presentations can be heard, a 5 minute limit for each individual has being established.

2. If subsequent to the meetings, any person or organization desires to provide further information for the record it must be submitted to Mr. Tom Bauman at the address listed above by May 27, 1987. Comments received after that date will be considered to the degree practicable.

3. A transcript of the meeting will be taken, retained by DOE, and made available for public review at the locations given below.

Those not desiring to submit comments or suggestions at this time but who would like to receive a copy of the Draft EIS for review and comment when it is issued should notify Mr. Tom Bauman at the address listed above. When the Draft EIS is complete, its availability will be announced in the **Federal Register** and in local news media, and comments will again be solicited.

Related NEPA Documentation: NEPA documents have been or are being prepared for other activities at Hanford that are related to but not within the scope of the proposed SEP. These EIS's are:

1. U.S. Department of Energy, Draft Environmental Impact Statement, Disposal of Hanford Defense High-Level, Transuranic and Tank Wastes,

DOE/EIS–0113, Vol. 1, 2, and 3, March 1986. U.S. Department of Energy, Washington, DC.

2. U.S. Department of Energy, 1972 Final Environmental Impact Statement—Operation of PUREX and Uranium Oxide Plant Facilities, DOE/EIS–0089, 1982. U.S. Department of Energy, Washington, DC.

3. U.S. Energy Research and Development Administration, 1975 Final Environmental Statement, Waste Management Operations, Hanford Reservation, Richland, Washington, Vol. 1 and 2, ERDA–1538. U.S. Energy and Research Development Administration, Washington, DC.

Other Documentation: Copies of the Safety Enhancement Program (Ref.: DOE/RL 87–05, N Reactor Safety Enhancement Program Summary Description, April 1987) and other DOE documents referenced in this notice that are planned to be used in preparing this EIS and other related background information are available for inspection at the following locations:

1. U.S. Department of Energy, Forrestal Building, Freedom of Information Reading Room IE–190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6020.

2. Richland Public Library, Swift and Northgate, Richland, WA 99352, (509) 943–9117.

3. Spokane Public Library, Comstock Building Library, W. 906 Main Avenue, Spokane, WA 99201, (509) 838–4226.

4. Timberland Regional Library, 415 Airindustrial Way SW., Olympia, WA 98501, (206) 943–5001.

5. Multnomah County Library, 801 SW. 10th Avenue, Portland, OR 97205, (503) 233–7201.

6. U.S. Department of Energy, Public Reading Room, P.O. Box 900, Federal Building, Room 157, Richland, WA 99352, (509) 376–8583 .

7. Walla Walla Public Library, 238 E. Alder, Walla Walla, WA 99362, (509) 527–4550.

8. Seattle Public Library, 1000 4th Avenue, Seattle, WA 98104, (206) 625–2665.

9. Lewis and Clark College Library, 8th Avenue and 6th Street, Lewiston, ID 83501, (208) 799–2236.

Signed in Washington, DC, this 30th day of April, 1987, for the United States Department of Energy.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 87–10257 Filed 5–4–87; 8:45 am]

BILLING CODE 6450–01–M

Office of Assistant Secretary of International Affairs and Energy Emergencies

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the return of 5 kilograms of U.S. origin irradiated research reactor fuel from the GRR–1 research reactor in Greece for reprocessing and storage in Department of Energy facilities. The return of highly enriched uranium (HEU) is consistent with U.S. nonproliferation policy in that it serves to reduce the amount of HEU abroad.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: April 29, 1987.
For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87–10161 Filed 5–4–87; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the return of 20 kilograms of U.S. origin irradiated research reactor fuel from the HFR reactor in the Netherlands for reprocessing and storage in U.S. Department of Energy Facilities. The return of highly enriched uranium (HEU) is consistent with U.S. nonproliferation policy in that it serves to reduce the amount of HEU abroad.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: April 29, 1987.
For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87–10162 Filed 5–4–87; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Japan Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following retransfer:

RTD/JA(EU)–38, for the retransfer of 4 irradiated fuel pins containing 133 grams of uranium enriched to 87.97 percent in the isotope uranium-235, 60 grams of plutonium, and 41 grams of natural uranium, from France to Japan, for post-irradiation examination.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: April 29, 1987.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-10164 Filed 5-4-87; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM), as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above-mentioned agreements for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From Switzerland to France (Compagnie Generale des Matieres Nucleaires) for the purpose of reprocessing, 63 irradiated fuel assemblies, containing 11,175 kilograms of uranium enriched to 1.07% in U-235 and 87 kilograms of plutonium from the Bernische kraftwerk, AG (Muhleberg) Nuclear power station. This subsequent arrangement is designated as RTD/EU (SD)-62. The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored in France, and will not be transferred from France, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two periods referred to above shall run concurrently.

Dated: April 29, 1987.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-10163 Filed 5-4-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-335-000, et al.]

Electric Rate and Corporate Regulation Filings; Bangor Hydro-Electric Co.; et al.

April 28, 1987.

Take notice that the following filings have been made with the Commission:

1. Bangor Hydro-Electric Company

[Docket No. ER87-335-000]

Take notice that the Bangor Hydro-Electric Company ("BHE") on April 6, 1987, tendered an amendment to its filing for an initial rate schedule, a transmission contract ("Transmission Contract") dated as of August 19, 1985 between BHE and Boston Edison Company ("BECO") as amended by a Letter Agreement Amending Transmission Contract dated as of November 21, 1986, between the same parties (the "Amendment") (the Transmission Contract and the Amendment shall hereinafter be collectively referred to as the "Contract"). Assuming transmission of the full 22,800 kilowatts contracted for, BHE would receive approximately $124,716 for the initial twelve-month period of service under the Contract.

Under the Contract, beginning on or after the commencement date of operation of the generating facility of Down East Peat, L.P. ("DEP") located in Deblois, Maine, BHE will provide transmission service to BECO for a maximum of 22,800 kilowatts on the basis of a cost-of-service charge. Copies of the filing have served on BECO.

Comment date: May 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Georgia Power Company

[Docket No. ER87-397-000]

Take notice that Georgia Power Company on April 21, 1987 tendered for filing proposed changes in its FERC Rate Schedule No. 704. The proposed changes provide for an additional delivery point pursuant to the Interchange Agreement between Georgia Power Company and the Tennessee Valley Authority.

Copies of the filing were served upon Tennessee Valley Authority.

Comment date: May 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Golden Spread Electric Cooperative, Inc.

[Docket No. ER87-396-000]

Take notice that Golden Spread Electric Cooperative, Inc. ("Golden Spread"), on April 20, 1987, tendered for filing initial rate schedules, designated Rate Schedule Nos. 1 through 11, pursuant to section 205 of the Federal Power Act and § 35.12 of the regulations of the Federal Energy Regulatory Commission ("FERC" or "Commission").

Pursuant to Rate Schedule Nos. 1 through 11, Golden Spread will provide wholesale firm service for resale to the following cooperatives:

Full requirements customers	Rate schedule No.
Bailey County Electric Cooperative Association	1
Deaf Smith Electric Cooperative, Inc.	2
Greenbelt Electric Cooperative, Inc.	3
Lamb County Electric Cooperative, Inc.	4
Lighthouse Electric Cooperative, Inc.	5
Midwest Electric Cooperative, Inc.	6
North Plains Electric Cooperative, Inc.	7
Rita Blanca Electric Cooperative, Inc.	8
South Plains Electric Cooperative, Inc.	9
Swisher Electric Cooperative, Inc.	10
Tri-County Electric Cooperative, Inc.	11

These Rate Schedules consist of Wholesale Power Contracts whereby Golden Spread will provide the above-listed cooperatives with three-phase, 60 Hertz electric service at the available standard transmission voltage of 69 KV or above. The agreements contemplate an effective date of May 27, 1987. They continue in force for 10 years, and thereafter until terminated by either party's giving not less than two years' prior notice, or by a superseding agreement.

Golden Sprend requests that Rate Schedule Nos. 1 through 11 become effective on May 27, 1987. The Rate Schedules include formulas which track the cost of service provided to Golden Spread by Southwestern Public Service Company ("SPS") pursuant to other FERC-jurisdictional rate schedules, as well as formulas designed to recover

certain operating expenses of Golden Spread. The tariff also provides for a fixed service charge of $500 per member to recover directors' costs, and an administrative charge not to exceed $0.001 per kwh to recover certain administrative costs. Golden Spread requests that the Commission waive its notice and filing requirement to allow its directors to authorize adjustments in the administrative charge without the requirement of prior notice and filing so long as the charge does not exceed $0.001 per kwh in any billing period.

Comment date: May 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Iowa Electric Light and Power Company

[Docket No. ER87-398-000]

Take notice that Iowa Electric Light and Power Company (Iowa Electric), on April 21, 1987, tendered for filing an interchange agreement between the Board of Public Utilities of Springfield, Missouri and itself.

Comment date: May 12, 1987, in accordance with Standard Paragraph E at the end of this document.

5. Iowa Electric Light and Power Company

[Docket No. ER87-399-000]

Take notice that Iowa Electric Light and Power Company (Iowa Electric), on April 21, 1987, tendered for filing a proposed rate for third party purchase and resale transactions. The rate applies to any party connected to Iowa Electric with service schedules providing for third party purchase and resale transactions.

Comment date: May 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. The United Illuminating Company

[Docket No. ER87-136-000]

Taken notice that on April 20, 1987, the United Illuminating Company ("UI") tendered for filing its Second Amendment to its initial Rate Schedule, Docket No. ER87-136, a Unit Sale Agreement (the "Agreement") between UI and UNITIL Power Corporation ("UNITIL Power"). The Amendment provides additional information requested by the Commission.

UI renewed its request that the Commission waive its standard notice period and allow the Agreement to become effective on October 1, 1986.

UI states that a copy of this Amendment has been mailed to UNITIL Power, Bedford, New Hampshire.

UI further states that the filing is in accordance with section 35 of the Commission's Regulations.

Comment date: May 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Utah Power & Light Company

[Docket No. ER87-331-000]

Take notice that on April 17, 1987, Utah Power & Light Company ("Utah") tendered for filing new Service Agreements providing for sales under Service Schedules UTAH-1B of Volume 2 of Utah's FERC Electric Tariff under which Utah sells and delivers nonfirm energy to electric ultilities. This Notice of Amendment to Filing is intended to supplement Utah's Notice of Filing made on March 20, 1987. The new 1B Service Agreements are with the following:

City of Anaheim, Public Utilities Department
City of Burbank, Public Service Department
Deseret Generation and Transmission Cooperative
City of Glendale, Public Service Department
City of Pasadena
City of Provo
City of Vernon

Utah inadvertently provided the Commission with two sets of UTAH-1C Service Agreements and the 1B Agreements were not included in the original filing. Therefore, Utah has now tendered for filing copies of the Service Agreements providing for sales under Service Schedule's UTAH-1B. Except as otherwise stated herein, all terms of UP&L's filing dated March 20, 1987 shall remain the same.

Copies of this filing were served on the parties listed above, and upon the Public Service Commission of Utah.

Comment date: May 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-10149 Filed 5-4-87; 8:45 am]
BILLING CODE 6717-91-M

[Docket No. ER84-334-001]

Maine Yankee Atomic Power Co.; Motion To Amend Settlement Agreement and Order Establishing Time To Respond

April 30, 1987.

Take notice that on April 28, 1987, Maine Yankee Atomic Power Company (Maine Yankee) filed a proposal to modify the Settlement Agreement previously approved in Maine Yankee Atomic Power Company, Docket No. ER84-344-001. *See* 31 FERC ¶ 61,068 (1985). The proposal, if placed into effect, would:

(1) Reduce Maine Yankee's return on equity in its power sales contract formula from 15.50% to 13.60%, effective June 1, 1987,

(2) Require Maine Yankee to add to its power sales contract an annual return-on-equity reopener provision under certain conditions;

(3) Increase its Decommissioning Trust Fund collections by an additional $796,000, on an annual basis, and

(4) Result in the dismissal of a compliant filed against Maine Yankee by the Connecticut Division of Consumer Counsel in Docket No. EL87-12-000.

This proposal constitutes a motion under Rule 212 of the Commission's Rules of Practice and Procedure, answers to which, under Rule 213, normally would be due on May 13, 1987. Because the Commission presently has under consideration the question of whether it should institute a section 206 proceeding to investigate Maine Yanke's return on equity and related matters, all interested persons are directed to file any answers to Maine Yankee's motion by May 8, 1987.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-10150 Filed 5-4-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL87-35-000]

Savannah Electric and Power Co.; Filing

April 30, 1987.

Take notice that on April 28, 1987, Savannah Electric and Power Company

(Savannah Electric) tendered for filing a petition for a declaratory order by the Commission disclaiming jurisdiction over a proposed corporate reorganization.

Savannah Electric states in its petition that it is a public utility incorporated under the laws of Georgia. Savannah Electric further states that its general operations and securities issues are, for the most part, subject to the jurisdiction of the Georgia Public Service Commission. Savannah Electric is contemplating a corporate reorganization through which it will become a wholly-owned subsidiary of Savannah Energy Resources Company, a Georgia corporation. The proposed reorganization would more clearly separate Savannah Electric's utility assets and business from its nonutility assets and businesses and permit the new parent company, through nonutility subsidiaries, to operate more easily in nonutility business areas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 15, 1987. Protests will be considered by the Commission in determining the action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-10151 Filed 5-4-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed; Period of March 9 Through April 3, 1987

During the period of March 9 through April 3, 1987, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 29, 1987.

LaJet, Inc., et al., Aurora, Colorado, KRO-0510, crude oil

On April 2, 1987, LaJet, Inc., 14190 E. Evans Avenue, Aurora, Colorado 80014, LaJet Petroleum Company, 3130 Antilley Road, Abilene, Texas 79606, and Texas NAPCO, Inc., 3130 Antilley Road, Abilene, Texas 79606 (collectively "LaJet") filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE's Economic Regulatory Administration (ERA) issued to the firms on February 13, 1987. On April 2, 1987, the Controller of the State of California also filed a Notice of Objection to the PRO. In the PRO, the ERA found that during February 1978 through September 1980, LaJet miscertified its crude oil receipts in violation of 10 CFR 211.66(b) and (h), and engaged in a course of conduct designed to "recertify" crude oil delivered to its refinery. According to the PRO, these actions circumvented and contravened 10 CFR 211.67 in violation of 10 CFR 205.202. The PRO alleges that as a result of the violations, the firms evaded entitlements purchase obligations of $91,172,025.

San Joaquin Oil Co., Westminister, California, KRO-0480, crude oil

On March 30, 1987, the San Joaquin Oil Company and San Joaquin Refinery Co. (collectively "San Joaquin") filed a Notice of Objection to a revised Proposed Remedial Order which the DOE's Economic Regulatory Administration had issued to the firm on March 4, 1976. According to the revised PRO, during the period September 1, 1973, through March 31, 1975, San Joaquin overcharged 75 customers in violation of 6 CFR 150.355 and 10 CFR 212.82. The revised PRO states that the violations resulted in $1,751,994 of overcharges.

Southwestern Refining Co., Incorporated, The Crude Company, LaBarge, Wyoming, Casper, Wyoming, KRO-0490, crude oil

On March 30, 1987, Southwestern Refining Company, Inc., (Southwestern), LaBarge, Wyoming 83123, and The Crude Company, 701 West Antler, Casper, Wyoming 82601, filed Notices of Objections to a Proposed Remedial Order which the DOE's Economic Regulatory Administration (ERA) issued to the firms on December 15, 1987. According to the PRO, during the months of January through May 1977, Southwestern violated the requirements of the Entitlements Program at 10 CFR 211.66 and 211.67 by improperly receiving small refiner bias entitlements for certain volumes of crude oil that it did not own. The PRO also alleges that the activities of Southwestern and The Crude Company in these transactions constituted a joint venture for which both parties are liable. The PRO states that the violation resulted in $1,202,143.07 of unwarranted entitlements benefits and directs that this amount, plus interest, be refunded to the DOE for distribution pursuant to 10 CFR Part 205, Subpart V.

[FR Doc. 87-10170 Filed 5-4-87; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $475,000 (plus accrued interest) obtained from Plaquemines Oil Sales Corporation. The funds will be distributed in accordance with DOE's special refund procedures pursuant to 10 CFR Part 205, Subpart V.

DATE AND ADDRESS: Comments must be filed in duplicate by [30 days from date of publication in the **Federal Register** and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should display conspicuously a reference to the applicable Case Number KEF-0039.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, or Fran Cohen, Attorney, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), notice is hereby given of the issuance of the Proposed Decision and Order set out below. 10 CFR 205.282(b). The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute monies obtained from Plaquemines Oil Sales Corporation (POSC). The firm remitted monies to the DOE to settle possible pricing violations with respect to its sale of No. 2 diesel fuel. Additional information concerning identified customers of POSC during the audit period and their potential refund amount

is contained in the Appendix to the Proposed Decision and Order. The firm's payment is being held in an interest-bearing escrow account pending distribution by the DOE.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: April 24, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 24, 1987.

Name of Firm: Plaquemines Oil Sales Corporation

Date of Filing: May 21, 1986

Case Number: KEF–0039

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The ERA filed a petition on May 21, 1986 requesting that the OHA implement a special refund proceeding to distribute funds received pursuant to a final settlement between the DOE and Plaquemines Oil Sales Corporation (POSC).

I. Background

POSC was a "reseller-retailer" of No. 2 diesel fuel as that term was defined in 10 CFR 212.31 and was subject to the DOE Mandatory Petroleum Price Regulations. On the basis of an audit of the firm's pricing practices during the period November 1, 1973 through August 31, 1975, it was alleged that POSC overcharged its customers in sales of No. 2 diesel fuel.[1]

On September 19, 1980, the ERA issued a Proposed Remedial Order (PRO) in response to the remand order, affirming the essential allegations of the original Remedial Order but reducing the amount of the alleged overcharges to $331,572.44. A Remedial Order issued by the OHA on February 16, 1982, finalized the 1980 PRO, but reduced the overcharge amount to $331,473.44. *Plaquemines Oil Sales Corp.*, the 9 DOE ¶ 83,017 (1982). On April 16, 1982, POSC filed a petition for judicial review of the final order, and the DOE counterclaimed seeking enforcement of the order.

Subsequently, the DOE and POSC agreed to settle all issues involved in the litigation and signed a joint Motion to Dismiss the civil action which was approved by the court on October 1983. *Plaquemines Oil Sales Corp.* v. *DOE*, No. 82–1541 (E.D. La.). As part of the settlement, POSC remitted $475,000 (the settlement amount) to the DOE for deposit in an interest bearing escrow account maintained by the Department of the Treasury. This amount consists of the $331,473.44 of overcharges found in the February 16 Remedial Order plus $143,526.53 in accrued interest on those overchanges.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is the DOE policy to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*). After reviewing the record in the present case, we have concluded that a Subpart V proceeding is an appropriate mechanism for distributing the settlement fund. We therefore propose to grant the ERA's petition and assume jurisdiction over distribution of the fund.

III. Proposed Refund Procedures

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will attempt to provide refunds to identifiable purchasers of No. 2 diesel fuel who may have been injured by POSC's pricing practices. If any funds remain after all meritorious first-stage claims have been paid, they will be distributed to the state and federal governments in accordance with the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99–509, Title III, *reprinted in* Fed. Energy Guidelines ¶ 11,703.

A. Refund Claimants

Insofar as possible, the settlement amount of $475,000 will be distributed to those POSC customers who were injured by POSC's pricing practices. We expect that claimants will fall into one of two general categories: (i) Resellers, retailers or refiners who resold POSC No. 2 diesel fuel, or (ii) individuals or firms that consumed POSC No. 2 diesel fuel for their own use (end-users). A list of identified customers, together with a schedule of the amounts they were overcharged, was attached to the PRO issued by the ERA on September 19, 1980. The firms on this list, who constitute potential refund claimants, are set forth in the Appendix to this Proposed Decision and Order. The list also includes a category of unidentified purchasers, entitled "Other End-Users." It appears from an examination of the audit files that there were five unidentified end-user customers overcharged by POSC during the audit period. If a firm establishes that it is one of these unidentified parties, it will be eligible for a refund. We propose to accept refund applications from the customers identified in the Appendix and any other parties who can demonstrate that they were injured by POSC's pricing practices.

1. Showing of Injury

We propose to require claimants who resold POSC No. 2 diesel fuel to demonstrate that they would have maintained their prices for that product at the same level had the alleged overcharges not occurred. A reseller applicant (including retailers and refiners) will generally be required to show that at the time it purchased No. 2 diesel fuel from POSC, market conditions would not permit it to increase its prices to pass through to its

[1] On June 7, 1976 the Federal Energy Administration (FEA), predecessor to the DOE, issued a Remedial Order to POSC which found that the firm overcharged certain No. 2 diesel fuel customers in the amount of $344,559.62. POSC's appeal of the Remedial Order was denied by the FEA Region VI on January 20, 1977. Subsequently, the United States District Court for the Eastern District of Louisiana remanded the order to the DOE for consideration of several issues. *Plaquemines Oil Sales Corp.* v. *FEA*, 461 F. Supp 276 (E.D. La. 1978).

customers the additional cost associated with the overcharges. *See OKC Corp./Hornet Oil Co.*, 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). A reseller must also generally show that it had a bank of unrecovered increased costs in order to demonstrate that it did not subsequently recover the costs by raising its prices. We realize that some applicants may be unable to provide actual cost bank records relating to the consent order period. We therefore are willing to accept information establishing with reasonable likelihood that a claimant had banks. *Seminole Refining Inc.*, 12 DOE ¶ 85,188 (1985); *Bayou State Oil Corp.*, 12 DOE ¶ 85,197 (1985). The maintenance of a bank does not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982).

2. Small Claims Presumption

We also propose to adopt a small claims presumption of injury which has been used in many previous special refund cases. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of diesel fuel from POSC. For example, such firms may have limited accounting and data-retrieval capabilities and therefore may be unable to produce the records necessary to prove the existence of banks of unrecovered costs or that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984). We propose to adopt such a procedure in this case. Therefore, we propose that any reseller claiming a refund of $5,000 or less need only document its purchase volumes rather than make a detailed showing of injury in order to be eligible to receive a refund.[2]

3. End-Users

As in many other refund proceedings, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges covered by the POSC settlement. Unlike regulated firms in the petroleum industry, members of this group were generally not subject to price controls during the audit period, and were not required to keep records which justified selling price increases by reference to cost increases. *See, e.g., Marion; Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984). We therefore propose that end-users of POSC products need only document their diesel fuel purchase volumes to make a sufficient showing that they were injured by the alleged overcharges.

4. Spot Purchasers

We also propose to adopt a rebuttable presumption that resellers which made only spot purchases of POSC diesel fuel have suffered no injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and therefore would not have made spot purchases of POSC product at increased prices unless they were able to pass through the full amount of the overcharges to their own customers. *See Vickers*, 8 DOE at ¶¶ 85,396–97. Accordingly, any reseller claimant who was a spot purchaser must submit evidence to rebut the spot purchaser presumption and establish the extent to which it was injured by the spot purchase(s).

5. $15 Minimum

We also propose to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See Uban Oil Co.*, 9 DOE ¶ 82,541 (1982); *see also* 10 CFR 205.286(b).

B. Calculation of Refund Amount

In order to calculate each identified customer's potential refund we propose to use the "Schedule of Refunds Due Purchasers" appearing as Attachment I to the Sepember 19, 1980 PRO. (See Appendix to this Decision.) The schedule lists 29 identified purchasers and the amount by which each was allegedly overcharged. It also contains a listing for "Other End-Users" and the total amount by which that class of purchasers was allegedly overcharged. Since the present settlement amount differs from the total overcharge amount alleged in the PRO, it is necessary to recalculate each purchaser's individual amount.[3] We have calculated the percentage of the alleged overcharge amount allotted each purchaser in the attachment to the PRO and have multiplied that percentage by the total settlement amount. In addition, successful applicants will receive a pro rata share of the interest which has accrued since the deposit of the funds into the escrow account.

For firms who fall into the category of "Other End-Users," we propose to adopt a volumetric refund presumption. The pro rata or volumetric refund presumption assumes that alleged overcharges by a firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

Under the volumetric system we plan to adopt for unidentified end-users, a claimant will be eligible to receive a refund equal to the number of gallons of No. 2 diesel fuel purchased from POSC between November 1, 1973 through August 31, 1975, times the volumetric factor. The volumetric factor for this refund pool equals $0.023772 per gallon.[4] In addition, successful claimants from this refund pool will receive a proportionate share of the interest which has accrued since the deposit of the funds in the escrow account.

IV. Conclusion

Refund applications in this proceeding should not be filed until issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in that final Decision. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing copies of the

[2] As in prior special refund proceedings, reseller applicants whose potential refund is for a larger amount may choose to limit their claims to $5,000, in lieu of making a detailed showing of injury.

[3] At the time the PRO was issued to Plaquemines, the total alleged overcharge was $331,572.44. However, as indicated above, the final settlement amount has been determined to be $331,473.44, and it is that amount, plus accrued interest of $143,526.56, which will be allocated among the 29 identified purchasers and the class of other end-users.

[4] The $0.023772 volumetric factor was derived by dividing the proportionate share of the settlement amount attributable to "other end-users" ($39,921.44) by 1,679,311, the total number of gallons of No. 2 diesel sold by POSC to unidentified end-user purchasers during the November 1, 1973 through August 31, 1975 period.

proposed and final decision in the **Federal Register**, copies will be provided to the POSC customers whose names and addresses we have obtained from the DOE audit files.

It Is Therefore Ordered That: The refund amount remitted to the Department of Energy by Plaquemines Oil Sales Corporation pursuant to the Joint Motion to Dismiss approved by the United States District Court for the Eastern District of Louisiana on October 31, 1973, will be distributed in accordance with the foregoing Decision.

APPENDIX

Identified purchasers	Potential refund
Ayers Company	$32,684.80
Brown & Root	5,963.63
*Canal Workover	402.33
Celotex Corporation	13,523.25
Coastal Tugs	2,026.83
*De Felice Marine	3,467.03
Dockside Floating Elevator	9,885.23
Dowell Div. of the Dow Chemical Co.	656.93
Exxon, USA	2,308.03
*Harris Well Service	3,668.90
*Latex Drilling	1,499.10
J. Ray McDermott	4,140.58
Mobil Oil Corporation	27,105.46
*Nicklos Drilling	1,517.63
ODECO	1,510.03
Pennzoil Producing	484.50
Penrod Drilling Company	9,847.70
*Sanders Drilling Company	1,669.63
Shell Oil Company	133,015.26
*Storm Drilling Company	2,997.73
Strachan Shipping	21,329.40
Corps of Engineers	5,415.95
Gulf Coast Service Stations	5,736.58
*Buras Fuel Dock	52,473.30
Crais Oil Company	42,648.40
Delta Marine	32,225.95
Gulf Seafood	1,611.68
*Little Lake Oyster	13,397.38
Peppo Oil Works	1,865.33
*Other End-Users	**39,921.44
Total	$475,000.00

**We are unable to determine the present location of these companies, and we hereby solicit this information. With regard to "Other End-Users," we solicit both their identity and their location.

**Volumetric refund amount of $0.023772 per gallon.

[FR Doc. 87-10172 Filed 5-4-87; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for refunding to adversely affected parties the $134,874 obtained as a result of consent orders between the DOE and the following firms:

Inman Oil Company of Salem, Missouri.

Leo's-Winstead's, Inc. of Blue Springs, Missouri.

The funds are being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund of a portion of the funds must be filed within 90 days of this notice's publication in the **Federal Register.** Applications should be filed in duplicate, and should refer to the appropriate case number: HEF-0097 for Inman, and HEF-0014 for Leo's. Address applications to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision concerns the disbursement of the $134,874 that the DOE obtained under the terms of consent orders with Inman Oil Company, Inc. and Leo's-Winstead's Inc. The Decision finalizes the refund procedures that were outlined in a Proposed Decision and Order issued October 20, 1986. 51 FR 39,572 (October 29, 1986).

Inman and Leo's remitted the funds to settle all claims and disputes with the DOE regarding the manner in which each firm applied the federal price regulations to its sales of petroleum products. The Inman consent order covered the firm's sales between January 1, 1979, and July 31, 1979; the Leo's consent order covered the firm's sales between November 1, 1973, and April 30, 1974. Firms or individuals that purchased petroleum products from Inman or Leo's during these time periods may be eligible to receive a portion of the consent order funds.

DOE audit records identify 37 Inman customers and 15 Leo's customers whom the firms' alleged pricing violations may have injured. To apply for a refund, a purchaser identified in the audit files must submit a statement verifying that it was an Inman or Leo's customer and is willing to rely on the audit file date. An identified purchaser applying for a refund greater than $5,000 must prove that it did not pass along the alleged overcharges to its own customers.

The audit files indicate that DOE officials were unable to identify certain customers whom Inman and Leo's allegedly overcharged for motor gasoline. To apply for a refund, a purchaser not identified in the audit files must submit a monthly schedule of the gallons of motor gasoline it purchased from Inman or Leo's during the period covered by the appropriate consent order. Like an identified purchaser, an unidentified customer claiming a refund greater than $5,000 must submit detailed proof of injury.

As the Decision and Order published with this Notice indicates, those who purchased petroleum products from Inman between January 1, 1979 and July 31, 1979, or from Leo's between November 1, 1973 and April 30, 1974 may now apply for refunds. Applications for Refund must be filed within 90 days of this Decision's publication in the **Federal Register.** The Decision explains the specific information required in an Application for Refund.

Dated: April 24, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 24, 1987.

Names of Firms:
Inman Oil Company
Leo's-Winstead's, Inc.

Dates of Filing:
October 13, 1983
October 13, 1983

Case Numbers:
HEF-0097
HEF-0114

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. On October 13, 1983, ERA filed Petitions for the Implementation of Special Refund Procedures in connection with consent orders entered into with Inman Oil

Company (Inman) and Leo's-Winstead's, Inc. (Leo's). This Decision and Order describes the procedures which the OHA has established to distribute funds received pursuant to those consent orders.

I. Background

Inman and Leo's are both "reseller-retailers" of petroleum products as that term was defined in 10 CFR 212.31. Inman is located in Salem, Missouri; Leo's is located in Blue Springs, Missouri. DOE audits of each firm's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. Subsequently, each firm signed a separate consent order with the DOE. Each consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. In addition, each consent order states that the subject firm does not admit that it violated the regulations.

The DOE audit of Inman alleged that between January 1, 1979, and July 31, 1979, Inman committed possible pricing violations in its sales of motor gasoline. The consent order, signed June 23, 1980, settled all disputes between the DOE and Inman regarding the audit's allegations. In the consent order, Inman agreed to pay $19,000, in four installments, into an interest-bearing escrow account for ultimate distribution by the DOE. Of this amount, $5,764 represented alleged overcharges to Inman customers identified in the audit. The remaining $8,486 represented overcharges to as yet unidentified customers. Inman paid the first installment on July 1, 1980, the second on December 30, 1980, and the third on June 30, 1981. Inman has not yet paid the final installment.[1]

The DOE audit of Leo's alleged that between November 1, 1973, and April 30, 1974, the firm committed possible pricing violations in its sales of motor gasoline, No. 1 and No. 2 fuel oil. The consent order, signed on September 3, 1981, resolved a May 23, 1979 Proposed Remedial Order (PRO) which recommended remedial action against Leo's for its alleged overcharges. In signing the consent order, Leo's agreed to deposit $115,874, in 24 equal monthly installments, into an interest-bearing escrow account for later distribution by the DOE. The $115,874 represented 63.866 percent of the total amount Leo's allegedly overcharged its customers. Leo's paid the first installment on schedule on September 14, 1981, but was delinquent in its payments after April, 1982. Subsequently, ERA and Leo's negotiated a revised payment schedule.[2] In the negotiations, Leo's agreed to resume regular payments until it had paid the full $115,874 stipulated in the consent order.[3]

The OHA outlined tentative procedures for distributing the Inman and Leo's consent order funds in a Proposed Decision and Order issued October 20, 1986, 51 FR 39572 (October 29, 1986). In order to notify all potentially affected parties, the Proposed Decision was published in the **Federal Register**. In addition, copies of the Proposed Decision were mailed to Inman and Leo's customers identified in the ERA audits, various petroleum dealers' associations, and others who had expressed interest in the proceedings. The OHA allowed 30 days for interested parties to comment on the proposed refund procedures.

Comments regarding the distribution of any funds that remain after injured parties have received refunds were submitted collectively on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia. Since this Decision concerns only compensation to parties that the alleged overcharges injured directly, those comments will not be addressed individually. After all claims have been processed, any remaining funds will be distributed in accordance with the recently enacted Petroleum Overcharge Distribution and Restitution Act of 1986. PODRA Notice, *supra* note 1. Since no other comments were received, the refund procedures outlined in the Proposed Decision will be adopted.

II. Presumptions Used to Formulate Refund Procedures

The DOE procedural regulations set forth general guidelines for OHA to follow in devising a plan to distribute funds received following an enforcement proceeding. 10 CFR Part 205, Subpart V. These guidelines, known as Subpart V, may be used to compensate persons possibly injured by a firm's alleged violations of the Mandatory Petroleum Price Regulations. The Subpart V process is used to determine both who the firm's alleged pricing violations injured, and the amount of their injuries. For a detailed description of Subpart V procedures, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

In implementing the Subpart V procedures, we must consider whether refund applicants were injured by the alleged overcharges, or, alternatively, whether they passed through the overcharges to their own customers. To help determine the level of a purchaser's injury without incurring inordinate expenses, we will adopt three rebuttable presumptions and two findings regarding injury, discussed below. (DOE procedural regulations specifically authorize the use of presumptions and findings in refund cases. *See* 10 CFR 205.282(e).)

The first presumption is that the alleged overcharges injured Inman or Leo's customers claiming small refunds. Without this presumption, each applicant would have to sort through records dating as far back as 1973 to gather proof that it absorbed the alleged overcharges. The cost to the applicant of gathering this information, and to OHA of analyzing it, could exceed the actual refund amount. Therefore, in this case, as in numerous similar cases, applicants claiming refunds under $5,000 will not need to submit detailed proof of injury. *See Texas Oil & Gas Corp.; Office of Special Counsel*, 11 DOE ¶ 85,226 (1984), and cases cited therein.

The second presumption is that Inman's and Leo's alleged overcharges did not injure spot purchasers. Because they were not obliged by contract to purchase fixed volumes from Inman or Leo's, spot purchasers had considerable discretion as to when and where they bought their petroleum products. Thus, a spot purchaser would not have bought from Inman or Leo's at an increased price unless it knew it could pass through all the costs to its own customers. *See Vickers*, 8 DOE at 85,396–97. A spot purchaser, therefore, will not receive a refund unless it presents evidence to rebut this presumption and establish the extent of its injury.

The final presumption is that the alleged pricing violations did not injure consignee agents. *See Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). A consignee is under contract with a refiner to sell petroleum products in the refiner's name at prices that the refiner sets. The contract guarantees that the

[1] On December 18, 1986, $9,034 was disbursed from the Inman escrow account in accordance with the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), H.R. 5300, Title III, 99th Cong., 2d Sess., Cong. Rec. H11319–21 (daily ed. October 17, 1986) ("PODRA Notice"). As of March 31, 1987, the Inman escrow account contained $16,821, including accrued interest.

[2] *See* October 23, 1985 memorandum of telephone conversation between OHA Staff Analyst Sharon Dennis and Allan Finkel of ERA's Settlements Division.

[3] On December 18, 1986, $68,673 was disbursed from the Leo's escrow account in accordance with PODRA. PODRA Notice, *supra* note 1. As of March 31, 1987, the Leo's escrow account contained $59,790, including accrued interest.

consignee's sales commission remains fixed regardless of whether the refiner raises its prices. *Id.* at 88,200. Thus, under normal circumstances, a refiner's alleged pricing violations would not have injured a consignee. There are, however, exceptional circumstances in which alleged overcharges may have injured consignees. For example, a consignee's sales volumes, and consequently its commission revenues, may have dropped because the refiner's prices were significantly higher than market average prices. *Id. See also Gulf Oil Corp./C.F. Canter Oil Co., Inc.*, 13 DOE ¶ 85,388 at 88,962 (1985). Nevertheless, unless a consignee can prove otherwise, we will presume that the alleged overcharges did not injure it.

In addition to these three presumptions, we find that end users (those who used Inman's or Leo's products for purposes other that resale) were injured by the alleged overcharges. Since end users were not subject to price controls, they were not required to keep records showing whether or not they passed through Inman's or Leo's cost increases to their own customers. Thus, an analysis of the impact of the alleged overcharges on end users is beyond the scope of this proceeding.

Finally, we find that public utilities, agricultural cooperatives, or other firms whose prices are regulated by government agencies or cooperative agreements need not submit detailed proof of injury. Such firms would have routinely passed through price increases to their customers. Likewise, their customers would share the benefits of cost decreases resulting from refunds. Such firms applying for refunds should submit plans explaining both how their customers will benefit from a refund, and how they will alert the appropriate regulatory body or membership group to monies received. Such firms should note, however, that their sales to nonmembers will be treated the same as sales by any other reseller.

The findings and rebuttable presumptions discussed above will apply equally to the Inman and Leo's customers identified in the DOE audits, and to those purchasers whom the audits did not identify. The methods for refunding money to identified and unidentified customers are explained below.

III. Refund Procedures for Identified Purchasers

As in previous cases, we will use the information in the audit files to distribute part of the consent order funds. In the Inman case, the audit files identify 37 customers and the portion of the escrow account to which each is entitled. These customers are listed in Appendix 1. In the Leo's case, the audit files identify fifteen first purchasers, one Leo's subsidiary, and several company-owned service stations as allegedly overcharged. Leo's subsidiary (Warren Enterprises) and the company-owned service stations will not be eligible for refunds, since refunding money to these firms would amount to returning consent order funds to Leo's. Appendices 2 and 3 list the remaining identified purchasers. One, Earl's Service, sold on consignment. As explained previously, this consignee will not receive a refund unless it can prove injury. The remaining Inman and Leo's identified purchasers may apply for refunds by submitting written confirmation that they purchased petroleum products from either Inman or Leo's and are willing to rely on the data in the audit files.

IV. Refund Procedures for Other Purchasers

The audit files identify all of the purchasers whom Leo's allegedly overcharged for No. 1 and No. 2 fuel oil. However, the files specifically note that DOE officials were unable to identify all of the customers whom Inman and Leo's allegedly overcharged for motor gasoline. These as yet unidentified motor gasoline purchasers may apply for refunds under a volumetric method.

The volumetric method presumes that the alleged pricing violations were spread equally among all gallons of motor gasoline that Inman and Leo's Sold during the respective consent order periods. Under this method, a successful claimant's refund is computed by multiplying a "volumetric" refund factor by the number of gollons of Inman or Leo's motor gasoline the claimant purchased. The Inman volumetric is $0.0042 per gallon; the Leo's volumetric is $0.0096 per gallon.[4] These figures represent the average dollar refund an applicant may receive per gallon of Inman or Leo's motor gasoline it purchased.

A claimant applying for a refund under the volumetric method must submit a monthly schedule of the number of gallons of motor gasoline it purchased from Inman between January 1, 1979, and July 31, 1979, or from Leo's between November 1, 1973, and April 30, 1974. In addition, a reseller or retailer of Inman or Leo's products whose claim exceeds $5,000 must submit detailed proof that it absorbed the alleged overcharges. Generally, we require such a firm to demonstrate (i) that it maintained a "bank" of unrecovered costs, and (ii) that market conditions did not permit it to pass on the increased costs to its customers in the form of higher prices. Alternatively, such a firm may choose to limit its claim to $5,000. *See Vickers*, 8 DOE at 85,396. *See also Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982).

[4] To compute the Inman volumetric, we divided the $19,000 principal amount by the estimated 4,500,000 gallons of motor gasoline that Inman sold during the consent order period.

To compute the Leo's volumetric, we divided the $105,377 allotted to unidentified purchasers by the 10,951,553 gallons of motor gasoline that Leo's sold to unidentified purchasers during the consent order period.

V. Summary of Refund Application Procedures

We will now accept refund applications from individuals who purchased motor gasoline from Inman between January 1, 1979, and July 31, 1979, or motor gasoline or fuel oil from Leo's between November 1, 1973, and April 30, 1974. There is no specific refund application form. The information that each type of applicant must submit is summarized below:

(1) An applicant that was identified in the audit files must submit a statement verifying that it purchased petroleum products from Inman or Leo's and is willing to rely on the information in the audit files. Identified purchasers are listed in the Appendices.

(2) An applicant that was not identified in the audit files must submit a monthly schedule of the number of gallons of motor gasoline it purchased from Inman between January 1, 1979, and July 31, 1979, or from Leo's between November 1, 1973, and April 30, 1974.

(3) A reseller or retailer of Inman or Leo's products whose claim exceeds $5,000 must submit proof, as explained in section IV of the Decision, that it absorbed and was injured by the alleged overcharges.

(4) A public utility, agricultural cooperative, or other such regulated firm must submit a plan explaining both how its customers will benefit from a refund, and how it will alert the appropriate regulatory body or membership group to funds received. Such a firm applying for a refund greater than $5,000 need not submit proof of injury.

In addition, *each* applicant must submit the following information:

(1) The name and phone number of a person whom this office may contact regarding the refund application;

(2) A statement idicating whether or not the applicant firm has changed ownership since the beginning of the consent order period. If the firm has changed ownership, the applicant must provide the names and addresses of the previous owners. In addition, the

applicant must either state the reasons why it should receive the refund instead of the other owners, or provide a signed statement from the other owners indicating that they do not claim a refund;

(3) A statement indicating whether the applicant has received a refund, from any source, for the alleged overcharges identified in the ERA audits underlying this proceeding;

(4) A statement indicating whether the applicant is or has been involved in any DOE enforcement proceedings or private actions filed under § 210 of the Economic Stabilization Act. If these actions have been concluded, the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must inform OHA of any charge in status while its Application for Refund is pending. *See* 10 CFR 205.9(d);

(5) a signed copy of the following declaration: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

Each applicant must file *two copies* of its claim within 90 days of the date this Decision and Order is published in the **Federal Register.** A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the confidential information has been deleted. Applications must refer to the appropriate case number (HEF–0097 for Inman, or HEF–0114 for Leo's), and must be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

As in previous cases, only claims for at least $15 plus interest will be processed. We have adopted this minimum because the cost of processing claims for smaller amounts outweighs the benefits of restitution. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). In the unlikely event that valid claims exceed the funds in the escrow accounts, claims will be prorated.

It is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Inman Oil Company pursuant to the consent order executed on June 23, 1980, may now be filed.

(2) Applications for Refund from the funds remitted to the Department of Energy by Leo's-Winstead's, Inc. pursuant to the consent order executed on September 3, 1981, may now be filed.

(3) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: April 24, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appendix 1

INMAN OIL COMPANY, CASE NO.: HEF–0097

First purchasers	Share of settlement [1]
Mr. Robert W. Barreth, Barreth Oil, Route 3, Box 293, Union, MO 63084	$118.90
Cooper Oil Co., Inc, Post Office Box 276, Crystal City, MO 63019	172.95
University of Missouri, Rolla, MO 65401	161.50
Sherer Grocery & Service Station, Route 2, Frederickton, MO 63645	126.54
Mr. Richard Prugh (Former owner, MFA Service Station), Route 1, Box 199C, Salem, MO 65560	112.81
Mr. Daniel Satterfield, Bixby Rte., Box 20, Salem, MO 65560	235.52
Clyde Nixon's Service Station, Highway 21 East, Potosi, MO 63664	396.21
MFA Oil Company, Rolla, MO 65401	40.95
Javis Station, Potosi, MO 63664	125.90
Hamilton & Son, Inc., P.O. Box 539, Rolla, MO 65401	534.86
7-11 Store, 1326 Daphlia, Times Beach, MO	264.16
Hocker Service Station, West Rolla Road, Salem, MO 65560	720.43
7-11 Store, 7th & Jefferson, Lebanon, MO 65536	827.83
7-11 Store, Arnold, MO 63010	[2]11.89
Ernie Middleton, Salem, MO 65560	40.66
R & L Zephyr, Highway Y, Viburnum, MO 65566	43.37
Chilton Oil Company, 510 South Main, Salem, MO 65560	81.84
Rolla Public Schools, 6th and Ann, Rolla, MO 65401	40.19
Vienna Quick Shop, Vienna, MO 65582	51.33
Forrest City Conoco, Highway I-44, St. James, MO 65559	42.42
Holsum Bakers, West 10th & Bishop, Rolla, MO 65401	81.61
Ozark Truck Port, V Highway, Rolla, MO 65401	40.42
Eminence Oil Compamy, Eminence, MO 65466	81.23
M.E. Johnson Service Station, Annapolis, MO 63620	83.01

INMAN OIL COMPANY, CASE NO.: HEF–0097—Continued

First purchasers	Share of settlement [1]
Missouri Energy Co., Inc., 304 East High, Potosi, MO 65401	505.21
MFA Service Station, Freeburg, MO 65035	39.95
Stoney Point Service Station, Route 1, Box 444, Mineral Point, MO 63664	54.67
Delmer Feeler, Argyle, MO 65001	39.95
Twin City MFA, Festus, MO 63028	40.97
Hopkins Oil Company, Route 1, Cadet, MO 63630	41.59
Total	5,158.87

[1] These figures do not include interest.

[2] As explained in the Decision, we do not intend to process claims for less than $15.

Appendix 2

INMAN OIL COMPANY, CASE NO.: HEF–0097

First purchasers, addresses unknown	Share of settlement [1]
Don Heil	$204.16
Cooper's Oil	94.65
MFA Service Station,[2] Potosi, MO 63664	40.66
Anderson Conoco,[2] Vichy, MO 65580	163.45
B.P. Service Station,[2] Potosi, MO 63664	20.95
7-11 Store,[2] Salem, MO 65560	38.31
Fred Aron	42.48
Total	604.66

[1] These figures do not include accrued interest.

[2] These firms have gone out of business. We have been unable to locate their former owners, who would be entitled to the refunds.

Appendix 3

LEO'S-WINSTEAD'S, INC., CASE NO.: HEF–0114

First purchasers	Share of settlement [1]
Earl's Service[2] (Station No. 61), 1044 Osage, Kansas City, KS 66105	$995.82
Quick Trip No. 187, County Rd. 45 & Lake Crest Rd., Parkville, MO 64152	475.89
McCall's, 8680 West 96th Street, Shawnee Mission, KS 66212	1,852.24
Wingert Oil, Post Office Box 212, Ottawa, KS 66067	695.48
Home Oil, 605 Cherry, Belton, MO 64012	940.32

LEO'S-WINSTEAD'S, INC., CASE NO.: HEF-0114—Continued

First purchasers	Share of settlement[1]
Marcum Liberty Distributing Co., 124 Florence, St. Joseph, MO 64504	912.16
Intercity Excavation Company, 5300 Lewis, Kansas City, MO 64129	607.88
Butler Manufacturing Company, 700 Karnes, Kansas City, MO 64108	1,122.82
Botsford Ready-Mix Company, 4701 Coal Mine Road, Kansas City, MO 64130	552.14
Hamilton Hauling Co., Inc., 5420 E. 10th Street, Kansas City, MO 64127	121.67
Total	8,301.33

[1] These figures do not include accrued interest.

[2] This firm sold on consignment for Leo's. As explained in the Decision, consigness will not receive refunds unless they can prove injury.

Appendix 4

LEO'S-WINSTEAD'S, INC., CASE NO.: HEF-0114

First purchasers, addresses unknown	Share of settlement[1]
Interstate Trucking	$24.91
Keith Hudson/Keith's Service	1,889.44
L.J. Mobry	198.03
Mike Raysik	57.36
R&W Transport	50.29
Total	2,195.12

[1] These figures do not include accrued interest.

[FR Doc. 87-10173 Filed 5-4-87; 8:45 am]

BILLING CODE 6450-01-M

Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedues for disbursement of $150,000 (plus accrued interest) obtained pursuant to a consent order between the DOE and Tresler Oil Company. The funds will be distributed to refund applicants who purchased motor gasoline from Tresler during the period May 1975 through April 1980 (the consent order period).

DATE AND ADDRESS: Applications for refund must be filed within 90 days of publication of this notice in the **Federal Register** and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All applications should be filed in duplicate and display a conspicuous reference to Case Number KEF-0091.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the final Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute monies obtained from Tresler Oil Company to settle possible pricing violations with respect to the firm's sales of motor gasoline during the consent order period. Under the terms of the consent order, Tresler remitted $150,000 which is being held in an interest-bearing escrow account.

We will distribute these funds in two stages. In the first stage, we will accept claims from identifiable purchasers of motor gasoline who may have been injured by Tresler's pricing practices during the consent order period. The specific requirements which an applicant must meet in order to receive a refund are set out in Section II of the Decision. Claimants who meet these specific requirements will be eligible to receive refunds based on the number of gallons of motor gasoline which they purchased from Tresler. If any funds remain after meritorious claims are paid in the first stage, they may be used for indirect restitution in accordance with the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99-509, 1 Fed. Energy Guidelines ¶11,702.

Applications for refunds may now be filed by customers who purchased motor gasoline from Tresler during during the consent order period. Applications must be filed within 90 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All applications received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: April 24, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 24, 1987.

Name of Firm: Tresler Oil Company
Date of Filing: March 25, 1986
Case Number: KEF-0019

Under the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate procedures to distribute funds received as a result of enforcement proceedings in order to remedy the effects of actual or alleged violations of DOE regulations. On March 25, 1986, in accordance with the provisions of Subpart V, the ERA filed a Petition for Implementation of Special Refund Procedures in connection with a consent order entered into with Tresler Oil Company (Tresler). This Decision contains the procedures which the OHA has formulated to distribute the funds received pursuant to that consent order.

I. Background

Tresler was a "reseller-retailer" of refined petroleum products, as that term was defined in 10 CFR 212.31. The firm's sales were primarily made in Ohio, Kentucky and Indiana. A DOE audit of Tresler's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. Based on the audit, the ERA issued a Proposed Remedial Order (PRO) on September 14, 1984, alleging that during the period May 1975 through April 1980, Tresler committed certain pricing violations in its sales of motor gasoline.

In order to settle all claims and disputes between Tresler and the DOE regarding the firm's sale of motor gasoline during the period covered by the audit, the parties entered into a consent order on October 9, 1985. Under the terms of the consent order, Tresler deposited $150,000 into an interest-bearing escrow account for ultimate distribution by the DOE. As of March 31, 1987, the total value of the Tresler escrow account was $164,584.73.

On December 12, 1986, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties that

make a reasonable showing of injury as a result of Tresler's alleged overcharges. In order to give notice to all potentially affected parties, a copy of the PD&O was published in the **Federal Register** and comments regarding the proposed refund procedures were solicited. 51 FR 45541 (December 19, 1986). We received no comments concerning the procedures, so they will be adopted as proposed.

II. Refund Procedures

Subpart V sets forth general guidelines to be used by the OHA in formulating a plan for distributing funds received as a result of an enforcement proceeding. The Subpart V process may be used in situations like the present case where the DOE is unable to readily identify those persons who likely were injured by alleged overcharges or ascertain the amount of the refunds they should receive.

The distribution of refunds in this proceeding will take place in two stages. In the first stage, we will accept claims from identifiable purchasers of motor gasoline who may have been injured by Tresler's pricing practices during the period May 1975 through April 1980 (the consent order period). If any funds remain after all meritorious first-stage claims have been paid, they may be used for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99–509, 1 Fed. Energy Guidelines ¶ 11,702 *et seq.*

A. Refunds to Identifiable Purchasers

In the first stage of the Tresler refund proceeding, we will distribute the funds currently in escrow to claimants who demonstrate that they were injured by Tresler's alleged overcharges. While there is a variety of methods by which such a showing can be made, a refiner, reseller or retailer claimant is generally required to demonstrate (i) that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and (ii) that market conditions were the reason that it did not pass through those increased costs. For periods in which the DOE regulations did not require the computation of cost banks, a claimant in the oil business will only be required to make the latter showing, which might be made through a demonstration of lowered profit margins, decreased market shares, or depressed sales volume during the period of purchases from Tresler. *See e.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 at 88,451 (1986).

We will adopt presumptions of injury which have been used in many prior refund cases. These presumptions will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available, while permitting applicants to participate in the refund process without incurring inordinate expense. *See* 10 CFR 205.282(e).

1. Applicants Claiming a Refund of $5,000 or Less

The first presumption we will use is that purchasers of Tresler motor gasoline seeking small refunds were injured by the firm's pricing practices. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers or retailers who purchased relatively small amounts of product from Tresler. We also are concerned that the cost to the applicants and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past, we have adopted a small claims presumption to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g., Marathon Petroleum Co.*, 14 DOE ¶ 85,269 at 88,515 (1986) and cases cited therein. Under the small-claims presumption, a claimant will not be required to submit any additional evidence of injury beyond volumes of Tresler motor gasoline purchased if its refund claim is below $5,000.[1]

2. Spot Purchasers

We also will adopt a rebuttable presumption that resellers who made spot purchases from Tresler have suffered no injury. As we have previously noted, spot purchasers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Tresler's product at increased prices unless they were able to pass through the full price of the purchases to their own customers. *Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396–97 (1981). Therefore, a firm which made only spot purchases from Tresler will be ineligible to receive a refund, even one below the $5,000 threshold level, unless it presents evidence rebutting the spot purchaser presumption that they were not injured. such evidence must establish that the spot purchaser was unable to recover the price it paid for Tresler's product and that it was forced by market conditions to make the purchases upon which its refund claim is based. *See, e.g., Marathon*, 14 DOE at 88,515; *Dorchester*, 14 DOE at 88,452.

3. End-Users

Finally, we will presume that end-users or ultimate consumers whose businesses were unrelated to the petroleum industry were injured by Tresler's alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the audit period. As a result, they were not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would be beyond the scope of a special refund proceeding. *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). Therefore, end-users of Tresler motor gasoline need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges. On the other hand, refund applicants whose business operations were subject to the DOE regulatory program and who purchased Tresler products for consumption as fuel or raw materials will not be considered end-users for the purpose of the showing of injury. *Seminole Refining Inc.*, 12 DOE ¶ 85,188 at 88,576 (1985).[2]

B. Calculation of Refund Amounts

We will use a volumetric method to divide the Tresler escrow account among applicants who demonstrate that they are eligible to receive refunds. This method generally presumes that the alleged overcharges were spread equally over all the gallons of motor gasoline sold by Tresler during the consent order period. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to

[1] Firms potentially eligible for greater refunds may chose to limit their claims to $5,000 without being required to make a detailed demonstration of injury. *See* Office of Enforcement, 8 DOE ¶ 82,597 (1981).

[2] We will require end-user firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement to provide with their applications a full explanation of the manner in which any refunds which they receive would be passed through to their customers. They will also be required to indicate how the appropriate regulatory body or membership group will be advised of the applicant's receipt of refund money. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We note that a cooperative's sales of Tresler's products to non-members will be treated in the same manner as sales by other resellers.

account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser might have been greater, and any purchaser may file a refund application based on a claim that it incurred a disproportionate share of alleged overcharges than the pro rata share calculated by the use of the volumetric presumption.

Under the volumetric method we will adopt, a claimant will be eligible to receive a refund equal to the number of gallons of Tresler motor gasoline that it purchased during the consent order period times the volumetric refund amount. The volumetric refund amount in this case will be $0.000291 per gallon.[3] In addition, successful claimants will receive a proportionate share of the accrued interest.

As in previous cases, we will establish a minimum refund amount of $15 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

C. General Refund Application Requirements

Pursuant to 10 CFR 205.283, we will now accept Applications for Refund from individuals and firms that purchased motor gasoline sold by Tresler between May 1, 1975 and April 30, 1980. There is no specific application form which must be used. The following information should be included in all Applications for Refund:

(1) A conspicuous reference to Case Number KEF–0019 and the applicant's business name and address.

(2) The name, position title and telephone number of a person who may be contacted by us for additional information concerning the Application.

(3) The manner in which the applicant used the Tresler motor gasoline, i.e., whether it was a refiner, reseller, retailer or end-user.

(4) The volume of Tresler motor gasoline it purchased each month during the consent order period. If the applicant was an indirect purchaser it must also submit the name of its immediate supplier and indicate why it believes the motor gasoline was originally sold by Tresler.

(5) If the applicant is a reseller, retailer or refiner which wishes to claim a refund in excess of $5,000, it should also:

(a) State whether it maintained banks of unrecouped product cost increases and furnish the OHA with quarterly bank calculations up through January 27, 1981, the date of decontrol of motor gasoline;

(b) State whether it or any of its affiliates have filed any other Applications for Refund in which it referred to its level of banks as a basis for refund; and

(c) Submit evidence that it did not pass through the alleged overcharges to its customers. For example, a firm may submit market surveys to show that price increases were infeasible.

(6) If the applicant is in any way affiliated with Tresler, it must indicate the nature of the affiliation.

(7) If there has been a change in ownership of the entity that purchased the Tresler motor gasoline, the applicant must provide the names and addresses of the other owners, and should either state the reasons why a refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund.

(8) If the applicant is involved in DOE enforcement or private actions filed under section 210 of the Economic Stabilization Act, it should describe the action and its current status. If the applicant was a party to such an action which is no longer pending, it should indicate how the proceeding was resolved. The applicant must keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

(9) All applicants must submit the following signed statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision in the **Federal Register.** A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which this information has been deleted. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applicants for refund from the funds remitted to the Department of Energy by Tresler Oil Company pursuant to the consent order executed on October 9, 1985, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision in the **Federal Register.**

Dated: April 2, 1987.

George B. Breznay,

Director, Office of Hearing and Appeals.

[FR Doc. 87–10171 Filed 5–4–87; 8:45 am]

BILLING CODE 6450–01–M

[3] This figure is computed by dividing the $150,000 received from Tresler by the 515,067,572 gallons of motor gasoline sold by the firm during the consent order period.

Cases Filed; Week of March 20 Through March 27, 1987

During the Week of March 20 through March 27, 1987, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file wrtten comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

April 27, 1987.

George B. Breznay,

Director of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Mar. 20 through Mar. 27, 1987]

Date	Name and location of applicant	Case No.	Type of submission
May 15, 1986	Port Petroleum, Inc., Washington, DC	KRZ-0151	Interlocutory. If granted: Port Petroleum, Inc. would be allowed to delay filing a Motion for Evidentiary Hearing in the proposed remedial order proceeding involving the firm (Case No. KRO-0150).
Feb. 26, 1987	Stoel, Rives, Boley, Fraser & Wyse, Washington, DC	KFZ-0060	Interlocutory. If granted: The Office of Hearings and Appeals would determine whether Stoel, Rives, Boley, Fraser & Wyse would be able to retain its privilege of appearing before the Office of Hearings and Appeals.
Mar. 20, 1987	Economic Regulatory Administration, Washington, DC	KRD-0023	Motion for discovery. If granted: Discovery would be granted to the Economic Regulatory Administration (ERA) in connection with the ERA's response to Texaco, Inc.'s Statement of Objections submitted in the proposed remedial order proceeding involving the firm (Case No. KRX-0025).
Mar. 23, 1987	National Oil & Supply Company, Inc., Springfiled, MO	KEE-0122	Exception to the reporting requirements. If granted: National Oil & Supply Co., Inc. would not be required to file Form EIA-782B, the "Reseller/Retailers' Monthly Petroleum Product Sales Report."
Mar. 23, 1987	The Rio Grande Sun, Espanola, NM	KFA-0090	Appeal of an information request denial. If granted: The February 26, 1987 Freedom of Information Request Denial issued by the DOE Albuquerque Operations Office would be rescinded and the Rio Grande Sun would receive access to documents regarding the legal expenses and actions of the Los Alamos National Laboratory (LANL) in a 1984 case involving four LANL employees.
Do	The Oregonian, Portland, OR	KFA-0089	Appeal of an information request denial. If granted: The March 10, 1987 Freedom of Information Request Denial issued by the DOE Richland Operations Office would be rescinded, and The Oregonian would receive access to documents regarding a December 2, 1949 experiment at the Hanford Nuclear Site.
Mar. 26, 1987	Woodson Oil Company, Alva, OK	KEE-0134	Exception to the reporting requirements. If granted: Woodson Oil Company would not be required to file Form EIA-782B, the "Reseller/Retailers' Monthly Petroleum Product Sales Report."

REFUND APPLICATIONS RECEIVED

[Week of Mar. 20 through Mar. 27, 1987]

Date	Name	Case No.
2/13/87	August R. Carple	RF83-162
3/02/87	Thomas Fuel Service, Inc	RF225-10720
3/16/87	National Helium/MassachusettsFQ3-366	
3/19/87	Defense Logistics Agency	RF292-3
3/19/87	Atchison, Topeka, Santa Fe	RF292-4
3/19/87	Cardon Oil Company	RF203-10
3/19/87	Defense Logistics Agency	RF284-10
3/20/87	Coline, Nat'l Helium, Penzoil & Amoco/PennsylvaniaFQ2-362	RQ3-363 RQ10-364 RQ21-365
3/20/87 thru 3/27/87	Getty Refund Applications	RF265-848 thru RF265-934
3/20/87 thru 3/27/87	Cranston Refund Applications	RF276-46 thru RF276-46
3/23/87	Nicola E. Muschiano	RF276-16
3/23/87	Joseph L. Pilosa	RF276-17
3/23/87	Home Petroleum Corp	RF208-18
3/23/87	Michigan Technological Univers	RF272-401
3/23/87	St. Paul Pioneer and Dispatch	RF272-402
3/23/87	Fred Croce	RF276-15
3/24/87	Richard T. Almy	RF276-18
3/24/87	David DePlama	RF276-19
3/24/87	Park Ave. Cement Block Co	RF376-20
3/24/87	Automative Butane Gas Co	RF140-54
3/25/87	Harry DiVona	RF276-21
3/25/87	Gallaudet University	RF272-403
3/26/87	Ray Bethers Trucking, Inc	RF272-404
3/27/87	Washington State University	RF272-405
3/27/87	Gary/Vangas, Inc	RF47-21

[FR Doc. 87-10166 Filed 5-4-87; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Period of March 16 Through March 27, 1987

During the period of March 16 through March 27, 1987, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person

receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are avilable in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 29, 1987.

J.M. Sweeney Company, Chicago, Illinois; KEE-0095, Reporting Requirements

J.M. Sweeney Company filed an Application for Exception from the requirement to complete and file Form EIA-811, entitled "Monthly Bulk Terminal Reports." On March 23, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

McCormick Marketing, Inc., Snyder, Texas; KEE-0096, Reporting Requirements

McCormick Marketing, Inc. (McCormick) filed an Application for Exception from the provisions of a DOE reporting requirement. In the exception Application, McCormick requested that it be relieved of its obligation to file Form EIA-782B on a monthly basis. On March 27, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 87-10167 Filed 5-4-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Period of March 30 Through April 10, 1987

During the period of March 30 through April 10, 1987, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 27, 1987.

Halron Oil Co., Inc., Green Bay, Wisconsin; KEE-0120, Fuel Oil, Kerosene

Halron Oil Co., Inc. filed an Application for Exception in which the firm sought relief from its obligation to submit Form EIA-821, entitled "Annual Fuel Oil and Kerosene Sales Report." In considering Halron's request, the DOE found that the firm failed to demonstrate that it was particularly adversely affected by the requirement that it file the Form. On April 7, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 87-10168 Filed 5-4-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Week of April 13 Through April 17, 1987

During the week of April 13 through April 17, 1987, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 27, 1987.

Craft Oil Co., Orange, TX; KEE-0101, Reporting Requirements

On December 8, 1986, Craft Oil Co. filed an Application for Exception. The exception request, if granted, would relieve the firm of its obligation to file Form EIA-782B. On April 13, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Francis Ryan, Inc., Billings, NY; KEE-0128, Reporting Requirements

On April 14, 1987, the Department of Energy issued a Proposed Decision and Order to Francis Ryan, Inc. concerning an Application for Exception in which it sought relief from its obligation to submit Form EIA-821 entitled "Annual Fuel Oil & Kerosene Sales Report." In considering Ryan's request, the DOE found that the firm had not shown that it was uniquely and adversely affected by the requirement that it file Form EIA-821. Accordingly, the DOE proposed that the Application was denied.

Gay's Fuel Serv. Inc., Bellows Falls, VT; KEE-0133, Reporting Requirements

Gay's Fuel Service, Inc., filed an Application for Exception from the requirement to file Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." On April 17, 1986, the Department of Energy issued a Proposed Decision and Order which Determined that the exception request should be denied.

Par-Mar Oil Co., Inc., Center, TX; KEE-0116, Reporting Requirements

On January 28, 1987, Par-Mar Oil Co., Inc. filed an Application for Exception. The exception request, if granted, would relieve the firm of its obligation to file Form EIA-782B. On April 13, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Senco Marketing, Irving, TX; KEE-0111, Reporting Requirements

Senco Marketing filed for relief from the requirement to submit Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." Senco argued that the monthly reporting requirement is burdensome because of the firm's personnel shortage. In evaluating the firm's request, the Department of Energy found that the cost to Senco of filing the Form is no greater than the cost to other reporting firms. In addition, the DOE found that Senco may have submitted incorrect statements in conjunction with its request for exception relief. Consequently, on April 14, 1987, the DOE issued a Proposed Decision and Order to deny Senco's request for relief, and to require the firm to submit an explanation for its apparently incorrect statements.

Sweley Oil, Inc., Sidney, MT; KEE-0118, Reporting Requirements

Sweley Oil, Inc. filed an Application for Exception in which the firm sought relief from its obligation to submit Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering Sweley's request, the DOE found that the firm failed to demonstrate that it was particularly adversely affected by the requirement that it file the Form. On April 17, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

William Fabian & Son, Inc., Newtown, PA; KEE-0092, Reporting Requirements

On November 24, 1986, William Fabian & Son, Inc. filed an Application for Exception. The exception request, if granted, would relieve the firm of its obligation to file Form EIA-782B. On April 13, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 87-10169 Filed 5-4-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3194-9]

Science Advisory Board, Clean Air Scientific Advisory Committee; Open Meeting, May 21-22, 1987

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub L. 92-463, notice is hereby given of a public meeting of the Subcommittee on Lead and Ozone Research Needs of the Clean Air Scientific Advisory Committee (CASAC) of the Environmental Protection Agency's (EPA) Science Advisory Board. The meeting will be held May 21-22, 1987, starting at 9:30 a.m. on May 21st and at 8:30 a.m on May 22nd and ending at approximately 5:00 p.m. on each day. Research needs for ozone will be discussed on May 21st, and research needs for lead will be discussed on May 22nd. The meeting will be held at the U.S. EPA, Environment Research Center, Main Auditorium , Route 54 and Alexander Drive, Research Triangle Park, North Carolina.

Background: During the past year, as part of its statutory mandate to review national ambient air quality standards (NAAQS), CASAC completed its reviews of the air quality criteria documents for lead and for ozone and other photochemical oxidants. Under section 109(d)(2)(C) of the 1977 Amendments to the Clean Air Act, CASAC has the mandate to provide advice to the Administrator concerning ". . . areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised national ambient air quality standards . . ." and to ". . . describe the research efforts necessary to provide the required information. . . ". The purpose of this meeting is to provide a public forum for the Committee to discuss research needed for future decisions on the NAAQS for lead and for ozone. The Committee will consider presentations from Agency staff and the interested public prior to making recommendations to the Administrator.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the meeting should contact Mr. Robert Flaak, Executive Secretary Clean Air Scientific Advisory Committee (CASAC), Science Advisory Board (A-101-F), U.S. Environmental Protection Agency, Washington, DC 20460. Telephone (202) 382-2552; (FTS 383-2552). Persons wishing to make brief oral presentations at the meeting are reminded that availability of time for presentations will be severely limited due to the busy agenda. Such persons *must* contact Mr. Flaak no later than the close of business on May 15, 1987 in order to reserve space of the agenda.

Dated: April 28, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-10134 Filed 5-4-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-791-DR]

Marshall Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Republic of the Marshall Islands, (FEMA-791-DR), dated April 27, 1987, and related determinations.

DATED: April 27, 1987.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice: Notice is hereby given that, in a letter of April 27, 1987, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the Republic of the Marshall Islands resulting from a fire on February 24, 1987, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-388. I therefore declare that such a major disaster exists in the Republic of the Marshall Islands.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management

Agency under Executive Order 12148, I hereby appoint Mr. Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the Republic of the Marshall Islands to have been affected adversely by this declared major disaster and is designated eligible as follows:

Majuro Atoll for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director.

[FR Doc. 87-10102 Filed 5-4-87; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Item Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following item has been submitted to OMB for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3601, et. seq.). Requests for information, including copies of the collection of information and supporting documentation, may be obtained from John Robert Ewers, Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street, NW., Room 12211, Washington, DC 20573, telephone number (202) 523-5866. Comments may be submitted to the agency and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Federal Maritime Commission, within 15 days after the date of the **Federal Register** in which this notice appears.

Summary of Item Submitted for OMB Review

46 CFR Part 560

FMC requests clearance of a proposed rule to amend and combine the existing rules pertaining to agreements in the domestic offshore trades subject to the Shipping Act, 1916. The rule is designed to create a structural parallel to those contained in 46 CFR Part 572 for similar agreements subject to the Shipping Act of 1984, and would combine 46 CFR Parts 558-562, 564, 566, and 569. The amended rule is expected to have only limited application because of the small number of agreements which are likely to be filed in the domestic offshore trades.

Out of the potential respondent universe of 260 common carriers and 445 marine terminal operators, the Commission estimates a respondent universe of approximately 10 with a total estimated annual manhour burden of 918. Total estimated cost to the Federal Government is approximately $18,400; total estimated cost to respondents is approximately $10,000.

Joseph C. Polking,

Secretary.

[FR Doc. 87-10109 Filed 5-4-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank of Boston Corp. et al.; Applications To Engage De Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 22, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of Boston Corporation,* Boston, Massachusetts; to engage *de novo* through its subsidiary, BancBoston Real Estate Capital Corporation, Boston, Massachusetts, in (a) making, acquiring, and servicing for its own account, or for the account of others, loans and other extensions of credit including those secured by mortgages of residential or commercial properties or leasehold interests therein; (b) furnishing economic or financial information on real estate matters; (c) providing portfolio investment advice concerning real estate matters; and (d) providing all such other services and engaging in all such other activities as are incidental to any of the foregoing, pursuant to § 225.25(b)(1)(iii) and (b)(4) (iii) and (iv) of the Board's Regulation Y. These activities will be conducted from an office in Chicago, Illinois.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Arcadia Financial Corporation,* Kalamazoo, Michigan; to engage *de novo* through its subsidiary, Arcadia Investment Management Corporation, Kalamazoo, Michigan, in providing portfolio investment advice to any person; and furnishing general economic information and advice, general economic statistical forecasting services and industry studies pursuant to § 225.25(b)(4) (iii) and (iv) of the Board's Regulation Y.

C. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Montana Bancsystem, Inc.,* Billings, Montana; to engage *de novo* in general insurance agency activities in six Montana communities each with a population not exceeding 5,000 pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in the Baker, Circle, Forsyth, Superior, Red Lodge, and Roundup communities. Comments on this application must be received by May 27, 1987.

Board of Governors of the Federal Reserve System, April 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-10092 Filed 5-4-87; 8:45 am]

BILLING CODE 6210-01-M

Harrington M. Cummings et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 20, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Harrington M. Cummings,* Gay G. Cummings, and Cummings, & Co., Fremont, Michigan; to acquire 1,100 shares of The Old State Bank of Fremont, Fremont, Michigan.

2. *William C. Bess,* Coon Rapids, Iowa; to acquire 92.76 percent of the voting shares of Sac City Limited, Sac City, Iowa, and thereby indirectly acquire Sac City State Bank, Sac City, Iowa.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *J. Vin Belcher* jointly with Barbara N. Belcher, J. Vin Belcher Revocable Trust, Barbara N. Belcher and Barbara N. Belcher Revocable Trust, Hays, Kansas; to acquire 75 percent of the voting shares of Cawker City Bancshares, Inc., Cawker City, Kansas, and thereby indirectly acquire Farmers & Merchants State Bank, Cawker City, Kansas.

Board of Governors of the Federal Reserve System, April 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-10093 Filed 5-4-87; 8:45 am]

BILLING CODE 6210-01-M

Granite State Bankshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 27, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Granite State Bankshares, Inc.,* Keene, New Hampshire; to acquire 100 percent of the voting shares of Granite Bank, Amherst, New Hampshire, a *de novo* bank.

2. *Regional Bancorp, Inc.,* Medford, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Medford Savings Bank, Medford, Massachusetts. Bank engages in Massachusetts savings bank life insurance activities.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Lewisburg Bancshares Corporation,* Lewisburg, Kentucky; to become a bank holding company by acquiring at least 80 percent of the voting shares of Lewisburg Banking Company, Lewisburg, Kentucky.

Board of Governors of the Federal Reserve System, April 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-10094 Filed 5-4-87; 8:45 am]

BILLING CODE 6210-01-M

First Security Corp.; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to engage *de novo* in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 22, 1987.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Security Corporation,* Salt Lake City, Utah; to engage *de novo* through its subsidiary, First Security Discount Brokerage, Salt Lake City, Utah, in the nationwide purchasing and selling of gold and silver coin and bullion as agent for its customers pursuant to section 4(c)(8) of the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, April 28, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-10095 Filed 5-4-87; 8:45 am]

BILLING CODE 6210-01-M

Lee Capital Corp. et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f)

of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than May 20, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Lee Capital Corp.*, Fort Madison, Iowa; to acquire 20 percent of the voting shares of Iowa Midwest Insurance Company, Des Moines, Iowa, and thereby engage in reinsurance of credit life and accident insurance pursuant to section 225.25(b)(8) of the Board's Regulation Y. This activity will be conducted in Phoenix, Arizona, and Des Moines, Iowa.

2. *Lee County Bancorp, Inc.*, Fort Madison, Iowa; to acquire 20 percent of the voting shares of Iowa Midwest Insurance Company, Des Moines, Iowa, and thereby engage in reinsurance of credit life and accident insurance pursuant to § 225.25(b)(8) of the Board's Regulation Y. This activity will be conducted in Phoenix, Arizona, and Des Moines, Iowa.

Board of Governors of the Federal Reserve System, April 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-10096 Filed 5-4-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Project Grants for Preventive Health Services-Immunization; Program Announcement; Program Guidelines

Introduction

This program announcement for Projects Grants for Preventive Health Services-Immunization replaces the announcement published in the **Federal Register** on March 7, 1983 (48 FR 9580).

Authority

The legislative authority for this program is Section 317 of the Public Health Service Act (42 U.S.C. 247b) as amended. Regulations governing the implementation of this legislation are covered under 42 CFR Part 51b, Subparts A and B. The Catalog of Federal Domestic Assistance Number is 13.268.

Eligible Applicants

Grant funds are available to assist official health agencies of any State or local government, the District of Columbia, and the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa. Before making a grant to a local public health agency, the granting agency of the Public Health Service (PHS) will discuss the proposed program with the State health authority.

Purpose

The purpose of the Immunization Program is to prevent the occurrence and transmission of diseases preventable through immunizations. Immunization grants are awarded to States and local governments to assist in establishing and maintaining integrated and comprehensive immunization delivery systems capable of making immunizations for vaccine-preventable diseases available to every person in the United States and to assist in maintaining interruption of indigenous measles transmission.

National Program Goals

1. Reduce morbidity and mortality due to vaccine-preventable diseases.

2. Maintain interruption of indigenous measles transmission.

3. Eliminate indigenous rubella transmission.

4. Maintain 90 percent immunization levels for schoolchildren under age 15 against measles, poliomyelitis, diphtheria, tetanus, and rubella. Maintain 95 percent immunization levels for school enterers and 90 percent immunization levels for children enrolled in licensed day-care centers against measles, poliomyelitis, diphtheria, tetanus, pertussis, rubella, mumps, and Haemophilus Influenza Type b (Hib).

5. Develop, test, and implement systems for use in the States to ensure that 90 percent of more of children complete basic immunizations by age 2.

Application Procedure

A. Forms

Application for grants must be made on standard project application forms (PHS 5161-1) which may be obtained from the appropriate Health and Human Services (HHS) Regional Office as set forth below.

B. Consultation

Consultation and assistance in developing applications and program plans are available through HHS Regional Offices.

C. Budget Information

Depending upon the availability of funds, grants are usually funded in 12-month budget periods within a 5-year project period. Although there are no specific matching fund requirements, the narrative portion of the application must include (1) information on the expenditures for immunization programs made from Federal, State, and other funds obligated by the applicant during its most recent accounting period; (2) a description of the services provided by the applicant for this accounting period; and (3) estimates of support for future accounting periods, including, at a minimum, funds to be available during the budget period for which grant support is requested. Information which justifies or explains budget items must also be included in the narrative part of the application. In some instances, information on commitment or applicant support or specific items (such as vaccine) during the budget period may be required. At the time of application, vaccine inventories must be specified and projections must be made for the

number of doses of each vaccine (including Hib vaccine) to be used during the coming budget period. In addition, the proportion of the vaccines that will be purchased with grant funds must be specified. Applicant contributions to the program should be provided on the budget pages of the application. The level of these contributions will not, however, be a criterion for the approval or amount of the grant.

D. Submission of Applications

Information about the timing and routing of applications and the consequences of late submission will be included in each request for application from the appropriate HHS Regional Office as set forth below.

E. State Reviews

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs (60-day review for new and competing applications and 30-day review for non-competing applications). Applicants should contact their State Single Point of Contact for further instructions as soon as possible.

F. Program Narrative

1. Competing Applications

Competing applications, including the initial application for a new project period must include a description of the need for project grant support, the long- and short-term objectives of the proposed program, the activities which will be undertaken to accomplish the objectives (including the timing of such actions), the methods which will be employed to evaluate program activities, and other information which will support the request for grant assistance.

2. Non-Competing Continuation Applications

Continuation applications need only provide short-term objectives for the new budget period, a budget justification, a progress report on activities performed during the prior budget period, and a description of any changes in the method of operation, long-term objectives, need for grant support, and evaluation procedures compared to information provided in previous application.

Requirements of an Approved Program

A. Assessment of the Need for a Program

Estimates of the target population must be developed which include the projected number to be served in public clinics with grant resources as well as susceptible adolescents, young adults in high schools and colleges and other target groups.

B. Objective Setting

1. Objectives must be established which are specific, measurable, and realistic.

2. Objectives must be related to the National Program Goals, although specific targets will depend upon the level of immunizations currently being achieved in each project area.

3. Both short-term objectives (1 year), which will be reached during the ensuing funding period, and long-term objectives (2 to 3 years) must be developed.

C. Methods of Operation

1. Service Delivery/Maintenance

This involves a plan to assure the children found to be susceptible begin and complete their immunizations. Use of several or all of the approaches listed below is indicated:

Required—Systematic immunization of susceptible children to ensure 95 percent immunization levels of school enterers against measles, mumps, rubella, polio, diphtheria, pertussis, tetanus.

Required—A plan must be developed to implement a system to ensure that 90 percent of children born each year complete their immunizations with oral polio, DTP, MMR, and Hib vaccines by age 2. Such a system must include the following activities:

1. Provider-based tickler systems (public and private) for the recall of children for immunizations.
2. Adoption and use of a standard immunization record card for the State which includes space for recording Hib vaccine. The record card should be provided to all providers for use with their patients.
3. A hospital-based immunization/education program for new mothers.

Recommended—Systematic and routine immunization of susceptible preschool children in Head Start, EPSDT, and WIC programs, and recipients of AFDC and their siblings.

Recommended—Scheduling of special immunization clinics in defined geographic areas in population groups of particularly high susceptibility.

Recommended—Close liaison with neighborhood health centers, HMO's, health department immunization and well-baby clinics, and other health care providers to ensure that needed immunizations are provided as part of routine primary health care.

Recommended—Review of local health departments and public clinic operations to determine whether program policy and procedures are understood and adhered to, and recommendations are being followed.

2. Assessment of Immunization Status

a. School:

Required—An annual determination must be made by December 31 of each year of the immunization levels of children entering school using procedures outlined in The Guidelines for Assessing Immunity Levels, Centers for Disease Control (CDC), August 1978.

Required—Procedures to assess the reliability and validity of assessment data must be instituted and applied each year.

Recommended—Throughout the school year, immunization records of incoming transfer students at all grade levels should be reviewed.

Recommended—Surveys to determine the immunization status of children at 2 years of age should be done. This could be done as a special survey of 2-year-olds or retrospectively as part of the validation or primary assessment of school entrants.

b. Preschool:

Required—Systematic review of immunization status of all children under age 2 and new enrollees under age 5 served in public clinics must be conducted.

Required—An annual inventory must be conducted of the immunization records of children attending licensed day-care centers to ensure appropriate documentation of vaccines and that 90 percent immunization levels have been attained agaist measles, mumps, rubella, polio, diphtheria, pertussis, tetanus, and Hib.

Recommended—Immunization records of all new enrollees in licensed day-care centers throughout the year should be reviewed.

Recommended—Where records are not being kept by day-care centers, Head Start programs, health departments, etc., efforts should be made to establish a recordkeeping system. A standard immunization record should be implemented which is compatible with the standard school immunization record card. The prototype form developed by PHS is recommended.

Recommended—Specific plans to bring delinquents back on schedule should be developed.

Recommended—Private physicians and other health-care providers should be encouraged to review systematically

the immunization status of the children they serve.

Recommended—Special assessment of the immunization status of other preschool population groups such as in Head Start programs, unlicensed day-care centers, and recipients of AFDC and their siblings should be considered.

c. Special Populations:

Recommended—Annual determination of vaccine coverage levels and/or policies affecting certain special target populations including health care facility employees, health department employees, college/university students, family planning patients etc.

3. Surveillance and Outbreak Control

Required—A plan for surveillance of vaccine-preventable diseases that includes morbidity and mortality reporting, as well as field and laboratory investigations, must be developed and implemented.

Required—Procedures must be established for prompt review of the data collected from the morbidity surveillance system to allow for immediate response to all occurrences of suspected measles, pertussis, diphtheria, rubella and polio cases upon notification.

Required—For controlling measles outbreaks, there must be a procedure that covers all of the following steps:

1. Immediate response to the suspected occurrence of measles to determine compatibility with measles.
2. Confirmation of the diagnosis, using the standard clinical classification and laboratory testing where possible.
3. Evaluation of the extent of the outbreak.
4. Identification of a zone of risk which includes all susceptible persons who might possibly have had contact with any suspected cases or incubating contacts.
5. Initiation of necessary action to immunize all persons at risk and to limit contact of actively transmitting cases with other susceptibles, including susceptible adolescents and young adults.
6. Evaluation of effectiveness of measures taken.

Required—Improvement of the system for monitoring adverse events following immunization, including a mechanism for responding to persons with vaccine-related complaints. The system should include:

1. All reports from the public sector should be made through the State health department to the Centers of Disease Control.
2. All forms ("Report of Adverse Event Following Immunization," CDC 71.19. Rev 9–85) should be reviewed for completeness and accuracy before forwarding to the Centers for Disease Control.
3. Only cases that fulfill the following criteria should be forwarded to the Centers for Disease Control: illness which began within 28 days of receipt of vaccine and was severe enough to require hospitalization or a visit to a physician or other medical care personnel.
4. A report of illness following vaccination which resulted in a death should be reported immediately to the Centers for Disease Control, Division of Immunization.

Recommended—Appropriate disease case investigation forms should be developed and used.

Recommended—Improvement of pertussis surveillance so that at least 90 percent of cases reported have case investigation forms completed (form CDC 71.14A).

4. Information/Education

Required—A plan must be developed and implemented for promotion of immunization for children and other appropriate population groups.

Required—A plan must be developed and implemented for informing and seeking support from health professionals to:

1. Encourage immediate reporting of vaccine-preventable diseases.
2. Institute tickler systems for the recall of children for immunizations.
3. Use standard immunization record cards recommended by State health departments.

5. Enforcement of School Immunization Laws

Required—A plan must be developed and implemented to ensure that every effort is made to obtain compliance with existing school and day-care center immunization laws/regulations.

6. Vaccine Storage, Supply Delivery, and Inventory

Required—A plan must be developed and implemented to monitor vaccine distribution and usage among health departments, physicians, schools, and other health-care providers, to reduce wastage to less than 5 percent. Vaccine waste incudes any vaccine which cannot be counted as administered, returned, or on hand.

Required—All central vaccine storage depots must have a temperature sensitive alarm connected to a 24-hour security system, with alternate storage sites identified to which vaccine can be relocated if main storage fails.

7. Citizen Participation

Recommended—A plan should be deleloped for active citizen participation in the planning and implementation of appropriate components of the program.

D. Evaluation:

Measures must be established to evaluate the achievement of all project objectives and elements listed above in the section "Requirements of an Approved Program", paragraph "C. Methods of Operations."

Criteria for Review and Award of Grants

A. *Competing Applications*—Competing applications, including the initial application for a new project period, will be reviewed and evaluated based on the following criteria:

1. The extent to which background information and other data demonstrate a need for the kind of assistance provided through the grant.

2. Evidence that each required program element has been addressed by the applicant and that the proposed activities will result in a balanced program of service delivery, surveillance of disease and adverse events, assessment, outbreak control, maintenance of immunization levels, and public and professional education.

3. The extent to which objectives are established which are specific, measureable, realistic, and related to the national goals.

4. The extent to which the budget request and proposed use of project funds is appropriate and reasonable for a balanced program.

5. Evidence that all of the requirements will be met to assure appropriate provisions of information relating to risks and benefits of vaccination to all vaccinees (parents or guardians) receiving vaccination, as described below in the section, "Use of Information Statements About Risks and Benefits of Immunization."

6. The quality of the plan offered to evaluate the applicant's success in achieving long- and short-term objectives and in achieving elements listed above in the section "Requirements of an Approved Program", paragraph "C. Methods of Operation."

B. *Non-Competing Continuation Applications*—Non-competing continuation applications within the project period will be evaluated on the following criteria:

1. The degree to which the application specifies progress toward previously established objectives and satisfactorily

explains any areas in which the objectives were not met.

2. Evidence that each required program element has been addressed by the applicant and that the proposed activities will result in a balanced program of service delivery, surveillance of disease and adverse events, assessment, outbreak control, maintenance of immunization levels, and public and professional education.

3. The extent to which objectives are established for the new budget period which are specific, measureable, and related to national program goals.

4. The extent to which the applicant confirms that previously applied techniques of evaluation will be continued or describes planned changes in methods of operation.

5. The extent to which the applicant confirms that previously applied techniques of evaluation will be continued or describes planned changes in evaluation approaches.

6. Evidence that all of the requirements will be met to assure appropriate provisions of information relating to risks and benefits of vaccination to vaccinees (parents or guardians) receiving vaccination, as described below in the section, "Use of Information Statements About Risks and Benefits of Immunization."

Reporting Requirements

Reports are to be submitted to the HHS Regional Offices. Reporting forms and a description of procedures are available from the HHS Regional Offices.

A. Monthly

1. Forms reporting adverse events following immunizations should be sent to CDC, DOI within 10 days after the end of the month.

2. A 1 year followup status on each adverse event requiring such followup, should be submitted to CDC, DOI within 30 days of receiving the followup status request.

B. Quarterly

1. Tabulation of vaccine distributed and vaccinations administered by antigen, dose, and age group (<1, 1, 2, 3–4, 5, 6–9, 10–14, 15–19, 20–24, 25–44, 45–64, 65+) within 30 days after the end of the quarter in which they are given or distributed. This includes a tabulation of project vaccine administered by private physicians by antigen and the above age groups.

2. Narrative progress reports may be required within 30 days after the end of each calendar quarter (March 31, June 30, September 30, and December 31) subject to clearance by the Office of Management and Budget. Narratives should address progress being made in achieving project objectives (and methods being used to resolve problems), evaluative information developed to comply with the evaluation requirements described above in the section, "Requirements of an Approved Program," paragraph "D., Evaluation;" and other information which, in the grantee's opinion, may be useful to the HHS Regional Office, CDC, or other projects. The narrative covering the January-March period should also contain information profiling the program.

C. Annually

1. School-enterers survey by March 31 of each year.

2. Day-care survey by March 31 of each year.

In addition, we encourage health agencies to continue to supplement normal MMWR weekly reporting procedures for measles with detailed telephone summaries of measles cases and related investigations.

Use of Information Statements About Risks and Benefits of Immunization

A. *In order to assure appropriate provision of information relating to risks and benefits of immunization in programs for which funds are made available pursuant to this grant, grantee shall take the following steps:*

1. Establish procedures for providing copies of the current appropriate "Important Information" statements to all vaccine recipients or their parents or guardians receiving immunizations in public clinic settings and to private physicians for use if they elect to use the statements in accordance with the conditions specified in the "Private Physician Certification" form. A copy of the "Private Physician Certification" form is available from CDC. Grantees may include appropriate health department identification on the "Private Physician Certification" forms and on the "Important Information" statements. Any other addition to the documents or variations from the language or format of them, must have the prior written approval of the Director, Center for Prevention Services, Centers for Disease Control.

2. Arrange for documentation of the receipt by vaccine recipients or their parents or guardians of the "Important Information" statement relating to the disease or diseases for which vaccines are purchased or furnished as specified above. The documentation shall consist of the signed lower portion of the "Important Information" statement or a separate signature card or log sheet which contains the following:

> I have read or have had explained to me the information contained in the 'Important Information' statement(s) about the disease(s) and the vaccine(s). I have had a chance to ask questions which were answered to my satisfaction. I believe I understand the benefits and risks of the vaccine(s) an request that the vaccine(s) indicated below be given to me or to the person named below for whom I am authorized to make this request.

This statement must appear at the top of the signature card or log sheet and the form must include at a minimum the following entries: Name, address, date of birth, age at the time of immunization, type of vaccine(s), clinic identification, date of immunization, site of immunization, manufacturer and lot number, signature of person to receive vaccine or person authorized to make the request, date of signature, and date printed on the appropriate "Important Information" statement.

3. Obtain a signed copy of the "Private Physician Certification" form at least annually from all physicians to whom the grantee furnishes vaccine which is to be used in private practice and which was purchased or furnished as described above.

4. Establish procedures for the retention of the signed portion of the "Important Information" statements, "Private Physician Certification" forms, and other types of approved documentation. For Federal grant purposes, the "Important Information" statements, "Private Physician Certification" forms, and other types of approved documentation must be retained for a period of 10 years following the end of the calendar year in which these documents were signed. In addition, if a notice of a claim or lawsuit has been made, the "Important Information" statement, "Private Physician Certification" form, and other types of approved documentation pertaining to the matter should be retained until after a final disposition of the claim or litigation (including appeals). All documentation shall be available to the Director, Center for Prevention Services, Centers for Disease Control, upon written request. Each grantee should check with the appropriate State agency or attorney general's office to ensure there is no State rule requiring a longer retention period.

5. In the case of a school-based program, or other programs where the information statement is to be read and signed in advance of the immunization by a parent, guardian, or other

authorized person who will not be present at the immunization site when the immunization is given, procedures shall be established and made known for answering questions by telephone or otherwise.

B. The grantee must use the most current important information statements for measles, mumps, rubella, and combinations thereof, inactivated polio (IPV), oral polio (OPV), and diphtheria, tetanus, pertussis and combinations thereof, Haemophilus influenzae b (Hib) and other vaccines purchased through the federal contract mechanism.

C. As indicated above, grantees must make copies of the information statements available to private physicians who receive vaccine purchased or furnished pursuant to immunization project grant awards. An exception to the requirement for use of the information statements may be made only where vaccine is administered in the usual private physician-patient situation; i.e., by a physician in the course of discharging his/her responsibilities in the treatment of an individual patient according to scheduling and other procedures normally used in the private practice of medicine. Thus, the information statements must be used in clinic situations even if the clinics are supervised by private physicians.

D. At each immunization clinic, one or more persons shall be available to take responsibility for ensuring that prospective vaccine recipients or their parents or guardians can read or have read to them the information provided and to answer questions about the vaccine, it expected benefits, its normal risks, its contraindications (special warnings to vaccine recipients with low resistance to infections), alternatives to imminization, and to provide advice regarding medical assistance in the event of suspected vaccine reactions. If an immunization clinic serves significant numbers of people for whom English is not a first language, the written information shall be available in the native language. CDC will provide prototype information statements in English, Spanish, French, Vietnamese, and Chinese.

At each immunization clinic, the person administering the "Important Information" statements must routinely ask all vaccine recipients or their parents or guardians if they understand the information provided to them and if they have any questions.

E. *These required steps may be supplemented as appropriate with:*

1. The provision of pamphlets and the display of posters at clinic sites and physicians' offices about risks and benefits of immunization.

2. The use of audio or audiovisual techniques.

3. Preclinic publicity through the mass media and through other information channels.

Use of Grant Funds

A. Financial and direct assistance is authorized under this program. Grant funds may be used for costs associated with planning, organizing, and conducting immunization programs and for the purchase of vaccine and toxoids to protect against polio, measles, mumps, rubella, diphtheria, pertussis, tetanus, and Hib disease. Vaccine will be available as direct assistance (i.e., "in lieu of cash") if requested by applicants. Additionally, requests for personnel and other forms of direct assistance will be considered.

B. No individual may be denied vaccine provided through project grant funds because of an inability to pay for charges associated with being vaccinated, however, States are not prohibited from recovering the costs of these services.

C. Grant funds may be used to supplement (not substitute for) existing immunization operations and services.

Dated: April 29, 1987.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203 (617) 223–6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278 (212) 264–2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101 (215) 596–6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323 (404) 221–2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606 (312) 353–1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202 (214) 767–3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374–3291

Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294 (303) 844–6163

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102 (415) 556–5810

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S. 402, Seattle, Washington 98121 (206) 442–0430

[FR Doc. 87–10083 Filed 5–4–87; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 87M–0116]

Pharmafair, Inc.; Premarket Approval of Pharmafair Sterile Saline Solution for Soft Lenses, Pharmafair Cleaning Solution, and Pharmafair Lubricating and Rewetting Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Pharmafair, Inc., Hauppauge, NY, for premarket approval, under the Medical Device Amendments of 1976, of the Pharmafair Sterile Saline Solution for Soft Lenses, Pharmafair Cleaning Solution, and Pharmafair Lubricating and Rewetting Solution for use with soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by June 4, 1987.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460) Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On December 27, 1985, Pharmafair, Inc., Hauppauge, NY 11788, submitted to CDRH an application for premarket approval of the Pharmafair Sterile Saline Solution for Soft Lenses,

Pharmafair Cleaning Solution, and Pharmafair Lubricating and Rewetting Solution. The Pharmafair Sterile Saline Solution for Soft Lenses is indicated for use in the heat (thermal) disinfection, rinsing, and storage of soft (hydrophilic) contact lenses. The Pharmafair Cleaning Solution is indicated for use to clean soft (hydrophilic) contact lenses. The Pharmafair Lubricating and Rewetting Solution is indicated for use to lubricate and rewet soft (hydrophilic) contact lenses and relieve minor irritation, discomfort, and/or blurring which may occur while wearing the lenses.

On July 18, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On March 24, 1987, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Mangement Branch (address above), and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the above devices states that the solutions are indicated for use in the cleaning, rinsing, heat disinfection, storage, and lubricating and rewetting of soft (hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved soft contact lens, the manufacturer or PMA holder of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for adminstrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committe of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 4, 1987, file with Docket Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 27, 1987.

John C. Villforth,

Center for Devices and Radiological Health.

[FR Doc. 87–10097 Filed 5–4–87; 8:45 am]

BILLING CODE 4180-01-M

National Institutes of Health

National Cancer Institute, Amended Notice of Meeting; Clinical Trials Committee

Notice is hereby given of a change in the meeting of the Clinical Trials Committee, National Cancer Institute, National Institutes of Health. This meeting originally scheduled for May 19, 1987, Building 31C, Conference Room 9, Bethesda, Maryland 20892 was published in the **Federal Register** on March 30 (52 FR 10167).

The Committee was to have convened at 9 a.m. on May 19; however, it will now meet at 9 a.m. on June 30, Landow Building, Conference Room A, Bethesda, Maryland 20892 due to the unavailability of several committee members.

The meeting will be open to the public from 9 a.m. to 9:30 a.m., and will be closed from 9:30 a.m. to adjournment for review of contract proposals.

Dated: April 28, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–10081 Filed 5–4–87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Amended Notice of Meeting; National Advisory Allergy and Infectious Diseases Council; Allergy and Immunology Subcommittee; Microbiology and Infectious Diseases Subcommittee

Notice is hereby given of a change in the meeting of the National Advisory Allergy and Infectious Diseases Council, May 18–19, 1987, Building 31, Conference Room 6, National Institutes of Health which was published in the **Federal Register** on March 30 (52 FR 10168).

The meeting of the National Advisory Allergy and Infectious Diseases Council was to have convened in closed session at 9:30 a.m. until approximately 12:30 p.m. on May 19, but has been changed to 8:30 a.m. until adjournment on May 19, for the review, evaluation, and discussion of individual grant applications.

Dated: April 28, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–10080 Filed 5–4–87; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Announcment of Completed Short-Term Toxicology Studies on Eight Chemicals; Request for Comments

As part of an effort to inform the public and allow interested parties to comment and provide information on chemicals prior to designing of studies for long-term toxicology and carcinogenesis studies, the National Toxicology Program (NTP) will routinely announce in the **Federal Register** the list of chemicals for which short-term toxicology studies have been completed.

Short-term toxicology studies on the chemicals listed in this announcement have been completed and the National Institute of Enviromental Health Sciences (NIEHS)/National Toxicology Program (NTP) is in process of evaluating the results. A decision on whether additional studies including long-term toxicology and

carcinogenicity studies are needed will soon be made by the NTP. If you have relevant information (such as current production, use pattern, exposure levels, toxicological data) to share, with the NTP on any of these chemicals, please contact the responsible NTP Scientist within 30 days of the appearance of this announcement by telephone or by mail to: NIEHS/NTP, P.O. Box 12233, Research Triangle Park, North Carolina 27709. The information provided will be considered by the NTP while determining which chemicals require additional studies and in designing these studies.

1. *Acetonitrile (75–05–8)*—14-day and 90-day inhalation studies in Fischer 344 rats and B6C3F$_1$ mice. Contact person: Dr. Joseph Roycroft (919–541–3627).

2. *Benzonitrile (100–47–0)*—14-day and 90-day gavage studies in Fischer 344 rats and B6C3F$_1$ mice. Contact person: Dr. Richard Irwin (919–541–3340).

3. *2,2-Bis(Bromomethy1)-1,3-propanediol (3296–90–0)*—90-day dosed feed studies in Fischer 344 rats and B6C3F$_1$ mice. Contact Person: Dr. June Dunnick (919–541–4811).

4. *1,3-Butadiene (106–99–0)*—90-day inhalation studies in Fischer 344 rats. Contact person; Dr. Ron Melnick (919–541–4142).

5. *m-Nitrobenzoic Acid (121–92–6)*—14-day and 90-day dosed feed studies in Fischer 344 rats and B6C3F$_1$ mice. Contact person: Dr. Kamal Abdo (919–541–7819).

6. *p-Nitrobenzoic-Acid (62–23–7)*—14-day and 90-day dosed feed studies in Fischer 344 rats and B6C3F$_1$ mice. Contact person: Dr. Kamal Abdo (919–541–7819).

7. *Salicylazosulfapryidine (599–79–1)*—14-day and 90-day gavage studies in Fischer 344 rats and B6C3F$_1$ mice. Contact person: Dr. Frank Kari (919–541–2926).

8. *Tetrafluoroethylene (116–14–3)*—14-day and 90-day inhalation studies in Fischer 344 rats and B6C3F$_1$ mice. Contact person: Dr. Joseph Roycroft (919–541–3627).

Please submit all comments and suggestions on chemcial(s) by telephone or by mail to the responsible scientist (listed above) within 30 days of publication of this notice. Any submissions received after the above date will be accepted and utilized if possible.

Dated: April 27, 1987.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 87–10079 Filed 5–4–87; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 51 FR 28135, August 5, 1986) is amended to reflect the following changes in the Office of the Director, NIH: (1) Retitle the Office of Extramural Research and Training (OERT) (HNA3) to the Office of Extramural Research (OER) (HNA3) and revise its functional statement; (2) establish the Office of Extramural Programs (HNA32) in the Office of Extramural Research (HNA3); (3) transfer the Office for Protection from Research Risks (HNA–4) to the Office of Extramural Research (HNA3) and change its Standard Administrative Code to (HNA33); (4) retitle the Office of Intramural Affairs (HNA4) to the Office of Intramural Research (HNA4); and (5) establish the Office of Animal Care and Use (HNA42) in the Office of Intramural Research.

These changes will (1) clarify the respective roles of the principal Deputy Director and the two mission-related Deputy Directors, (2) designate clear lines of authority and responsibility, (3) transfer the Office for Protection from Research Risks to the staff office must frequently and extensively involved with these activities, and (4) focus responsibility for NIH's intramural program of care and use of animals.

Section HN–B, Organization and Functions is amended as follows:

(1) Under the heading *Office of the Director (HNA)*, change the title of the *Office of Extramural Research and Training (HNA3)* to the *Office of Extramural Research (HNA3)*.

(2) Under the heading *Office of Extramural Research (HNA3)*, delete the functional statement in its entirety and substitute the following:

Office of Extramural Research (HNA3). (1) Acts on behalf of the Director, NIH, to provide guidance to the research institutes on the development and management of extramural (grant, cooperative agreement, and contract) research and training programs; (2) advises the Director, NIH, and staff on issues relating to extramural research activities; and (3) oversees the protection of human subjects and the proper care and use of laboratory animals on behalf of the entire U.S. Public Health Service.

(3) Under the heading *Office of Extramural Research (HNA3)*, insert titles and statements for the *Office of Extramural Programs (HNA32)*, and the *Office for Protection from Research Risks (HNA33)* as follows:

Office of Extramural Programs (HNA32). (1) Advises the Deputy Director for Extramural Research on matters pertaining to the management of NIH extramural research programs; (2) develops and implements regulations, policies, and procedures governing scientific program management and review aspects of NIH extramural awards (grants, cooperative agreements, and contracts); (3) establishes and maintains communication between the Office of Extramural Programs and the research institutes concerning policies and procedures dealing with the management of extramural programs; also acts to coordinate programs involving two or more institutes, as appropriate; (4) establishes and maintains communication between NIH and awardee and applicant institutions and investigators; in particular, ensures the complete and timely publication of extramural policies and funding opportunites through the NIH Guide fr Grants and Contracts; (5) develops and implements regulations, policies, and procedures governing all aspects of extramural research training and development; (6) develops and implements NIH policies and procedures regarding misconduct in science; working with other offices as appropriate, coordinates NIH investigations of misconduct in science and advises other PHS agency staff as needed; and provides staff support to the PHS Committee on Misconduct in Science; (7) manages staff training activities for (a) health-related scientists in health science administration for the extramural programs of NIH/PHS; (b) NIH employees (Staff Trainging in Extramural Programs [STEP]); and (c) academic administrators from minority and womens' institutions to acquaint them with opportunities for NIH support of biomedical research and to enhance the research environment of these institutions; (8) fosters and maximizes competition in the awarding of research and development contracts throughout NIH; approves non-competitive contracts within established dollar thresholds; (9) manages the legislatively mandated process of applicant appeals to the peer review and adverse post-award determinations of competing assistance applications; (10) oversees and coordinates the Samll Business Innovation Research (SBIR) and the Academic Research Enhancement Award (AREA) program; and (11)

performs special studies relating to extramural issues.

Office for Protection from Research Risks (HNA33). (1) Develops and monitors, as well as exercises compliance oversight relative to: (a) HHS Regulations for the Protection of Human Subjects involved in research conducted or supported by any component of the Department of Health and Human Services, and (b) PHS Policy on the Humane Care and Use of Laboratory Animals involved in research conducted or supported by any component of the Public Health Service; (2) coordinates appropriate HHS regulations, policies, and procedures both within HHS and with other Departments and Agencies in the Federal Government, exercising oversight and negotiation of Assurances of Commpliance with institutions engaged in HHS-conducted or supported research involving human subjects and those engaged in PHS-conducted or supported research using animals; (3) conducts programs of clarification and guidance for both the Federal and non-Federal sectors with respect to the involvement of humans and the use of animals in research, directing the development and implementation of educational and instructional programs and generating resource materials; (4) evaluates the effectiveness of HHS policies and programs for the protection of human subjects and the humane care and use of laboratory animals; and (5) serves as liaison to Presidential, Departmental, Congressional, interagency, and non-Governmental Commissions and Boards established to examine ethical issues in medicine and research and exercises leadership in identifying and addressing such ethical issues.

(4) Under the heading *Office of the Director (HNA),* change the title of the *office of Intramural Affairs (HNA4)* to the *Office of Intramural Research (HNA4).*

(5) Under the heading *Office of Intramural Research (HNA4),* delete the functional statement in its entirety and substitute the following:

Office of Intramural Research (HNA4). (1) Acts on behalf of the Director, NIH, to implement and coordinate intramural research policy and programs; (2) advises the Director, NIH, and staff on issues relating to the intramural research program; (3) provides staff support to the Scientific Directors; (4) represents the intramural program on task groups and ad hoc committees; (5) responds to inquiries concerning intramural research; and (6) reviews intramural staff applications, personnel actions, requests for outside work, and related matters.

(6) Under the heading *Office of Intramural Research (HNA4),* Insert the following:

Office of Animal Care and Use (HNA42). (1) Ensures that NIH intramural programs comply with Federal laws and regulations and Department and Agency guidelines on animal care and use; and (2) administers the Interagency Research Animal Committee which serves both to advise the Assistant Secretary for Health on related matters affecting Federal programs, and as a liaison with other Federal agencies and foreign Governments on matters of animal care and use.

Dated: April 23, 1987.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 87-10179 Filed 5-4-87; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

[A-32/7.6]

Agreement on Social Security Between the United States and Sweden; Entry Into Force

The Commissioner of Social Security gives notice that an agreement coordinating the United States (U.S.) and Swedish social security programs entered into force on January 1, 1987. The agreement with Sweden, which was signed on May 27, 1985, is similar to U.S. social security agreements already in force with seven other countries—Belgium, Canada, the Federal Republic of Germany, Italy, Norway, Switzerland, and the United Kingdom. Agreements of this type are authorized by section 233 of the Social Security Act.

Like the other agreements, the U.S.-Swedish agreement eliminates dual social security coverage—the situation that exists when a person from one country works in the other country and is covered under the social security systems of both countries for the same work. When dual coverage occurs, the worker or his employer or both may be required to pay social security contributions to the two countries simultaneously. Under the U.S.-Swedish agreement, an employee who is sent by an employer in the United States to work in Sweden for 5 years or less remains covered only by the U.S. system. The agreement includes additional rules that eliminate dual U.S. and Swedish coverage in other work situations.

The agreement also helps eliminate situations where workers suffer a loss of benefit fights merely because they have divided their careers between the two countries. Under the agreement, a worker may qualify for partial U.S. or Swedish benefits or partial benefits from both programs based on combined (totalized) work credits for both countries.

Persons who wish to obtain copies of the agreement or want more information about its provisions may write to the Social Security Administration, International Policy Staff, Room 1104, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Dated: April 28, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

[FR Doc. 87-10116 Filed 5-4-87; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-87-839]

Office of the Manager, Portland Office; Designation of Order of Succession

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of Order of Succession.

SUMMARY: The Manager is designating officials who may serve as the Acting Manager during the absence, disability or vacancy in the position of the Manager.

Designation: The official appointed to the following listed positions in the Portland Office, Region X, are designated to serve as Acting Manager during the absence, disability, or vacancy in the position of the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager; provided, however, that no official is authorized to serve as Acting Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Manager,
2. Chief Counsel,
3. Director, CPD Division,
4. Director, Housing Development Division,
5. Director, Housing Management Division,
6. Director, Administration Division.

This supersedes all previous designations.

Authority: Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); 50 FR 18742, May 2, 1985.

Effective Date: March 24, 1987.

R.C. Brinck,

Manager.

Approve:

Dated: April 15, 1987.

William Y. Nishimura,

Regional Administrator, 10S.

[FR Doc. 87-10082 Filed 5-4-87; 8:45 am]

BILLING CODE 4210-32-M

INTERAGENCY COORDINATING COUNCIL

Policy Statement; Application of the Rehabilitation Act of 1973 to Persons With Temporary Disabilities

AGENCY: Interagency Coordinating Council.

ACTION: Policy Statement.

SUMMARY: the Interagency Coordinating Council has adopted a policy statement with respect to the application of title V of the Rehabilitation Act of 1973 to persons who have temporary impairments. The policy statement is being issued to provide guidance concerning the interpretation of the statutory definition of "individual with handicaps" to Federal agencies that have title V enforcement responsibilities.

ADDRESS: Copies of this notice will be made available on tape for persons with impaired vision who request them. They will be provided by the Coordination and Review Section, Civil Rights Division, Department of Justice, Washington, DC 20530, (202) 724-2222 (Voice) or (202) 724-7678 (TDD).

SUPPLEMENTARY INFORMATION: The Interagency Coordinating Council was established under the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 120(a); 29 U.S.C. 794c). The Council's functions is to:

> maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of [title V].

Eight Federal agencies are represented on the Council. These agencies are the Departments of Justice, Labor, Education, Health and Human Services, and the Interior; the Equal Employment Opportunity Commission; the Office of Personnel Management; and the Architectural and Transportation Barriers Compliance Board. Three member agencies, the Department of Justice, the Department of Labor, and the Equal Employment Opportunity Commission, have government-wide Rehabilitation Act coordination authority, pursuant to Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298); Executive Order 11758 (39 FR 2075, 3 CFR, 1971-75 Comp., p. 814); and Executive Order 12067 (43 FR 28967, 3 CFR 1981 Comp., p. 205). The Assistant Secretary of the Interior for Indian Affairs, who became a member of the Council in October 1986 (*see* Rehabilitation Act Amendments of 1986, Pub. L. No. 99-506, section 602, 100 Stat. 1807, 1830), did not participate in the Council's deliberation of this issue.

In order to meet its statutory obligation to eliminate inconsistencies in Title V enforcement among Federal agencies, the Council is reviewing the enforcement policies of the member agencies to identify and eliminate any inconsistencies among them. Most recently, the Council has addressed the extent to which title V coverage extends to people who have temporary impairments, *e.g.*, broken bones, that are not commonly regarded as handicapping conditions. The Rehabilitation Act provides that for the purpose of title V the term "individual with handicaps" means

> any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

29 U.S.C. 706 (language concerning drug addicts and alcholics omitted). The statute does not specify a durational threshold that must be met before an impairment may be deemed to result in a substantial limitation. After reviewing pertinent judicial precedent and extensively considering the enforcement impact of alternative positions, the Council unanimously adopted this statement of policy, which has been provided to all Executive agencies as guidance in implementing and enforcing the provisions of the Rehabilitation Act.

Policy Statement

When applying title V of the Rehabilitation Act of 1973, as amended, it is necessary to determine whether a person with a particular physical or mental condition is an " individual with handicaps." One aspect of this determination is whether the physical or mental condition, or impairment, "substantially limits one or more of such person's major life activities." The duration, or expected duration, of the impairment is a factor that may properly be considered when determining whether the impairment substantially limits one or more of such activities. However, in this context the duration of the impairment is not the controlling factor, as other factors such as the degree of the limitation must also be considered. Moreover, it must be emphasized that each case involving a determination of substantial limitation must be evaluated on its own merits.

William Bradford Reynolds,

Chairperson, Interagency Coordinating Council.

[FR Doc. 87-10175 Filed 5-4-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Division of Law Enforcement; Endangered Species Convention; Foreign Law Notification, Pangolins

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Information No. 15.

SUMMARY: Refusal to clear imports of pangolins originating in Indonesia, Malaysia, and Thailand.

This is a Schedule II notice.

Source of Foreign Law Information

Indonesia: Wildlife Protection Regulation Year 1931 No. 266; a letter from the Director General of Forest Protection and Nature Conservation, the Management Authority of the Convention of International Trade in Endangered Species of Wild Fauna and Flora (MA), dated October 14, 1985; and a Telex from the MA transmitted through the U.S. State Department, dated January 27, 1987.

Malaysia: Protection of Wildlife Act, 1972; and letter from the Director General of the Department of Wildlife and National Parks (MA), dated December 13, 1985; and a Telex from the MA, transmitted through the U.S. State Department, dated January 23, 1987.

Thailand: Ministerial Regulation No. 14 (B.E. 2525) of August 26, 1982; a letter from the Director of the Wildlife Conservation Division (MA), dated October 1, 1985; and a Telex from the MA, transmitted through the U.S. State Department, dated January 21, 1987.

Action by the Fish and Wildlife Service

The governments of Indonesia, Malaysia, and Thailand prohibit the export of pangolins (genus *Manis*; also called scaly anteaters) and issue no export certificates for these animals. Import into the United States of any

shipments of pangolins accompanied by export or re-export permits or certificates identifying Indonesia, Malaysia, or Thailand as the country of origin is prohibited, without proof of legal export in compliance with the laws of Indonesia, Malaysia, or Thailand. Specimens, parts and products of pangolins imported in violation of Indonesian, Malaysian, or Thailand laws will be refused clearance and/or seized and forfeited.

Effective Date: June 4, 1987.

Expiration Date: None until further notice.

FOR FURTHER INFORMATION CONTACT: Nancy Roeper, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, DC 20038–8006, Telephone: 202/343–9242.

Dated: April 29, 1987.

Frank Dunkle,

Director.

[FR Doc. 87–10108 Filed 5–4–87; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[AZ–020–07–4211–11; A–22124]

Realty Action; Recreation and Public Purposes (R&PP) Act Lease/ Conveyance

The following lands, located near the town of Picacho, Pinal County, Arizona, have been found suitable for lease/ conveyance to the Arizona Army National Guard (to be used in conjunction with their Western Army National Guard Aviation Training Site at Pinal Air Park), and are so classified under the Recreation and Public Purpose Act of June 14, 1926, as amended (44 Stat. 741; 43 U.S.C. 869 *et seq.*).

Gila and Salt River Meridian AZ

T. 9 S., R. 8 E.,
Sec. 2, SE¼, SE¼SW¼;
Sec. 11, N½NE¼, NE¼Nw¼.
Containing 320.00 acres.

These lands are not needed for federal purposes. Through the environmental assessment process, it has been determined that the lease of these lands would not affect any BLM programs and would be in the public interest.

The lease/conveyance would be subject to the following conditions:

1. Provisions of the Recreation and Public Purpose Act and all regulations of the Secretary of the Interior.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

3. A right-of-way for ditches and canals constructed by the authority of the United States.

4. Those rights for road purposes granted to Arizona Department of Transportation by permit number A–9818.

Upon publication of this Notice in the **Federal Register**, these lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purpose Act.

For a period of forty-five (45) days from the date of publication of this Notice, interested parties may submit comments regarding the proposed lease/ conveyance or classification of these lands to the District Manager, Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director. In the absence of any adverse comments the classification will become effective 60 days from the date of publication of this Notice. Further information concerning this realty action may be obtained from the Phoenix Resource Area, Phoenix District (602–863–4464).

Dated: April 27, 1987.

Henri R. Bisson,

District Manager.

[FR Doc. 87–10200 Filed 5–4–87; 8:45 am]

BILLING CODE 4310–32–M

[NV–930–07–4212–14; N–32355]

Realty Action; Competitive Sale; Elko County, NV

This notice supersedes the Notice of Realty Action published in the **Federal Register** on March 19, 1982, 47 FR 11775.

The following public lands have been examined and found suitable for disposal by competitive public sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at not less than fair market value.

Mount Diablo Meridian, NV

T. 33 N., R. 70 E.,
sec. 15, Lot 27.
The area described above aggregates 6.54 acres.

The sale is consistent with the Bureau planning system. The land is not needed for any resource program and is not suitable for management by the Bureau or another Federal department or agency.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon of ditches and canals.

2. All oil and gas mineral deposits. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at the Elko District Office.

And will be subject to:

1. Those rights for highway purposes granted to the Nevada State Highway Department, its successors or assigns by Permit Nos. CC–023497 under the Act of November 9, 1921, (42 Stat. 212).

2. Those rights for municipal water pipeline purposes granted to Elko County on behalf of West Wendover, Nevada, its successors or assigns by Permit No. N–21746 under the Act of October 21, 1976, 90 Stat. 2776, 43 U.S.C. 1761.

3. Those rights for road, water line and sewerline purposes granted to Elko County on behalf of West Wendover, Nevada, its successors or assigns by Permit No. N–35177 under the Act of October 21, 1976, 90 Stat. 2776, 43 U.S.C. 1761.

The sale date will be announced later, but will not take place any sooner than 60 days after the date of publication of this notice in the **Federal Register.**

The sale will be conducted using sealed bids. In the event identical bids are received, those individuals will be given the opportunity to submit supplemental sealed bids before a high bidder will be declared. The minimum bid will be established by a fair market value apraisal. Payment terms will be 10% down with the balance due in 180 days. Detailed information concerning the sale including bidding instructions, minimum bid and other conditions of sale will be made available at least 30 days prior to the sale date and may be obtained at the Elko District Office.

An unauthorized use and occupancy in the form of two mobile homes and a storage shed currently exists on a portion of the subject lands. After publication of this notice, action will be initiated to resolve the unauthorized use. A condition of the sale will be that if the owner of record of these improvements is not the successful bidder, action will be taken to remove the improvements, unless waived by the successful bidder. Further payment, after receipt of the 10% downpayment by the successful bidder, will be suspended pending resolution of the unauthorized use. The 180-day period for the balance due would not commence until the unauthorized use has been resolved.

Conveyance of the available mineral estates having no known mineral values will occur simultaneously with the sale of the land in accordance with section 209(b)(1)(l), Pub. L. 94–579. Acceptance of a bid offer will constitute an

application to purchase the mineral estates having no known values, and will require payment of a nonrefundable $50 filing fee that must accompany the bid.

Publication of this Notice in the **Federal Register** will segregate these public lands from all forms of appropriation under the public land laws and the mining laws. The segregative effect will end upon issuance of a patent or 270 days from the date of this Notice's publication in the **Federal Register**, whichever occurs first.

Detailed information concerning the sale is available for review at the Elko District Office, Bureau of Land Management, 3900 East Idaho, Elko, Nevada 89801. For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, 3900 E. Idaho Street, Elko, Nevada 89801. Any adverse comments will be reviewed by the State Director, who may vacate or modify this realty action. In the absence of any timely filed objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 24, 1987.

Rodney Harris,

District Manager.

[FR Doc. 87-10201 Filed 5-4-87; 8:45 am]

BILLING CODE 4310-HC-M

[ID-943-07-4220-10; I-3378]

Idaho; Partial Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application, serial number I-3378, for withdrawal and reservation of lands was published as **Federal Register** Document No. 70-2401 on page 3826 of the issue of February 27, 1970. The applicant agency has cancelled its applications insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 9:00 a.m. on June 3, 1987, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

Targhee National Forest

T. 1 N., R. 43 E.

Sec. 3, SW¼NW¼SW¼, SE¼NW¼SW¼, W½SW¼NE¼SW¼.

The area described aggregates 25.000 acres in Bonneville County.

Dated: April 27, 1987.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 87-10202 Filed 5-4-87; 8:45 am]

BILLING CODE 4310-GG-M

Bureau of Indian Affairs

Wisconsin Winnebago Tribe; Establishment of Reservation; Correction

April 23, 1987.

The land description appearing in 51 FR 41669 on Tuesday, Novembe 18, 1986, is hereby corrected by removing "R. 2 W." under "Parcel 3" for "Jackson County" and inserting in lieu thereof "R. 3 W."

In addition, the following parcel of land for Dane County should be inserted in the land description, first column, between "4th Principal Meridian" and "Jackson County."

Dane County

Part of Lot 2 Certified Survey Map No. 640 being part of Lot 11 of Assessor's Plat No. 10 of the Town of Blooming Grove, Dane County, Wisconsin, also being a part of the E½ of Sec. 26, T. 7 N., R. 10 E., more particularly described as follows:

Beginning at the SE corner of Lot 2 of CSM No. 640 (said point being on the NE right-of-way line of Interstate Highway I-90); thence N. 48°50'30" W., 96.03 ft., thence 397.17 ft., along a circular curve to the right (along Northeasterly right-of-way line of Interstate Highway I-90) having a radius of 2784.76 ft., a chord length of 396.82 ft., and a chord bearing of N. 45°00'10" W., thence N. 41°02'00" E., 403.11 ft., to the Southeasterly Line of Evan Acres Road; thence S. 48°58'00" E., 425.03 ft.; thence S. 32°12'30" W., 435.91 ft., to the point of beginning; containing 4.45 acres, more or less. Subject to an easement for drainage purposes 60 ft., in width adjacent to and parallel to the Northeasterly right-of-way line on Interstate Highway I-90 along the entire Southwesterly part of the parcel, and other valid rights-of-way or record.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 87-10103 Filed 5-4-87; 8:45 am]

BILLING CODE 4310-02-M

Minerals Management Service

Outer Continental Shelf; Development Operations Coordination Document; Exxon Co. U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company U.S.A., Unit Operator of the West Delta Block 73 Field Federal Unit Agreement No. 14-08-0001-11679, has submitted a DOCD describing the activities it proposes to conduct on the West Delta Block 73 Field Federal unit. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on April 27, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Richard Towner; Minerals Management Service; Gulf of Mexico OCS Region; Production and Development; Development and Unitization Section; Unitization Unit; Telephone (504) 736-2641.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 28, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-10087 Filed 5-4-87; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; Mobil Producing Texas and New Mexico, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Mobil Producing Texas and New Mexico, Inc. has submitted a DOCD

describing the activities it proposes to conduct on Lease OCS–G 7298, Block A–68, High Island Area, offshore Texas. Proposed plans for the above areas provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Freeport, Texas.

DATE: The subject DOCD was deemed submitted on April 23, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service; Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 27, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–10088 Filed 5–4–87; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf; Development Operations Coordination Document; Walter Oil and Gas Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Walter Oil & Gas Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4137, Block 557, Matagorda Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Port O'Connor, Texas.

DATE: The subject DOCD was deemed submitted on April 23, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 P.M. Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 27, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–10089 Filed 5–4–87; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Martin Luther King Jr., National Historic Site; Advisory Commission Meeting

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. at the following location and date.

DATE: May 20, 1987.

ADDRESSES: The Martin Luther King Jr., Center for Non-Violent Social Change, Inc., Freedom Hall, Room 261, 449 Auburn Avenue, NE., Atlanta, Georgia 30312.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Scott, Superintendent, Martin Luther King Jr., National Historic Site, 522 Auburn Avenue, NE., Atlanta, Georgia 30312, Telephone (404) 331–4979.

SUPPLEMENTARY INFORMATION: The purpose of the Martin Luther King Jr., National Historic Site Advisory Commission is to consult and advise with the Secretary of the Interior or his designee on matters of planning and administration of the Martin Luther King Jr., National Historic Site. The members of the Advisory Commission are as follows:

Mr. William Allison, Chairman
Mr. John H. Calhoun, Jr.
Dr. Elizabeth A. Lyon
Mr. C. Randy Humphrey
Mrs. Christine King Farris
Mr. Handy Johnson, Jr.
Mr. James Patterson
Mrs. Valena Henderson
Mrs. Millicent Dobbs Jordan
Mr. John W. Cox
Reverend Joseph L. Roberts, Jr.
Mrs. Coretta Scott King, Ex-Officio Member
Director, National Park Service, Ex-Officio Member

The matters to be discussed at this meeting will include: (1) The status of park development and interpretive activities.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: April 24, 1987

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 87–10174 Filed 5–4–87; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 25, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the

National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by May 20, 1987.

Carol D. Shull,

Chief of Registeration, National Register.

CONNECTICUT

Fairfield County

Bridgeport, *Bishop, Peyton Randolph, House*, 135 Washington Ave.
Greenwich, *Greenwich Town Hall*, 299 Greenwich Ave.
Stamford, *Main Street Bridge*, Main St. and Rippowam River
Stamford, *Turn-of-River Bridge*, Old N. Stamford Rd. at Rippowam River

Hartford County

Bristol, *Jerome, William I. House*, 367 Jerome Ave.
Bristol, *Rockwell Park*, Dutton Ave. and Jacobs St.
Windsor Locks, *Memorial Hall*, Jct. of S. Main and Elm Sts.
Windsor, *Pallisado Avenue Historic District*, Palisado Ave. between Farmington River and Bissell Ferry Rd.

Tolland County

Coventry, *Coventry Glass Factory Historic District*, US 44 and N. River Rd.

FLORIDA

Seminole County

Sanford, *Old Fernald-Laughton Memorial Hospital*, 500 S. Oak Ave.

HAWAII

Hawaii County

Kailua-Kona, *Hale Halawai O Holualoa*, Alii Dr.

Honolulu County

Honolulu, *Lihiwai (Boundary Increase)*, 41–C Kepola Pl.

KENTUCKY

Jefferson County

Louisville, *German Evangelical Church of Christ Complex*, 1236 E. Breckinridge St.

Kenton County

Covington, *Ritte's Corner Historic District, Latonia*, Roughly bounded by DeCoursey, Southern, Inez, and Winston Aves.

LOUISIANA

Rapides Parish

Woodworth, *Alexander State Forest Headquarters Building*, Alexander State Forest

Vermilion Parish

Abbeville, *Abbeville Commercial Historic District*, Roughly bounded by Concord, State, Lafayette, and Jefferson Sts.

MARYLAND

Prince George's County

Croom Vicinity, *Waverly*, 8901 Duvall Rd.
Croom, *Coffren, John W., House and Store*, 10007 Croom Rd.

NEW YORK

Dutchess County

Poughkeepsie, *Mill Street—North Clover Street Historic District (Boundary Increase)*, 101–115 Main St., 25, 27, 29, and 32 N. Bridge St.

OHIO

Franklin County

Worthington, *Niles Car & Manufacturing Company Electric Railway Interurban Combine No. 22*, 990, Properitor's Rd.

Guernsey County

Cambridge, *Sarchet-Burgess House*, 145 W. Eight St.

Ottawa County

Middle Bass Island, *Payer, Harry Franklin, Estate*, S. Shore Dr.

[FR Doc. 87–9906 Filed 4–4–87; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative, the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: April 29, 1987.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricutural cooperatives intending to perform nonmember, non-exempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such changes.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

A. (1) Dairylea Cooperative Inc.
(2) 831 James St., Syracuse, NY 13203
(3) P.O. Box 395, Seneca Street, Vernon, NY 13476
(4) Frank Reile, P.O. Box, Seneca Street, Vernon, NY 13476
B. (1) Harvest States Cooperatives
(2) P.O. Box 64594, St. Paul, MN 55164
(3) 1667 Snelling Avenue North, St., Paul, MN 55108
(4) R.J. Eichman, P.O. Box 64594, St. Paul, MN 55164
C. (1) Riceland Foods, Inc.
(2) P.O. Box 917, Stuttgart, Ar 72160
(3) 22nd & Park Avenue, Stuttgart, AR 72160
(4) Charles A. Gunnell, P.O. Box 927, Stuttgart, AR 72160
D. (1) Transport Specialities, Inc.
(2) 2630 E. Beyer Blvd. #194, San Ysidro, CA 92073
(3) 900 SUR (attn: Jose Esquedo), Col Guadalupe Culiacan Sinaloa, Mexico
(4) Jose Esqueda, 2630 E. Beyer Blvd. #194, San Ysidro, Ca 92073.

Noreta R. McGee,

Secretary.

[FR Doc. 87–10111 Filed 5–4–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30990]

CSX Transportation, Inc.—Construction and Operation Exemption—Between Brooker and Hainesworth, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission, under 49 U.S.C 10505, exempts from the prior approval requirements of 49 U.S.C 10901, the reconstruction and operation over eight miles of track previously abandoned between Brooker and Hainesworth, FL.

DATES: The decision is effective on May 14, 1987. Petitions to reopen must be filed by May 26, 1987.

ADDRESSES: Send pleadings referring to Finance Docket No. 30990 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Railroad's representative: Sally J. Kircher, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate

Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area).

Decided: April 27, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87–10110 Filed 5–4–87; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–19 (Sub-No. 125X)]

The Baltimore and Ohio Railroad Co.; Exemption Authorizing Abandonment in Harrison, Doddridge, Ritchie and Wood Counties, WV; Financial Assistance Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice that financial assistance procedures are available in this exempt abandonment proceeding.

SUMMARY: The Commission has: (1) Affirmed on appeal an exemption authorizing the Baltimore and Ohio Railroad Company (B&O) to abandon a 60.57-mile segment of its Parkersburg Subdivision rail line between Valuation Station 4689+16, at or near Walker, WV, and Valuation Station 1490+30, at or near Wilsonburg, WV; and (2) concluded that the financial assistance provisions of 49 U.S.C. 10905 should be made available in this proceeding.

The exemption will become effective on June 4, 1987, unless an interested person submits to B&O's representatives and the Commission, within 10 days of the publication of this notice, a formal expression of intent to file an offer of financial assistance to purchase or subsidize the line to continue rail service. If such a expression of intent is submitted the effective date of the exemption will automatically be postponed 10 additional days. The proposed financial assistance procedures in rail abandonment or discontinuance exemption proceedings that were published in Ex Parte No. 274 (Sub-No. 16), in 52 Federal Register 7628, March 12, 1987, will apply here for purposes of obtaining a minimum purchase price estimate from B&O, submitting an offer of financial assistance which is due 30 days after this notice, and handling the further financial assistance procedural steps necessary.

DATES: The due date for filing an expression of intent to file an offer of financial assistance is May 15, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB–19 (Sub-No. 125X), to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Peter J. Shudtz, Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201

(3) Patricia Vail, Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32220

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275–7245.

Dated: April 17, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Simmons dissented with a separate expression. Vice Chairman Lamboley dissented and will submit a separate expression at a later date.

Noreta R. McGee,

Secretary.

[FR Doc. 87–10224 Filed 5–4–87; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 86–94]

East Oglethorpe Pharmacy, Inc. d/b/a Parker Pharmacy, Albany, Georgia; Hearing

Notice is hereby given that on November 28, 1986, the Drug Enforcement Administration, Department of Justice, issued to East Oglethorpe Pharmacy, Inc. an Order to Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, AE8391043 and any pending application for renewal of such registration.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Wednesday, May 6, 1987, in Courtroom 10, Room 309, United States Claims Court, 717 Madison Place, NW., Washington DC.

Dated: April 28, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87–10142 Filed 5–4–87; 8:45 am]

BILLING CODE 4410–09–M

Office of Juvenile Justice and Delinquency Prevention; Office of Justice Programs

Program Announcement: Research on Drug Use Among Juveniles; Extension of Deadline Date

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of extension of deadline date.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to Part C, section 243(1) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, announces the extension of the deadline date for the research program entitled Research on Drug Use Among Juveniles, from May 29, 1987 to June 16, 1987.

Other supplementary information published in the **Federal Register** on April 28, 1987 (52 FR 15444) regarding this solicitation is current and applicable. For further information, contact Catherine P. Sanders at 202/724–5929.

Charles A. Laver,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 87–10014 Filed 5–4–87; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M–87–105–C]

A & J Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

A & J Coal Company, 120 Main Street, Joliett, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its K.R. & K. Slope (I.D. No. 36–06031) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles

present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specificed in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 4, 1987. Copies of the petition are available for inspection at that address.

Dated: April 28, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-10186 Filed 5-4-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-103-C]

Awacs Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Awacs Coal Company, P.O. Box 371, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 15 Mine (I.D. No. 15-15125) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous miner, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of continuous methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous miner will be available to assure that all coal hauling tractors will be equipped with a continuous miner;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 4, 1987. Copies of the petition are available for inspection at that address.

Dated: April 27, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-10187 Filed 5-4-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-100-C]

Bill Branch Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Bill Branch Coal Company, Inc., Route 2, Box 168 H, Cedar Bluff, Virginia 24609 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its Mine No. 8 (I.D. No. 44-05709) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Jawbone seam and ranges from 42 to 58 inches in height, with ascending and descending grades.

3. Petitioner states that the use of cabs or canopies on the mine's electric equipment would result in a diminution of safety to the miners affected because the cabs or canopies would limit the equipment operator's visibility. The cabs or canopies would dislodge roof supports and would limit the equipment operator's seating position, causing fatigue and creating chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 4, 1987. Copies of the petition are available for inspection at that address.

Dated: April 28, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-10188 Filed 5-4-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-85-C]

Jay Bird Energy Co.; Petition for Modification of Application of Mandatory Safety Standard

Jay Bird Energy Company, Box 812, Whitesburg, Kentucky 41858 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its Mine No. 5 (I.D. No. 15-14687) located in Letcher County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of cabs or canopies on the mine's electric equipment would result in a diminution of safety to the miners affected because the cabs or canopies would limit the equipment operator's visibility, thereby increasing the chances of an accident. The cabs or canopies could strike and dislodge roof supports, creating a danger of a roof fall.

3. For these reasons, petitioner request a modification of the standard in mining heights of 56 inches or less.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 4, 1987. Copies of the petition are available for inspection at that address.

Dated: April 27, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-10189 Filed 5-4-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-102-C]

Sea "B" Mining Co., Petition for Modification of Application of Mandatory Safety Standard

Sea "B" Mining Company, P.O. Box 4000, Lebanon, Virginia 24266 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Seaboard No. 2 Mine (I.D. No. 44-03479) located in Tazewell County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or conopies be installed on the mine's electric face equipment.

2. The mining height ranges from 42 to 57 inches, with undulations.

3. Petitoner states that the use of conopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because the canopies could dislodge roof supports, decrease the equipment operator's visibility and create discomfort to the equipment operator, increasing chances of an accident.

4. For these reasons, petitioner requests a modification of the standard in mining heights less than 54 inches.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or reveived in that office on or before June 4, 1987. Copies of the petition are available for inspection at that address.

Dated: April 28, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-10190 Filed 5-4-87; 8:45 am]

BILLING CODE 4510-3-M

Occupational Safety and Health Administration

Maryland State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.210 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letters dated January 27 and February 25, 1987, from Commissioner Dominic N. Fornaro, Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to: (1) 29 CFR Part 1926, Subpart K, pertaining to revisions to the Electrical Standards for Construction as published in the Federal Register of July 11, 1986 (51 FR 25318); (2) 29 CFR 1910.430, pertaining to corrections and revisions to the Commercial Diving Standard as published in the **Federal Register** of September 18, 1986 (51 FR 33033); (3) 29 CFR Part 1910.145, pertaining to amendments to Health and Safety Standards; Accident Prevention Tags as published in the **Federal Register** of September 19, 1986 (51 FR 33260); and (4) 29 CFR Part 1910, pertaining to amendments, corrections and revisions to Employer Certifications of Equipment Maintenance Inspections and Checks as published in the **Federal Register** of September 29, 1986 (51 FR 34560). These standards are contained in COMAR 09.12.31. Maryland Occupational Safety and Health Standards were promulgated after public hearings on September 11 and December 19, 1986. These standards were effective on January 26 and February 23, 1986, respectively.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are approved.

3. *Location of the supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied at the following locations during normal business hours: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the OSHA Office of State Programs, Room N-3476, Third Street and Constitution Avenue NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists

for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective May 5, 1987.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, Pennsylvania, this 6th day of March 1987.

Linda R. Anku,

Regional Administrator.

[FR Doc. 87-10031 Filed 5-4-87; 8:45 am]

BILLING CODE 4510-26-M

Virginia State Standards; Approval

1. *Background.* Part 1953 of title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On September 28, 1976, notice was published in the **Federal Register** (41 FR 42655) of the approval of the Virginia State plan and the adoption of Subpart EE to Part 1952 containing the decision.

The Virginia State plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.370 of Subpart EE sets forth the State's schedule for the adoption of Federal standards. By letter dated January 14, 1987, from Commissioner Carol Amato, Virginia Department of Labor and Industry to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to: (1) 29 CFR 1910.1001, pertaining to amendments to the Asbestos Standard for General Industry as published in the **Federal Register** of June 20, 1986 (51 FR 22733); (2) 29 CFR 1926.58, pertaining to the Asbestos Standard for Construction as published in the **Federal Register** of June 20, 1986 (51 FR 22756); (3) 29 CFR 1910.1043, pertaining to corrections to the Cotton Dust Standard as published in the **Federal Register** of July 3, 1986 (51 FR 24324); (4) 29 CFR 1910.1047, pertaining to amendments and corrections to the Ethylene Oxide Standard as published in the **Federal Register** of July 10, 1986 (51 FR 25053); and (5) 29 CFR Part 1926, Subpart K, pertaining to amendments and revisions to the Electrical Standards for Construction as published in the **Federal Register** of July 11, 1986 (51 FR 25318). These standards, which are contained in the Virginia Occupational Safety and Health Standards, were promulgated after a public hearing conducted on September 25, 1986. These standards were effective on December 8, 1986.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and, accordingly, are approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, PA 19104; Office of the Commissioner of Labor and Industry, 205 North Fourth Street, Richmond, VA 23241; and the OSHA Office of State Programs, Room N-3476, Third Street and Constitution Avenue NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Virginia State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective May 5, 1987.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, Pennsylvania this 30th day of March 1987.

Linda R. Anku,

Regional Administrator.

[FR Doc. 87-10032 Filed 5-4-87; 8:45 am]

BILLING CODE 4510-26-M

OFFICE OF PERSONNEL MANAGEMENT

Establishment of Prescribed Minimum Educational Requirements; Medical Officer Series (GS-602-11 Through 15)

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management and Budget (OPM) has revised the prescribed minimum educational requirement and other requirements for physicans employed within the Federal service. All medical officer positions are considered professional and the revised and updated licensure requirements will facilitate the procurement of qualified physicians for the Federal service. The minimum educational requirements for this occupation were last revised in January 1973.

EFFECTIVE DATE: Notice effective June 4, 1987.

ADDRESS: John E. Flannery, Acting Division Chief, Qualifications Standards Development, Career Entry Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

FOR FUTHER INFORMATION CONTACT: John Flannery, (202) 653-5497.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 3308, OPM has established prescribed minimum educational requirements for medical officers employed within the Federal service. The requirements, the duties of the positions, and the reasons for OPM's decision that the requirements are necessary are set forth below:

Medical Officer Series, GS-602, GS-11 Through GS-15

Basic Reqirements for all Grades

Candidates for positions at all levels must show successful completion of medical training as specified in paragaphs 1 and 2 below:

1. *Minimum Education:*

a. A Doctor of Medicine or Doctor of Osteopathy degree from a school in the United States or Canada approved by a recognized accrediting body in the year of the applicant's graduation; or

b. A Doctor of Medicine or equivalent degree from a foreign medical school

that provide education and medical knowledge substantially equivalent to accredited schools in the United States. Comparability may be demonstrated by permanent certification by the Educational Commission for Foreign Medical Graduates (ECFMG) or a fifth pathway certificate for American students who completed premedical education in the United States and graduate education in a foreign country. (Note: The requirement for foreign medical graduates to be competent in oral and written English is considered in the ECFMG) certification process.)

2. *Graduate Training Requirements:* Subsequent to obtaining a Doctor of Medicine or Doctor of Osteopathy degree, a candidate must have had at least 1 year of supervised experience providing direct service in a clinical setting; i.e., a 1-year internship or the first (transitional) year of residency program in an institution accredited for such training in the United States or Canada

Duties: Medical officers advise on, administer, supervise, or perform professional and scientific work in one or more fields of medicine (e.g., internal medicine, psychiatry, and surgery). Some medical officers practice medicine involving diagnostic, preventive and therapeutic services at hospitals, clinics, and diagnostic centers. Other physicians direct training activities for residents and inservice training of medical officers. Occupational health activities are managed by physicians who also evaluate medical aspects of claims for disability or death. Medical officers conduct research and experimental work involving a variety of health issues. Federal medical and health programs are also administered by physicians.

Acquistion of Required Skills: Professional knowledge of the principles, techniques, and practices of medicine is essential for performing the work of a medical officer. The primary source for acquiring the necessry knowledge of and preparation in the sciences that serve as the foundation for clinical medicine is through enrollment in a formal curriculum at an accredited medical college or university where professional instruction and guidance is offered; where there are adequate scientific libraries, laboratories, and facilities for field study; where academic courses are arranged in a systematic progressive sequence and where attainment of professional and scientific knowledge and skill may be competely assessed. Typically, completion of the curriculum provides knowledge of anatomy, biochemistry, physiology, pathology, pharmacology, and epidemiology.

Changes in Requirements: The revised qualification standard consolidates information formerly described under II, "Minimum Educational Requirements for All Positions," III, "Licensure Requirements" and IV, "Internship-Residency Requirement." These requirements are described under the title "Basic Requirements for All Grades." The fifth pathway certificate was added as evidence of meeting the minimum educational requirement. Preceptorship training is eliminated as approved training but can be credited under the "or equivalent" training provision. Fellowship programs have been added as another example of graduate training. The definition of graduate training has been consolidated into the "Graduate Training Requirement" section. The American Medical Association and American Osteopathic Association directories have been included to provide information on the KSA's underlying the various speciality fields in medicine. The exception that permitted commissioned medical officers with at least 10 years of satisfactory medical practice to be employed without a current license has been deleted. A provision was also added allowing agencies to waive the license requirement for positions involving nonpatient case evaluation.

Reasons for Changing and Maintaining Educational Reqirements: The qualification requirements were changed to bring them in line with modifications in the education and training of doctors that have occurred since the standrds was issued. The educational requirement was established and continues to be a requirement as the minimum necessary for a physician to practice medicine independently and to protect the patients and public.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 87-10155 Filed 5-4-87; 8:45 am]

BILLING CODE 6325-01-M

Establishment of Prescribed Minimum Education Requirements; Toxicology Series (GS-415-5 Through 15)

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) has established prescribed minimum educational requirements for a new occupation, toxicology, within the Federal service. The toxicology discipline formerly was included by series definition, major work function descriptions, and certain course work requirements in the classification standard (flysheet) for the Pharmacology series, GS-405, issued in June 1965, and the qualification standard, published in December 1968. The classification and qualification standards for toxicology positions have been established to identify and clarify changes in the roles and functioning of such positions, and to develop new standards in light of present educational trends and Federal employment needs. Toxicology is now a professional and scientific occupation and the new requirements will facilitate the acquisition of qualified candidates for toxicology positions in the Federal service.

EFFECTIVE DATE: Notice effective June 4, 1987.

ADDRESS: John E. Flannery, Division Chief, Career Entry Group, Qualification Standards Division, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: John E. Flannery, (202) 653-5497.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 3308, OPM has established a prescribed minimum educational requirement for toxicologists employed within the Federal service. The educational requirement, the duties of the position, and the method of acquiring the required skills are stated below:

Toxicology Series, GS-415-5 Through 15

Minimum Educational Requirements

Candidates must have successfully completed a full 4-year or longer course of study in an accredited college or university leading to a bachelor's or higher degree with major study in an appropriate discipline or field of the biological, medical, or veterinary sciences, or in toxicology. This total course of study must have included at least 30 semester hours in chemistry, biochemistry, or physiology, and 12 semester hours in toxicology. The nature and quality of this required course work must have been such that it would serve as a prerequisite for more advanced study in the field or subject-matter area of science to which it pertains.

The basic requirements, which apply to all grades, fully qualifys an individual at the GS-5 entry level.

Duties

Toxicologists perform professional and scientific work that is concerned with the study of the adverse biological effects of chemical substances or similar agents on living organisms and their components. Toxicologic work deals with the adverse impact of different substances or mixtures of substances in various forms (e.g., gases, particles, solutions). The work usually involves: (1) Designing, conducting, and evaluating research intended to reveal the toxic or harmful effects of chemical on living organisms, and making assessments of risk or hazard based on this research; (2) testing toxic agents to determine whether they meet standards set for safety; (3) reviewing and evaluating toxicological data to determine whether a substance or product meets approved standards for safety or labeling; and (4) supporting research and training in toxicology through grants, awards, and contracts.

Toxicologic work also deals with the identification of relationships between exposure to chemical agents, and their long- and short-term effects on the health of humans, animals, and populations. It involves the study of the interaction of chemical substances or similar agents and biological systems, the exploration of the nature and mechanisms of adverse reactions, and the assessment of the likelihood of, as well as the degree of significance of, the occurrence of adverse effects.

Acquisitions of Required Skills

A thorough knowledge of the principles, concepts, techniques, and practices of toxicology and of the underlying scientific concepts is essential for performing the work of toxicologist positions. The only method by which the necessary knowledge and training may be acquired is through a directed course of study in an accredited college or university where competent instruction and guidance are available; where there are adequate scientific libaries, laboratories, and facilities for field study; where the course work is arranged in a systematic, progressive schedule; and where progress in the acquisition of professional and scientific knowlege and skill may be competently evaluated. The minimum educational requirement reflects the proliferation of knowledges required and the demands on toxicologists resulting from such factors as existing and steadily increasing Federal regulations concerning the safe production, use, handling, storage, and disposal of chemicals; and the tightening of regulatory guidelines that have placed increasing emphasis on the potentially harmful effects of chemical compounds on humans and animals.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 87-10156 Filed 5-4-87; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24404; File No. SR-OCC-87-9]

Self-Regulatory Organization; Proposed Rule Change by the Options Clearing Corporation Relating to Arrangement Between American Stock Exchange, Inc. and the European Options Exchange (Amsterdam) for Trading of Options on the Major Market Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(i) (the "Act"), notice is hereby given that on April 14, 1987, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change will enable OCC to clear options on the "Major Market Index" ("XMI Options") to be traded on the European Options Exchange ("EOE") that are identical to and fungible with XMI Options currently traded on the American Stock Exchange ("AMEX"). This rule filing is submitted in connection with material relating to the same subject recently filed with the Commission by AMEX in File No. SR-AMEX-87-10. This rule filing consists of proposed changes in OCC's By-Laws and Rules that are designed to apply to "international options" generally. In addition, the filing includes an International Market Agreement among OCC, EOE and AMEX. The filing also includes an agreement between OCC and ACHA Associate Clearing House Amsterdam B.V., a subsidiary of the EOE clearing organization, which will maintain accounts with OCC for the purpose of carrying positions in XMI Options on behalf of certain EOE clearing members. In addition, the filing includes a proposed amendment to OCC's Restated Participant Exchange Agreement.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

XMI Options will be included in a new category of options referred to in OCC's proposed rules as "international options." Issuance, clearance and settlement of international options will be in accordance with OCC's existing By-Laws and Rules as supplemented and modified by provisions applicable only to international options. The relationship among OCC, AMEX and EOE will be governed by the International Market Agreement ("IMA"). The proposed IMA contains many provisions analogous to the provisions of the Restated Participant Exchange Agreement ("PEA") which governs the relationship among OCC and its participating exchanges ("Participating Exchanges"). The rights and obligations between OCC and AMEX in respect of XMI Options would continue to be governed by the PEA except to the extent that it is inconsistent with the IMA.

It is presently anticipated that XMI Options will be traded on EOE between the hours of 12:00 noon and 4:30 p.m. Amsterdam time (6:00 a.m. and 10:30 a.m. New York time). Trading in XMI Options on AMEX will be conducted between 9:30 a.m. and 4:15 p.m. New York time as is presently the case. Each market will submit a report of matched trades to OCC at the end of the trading day on that market. Based upon those matched trade reports, OCC will open or close positions in XMI Options in the accounts of OCC Clearing Members in the same way that it currently does. Positions in XMI Options arising from trades on EOE will be identical to positions arising from trades on AMEX, and a position could therefore be

opened in one market and closed out in the other.

A U.S. investor who desires to effect a transaction in XMI Options on EOE will be able to do so by placing an order with his U.S. broker. If the U.S. broker is a member of EOE, the broker can execute the transaction on the EOE floor and the resulting position will ultimately be carried in the broker's customer account at OCC or, if the broker is not an OCC Clearing Member, then in the customer account of the OCC Clearing Member through which the U.S. broker clears its XMI Options transactions. If the investor's U.S. broker is not a member of EOE, a trade on EOE would have to be executed for the U.S. broker by an EOE Member. The resulting XMI Option position would either be carried for the investor in the customer account of the OCC Clearing Member through whom the EOE member clears its options transaction or (more likely) it would be transferred through OCC's "CMTA" procedures to the customer account of the OCC Clearing Member through which the U.S. broker clears its XMI Options transactions.

In order to provide a convenient means by which EOE members may clear transactions in XMI Options, OCC proposes to enter into an Associate Clearinghouse Agreement (the "ACA") with ACHA pursuant to which ACHA will act on behalf of its members in clearing XMI Options transactions through OCC. With certain exceptions provided for in the ACA, ACHA will act in accordance with the By-Laws and Rules just as any other Clearing Member of OCC. Accordingly, ACHA will make margin and clearing fund deposits with OCC on the same basis as any other Clearing Member. The financial and reporting requirements applicable to ACHA, however, will be unique to ACHA as an associate clearinghouse.

The rule filing also includes an amendment to the PEA that provides for the inclusion of any necessary disclosure regarding international options in the registration statement filed by OCC under the Securities Act of 1933 (the "Registration Statement") and in the disclosure document prepared by OCC and the Participating Exchanges pursuant to Commission Rule 9b–1 (the "Disclosure Document"). Under that amendment, a Participating Exchange that forms a link with an international market would assume responsibility to OCC and the other Participating Exchanges for furnishing any information regarding its affiliated international market that is required to be disclosed in the Disclosure Document or the Registration Statement and for confirming the accuracy of all disclosure included therein insofar as it applies to the international market or to trading in international options on that market. The Participating Exchange will also indemnify OCC and the other Participating Exchanges with respect to losses resulting from misstatements or omissions in such disclosure.

Under the terms of the IMA, it is proposed that EOE will not be listed in the Disclosure Document as a preparer of that document. EOE will, however, have certain obligations to AMEX, and on behalf of AMEX to OCC, to provide information regarding itself for inclusion in the Disclosure Document and will warrant the accuracy of all disclosures included in the Registration Statement or the Disclosure Document insofar as it applies to EOE or XMI Options trading on EOE.

In File No. SR–AMEX–87–10, AMEX has filed with the Commission a proposed "Memorandum of Understanding" with EOE relating to the exchange of surveillance data concerning XMI Options trading on both markets. OCC has agreed to make certain of its clearing records available to both markets for surveillance purposes.

The proposed rule change is consistent with section 17A of the Act, and in particular with subsection 17A(b)(3)(F) thereof, in that it promotes the prompt and accurate settlement of securities transactions, including transactions in XMI Options that may be entered into by U.S. and other investors on EOE, by applying to such transactions the same basic safeguards and procedures applicable to other option transactions cleared by OCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the filing will have an adverse impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were not requested or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provision of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number SR–OCC–87–9 and should be submitted by May 26, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 29, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–10177 Filed 5–4–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–24401; File No. SR–PSE–87–05]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Filing of Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 27, 1987, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission a proposed rule change to create additional Exchange memberships.

The PSE Board of Governors ("Board") recently authorized, subject to membership approval, the issuance of seat owners of rights to purchase regular

memberships. Upon the exercise of 14 rights and payment of $50,000, a new Exchange membership will be created. The proposed rights offering, if approved by a majority vote of the members, would entitle each membership owner of record as of April 24, 1987 to receive one right. The rights would expire if not exercised by 2:00 p.m. (Pacific Time) on December 31, 1987. The rights also would be transferable in accordance with the Exchange's procedures for the transfer of memberships. Finally, the offering will create 36 new memberships if all the rights are exercised.

The Exchange Board projected the Exchange's needs over the next three years and concluded that additional operating capital will be required to accomplish the goals established in the Exchange's Business Plan. To that end, the Board determined to send to the membership for a vote a proposal for a right offering to create a maximum of 36 new regular memberships. An additional reason for the rights offering is to correct an imbalance in the supply and demand for PSE memberships. The use of the rights distribution to accomplish these goals is based on the desire to have current members share in the benefits resulting from the additional memberships.

As the foregoing rule change is concerned solely with the administration of the self-regulatory organization, it has become effective immediately pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoig. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provision of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Station, 450 Fifth Street, NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 26, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 29, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–10178 Filed 5–4–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–24397; File No. SR–DTC–87–06]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Depository Trust Co.

Depository Trust Company ("DTC"), on April 13, 1987, filed a proposed rule change (File No. SR–DTC–87–06) with the Commission under section 19(b)(1) of the Securities Exchange Act ("Act"). The proposal would amend, effective March 31, 1987, the fees DTC charges its participants for various ancillary services, as shown in the attached Exhibit 1.

DTC states in its filing that the proposed rule change is consistent with the Act, particularly section 17A(b)(3)(D) of the Act which authorizes a clearing agency to adopt reasonable fees for the services it provides to participants. DTC further states that its proposed fees, in general, are designed to bring the fees more in line with its 1987 expenses for providing services.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the change if it appears to the Commission that it is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–87–06 and should be submitted by May 26, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 28, 1987.

Shirley E. Hollis,

Assistant Secretary.

SUMMARY TABLE

Service	Present fee	Proposed fee
I. *Inter-Depository Interface Fees to Participants:*		
RIO delivery	None	$.30 to NSCC.
II. *Use of DIC Interface Department:*		
Participant Usage Basic services.	For each account: Basic Tasks $80 per month, Basic Additional Tasks $170 per month.	For each service used: Settlement—$25 per month, Sorting—$75 per month, Shipping—$75 per month.
Physical certificate forwarding fees:		
Deposit	$.12 per deposit	$.22 per deposit.
Withdrawal-by-Transfer.	$.37 per withdrawal-by-transfer.	$.22 per withdrawal-by-transfer.
Urgent Withdrawal.	$.70 per urgent withdrawal.	$1.05 per urgent withdrawal.
Depository Facility Usage Facility usage.	To the Facility, $.40 per deposit with a $100 minimum per month plus telephone costs.	To the Facility, $.60 per deposit with a $100 minimum per month plus telephone costs.
Facility deposit.	$.12 per deposit chargeable to the Participant, plus $1.20 fee (Zone A) and certificate charge.	$.35 per deposit chargeable to the Participant, plus $1.20 fee (Zone A) and certificate charge.
III. *Charges to DTC Passed Through to Users:*		
Participant Terminal System (PTS) Terminal Modems.	Included in monthly PTS charge of $765 per month.	Included in monthly PTS charge of $865 per month.
Back-Up Lines to Contingency Site.	Not applicable	$85 per month for each PTS configuration or dedicated CCF line.

SUMMARY TABLE—Continued

Service	Present fee	Proposed fee
Funds Usage Charge: Bearer bond interest.	Included in fee below.	Passed through pro rata to those Participants receiving payments in affected issues.
Monthly surcharge on positions requiring coupon collection from paying agents located outside Metropolitan New York area.	$.50 per issue per month.	$.25 per issue per month.
IV. *Miscellaneous Fees:*		
Payment Order Service.	$.45 for each item delivered or received.	$.20 for each item delivered or received.
Computer Communications Facility (CCF) Output Transmissions:		
Eligible Securities list with security descriptions.	$25 per request	$225 per request.
Eligible Securities list (CUSIPs only).	$25 per request	$75 per request.
Daily changes in Eligible Securities list.	$25 per month	$50 per month.
Eligibility Participant list.	$10 per request	$15 per request.
Daily Participant Account Activity.	$200 per month	$225 per month.
Daily Participants Closing Balances.	$50 per month	$150 per month.
Daily Cash Settlement.	$25 per month	$100 per month.
Reorganization, Dividend and Proxy Record Date position information.	None	$100 per month.
Withdrawal-by-Transfer Detail Balances.	None	$100 per month.
Participant Account Return Payment Order Transactions.	None	$100 per month.
Municipal Bond System Announcements.	None	$100 per month.
Dividend and Proxy Announcements.	None	$100 per month.
Reject Fees:		
For erroneous input in a Deposit, Withdrawal-by-Transfer, Urgent Withdrawal, Collateral Loan or Deliver Order instruction.	From 0 to .5% No charge, From .5 to 1%, $10.00 per reject, From 1 to 3%, $15.00 per reject, From 3 to 5%, $20.00 per reject, Over 5%, $25.00 per reject.	From 0 to 5%, $20.00 per reject, Over 5%, $30.00 per reject.

[FR Doc. 87-10120 Filed 5-4-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24400; File No. SR-MSE-87-5]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc.; Relating to Automated Account Transfer Service

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 27, 1987, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

Proposed new Rule 21 Article VIII (Customer Account Transfers) of the Rules of the Midwest Stock Exchange, Incorporated establishes revised procedures for customer account transfers between member organizations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, or the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed new Article VIII, Rule 21 establishes procedures for customer account transfers between member organizations and is intended to both expedite the tansfer of a customer's securities account between member organizations and strengthen MSE's current rule. The rule also authorizes MSE member organizations to transfer customer securities accounts to or from participants of any registered clearing agency having automated customer securities account transfer capabilities.

The proposed rule change requires that customer securities account transfers must occur within ten business days. Within five business days of a request for transfer, the carrying or transferor member organization must either validate or take exception to the transfer instruction and report the security position and money balance information to the receiving or transferee member organization. The actual transfer of the customer's securities account must occur within five business days from the date of validation. Validation may be denied only for the reasons set forth in the rule, including a carrying organization having no record of the account on its books or the transfer instruction is not signed or contains an improper signature.

Rule 21 requires the carrying and receiving organizations to establish fail to receive and fail to deliver contracts for all securities positions in a customer's account not delivered within five business days after the validation of a transfer instruction. After this period, these fail contracts must then be closed out within ten business days after their establishment.

The interpretations to Rule 21, however, provide certain exceptions to the fail contract requirements. Non-transferable assets may, subject to the customer's instructions, be liquidated, retained by the carrying organization, or shipped physically and directly to the customer. Certain "delayed delivery assets" are recognized as not readily deliverable within any particular time frames and are exempt from subsection (b)(3) of Rule 21. Such items include bankrupt issues, insurance policies, stripped coupons and when-issued or when-delivered securities. Certain "delayed close out assets", including banker's acceptances, certificates of deposit, and commercial paper, must be closed out within thirty days after their establishment.

Finally, the new rule contains a provision which authorizes MSE to impose a late fee of up to $100 per customer securities account for each day a member organization fails to adhere to the new rule's requirements, including the applicable time periods for required transfer.

The proposed rule change is consistent with section 6 of the Securities Exchange Act of 1934 in that it is designed to foster cooperation and coordination with persons engaged in clearing, settling and processing information with respect to, and facilitating transactions in securities by providing an efficient mechanism for the

transfer of customer securities accounts between member organizations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that the proposed rule change will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if its finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 26, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 28, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-10117 Filed 5-4-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24398; File No. SR-OCC-87-08]

Self-Regulatory Organizations; Options Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), notice is hereby given that on April 10, 1987, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described below. The proposal clarifies the meaning of existing OCC rules with respect to Clearing Member margin obligations for non-equity options and revises OCC rules dealing with settlement of foreign currency option exercises and assignments. The Commission is publishing this notice to solicit comment on the proposed rule change.

Specifically, the proposed rule change clarifies ambiguities in OCC Rule 602A dealing with margin requirements for non-equity options. Rule 602A(f)(2) is revised to describe more accurately the timing of the transition from margin requirements based on open contracts to margin requirements based on net settlement obligations. New language in Rule 602A(f)(2) clarifies that the rule becomes applicable, *i.e.*, a Clearing Member must post margin on its net settlement obligation rather than on its open options contract positions, on the second business day following the issuance of an Exercise and Assisgnment Report on the day following expiration date.[1] Moreover, instead of stating when certain option positions will be excluded from margin calculations entirely, Rule 602A(e), as amended, expressly states that a Clearing Member shall not be required to deposit margin on exercised long positions and assigned short positions in non-equity options or settlement obligations arising therefrom in certain enumerated cases.[2]

The proposal also amends OCC Rule 1606 regarding settlement of foreign currency options to clarify when discharge of settlement obligations occurs. As revised, the rule states that a Clearing Member's settlement obligations that net out after OCC has performed the netting set out in Rules 1605(a) and 1605(b)(1) are deemed discharged at settlement time on the business day (or, in the case of an Exercise Settlement Report issued on the day following expiration date, the second business day) following the date of issuance of an Exercise Settlement Report reflecting such netting. Any remaining obligations are deemed discharged at the time payment or delivery is completed by the Clearing Member.

This rule change has become effective pursuant to Section 19(b)(3) of the Act and Rule 19b-4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purpose of the Act.

You may submit written comments within 21 days after notice is published in the **Federal Register**. Please file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to Fille No. SR-OCC-87-08 and should be submitted by May 26, 1987.

For the Commission, by the Division of Market Regulation pursuant to deleated authority.

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[1] For contracts exercised on an ordinary business day, *i.e.*, a day other than expiration Saturday or the preceding Thursday, a Clearing Member is required to deposit margin on its net settlement obligation on the business day following the issuance of an Exercise and Assignment Report.

[2] For index options and other cash settled options, a Clearing Member shall not be required to deposit margin on and after exercise settlement date; for other non-equity options, a Clearing Member shall not be required to deposit margin where settlement obligations are discharged by delivering the underlying asset against payment therefore, or vice vrsa; or where settlement obligations are discharged by offset, on and after the date on which settlement is deemed to have been made pursuant to the rules.

Dated: April 28, 1987.
Shirley E. Hollis,
Assistant Secretary.
[FR Doc. 87-10119 Filed 5-4-87; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-24399; File No. SR-OCC-87-06]

Self-Regulatory Organizations; Options Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change

The Options Clearing Corporation ("OCC") on March 18, 1987, filed with the Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") concerning ex-dates for dividends and other distributions. The Commission is publishing this notice to solicit public comment on the proposal.

The proposal adds an interpretation[1] to OCC Rules to govern options exercise settlements through correspondent clearing corporations. The proposal requires delivering clearing members to deliver certain dividends or other distributions on exercise settlement date even if not required by the rules of correspondent clearing corporations. Specifically, the Interpretation applies where OCC, for technical reasons, defers reporting exercises to correspondent clearing corporations and an ex-date for a dividend or other distribution on the underlying stock occurs after exercise and before OCC reports those exercises.[2]

OCC's proposal would apply, in particular, to situations where an underlying security is traded on either a "when distributed" or "when issued" basis. OCC states that: (1) With "when distributed" securities, a securities exchange may determine that a purchaser of the security prior to the ex-date is not entitled to receive the dividend because delayed settlement would not permit the purchaser to be the owner on the record date for the dividend; and (2) with "when issued" securities, settlement may be delayed because the components of the settlement package may not be available for delivery until all "when issued" trading in the distributed property has ceased. Under both of these circumstances, OCC states that its Interpretation would provide that option holders who exercise prior to an ex-date would be entitled to the distributions.

OCC states that its rationale for this proposal is to prevent inequities to options holders and to clarify that, under its Rules, option holders who exercise prior to an ex-date are entitled to the distribution. Moreover, OCC states that its Risk Disclosure Document already provides that option holders who exercise prior to an ex-date are entitled to the distribution and that if OCC were to permit otherwise, it would be unfair to option holders relying on that document.

OCC also states that the proposed rule change is consistent with the Act, and particularly section 17A of the Act, in that it (1) will clarify the meaning, administration, and enforcement of an existing rule (OCC Rule 913), and (2) will protect investors and the public interest.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the change if it appears to the Commission that it is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street Street NW., Washington, DC 20549. Copies of the filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-87-06 and should be submitted by May 26, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[1] *See* Interpretation and Policy .01 ("Interpretation") to OCC Rule 913.

[2] Exercise settlement generally occurs at correspondent clearing corporations on the fifth business day after the exercise notice is tendered to OCC. OCC Rules also enable OCC to designate a different exercise settlement date to meet unusual conditions, *e.g.*, for property that is deliverable as a result of an adjustment of the exercised option contract pursuant to OCC Rules.

Under those circumstances, OCC could extend or postpone exercise settlement and defer reporting exercises to correspondent clearing corporations.

Dated: April 28, 1987.
Shirley E. Hollis,
Assistant Secretary.
[FR Doc. 87-10118 Filed 5-4-87; 8:45 am]
BILLING CODE 8010-01-M

[Release No. IC-15708; 812-6461]

Tucker Anthony Mutual Fund, et al.; Application for Contingent Deferred Sales Charges and Exchange Privileges

April 28, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Order Amending Existing Orders under the Investment Company Act of 1940 ("1940 Act").

Applicants: Tucker Anthony Mutual Fund ("Mutual Fund"), Tucker Anthony Group of Tax Exempt Funds ("Tax Exempt Funds"), Freedom Investment Trust ("Freedom") and Freedom Investment Trust II ("Freedom II").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the 1940 Act and Rule 22c-1 thereunder, and approval of exchange offers requested under Section 11(a)

Summary of Application: Applicants seek an order to permit a contingent deferred sales load ("CDSL") on certain redemptions of shares of the Global Fund and the Global Income Plus Fund series of Freedom II and any subsequently created series of shares of Freedom II or Freedom; and to permit Applicants to waive, defer or reduce the CDSL as described below; and to permit certain offers of exchange of shares among series of shares of Applicants and any future similar series of Applicants which exchanges are of shares of a series which impose a CDSL for shares of a "no-load series, and vice versa. The order requested will amend two existing SEC orders (Investment Company Act Release Nos. 15118, May 28, 1986, and 15455, December 4, 1986) ("Existing Orders").

Filing Date: The application was filed on March 5, 1987, and amended on March 26, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on May 18, 1987. Request a hearing in writing, giving the nature of your

interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington DC 20549. Applicants, One Beacon Street, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272–3037 or Brion R. Thompson, Special Counsel (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicants, each registered under the 1940 Act as an open-end management investment company, are "series companies" whose shares are offered for sale to the public through broker-dealers pursuant to distribution agreements with Tucker, Anthony & R.L. Day, Inc. ("Tucker Anthony") and/or Freedom Distributors Corporation ("FDC") (collectively, "Distributors"). Applicants' investment adviser is Tucker Anthony Management Corporation ("Adviser"). Clemente Capital, Inc. is a sub-adviser to Freedom II.

2. Under the Existing Orders, Freedom is permitted (a) to impose a CDSL on certain redemptions of shares of its Government Plus Fund and Equity Value Fund Series and any subsequent similar series of Freedom and to waive such CDSL on redemptions (i) following the death or disability of a shareholder, (ii) in connection with certain individual retirement account or other qualified retirement plan distributions, and (iii) by certain officers, directors, trustees, employees and sales representatives of Freedom, its Adviser, Tucker Anthony or any of their affiliates, and to defer such CDSL in connection with offers of exchange between the Government Plus Fund and the Equity Value Fund series and all subsequent similar series of Freedom; (b) to waive the CDSL on redemptions offered pursuant to Freedom's right to liquidate a shareholder's account and redemptions effected pursuant to Freedom's systematic withdrawal plan; and (c) to impose a CDSL on the Gold and Government Trust series, Regional Bank Fund series and Government/Index Option Fund series (formerly a series of Freedom) and any subsequent similar series of Freedom, to permit the same waivers and deferrals as were permitted the Government Plus Fund and the Equity Value Fund series, and to permit all series of Freedom and any subsequent similar series to additionally (i) waive the CDSL on redemptions by spouses and children under age 21 of officers, directors, trustees, employees and sales representatives of Freedom and by clients of Tucker Anthony Advisers, a division of Tucker Anthony, (ii) reduce the CDSL for shareholders who have purchased more than a stated minimum of shares of a series of Freedom, and (iii) defer the CDSL in connection with the exchange privilege among all of the series of Freedom and any other series of Freedom having a CDSL.

3. Freedom II proposes to offer shares of its series without the imposition of a front-end sales load and to impose a CDSL upon redemption of shares of such series by investors. According to the application, the CDSL to be imposed with respect to the existing and subsequent similar seires of Freedom II is identical to the CDSL already permitted by the Existing Orders and imposed with respect to each of the existing and subsequent similar series of Freedom. Freedom II further proposes to waive the CDSL on certain redemptions of its shares as described in the application.

4. Freedom II proposes to assist in financing the distribution of shares of the Global Fund and the Global Income Plus Fund series pursuant to a plan adopted under Rule 12b–1 under the 1940 Act (the "Plan"). The Plan provides that such series will accrue daily and pay monthly to the Distributor a distribution fee calculated at the rate of .75% of average daily net assets of the Global Fund series and .50% of the average daily net assets of the Global Income Plus Fund series. The Board of Trustees of Freedom II, in its periodic review of the Plan, will consider the effect on the Distributor of the CDSL and its use thereof. Any subsequently created series of shares of Freedom II, the shares of which are issued and sold with a CDSL on substantially the same basis as the shares of beneficial interest in the existing series, will utilize distribution plans under Rule 12b–1 comparable to the Plan described above.

5. Freedom II also proposes that shares of any of its series may be exchanged for shares of any of its other series or subsequent series, or for shares of any existing and future series of Freedom, having a CDSL, as long as the amount of initial investment in the series into which the initial exchange is made is at least equal to $1,000. No CDSL will be payable upon such exchange, but a CDSL will be payable when a shareholder ultimately redeems shares of the series acquired as a result of the exchange. For purposes of calculating the amount of the CDSL, the initial purchase date will be deemed to be the date of purchase of the shares of the first series being exchanged rather than the date of the exchange. Thus, the CDSL will be deferred until such time as the shareholder ultimately redeems shares of the series acquired as a result of the exchange.

6. In addition, Freedom II proposes to reduce the CDSL by one half for shareholders whose aggregate purchases, valued at the time of purchase, exceed $2,000,000 of shares of a series or combination of series of Freedom and Freedom II having the CDSL, and similarly to reduce the CDSL by three-fourths for shareholders whose aggregate purchases, valued at the time of purchase, exceed $4,000,000 of shares of a series or combination of series of Freedom or Freedom II having the CDSL. Freedom II further proposes to permit certain affiliated shareholders to be considered a "single shareholder" for purposes of determining the availability of the reduced CDSL, as described in the application. In the event Freedom II comtemplates any change in the scheduled percentage of reduction of the CDSL or the specified dollar value of shares required to qualify for a reduction, or in the categories of qualifying shareholders, Freedom II will notify the SEC of such changes. Such changes will be in compliance with the provisions of Rule 22d–1 under the 1940 Act and, unless the SEC objects to the terms of the proposed changes within 30 days following receipt thereof, such changes shall become a part of the order issued in this manner.

7. Shares of each series of the Mutual Fund and Tax Exempt Funds are offered without a sales charge ("No Load Funds"). It is contemplated that shares of any series of Freedom or Freedom II ("CDSL Funds") may be exchanged for shares of any series of the No Load Funds without the imposition of any CDSL at the time of exchange. Upon subsequent redemption from any series of the No Load Funds, such shares will be subject to the CDSL of the series of the CDSL Funds from which the exchange occurred without regard to the time such shares were held in the No Load Funds. In connection with

exchanges of shares of the CDSL Funds for which the shareholder previously paid a sales load, such shares may be exchanged for shares of any series of the CDSL Funds on No Load Funds without the imposition of any charge upon exchange or the CDSL upon ultimate redemption. It is also contemplated that shares of any series of the No Load Funds which have never been subject to a CDSL may be exchanged for shares of any series of the CDSL Funds. Such shares would be subject to the CDSL upon redemption from the CDSL Funds calculated only from the time of exchange into such CDSL Funds.

8. Applicants submit that, in connection with such offers of exchange, there will be no financial incentive for the Distributors' account executives or other salespersons designed to encourage initiation of exchange transactions. Applicants further submit that such exchanges will not dilute the assets per share of any fund involved in an exchange.

9. Applicants request that the terms of the order sought by this application also apply to any other investment company or series of any investment company now or hereafter primarily distributed by Tucker Anthony or FDC as a part of the Tucker Anthony Family of Funds.

10. In the event Applicants determine to terminate the exchange privilege or any part of such privilege, no notice thereof would be provided to shareholders of shares of any series of the Applicants, other than through the next subsequent effective Prospectus or Statement of Additional Information of such funds.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. Applicants will comply with the provisions of Rule 22d–1 under the 1940 Act.

2. Applicants will comply with the provisions of proposed Rule 11a–3 under the 1940 Act when and if it is adopted by the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–10121 Filed 5–4–87; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be sumitted within 30 days of this publication in the **Federal Register.** If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Ageny Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83s), supporting statements, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653–8538

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395–7340.

Title: Development Company Reporting Requirements
Frequency: On occasion
Description of Respondents: Development companies must provide basic information to determine the viability and eligibility of the development companies and to protect SBA's financial interest.
Annual Responses: 2,422
Annual Burden Hours: 2,207
Type of Request: Extension

Title: Surety Bond Guarantee Assistance
Frequency: On occasion
Description of Respondents: These forms are completed by sureties to evaluate the capabilities and potential success under the Surety Bond Guarantee Program. Forms constitute request for Government assistance by applicants.
Annual Responses: 55,000
Annual Burden Hours: 28,730
Type of Request: Extension

Title: Surveys of Bonding Problems of Small Federal Service Contractors
Frequency: One-time basis
Description of Respondents: Information is being collected from underwriters in commercial sureties and executive officers in small firms. This information is used to determine the extent to which small service contractors encounter difficulties in obtaining bonds from commercial sureties and the reason for these difficulties
Annual Responses: 164
Annual Burden Hours: 98
Type of Request: New

William Cline,

Chief, Administrative Information Branch, Small Business Administration.

April 29, 1987.

[FR Doc. 87–10144 Filed 5–4–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intent To Prepare Environmental Impact Statement; Manor and Rayburn Townships, Armstrong County, PA

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Armstrong County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: George J. Catselis, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108–1086, Telephone (717) 782–3411 or Bruce E. Speegle, District Engineer, Pennsylvania Department of Transportation, Engineering District 10–0, P.O. Box 429, Indiana, Pennsylvania 15701, Telephone (412) 357–2805.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA), in cooperation with the Pennsylvania Department of Transportation (PennDOT), will prepare an Environmental Impact Statement for a proposal to complete the eastern half of the Kittanning Bypass. A recently completed fessibility study has produced two alignments which will be studied in addition to the "do nothing" alternate. The two construction alternates begin at the four-lane section of the bypass which was completed in the mid-1970's, extend eastward to connect with U.S. Route 422 by a new

interchange, and terminate with an intersection on Traffic Route 28/66. The two designs differ in the location of their crossings of intersecting routes. Each will feature four-lane construction between the existing bypass and the U.S. Route 422 interchange, and consist of two-lanes with possible truck climbing lanes from the interchange to the connection with Traffic Route 28/66. This project is a maximum of 2.5 miles long, and is situated in a primarily rural section of Manor and Rayburn Townships, Armstrong County. For each of the alternatives under study, the following areas will be investigated: Traffic, preliminary design and cost, air quality, noise energy, water quality and aquatic ecology, groundwater, hydrogeology, flood-plains and flood hazard areas, vegetation and wildlife, threatened and endangered species, wetlands, farmlands, soils and erosion, socio-economics and land use, construction impacts, and archeological and historic resources. It is anticipated that this proposal will involve wetland acquisition and mitigation.

Public involvement and interagency coordination will be maintained throughout the development of the Environmental Impact Statement. A Plan of Study and an invitation to scoping meetings will be distributed to appropriate Federal, State and local agencies, and to private organizations and citizens who express interest in the proposal. A public meeting, a public plan display, and a public hearing will also be conducted to obtain formal public input on the findings of the environmental and engineering studies.

To insure that the full range of issues related to the proposal action are addressed and that all significant issues are identified, comments or questions concerning this action and the Environmental Impact Statement should be directed to the Federal Highway Administration or the Pennsylvania Department of Transportation at the address listed above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, regarding State and local review of Federal and Federally assisted programs and projects apply to this program)

Issued on: April 27, 1987.

Manuel A. Marks,

Division Administrator Harrisburg, PA.

[FR Doc. 87-10091 Filed 5-4-87; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Montgomery County, Maryland; Notice of Intent (U.S. Route 29)

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement is being prepared for the proposed construction of interchanges at the existing intersections along U.S. Route 29 in Montgomery County.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Terry, Jr., Field Operations Engineer, Federal Highway Administration, The Rotunda, Suite 220, 711 W. 40th Street, Baltimore, Maryland 21211, telephone 301/962-4010, and/or Mr. Louis Ege, Jr., Deptuy Director, Project Development Division, Maryland State Highway Administration, 707 North Calvert Street, Room 310, Baltimore, Maryland 21202, telephone 301/333-1130.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland State Highway Administration, is preparing an environmental impact statement to develop acceptable alternates to provide additional capacity on U.S. Route 29 between the Patuxent River Bridge and Interstate 495 (Capital Beltway). The elements of this study include upgrading some existing intersections to interchanges; closure of specified median crossovers thus restricting access at some intersecting streets to right/in, right/out movements; provision of frontage roads for local circulation at specified locations; and the possible relocation of approximately a 1.2-mile portion of U.S. Route 29 north of MD Route 198. In addition, many of the existing four-lane portions of U.S. Route 29 are planned/programmed for widening to six lanes by states, county and developer funded projects.

Impacts of particular concern will be the residential and business relocations, changes in local circulation patterns and noise impacts. Minor amounts of wetland acquisition and stream relocation will also be proposed.

A public meeting to discuss the preliminary alternates has been held. A public hearing will be held after circulation of the DEIS. A public notice will give the time and place of the public hearing, and individual notices will be sent to those agencies, groups, and individuals on the mailing list. The DEIS will be available for public and agency review and comment prior to the pubic hearing. To ensure that the full range of issues relating to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

(Catalog of Federal Domestic Assistance Program Number 20.025, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local review of Federal and Federally assisted programs and projects apply to this program)

Emil Elinsky,

Division Administrator, Baltimore, Maryland.

[FR Doc. 87-10090 Filed 5-45-87; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[HS-86-15, HS-86-16, and HS-86-17]

Exemption Petitions and Hearings; Union Pacific Railroad, et al.

The Union Pacific Railroad, Missouri Pacific Railroad, and Western Pacific Railroad have petitioned the Federal Railroad Administration (FRA) for relief from the requirements of section 228.9 of the Hours of Service of Railroad Employees (49 CFR 228.9) to the extent that hours of duty records not be signed by the employee whose time on duty is being recorded or, in the case of train and engine crews, not be signed by the ranking crewmember. These proceedings are identified as FRA Waiver Petitions Nos. HS-86-15, HS-86-16, and HS-86-17.

After examining the carriers' proposal and the available facts, the FRA has determined that public hearings are necessary before a final decision is made on this proposal.

Accordingly, two pubic hearings are hereby scheduled. The first hearing is set for 10 a.m. on June 23, 1987, in the Market Street Room of the Salt Lake Hilton at 150 West 500 South in Salt Lake City, Utah. The second hearing is set for 10 a.m. on June 25, 1987, in Room 140 of the Federal Building at 601 E. 12th Street in Kansas City, Missouri.

Each hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25) by a representative designated by the FRA.

Each hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of each hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional

procedures, if necessary for the conduct of the hearings, will be announced at each hearing.

Issued in Washington, DC, on April 29, 1987.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 87-10176 Filed 5-4-87; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 630]

Appointments of Individuals To Serve as Members of the Performance Review Board; Senior Executive Service

The Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4) requires that the appointment and changes in the membership of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of the performance review board for the Bureau of Alcohol, Tobacco and Firearms (ATF) for the rating year beginning July 1, 1986, and ending June 30, 1987. This notice effects changes in the membership of the ATF Performance Review Board previously appointed June 4, 1986 (51 FR 20399).

Name and Title

John P. Simpson—Deputy Assistant Secretary (Regulatory, Trade and Tariff Enforcement)—Department of the Treasury

Gerald L. Hilsher—Deputy Assistant Secretary (Law Enforcement), Department of the Treasury

John W. Mangels—Director, Office of Operations, Department of the Treasury

John T. Blank—Director, Facilities Management Division, Department of the Treasury, Internal Revenue Service

Marvin J. Dessler—Chief Counsel, Bureau of Alcohol, Tobacco and Firearms

FOR FURTHER INFORMATION CONTACT: James J. Panagis, Personnel Division, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, (202) 566-7146.

Signed: April 27, 1987.

Stephen E. Higgins,

Director.

[FR Doc. 87-10145 Filed 5-4-87; 8:45 am]

BILLING CODE 4810-31-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of Reporting Requirements Submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. USIA is requesting a three year extension of the approval for the use of our Form IAP-17, "Application for Certificate of International Educational Character". The form is supplied to United States producers and distributors of educational, scientific and cultural and auditory materials who have an interest in exporting materials abroad. The Agency certifies materials as of international educational character under provisions of Pub. L. 89-634 and 22 CFR 502.

DATE: Comments must be received by May 22, 1987.

Copies: Copies of the request for clearance (SF-83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Retta Graham-Hall, United States Information Agency, M/AS, 301 4th Street, SW., Washington, DC 20547, telephone (202) 485-7501, and OMB review: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7340.

SUPPLEMENTARY INFORMATION: Title: "Application for Certificate of International Educational Character".

Abstract: This information collection is used to certify the international character of visual and auditory materials (motion pictures, videotapes, recordings, sound recordings, filmstrips, slides, maps, charts, posters, models, etc.) for producers and distributors who have an interest in exporting their materials abroad, in accordance with the provisions of Pub. L. 89-634.

Proposed Frequency of Responses:
Number of Respondents—3000
Record Keeping Hours—.25
Total Annual Burden—750

Dated: April 29, 1987.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 87-10154 Filed 5-4-87; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 86
Tuesday, May 5, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, May 7, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Chemical Hazards Projects: Status

The staff will brief the Commission on the status of chemical hazards projects.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

April 30, 1987.

[FR Doc. 87–10253 Filed 5–1–87; 12:40 pm]

BILLING CODE 6355–01–M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10.00 a.m., May 6, 1987.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, DC 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Malpractices in the Trans-Atlantic Trades—Amnesty Program and Fact Finding Investigation No. 16.
2. Report on a Pending Enforcement Matter.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 87–10297 Filed 5–1–87; 3:42 pm]

BILLING CODE 6730–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 29, 1987.

TIME AND DATE: Thursday, April 30, 1987; following oral argument which was previously noticed on April 3, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission will consider and act upon the following:

3. *Brown Brothers Sand Company*, Docket No. SE 86–23–M. (Consideration of a petition for discretionary review).

It was determined by a unanimous vote of Commissioners that this item be included on the agenda and that no earlier announcement of the addition was possible. It was also determined that this item be discussed in a closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87–10284 Filed 5–1–87; 3:32 pm]

BILLING CODE 6735–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, May 11, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 1, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–10270 Filed 5–1–87; 3:31 pm]

BILLING CODE 6210–01–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–87–17]

TIME AND DATE: Wednesday, May 13, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. 731–TA–376 (P) (Certain stainless steel buttweld pipe fittings from Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

April 29, 1987.

[FR Doc. 87–10303 Filed 5–1–87; 3:43 pm]

BILLING CODE 7020–02–M

Corrections

Federal Register
Vol. 52, No. 86
Tuesday, May 5, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Oversight of Radio and TV Rules

Correction

In rule document 87-7888 beginning on page 11653 in the issue of Friday, April 10, 1987, make the following corrections:

1. On page 11654, in the first column, in the order, in designated paragraph 1(b)(iv), in the first line, "costs" should read "cross".

2. On the same page, also in the order, in the second column, in designated paragraph 1(b)(e), in the third line, "me" should read "mc".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Farm Bureau Services, Inc.; Withdrawal of Approval of NADA

Correction

In notice document 87-7514 appearing on page 11123 in the issue of Tuesday, April 7, 1987, make the following corrections:

1. In the first column, in the **SUMMARY**, in the eighth line, "tylosin" was misspelled.

2. In the same column, in the **SUPPLEMENTARY INFORMATION**, in the sixth line, "gramper" should read "grams per", and in the ninth line, the CFR citation should read "21 CFR 558.625(f)(1)(vi)(*a*)".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 3

[CGD 87-008]

Changes to Coast Guard District Boundaries and Reassignment of Units

Correction

In rule document 87-8892 beginning on page 13082 in the issue of Tuesday, April 21, 1987, make the following correction:

§ 3.25-1 [Corrected]

On page 13084, in the second column, in § 3.25-1(b), in the 13th line, "70" should read "79".

BILLING CODE 1505-01-D

Federal Register

Tuesday
May 5, 1987

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171 through 179
Performance-Oriented Packaging Standards; Miscellaneous Proposals

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 through 179

[Docket No. HM-181, Notice No. 87-4]

Performance-Oriented Packaging Standards; Miscellaneous Proposals

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) to incorporate features found in the United Nations Committee of Experts' Recommendations on the Transport of Dangerous Goods (U.N. Recommendations) and the Technical Instructions for the Safe Transport of Dangerous Goods by Air of the International Civil Aviation Organization (ICAO Technical Instructions). This action is necessary to: (1) Simplify the HMR, (2) reduce the volume of the regulations, (3) promote flexibility and technological advances in packaging, (4) promote safety through better packaging, (5) reduce the need for exemptions, and (6) facilitate international commerce. The intended effect of this action is to align the HMR with the U. N. Recommendations and ICAO Technical Instructions in the areas of classification, packaging and hazard communication in the transport of hazardous materials.

DATES: Comments: Comments must be received on or before November 2, 1987.

Public hearing: A public hearing will be held on September 15 and 16, 1987 from 9:30 a.m. to 5:00 p.m. daily. If there is sufficient demand, the hearing will be extended through September 17, 1987.

ADDRESSES: *Comments:* Address comments to Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket 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. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–5046. Public dockets may be reviewed between the hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

Public hearing: The public hearing will be held at the FAA Auditorium, Third floor, 800 Independence Avenue SW., Washington, DC.

Any person wishing to present an oral statement at a hearing should notify the Dockets Branch, by telephone or in writing, at least two days in advance of the hearing date. Each request must identify the speaker; organization represented, if any; daytime telephone number; and the anticipated length of presentation, not to exceed 10 minutes. The written text (if any) of an oral statement should be presented to the hearing officer prior to its presentation.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton or Edward T. Mazzullo, Standards Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–4488.

SUPPLEMENTARY INFORMATION:

Special Notices

The proposals presented in this document would entail changes, both editorial and substantive, to substantial portions of the existing Hazardous Materials Regulations (49 CFR, Subchapter C). However, it should be noted that these changes, if promulgated as regulations, would reduce the total volume of the HMR (currently, approximately 1250 pages) by at least 350 pages.

In a rulemaking project of this magnitude it is inevitable that errors and omissions will come to light subsequent to publication. If these errors and omissions are brought to RSPA's attention in a timely manner, it is likely that a supplementary notice of proposed rulemaking will be issued, to make corrections, as soon after publication of this document as is practicable.

Preamble Outline

I. Background.
II. The ANPRM.
III. Related Rulemakings.
IV. Major Features of the NPRM.
  A. Format improvements.
  B. Regulatory features.
V. Review by Sections.
  A. Part 171; general information, regulations, definitions.
  B. Part 172; hazardous materials table, special provisions and hazardous materials communication regulations.
    1. Subpart A of Part 172; general.
    2. Subpart B; § 172.101, consolidated hazardous materials table.
    3. Subpart B; § 172.102, special provisions and Appendix A.
    4. Subpart C; shipping papers.
    5. Subpart D; marking.
    6. Subpart E; labeling.
    7. Subpart F; placarding.
    8. Appendices to Part 172.
  C. Part 173; shippers, general requirements for shipments and packagings.
    1. Subpart A of Part 173; general.
    2. Subpart B; preparation of hazardous materials for transportation.
    3. Subpart C; explosives and blasting agents.
    4. Subpart D; hazard class definitions.
    5. Subpart E; non-bulk packagings.
    6. Subpart F; bulk packagings.
    7. Subpart G; gases, preparation and packagings.
    8. Subpart H.
    9. Subpart I; radioactive materials.
    10. Subparts J, K, L, M, N and O.
    11. Appendices to Part 173.
  D. Parts 174 through 177; carriers' requirements.
  E. Part 178; specifications for packagings.
    1. Part 178; general.
    2. Subparts A through K; non-bulk specification packagings.
    3. Subpart L; non-bulk performance-oriented packaging standards.
    4. Subpart M; testing of non-bulk packagings.
  F. Part 179; specifications for tank cars.
VI. Enforcement of Performance-oriented Packaging Standards.
VII. Transition Period.
VIII. Administrative Notices.
  A. Executive Order 12291.
  B. Impact on Small Entities.
  C. Paperwork Reduction Act.
IX. List of Subjects.

I. Background

The Hazardous Materials Regulations (HMR), issued under authority of the Hazardous Materials Transportation Act (Public Law 93–633; 49 U.S.C. app. 1801 *et seq.*), are found in the Code of Federal Regulations (CFR), Title 49, Subchapter C, which is comprised of Parts 171 through 179. Subchapter C occupies approximately 1250 pages of the CFR. The two largest parts of Subchapter C are Part 173, entitled *SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS,* of about 330 pages, and Part 178, entitled *SHIPPING CONTAINER SPECIFICATIONS,* of about 420 pages. Part 171 of Subchapter C contains administrative information on the HMR, including definitions. Part 172 contains the Hazardous Materials Table of about 2700 entries, the Optional Hazardous Materials Table, and the rules applying to hazard communication by means of shipping papers, package marking, package labeling, and the placarding of transport vehicles.

Part 173 contains the definitions for each of the HMR's 22 hazard classes and the packaging requirements, both specification and non-specification, for all hazardous materials. Parts 174, 175, 176 and 177 contain additional requirements for carriage by rail, air, water and highway, respectively. Part 178 contains the construction specifications for all of the DOT specification packagings, except rail

tank cars, and Part 179 contains the specifications for tank cars.

As new materials with hazardous characteristics have been developed and produced, and as advances in technology have produced new packaging methods, the number of specification packagings has grown until at present they occupy, as previously noted, about 420 pages of the CFR. The specification packaging sections of Part 178 cover packagings required for various hazardous materials. These packagings range from small polyethylene bottles to cargo tanks. However, the major portion of Part 178 is devoted to specifications for non-bulk packagings, having authorized capacities of 110 gallons or less, and includes approximately 100 specifications for carboys, drums, barrels, boxes, cases, trunks, tubes, bags and various sorts of containers designed to be enclosed by larger containers. Not included in these 100 specifications are the specifications for cylinders for compressed gases and packagings designed solely for radioactive materials, none of which are addressed in this proposal. Compliance by packaging manufacturers with all requirements of the packaging specifications is mandatory, and shippers must ship in DOT specification packaging when required by the HMR.

Typical specifications found in Part 178 have requirements for materials of construction, thickness, fastenings, capacity, coatings, openings, joinings and carrying devices. Much of the information contained in a specification is given in great detail and is repetitious. For example, there are fourteen specifications for wooden boxes. Most wooden box specifications list each acceptable type of wood from which the box must be constructed. This list may be repeated in the next specification for a similar, but slightly different box. In addition to listing the acceptable types of wood, the regulations also specify the thickness and width of boards, kinds and dimensions of nails, and spacing of nails used in joining the box.

Many of these DOT specification packagings are obsolete or little used. They are too expensive to make or too labor-intensive to pack. On the other hand, new packagings for hazardous materials are being constantly developed. Since they are not included in the DOT specifications (Part 178), new or innovative packagings for hazardous materials only may be used under the terms and conditions of exemptions issued by DOT granting a person relief from applicable portions of the HMR. The administration of the exemptions program is very labor-intensive for exemption applicants and for DOT since an exemption application containing much detailed information on a new packaging (including a safety analysis) must be prepared by the applicant and must be carefully analyzed by DOT (including publication in the **Federal Register**) before it is granted or denied. In addition, an exemption must be renewed every two years, and this requires additional resource expenditures by both applicants and DOT.

In contrast to the DOT system of detailed specifications for packaging construction is a system of performance-oriented packaging standards that has been developed in the form of Recommendations by the United Nations Committee of Experts on the Transport of Dangerous Goods (U.N. Recommendations). These standards address the same types of non-bulk containers (drums, barrels, boxes, bags, carboys and inside containers or receptacles) as the DOT specifications. Typically, these standards have general requirements for materials, construction and a maximum capacity. For example, the U.N. 1A1 steel drum must have welded seams if it is to carry liquids, welded or mechanically seamed chimes, a maximum opening size of 7 centimeters (2.75 inches) and a maximum capacity of 450 liters (118.9 gallons). There are additional requirements for rolling hoops if the drum capacity is greater than 60 liters. Aside from these very general construction requirements, the strength and integrity of the drum are established by a series of performance tests which the drum must either pass or be capable of passing before it is authorized (as indicated by marks to be placed on the drum) for the carriage of hazardous materials; hence, the term "performance-oriented packaging standards". For drums, the principal tests are drop tests, hydraulic and leakage (or "leakproofness") tests and stacking tests. The height specified for the drop test in the U.N. system is determined by the "Packing Group" of the hazardous material to be transported. Within most hazard classes, the U.N. system segregates hazardous materials into three distinct "Packing Groups" based on the relative danger of the materials. Packing Group I consists of very dangerous materials. Packing Group II consists of materials considered to present moderate danger. Packing Group III consists of materials presenting minor danger. The U.N. 1A1 steel drum would. have to survive a drop test of 1.8 meters (5.91 feet) if it were to carry a material in Packing Group I, 1.2 meters (3.94 feet) for Group II materials and 0.8 meters (2.62 feet) for Group III materials. This assumes the specific gravity of the materials does not exceed 1.2. For more dense materials, the drop height or density of the test material would be correspondingly increased.

Within the broad and general construction requirements of these performance-oriented standards, drum manufacturers are free to exercise their design and production ingenuity to produce packagings which are both cost-effective, as determined by the marketplace, and safe, as determined by the performance standards which they meet.

The U.N. Recommendations are not regulations and, in general, do not assign packagings to individual hazardous material. The U.N. system envisions that requirements (i.e., regulations) issued by national or international bodies and addressing one or more modes of transport (highway, rail, air or water) would cover the definitive requirements, tying a particular packaging or packaging system to an individual hazardous material. At present, there are two international (worldwide) modal hazardous material regulatory systems in place, one under the auspices of the International Maritime Organization (IMO) and the second under the International Civil Aviation Organization (ICAO). The IMO system is known as the International Maritime Dangerous Goods Code (or IMDG Code) and the ICAO system is known as the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air. Shipments of hazardous materials (both international and within the U.S.) are at the present time authorized (with certain exceptions) to be shipped under the ICAO system as fully equivalent to the HMR provided that the trip involves transportation by aircraft and motor vehicle only. (See 49 CFR 171.11.)

Thus, there are at present, the U.S. domestic requirements for hazardous materials transportation as found in the HMR, characterized by very precise specifications for the construction of hazardous materials packagings and, on the other hand, an international system based on performance-oriented standards for packagings. The issue which arises from this dichotomy is whether the U. S. should continue to use the well-developed domestic system which has been operating in the U.S. for many years or whether the U.S. should make some accommodation in the interest of international trade by

adopting the emerging international system in whole or in part. If the answer is to make some accommodation with the international system, the issue which must then be addressed is to what extent the international system should be implemented. How much of the DOT system should be abandoned to be replaced by rules based on the U.N. Recommendations?

RSPA is considering extensive amendments to the HMR. Under this proposal, the present domestic regulations would in large part be replaced by rules based on the U.N. Recommendations. The goals of this effort are to: (1) simplify the Hazardous Materials Regulations for both bulk and non-bulk shipments; (2) significantly reduce the volume of the regulations; (3) provide for greater flexibility in the design and construction of many hazardous materials packagings in order to recognize technological advancements; (4) promote safety in transport through the use of better packaging; (5) reduce the need for exemptions; and, (6) facilitate international commerce, including commerce between the United States and Canada.

The simplification of the HMR is a most important goal of this proposal. The existing regulations have their origin in the early efforts of the transportation industry to protect its personnel and equipment from materials with dangerous properties. Some container specifications go back to the early days of this century. The regulations were developed in a piecemeal fashion with recurring adjustments to take care of particular problems. Individuals subject to the HMR have complained that they are so complicated in both content and organization as to be almost unusable except by someone with extensive training or experience. In addition, the complexity of the HMR may penalize the small business person, whether shipper or carrier, who has insufficient hazardous materials business to justify employing an expert in the regulations.

Industry is not the only place where the complexity of the HMR imposes a burden. A staff of nine hazardous materials specialists at RSPA spend approximately half of their time giving explanations of the HMR either in writing or over the telephone. With large numbers of new shippers entering the field because of EPA requirements for hazardous substances and hazardous waste shipments, and with state enforcement of DOT's requirements increasing as states adopt the HMR, the number of these inquiries is increasing. One of the principal reasons for this Notice of Proposed Rulemaking (NPRM) is to simplify both shipper requirements and the packaging specifications by the adoption of rules based on the U.N. Recommendations, including performance-oriented packaging standards.

Another reason for considering a shift to performance-oriented packaging standards is to provide greater flexibility in the requirements for the design, construction and use of packagings having capacities of less than 450 liters. The current DOT packaging specifications are very detailed and are not readily adaptable to innovations in packaging technology. The use of an improved packaging which does not meet a detailed specification is prohibited until the specification is amended or an exemption is issued. This imposes a costly burden on both the industry and government, with an uncertain benefit in safety.

In addition, international trade would be facilitated by this proposal. Through both law and policy, it has been decided that standards-related activities shall not be a barrier to trade. Title IV of the Trade Agreements Act of 1979 (Public Law 96–39) addressing technical barriers to trade states in pertinent part:

> No Federal agency may engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States,* * *. Each Federal agency, in developing standards, shall take into consideration international standards and shall, if appropriate, base the standards on international standards * * *. Each Federal agency shall, if appropriate, develop standards based on performance criteria, such as those relating to the intended use of a product and the level of performance that product must achieve under defined conditions, rather than on design criteria, such as those relating to the physical form of the product or the types of material of which the product is made.

The United States' position on the international scene has been to promote a worldwide system of consistent modal and regional transportation requirements to ensure that, insofar as is practicable, hazardous materials shipments move freely and safely between the various modes and regions of the world. Strong U. S. participation in the development of international standards is also essential to the economic interests of the U.S. domestic hazardous materials industry. Application of international standards by governments throughout the world has a direct impact on U.S. shippers and carriers involved in international trade. The Department of Transportation supports this uniform, global approach to the safe transportation of hazardous materials through participation in the work of five international organizations. These organizations are:

(1) *The United Nations Committee of Experts on the Transport of Dangerous Goods*, and its subsidiary bodies, the Group of Experts on Explosives and the Group of Rapporteurs. This committee is the focal point of international activity regarding the transport of packaged hazardous materials (except radioactive materials) and promulgates the U.N. Recommendations. RSPA is the agency charged to represent the U.S. on this committee and on its subsidiary bodies.

(2) *The International Maritime Organization (IMO).* IMO is a specialized agency of the United Nations concerned primarily with the promotion of safety in shipping and the prevention of marine pollution from ships. The U.S. participates in the work of the IMO through the U.S. Department of State's Shipping Coordinating Committee (SHC). The U.S. Coast Guard provides the majority of technical expertise to SHC and, with RSPA, represents the Department of Transportation at sessions of the IMO's Subcommittee on the Carriage of Dangerous Goods (CDG). The CDG Subcommittee publishes and maintains the International Maritime Dangerous Goods (IMDG) Code. This Code is recognized as the worldwide standard for transportation of packaged hazardous materials by vessel.

(3) *International Civil Aviation Organization (ICAO).* The Dangerous Goods Panel (DGP) of ICAO was established to develop an Annex 18 to the Chicago Convention on International Civil Aviation. The implementing regulations to Annex 18, the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air, are recognized worldwide. RSPA represents the U.S. on the DGP, with technical expertise provided by the FAA.

(4) *Economic Commission for Europe (ECE) Group of Experts on the Transport of Dangerous Goods.* The ECE Group of Experts is responsible for updating and revising the European agreements concerning the carriage of Dangerous Goods by Road (ADR) and meets jointly at least once a year with the body responsible for updating the International Regulations concerning the Carriage of Dangerous Goods by Rail (RID) to ensure consistency between the two sets of regulations. RSPA participates in these meetings.

(5) *The International Atomic Energy Agency (IAEA).* The IAEA is an

intergovernmental body chartered to foster the peaceful contribution of nuclear energy to mankind. The IAEA has developed a regulatory system to help ensure the safe international transportation of radioactive materials. RSPA serves as U.S. Competent Authority to the IAEA.

The following international systems of regulations have been promulgated by these organizations and are based on the U.N. Recommendations:

(1) ICAO Technical Instructions—international—worldwide, fully recognized by the HMR.

(2) IMDG Code—international—worldwide, conditionally recognized by the HMR.

(3) RID—international—regional, European rail rules.

(4) ADR—international—regional, European highway rules.

In addition, at least two nations, Canada and Australia, have implemented national systems based on the U.N. Recommendations.

The regulatory bodies issuing these rules have included plans for terminating transitional or "grandfather" provisions which will render non-U.N. packagings (including DOT's) unacceptable for transport in the modes which they regulate. Most of these "grandfather" provisions end on December 31, 1989. After that time, hazardous materials classed, described and packaged according to the present HMR will only be able to move in domestic U.S. commerce.

Since January 1, 1983, the HMR (at § 171.11) have allowed shippers to use the ICAO Technical Instructions for the shipment of hazardous materials domestically and internationally as long as the journey included some transportation by aircraft. Travel by highway transport to or from the air leg of the journey is permitted under the ICAO rules. Since ICAO fully incorporates the U.N. Recommendations (hazardous material table, hazard classing, packaging standards, and performance tests), U.S. carriers are using it, and enforcement personnel are seeing U.N.-type shipments in domestic transportation. Indeed, some U.S. air carriers are no longer accepting hazardous material shipments tendered under the Title 49 rules and are accepting only shipments conforming to ICAO. Thus, shippers and carriers who wish to be in compliance with the regulations and enforcement personnel charged with enforcing the regulations are already faced with the task of learning both systems.

II. The ANPRM

On April 15, 1982, RSPA published an Advance Notice of Proposed Rulemaking (ANPRM), Notice Number 82-3, entitled: *Performance-oriented Packaging Standards*, Docket HM-181 (47 FR 16268). The goals stated in that notice were to explore the possibility of: (1) Simplifying the Hazardous Materials Regulations, (2) reducing the volume of the regulations, (3) providing greater flexibility in the design and construction of hazardous materials packaging to accomodate advances in packaging technology, (4) promoting safety in transport through the use of better packagings, (5) reducing the need for exemptions, and (6) facilitating international commerce, including commerce between the United States and Canada. In the ANPRM, a packaging system based on the U.N. Recommendations was advanced, using the flammable liquid hazard class for demonstration purposes. The proposal referenced non-bulk packaging requirements for flammable liquids in terms of U.N. packagings rather than existing DOT specifications (for example, a drum reference would be made to a U.N. 1A1 drum rather than a DOT-17E drum). In addition, the ANPRM contained the current U.N. packaging standards for drums, barrels, jerricans, boxes, bags and various other containers. The ANPRM also contained the U.N. performance tests which the packagings must pass. These tests were taken directly from the latest issue of the U.N. Recommendations. However, the U.N. Recommendations do not include a compatibility test for plastic packagings, although they make provision for one. A compatibility test for plastic packagings developed by RSPA was included in the subpart of the ANPRM devoted to testing. The ANPRM also contained packaging provisions for bulk packagings (cargo tanks, portable tanks and tank cars) for flammable liquids, but these provisions came from the HMR rather than the U.N. Recommendations since the U.N. Recommendations generally do not cover bulk shipments.

The ANPRM produced about 95 comments from shippers, carriers, packaging manufacturers, trade associations and interested individuals. They ranged across the entire spectrum from enthusiastic support to total opposition. In general, shippers who engage in international commerce strongly supported the concept. A majority of the commenters supported the proposal with reservations.

RSPA has prepared a detailed analysis of the comments on the ANPRM. This analysis is included as part of a Regulatory Evaluation prepared for this NPRM and is available for examination in the Docket. Persons interested in RSPA's analysis and disposition in detail of all the issues raised in the comments are referred to that document. The major issues raised in the comments are discussed below.

It should be noted that in the ANPRM (as in this NPRM) RSPA included in its proposed amendments a consolidation and simplification of its bulk packaging requirements as well as non-bulk, even though the U.N. Recommendations do not address bulk packaging other than portable tanks and intermediate bulk containers. However, RSPA is proposing no substantive changes to portable tank, cargo tank or tank car specifications in this Docket. Some of the comments directed at the bulk packaging provisions of the ANPRM do not bear directly on the issue of the U.N. Recommendations.

The greatest number of objections to the proposals in the ANPRM were directed at four areas: (1) Retention of existing HMR requirements; (2) the inadequacy of the U.N. testing regime; (3) U.N. standards for steel drums; and (4) U.N. standards for fiberboard boxes. These specific issues will be dealt with below.

The ANPRM, in a section entitled "Transition", discussed at length the problems which would arise should a change be made from the present HMR to rules based on the performance-oriented packaging standards contained in the U.N. Recommendations. The need for a transition period was discussed, and the ANPRM solicited ideas from the commenters on how long this transition period should be.

Many commenters recommended that the present HMR be retained as an alternative packaging system to any new regulations based on the U.N. Recommendations for a period of time varying from three years to perpetuity. This suggestion, that the present HMR be retained, generally envisioned that DOT would not continue to publish "grandfathered" regulations in the Code of Federal Regulations (CFR). They might be published privately by one of the nongovernment entities, such as the Bureau of Explosives, which presently publishes the HMR as a private tariff, or the Bureau of National Affairs. There is precedent for this since the National Tank Truck Carriers presently publish obsolete cargo tank specifications (such as the MC 300, MC 303, MC 305, MC 310, MC 330, etc.) which DOT stopped printing a number of years ago, but which are still authorized for use. The

scenario envisioned by these commenters is that the existing HMR provisions would be available as an alternative to a new DOT system based on the U.N. Recommendations, but that DOT would not maintain or amend them. Thus, DOT would not have to expend any resources keeping the old regulations current. The use of the existing HMR as an alternative system and the period of time that such use was allowed would constitute the mechanism for transition and the period for transition envisioned in the ANPRM.

A considerable number of commenters raised a question as to whether the performance tests required for packagings in the U.N. system are adequate to assure safety in transport. In particular, the absence of a vibration test and the low pressure levels required for the U.N. leakproofness test for liquid packagings were noted as shortcomings of the U.N. system. The leakproofness test level in the U.N. Recommendations for Packing Group I materials is 30 kilopascals (4.4 pounds per square inch gauge) and for Group II and III materials is 20 kPa (2.90 psig) for material of normal vapor pressure. The comparable test for the most common DOT packaging (17E drum) is 7 psig (48.3 kPa).

A number of commenters speculated as to differences between the transport environments of Europe and the United States as justification for adding tests in Docket HM–181 over and above those presently in the U.N. Recommendations. In the U.S., coast-to-coast hauls of truckloads or railcars of packagings representing 50 or more hours of continuous vibration are commonplace—a situation which commenters claimed would be highly unlikely in Europe. Some commenters felt that the present U.N. performance test series of drop, stacking and leakproofness tests would not be sufficient to replicate the exposure of packagings to abrasion and fatigue stresses that long distance hauls by rail and highway exert on packagings in this country. On the other hand, some complained that the U.N. tests are too severe—especially users and manufacturers of fiberboard boxes.

DOT received a number of comments on the adequacy of the steel drums which would be allowed under a system based on the U.N. Recommendations. The steel drum, usually in 55 gallon size, is probably the most popular non-bulk packaging for liquid hazardous materials, especially flammable liquids. The DOT–17E tight head is the most popular of the DOT specification drums. It is authorized for most flammable liquids in all 18-gauge construction (nominal thickness 0.0478 inches or 1.214 millimeters) and with 18-gauge heads and 20-gauge body (0.0359 inches or 0.912 millimeters) for flammable liquids with flash points above 20 °F (−6.7 °C). DOT has received petitions to allow all 20-gauge drums with triple-seamed chimes (present U.S. manufactured drums use double-seamed chimes) to be used for hazardous material service. These petitions requested that triple-seamed 17E drums with bodies of 20-gauge steel and heads of 18-gauge steel be authorized for flammable liquids with flash points at or below 20 °F. and that triple-seamed 17E drums of all 20-gauge construction be authorized for flammable liquids with flash points above 20 °F. The petitions resulted in an ANPRM, HM–182, which appeared in the **Federal Register** of June 10, 1982 (47 FR 25167). The reader is referred to that notice for more detailed discussion of these issues.

Comments received on HM–182 are pertinent to HM–181 because, if the petition were granted, all 20-gauge triple-seamed drums would in all likelihood appear as an authorized packaging under rules proposed in the ANPRM. All matters addressed in HM–182 are being handled in this rulemaking. Unlike the present DOT specifications, the U.N. packaging standards do not mention metal thickness. Packagings to be authorized must only meet the very general requirements of the packaging standards and then satisfy the performance tests. When a double-seamed drum fails a drop test, it usually fails at the chime. However, a triple-seamed 20 gauge drum will probably pass the 1.8 meter (5.91 feet) drop test for Packing Group I materials with specific gravities less than or equal to 1.2. Even thinner gauge drums may well pass the lower drop heights associated with Group II and III materials. A number of commenters on both HM–181 and HM–182 questioned whether these thinner walled drums, which would be allowed under a system based strictly on the U.N. Recommendations (because triple seaming would eliminate chime failures in the drop tests), could stand up to the rigors of the U.S. transportation environment. These commenters believed that vibration would place abrasion and fatigue stress on the drums and that they would prove to be unsatisfactory in spite of their ability to survive a drop test. Comments received in HM–182 from shippers and carriers purporting to have had shipping experience with non-hazardous materials service in all 20-gauge drums were conflicting. Some commenters reported good experience, but others reported significant problems. It should be noted that these 20-gauge drums were, in general, not constructed to either DOT specifications or U.N. standards.

In addition to the issue of whether the U.N. testing procedures are adequate to assure safe performance of packagings in the U.S. transportation environment, another issue has been raised in regard to the light drums which would be allowed under a U.N. based system. The present DOT regulations provide for the following categories of drums based on their reusability: (1) Fully reusable with no restrictions, (2) non-reusable and (3) reusable after reconditioning. The first category generally consists of heavy gauge drums, often of high cost alloys such as nickel, monel, or stainless steel, that are often in dedicated service (i.e., are reused by one shipper for a specific commodity). They may be reused for hazardous materials transport for materials for which they are authorized without restriction. The DOT–5 series drums are in this category. The second category contains lightweight drums which are not approved for general reuse (except as outlined in § 173.28 for waste materials) in the transport of hazardous materials. They are marked "STC" (single-trip container) or "NRC" (non-reusable container). The DOT–37 series drums and some DOT–17 series drums are in this category of drums. The final category contains drums which may be reused after reconditioning. These are the DOT–17C, 17E and 17H drums and they are marked STC in addition to the DOT specification number. These latter drums may be reconditioned, as authorized by § 173.28, and reused for the transport of hazardous materials for which they are authorized as if they were new drums.

An industry devoted to reconditioning drums exists, and DOT–17 series drums marked "STC" which are in good condition have a salvage value for reconditioning. The reuse (or recycling) of these packagings, if properly carried out, has benefits to society in the form of savings in energy and natural resources over the manufacture of new drums. The National Barrel and Drum Association (NABADA), a trade association representing the reconditioning industry, commented on HM–181 and HM–182. In their comments on HM–181, NABADA and individual drum reconditioners maintain that lightweight (i.e., 20 gauge) drums designed to pass the U.N. drop tests cannot be successfully reconditioned because their walls are too thin to stand the cleaning, dedenting

and other processes involved in drum reconditioning. They further maintain that the lightweight drums will drive the reconditionable drums from the market and that the benefits to society which accrue because of the reconditioning of drums will be lost. In other words, they maintain that using a hazardous material transportation regulatory program based only on the U.N. Recommendations will place on society the additional environmental and energy costs which will appear when drum reconditioning ceases.

This argument leaves some questions unanswered. If the 18 gauge DOT drum can be reused and, therefore, has a salvage value, it should have an economic advantage over the lighter gauge drum. The lightweight drum would not only have no salvage value but, as NABADA has pointed out, since it would probably have to be disposed of as a hazardous waste after its use, it would become a definite liability to its owner. The NABADA argument also ignores the existence of nonhazardous material service for reconditioned drums. Thus, commenters did not satisfactorily explain how the continued use and availability of reconditioned drums is threatened.

The ANPRM did not include specific provisions for the reconditioning of packagings. However, it did include provisions for the marking of reconditioned packagings (see § 178.504(c)). These provisions come directly from the U.N. Recommendations (see paragraph 9.5.4 of Chapter 9); so the U.N. envisioned the reconditioning and reuse of packagings, but is silent (except for the requirement that they be able to pass performance tests) on the requirements for reconditioning. One suggestion put forward by NABADA (and other commenters) as a solution to the dilemma of the disappearance of reconditionable drums was the suggestion that the existing HMR be continued indefinitely as an alternative to a U.N.-based system. How such a dual system would solve the alleged problem of light drums replacing heavy ones (which is pictured by NABADA as the natural consequence of economic selection) is unclear.

Another area of extensive comment on the ANPRM concerned fiberboard boxes. The most common DOT specification fiberboard boxes are the DOT-12 series. Of these, the DOT-12B is the most widely used. It is used for hazardous liquids with inner packagings consisting of bottles made of glass or plastic, or metal cans. These inner packagings have a capacity ranging from a few ounces to 5 gallons. A typical and very common packaging of this type consists of 4 one gallon cans of paint with friction lids packed in a fiberboard box. An estimated 300 million one gallon cans of paint subject to the HMR are shipped every year.

Comments received on the ANPRM indicate that the requirements for fiberboard boxes under the U.N. system produce a packaging that is both more substantial and more costly than the 12B. This is because under the U.N. system, the completed packaging (fiberboard box plus the inner receptacle) must survive a drop test of 1.8, 1.2 or 0.8 meters, depending on whether the hazardous material to be packed falls into Packing Group I, II or III. By contrast, the DOT specification for the 12B box (§ 178.205) requires tests for fiberboard strength but a drop test of the completed package is not required except for special boxes. RSPA has had a number of tests run on various configurations of the 12B box with inner receptacles for liquids, and several commenters provided additional test results on this type of packaging. Results of the tests are available from the RSPA.

In general, it may be said that the 12B, when packed with frangible inner packagings (glass, etc.), did not perform well in drop tests. While the smaller sizes (pints) survived the lower (Packing Group III) drops, the larger size bottles (gallons) would not survive these, and neither would survive the Group I test. The survival rate for small sizes was moderate with the intermediate (Group II) tests.

Metal cans with screw closures packed in the 12B style box performed much better than glass bottles because of their ability to accept some deformation without fracturing. However, friction-closed metal cans in the larger sizes (one-gallon paint cans) would often fail the drop tests when their lids popped open.

Unlike the issue of U.N. 1A1 drums vs. DOT-17 series drums, involving claims that the U.N. packaging was not as substantial as the DOT one, in this instance it is plain that the U.N. 4G fiberboard box, with inner packagings, which must survive a Group I, II or III drop test, must be appreciably more substantial than the DOT-12B. The response of many commenters to the U.N. 4G box standard contrasted with comments on the U.N. 1A1 drum standard. Although the various drop tests (with varying heights depending on whether the material was in Packing Group I, II or III) were considered too lax for testing drum performance, many commenters considered them too severe for box performance. The 12B was cited as a proven package based on the historical use of millions of shipments annually using this package. The fact that it performed badly in the array of U.N. tests was dismissed or not commented on.

The present incident reporting requirement of § 171.16 does not require reporting of spills of paint or electrolyte from batteries. The paint industry was one of the major commenters on the performance of metal cans packed in fiberboard boxes. It is not possible to look at the spillage record of these packagings since that commodity is excepted from detailed reporting. However, an analysis of DOT's hazardous materials incident reports for other materials shipped in fiber-board boxes was made (see the Regulatory Evaluation) which showed that "Dropped in handling" was by far the most prevalent failure mode, accounting for about half of all incidents involving fiberboard packagings.

The final area of extensive comment (although not nearly as extensive as the issues of drums and fiberboard boxes) was paper bags. The Paper Shipping Sack Manufacturers' Association (PSSMA) believes that the multiwall bags presently specified in the DOT specification (44B, 44C, 44D and 44E) are safer than those meeting the requirements of the U.N. Recommendations (U.N. 5M1 and 5M2), and that the adoption by the U.S. of a regulatory system based on the U.N. Recommendations would result in cheaper, lower quality multiwall bags displacing the present DOT specifications packagings (which easily meet the U.N. standards). PSSMA believes that safety would suffer as a result.

A large class of hazardous materials shipped in multi-wall bags consists of agricultural chemicals—in particular, nitrate fertilizers such as ammonium nitrate and nitrate of soda. These materials are classed as "Oxidizers" by DOT and the U.N. DOT's present rules for this class of materials are found at 49 CFR 173.182. They do not require the use of a DOT specification packaging (i.e., bags) but describe two non-specification bags, one of four ply for up to 110 pounds and one of three ply for up to 80 pounds. The description of these two bags, including performance tests, is very similar to the U.N. standards of the U.N. 5M1 and 5M2 bags, with the exception that the U.N. bags would have to have the U.N. certifying marks while the nitrate bags described in § 173.182(b)(5) are not marked since they are not DOT specification packagings.

It would appear that the purported problem feared by the PSSMA on the adequacy of the U.N. packagings would have appeared before now if these nitrate bags posed a significant problem. An examination of incidents since 1972 in the DOT incident reporting system reveals 127 incidents and two minor injuries involving ammonium nitrate and sodium nitrate in paper bags.

In the course of meetings in Houston, Texas on April 29, 1982, and St. Louis, Missouri on September 14, 1982, the Docket HM-181 ANPRM was discussed. Commenters suggested that additional tests (such as vibration and higher levels of leakproofness) over those specified in the U.N. Recommendations be incorporated into whatever system the U.S. adopts. Since the U.N. document is only a set of recommendations which provides a general framework around which individual countries or other regulatory bodies are free to design their own regulatory systems, there is nothing to prevent DOT (as the Competent Authority for the U.S. in regulating the transportation of hazardous materials) from incorporating additional tests in proposed or final rules. However, the U.S. is only able to apply these more stringent rules to domestic shippers or packaging manufacturers. To apply them to foreign packagings may invite retaliation or complaints that the U.S. was using the regulations as non-tariff barriers to trade in violation of the Trade Agreements Act since they are more stringent than the U.N. requirements. Thus, we would have the situation where the U.S. would be applying more stringent requirements against U.S. shippers and manufacturers than against imported shipments. This situation would defeat one of the objectives of incorporating the U.N. Recommendations, which is international reciprocity. At both the Houston and St. Louis meetings, DOT raised this point and specifically requested comments on whether or not this would place the U.S. at a competitive disadvantage. RSPA received no written or oral comments on this point and can only assume that it is not envisioned as being a problem.

RSPA has carefully considered the points raised in the comments on its ANPRM and reexamined the objectives stated in that document. A Regulatory Evaluation was prepared which looked at the options open to RSPA in light of the comments and events (both national and international) which have happened since then. The reader is referred to the Regulatory Evaluation in Docket HM-181 for a detailed discussion of the available alternatives. After carefully considering these options, RSPA has decided on the following course of action.

(1) Proceed to develop and publish an NPRM under Docket HM-181.

(2) Retain the six objectives stated in the ANPRM.

(3) Expand the scope of the proposal beyond what was contained in the ANPRM (packaging) to incorporate the U.N. hazardous materials table, the U.N. system of classing, including hazard class definitions and packing groups, and to incorporate some of the communications requirements from the U.N. system.

(4) Retain and expand the effort to systematize, simplify, and enhance the safety provisions of the bulk packaging requirements in the HMR.

(5) Set minimum thickness requirements for the reuse of metal and plastic packagings.

(6) Establish a transition period of 5 years for continued use of existing regulatory provisions, particularly with regard to use of non-bulk packagings and hazard communication requirements.

III. Related Rulemakings

From the publication of the ANPRM on April 15, 1982 until the present time, RSPA has been analyzing comments, preparing a regulatory evaluation, deciding on a course of action and drafting an NPRM. During this period of time, many issues have arisen which required either acknowledgement and postponement or regulatory action. The relationship between Docket HM-181 and these related rulemaking proposals is discussed below.

A. Docket HM-181A

At the time that RSPA began considering the desirability of issuing performance-oriented packaging standards to replace the packaging specifications found in the HMR, it was apparent that explosives would be a major part of any such effort. RSPA's requirements for testing and classing explosives are outdated and many of the packagings are obsolete. Because the size of any regulatory project covering the classing and packaging of explosives is so great, and because the testing, classing and packaging of explosives is so specialized, RSPA decided to handle explosives in another rulemaking action which will be issued under Docket HM-181A. Work has begun on that project and an NPRM will be issued sometime after publication of this notice.

Several areas for this rulemaking address requirements for explosives or have an impact on them. Shipping descriptions (i.e., shipping names, numerical hazard classes, and identification numbers) for explosives, based on the U.N. Recommendations, appear in the § 172.101 Table. In Subpart E of Part 172 it is proposed to replace the EXPLOSIVE A, B, C and BLASTING AGENT labels with the EXPLOSIVE 1.1, 1.2, 1.3, 1.4, and 1.5 labels. In Subpart F of Part 172 it is proposed to replace the EXPLOSIVE A and B and BLASTING AGENT placards with the EXPLOSIVE 1.1, 1.2, 1.3, 1.4, and 1.5 placards. In Part 178, it is proposed to delete certain packagings used for explosives, such as Specification 23G (special cylindrical fiberboard box for high explosives). It should be understood that these proposals may be modified in Docket HM-181A, and will be given consideration under that docket. They appear in this rulemaking for the sake of completeness only. It is recommended that commenters desiring to address provisions for explosives await publication of Docket HM-181A before submitting comments.

B. Docket HM-182

In January, 1982, RSPA received a petition from Inland Steel Container Company to amend the HMR to allow all 20-gauge drums with triple-seamed chimes to be constructed in the 55 gallon size under the DOT-17E specification. The petition requested that those materials currently authorized to be shipped in a 17E drum with 18-gauge heads and 20-gauge bodies (18/20), be authorized in the all 20-gauge triple-seamed drum, and that materials authorized in the all 18-gauge 17E drum be authorized in the 18/20-gauge triple-seamed drum. RSPA published an ANPRM under Docket HM-182 on June 10, 1982 (47 FR 25167), to deal with this issue. It should be noted that drum manufacturers generally agree that triple-seamed drums, all 20-gauge, can pass the U.N. performance tests, including the drop test, at the performance levels of Packing Groups I, II, and III.

After reviewing the comments received on both the NPRM under Docket HM-182 and the ANPRM under Docket HM-181, RSPA decided that the issue of triple-seamed drums was so intertwined with that of performance-oriented packaging that Docket HM-182 should be incorporated in Docket HM-181. That has been done and the comments on the two dockets have been combined. No further notices will be issued under Docket HM-182.

C. Docket HM–185

On August 26, 1982, RSPA published an NPRM under Docket HM–185 (47 FR 37592) which proposed standards for polyethylene containers. A final rule under that Docket was published on June 14, 1984 (49 FR 24684). The final rule revised the HMR by establishing standards for polyethylene packagings in sizes up to 55 gallons. Previously, most of these packagings had been authorized only under the terms of exemptions. The most important feature of HM–185 was that it established compatability and permeation testing for polyethylene packagings (see § 173.24 and Appendix B to Part 173). The ANPRM under Docket HM–181 had proposed such tests (see § 178.608 of the ANPRM). The tests proposed in § 178.608 were based on RSPA's judgment of what was required at the time. Comments received on the tests proposed in the ANPRM and in the NPRM under Docket HM–185 led RPSA to modify both test methods and pass-fail criteria. The compatability and permeation tests contained in this proposal are essentially those which presently exist in the HMR and appeared in the final rule under Docket HM–185. It should be noted, however, that in this proposal they are placed in Part 178 with other performance-oriented tests.

D. Docket HM–194

On October 12, 1984, RSPA published an NPRM under Docket HM–194, entitled *Designation of Testing Laboratories, United Nations Packagings* (49 FR 40056). It was followed by a final rule under the same docket on March 13, 1985 (50 FR 10060) and a corrections document on April 24, 1985 (50 FR 16089). This rulemaking established a procedure whereby testing agencies, upon application, could be approved by RSPA to certify the adequacy of packagings constructed to U.N. standards and marked as U.N. packagings. The purpose of the amendment was to allow manufacturers or users of U.N. hazardous materials packagings to have access to independent testing facilities which had been designated by DOT. The program is a voluntary one, and persons are free to use the option or not. It was set up because of a fear by some companies doing international business that without such a certification by an entity acknowledged by DOT, the U.S.-made packagings would not be accepted by some foreign governments. It was not the intent to replace self certification traditionally used by packaging manufacturers in the U.S. As of December, 1986, eight agencies have been approved by RSPA under this program.

E. Docket HM–196

On February 7, 1986, RSPA published an NPRM under Docket HM–196, entitled *Packaging and Placarding Requirements for Liquids Toxic by Inhalation* (50 FR 5270). It was followed by a final rule under the same docket on October 8, 1985 (50 FR 41092). This rulemaking was initiated after the tragedy in Bhopal, India involving the release of methyl isocyanate. RSPA realized that the regulatory controls which existed in the HMR for certain volatile liquids that were highly toxic by inhalation were inadequate. The rule imposed additional packaging and communication requirements for liquids which met the criteria for toxic by inhalation. The criteria selected were those which exist in the U.N. Recommendations for Division 6.1 at the Packing Group I level for inhalation toxicity.

Of particular interest in this proposal are the additional packaging requirements. Under Docket HM–196, not all packagings for inhalation toxic liquids were superceded, but many were. The new packagings, both bulk and non-bulk were not specified in the rule, but were to be approved by RSPA when proposed by a shipper of these materials. This notice proposes both bulk and non-bulk packagings for liquids toxic by inhalation, and is the first document to do so. It also proposes additional or improved requirements for gases which are toxic by inhalation, and "Inhalation Hazard" shipping paper and marking requirements for non-bulk packagings with primary receptacles of one liter or less.

F. Docket HM–145F

On October 17, 1986 the President signed into law the Superfund Amendments and Reauthorization Act of 1986. This Act amended the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "Superfund"), and required that the Secretary of Transportation list and regulate hazardous substances listed or designated pursuant to section 202 of CERCLA. On November 21, 1986, RSPA published a final rule under Docket HM–145F, entitled *Hazardous Substances* (51 FR 42174). This rule listed and regulated as hazardous materials all hazardous substances designated under CERCLA and fulfilled DOT's requirements under the Superfund Amendments.

This rule listed all of the hazardous substances and their reportable quantities designated by the U.S. Environmental Protection Agency, in an Appendix to § 172.101. In addition, it removed the special notation in the § 172.101 Table (the letter "E" in column 1 and the "RQ" and quantities in pounds and kilograms from column 2). In essence, hazardous substances are now hazardous materials and no longer appear in the § 172.101 Table but now appear in the § 172.101 Appendix. This rule specified some additional requirements in selecting proper shipping names and in preparing shipping papers and marking packages. These changes are not reflected in this proposal. The reason is that Docket HM–145F was prepared in a very short time; the Department had 30 days from the time of the President's signature to implement the Amendments and did so in a final rule, not an NPRM. To have incorporated these sudden changes into this proposal would have caused considerable delays in its completion especially because the Table would have had to be revised. Readers should be aware of the fact that the amendments to the HMR which appeared in Docket HM–145F do not appear in, and have not been considered in, this proposal.

IV. Major Features of the NPRM

A. Format Improvements

The proposals contained in this document are intended to improve the format of the HMR, as follows:

1. The listing of matter incorporated by reference would be made easier to use. (See § 171.7.)

2. All authorized shipping names for hazardous materials would be consolidated into one Hazardous Material Table. (See § 172.101.)

3. Provisions of the IM (intermodal) Portable Tank Table would be incorporated into the HMR, eliminating the need to maintain this publication separate from the HMR. (See § 172.102.)

4. Throughout the HMR, quantities would be expressed in both international (e.g., metric units) and U.S. standard units.

5. The packaging sections in Part 173 would be reduced from approximately 427 to 242 sections.

6. The number of packaging specifications in Part 178 would be reduced from approximately 146 to 66. Approximately 100 specifications for non-bulk packagings would be eliminated and 20 new ones added.

7. The total volume of the HMR would be reduced by at least 350 pages, from 1250 pages.

B. Regulatory Features

Major regulatory features proposed in this document are as follows:

1. U.N. definitions for terms, such as "drum" and "packing group", would be added. (See § 171.8.)

2. The Hazardous Materials Table (see § 172.101) would be revised as follows:

(a) The Optional Table (§ 172.102) would be removed and shipping descriptions would be aligned with the U.N. Recommendations.

(b) The symbols "D" and "I" would be added to designate certain descriptions unique to domestic or international transportation (e.g., "combustible liquid, n.o.s." for domestic transportation).

(c) Numeric hazard classes would replace hazard classes described by words (i.e., "Class 3" instead of "flammable liquid").

(d) Most hazardous materials would be assigned packing groups to indicate their relative degree of hazard (e.g., "Packing Group I" indicates a high degree of hazard).

(e) A "Special Provisions" column would accommodate exceptions or additional requirements for specific materials and would be used to implement IM Portable Tank provisions into the HMR.

(f) Per package quantity limitations for transportation by aircraft would be aligned, generally, with the ICAO Technical Instructions.

(g) Vessel stowage requirements would be aligned with the IMDG Code.

3. A "Special provisions" section would be added. Special provisions would be a series of codes which would be explained in § 172.102. They would prescribe additional packaging requirements, IM portable tank authorizations, exceptions and modal specific requirements. (See § 172.102.)

4. Shipping paper requirements would be changed to conform to U.N. terminology (see Subpart C of Part 172):

(a) Class or division numbers would replace hazard classes described by words.

(b) The packing group would be required as part of the shipping description.

(c) Technical names would be required for "n.o.s." entries.

5. Marking requirements for packagings would be revised (see Subpart D of Part 172):

(a) Technical names would be required as part of the package marking for "n.o.s." entries on all non-bulk packages and on those bulk packages for which proper shipping name markings are required.

(b) Minimum size requirements (100 millimeters on tank cars, 75 millimeters on cargo tanks and 50 millimeters on other bulk packages) would be prescribed for markings on bulk vehicles.

(c) The requirement to mark "INHALATION HAZARD" on packages would be extended to bulk packages, to non-bulk packages having primary receptacles of one liter or less, and to packages containing poisonous gases.

6. Labeling requirements would be aligned with the U.N. Recommendations (see Subpart E of Part 172):

(a) Text (e.g., "FLAMMABLE LIQUID") on labels for Classes 2, 3, 4, 6.1, and 8 would be optional. Class numbers would be required on "no text" primary hazard labels.

(b) The EXPLOSIVES A, B and C, BLASTING AGENT, OXYGEN and IRRITANT labels would be removed.

(c) The EXPLOSIVES 1.2, 1.2, 1.3, 1.4 and 1.5, KEEP AWAY FROM FOOD (St. Andrew's cross) and INFECTIOUS SUBSTANCES labels would be added.

(d) Design provisions would accommodate existing DOT and U.N. label dimensions, where practicable.

7. Placarding requirements (see Subpart F of Part 172) would be revised as follows:

(a) Text on placards for Classes 2, 3, 4, 5, 6.1 and 8 would be optional.

(b) Placards conforming to the U.N. Recommendations or the TDG Regulations would be permitted in place of the corresponding DOT placards to accommodate any minor design differences.

(c) The EXPLOSIVES A, B and C, BLASTING AGENTS, OXYGEN, CHLORINE AND FLAMMABLE SOLID W placards would be removed.

(d) The EXPLOSIVES 1.1, 1.2, 1.3, 1.4 and 1.5, SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET and KEEP AWAY FROM FOOD placards would be added.

(e) Identification numbers would not be permitted on subsidiary hazard placards. They would be permitted on the POISON GAS placard.

8. General requirements applicable to packaging hazardous materials (see Subparts A and B of Part 173) would be revised as follows:

(a) For determining the classification of materials with multiple hazards, a precedence of hazards table from the U.N. Recommendations would be used. (See § 173.2a.)

(b) Packaging requirements would be enhanced with respect to compatibility, filling limits and closures on packagings. (See §§ 173.24, 173.24a and 173.23.)

(c) A base level vibration test performance standard would be added. (See § 173.24a and Appendix C to Part 173.)

(d) The metric equivalency provisions would be removed from § 173.27.

(e) Packaging requirements for transportation by aircraft generally would be based on the ICAO Technical Instructions. (See § 173.27.)

(f) Reuse of metal and plastic drums and composite packagings would be linked to minimum thickness requirements. Reuse of paper, textile, plastic film and fiberboard packagings would be prohibited. (See § 173.28.)

(g) The leak test from the U.N. Recommendations would replace the reconditioning provisions of § 173.28(m).

(h) General use requirements and restrictions for portable tanks, cargo tanks and tank cars would be aligned in a manner consistent with the proposals for cargo tanks under Docket HM-183 and 183A. (See §§ 173.24b, 173.31, 173.32, and 173.33.)

(i) Packaging equivalency provisions would be added to permit use of higher integrity portable tanks and cargo tanks where lower integrity tanks are specified. (See §§ 173.32 and 173.33.)

(j) General requirements for packaging extremely toxic materials in cylinders would be added. (See § 173.40.)

9. Hazard class definitions for materials other than explosives and radioactives would be consolidated into one subpart and revised. (See Subpart D of Part 173.)

(a) Compressed gases would be divided into Division 2.1 (flammable gases), Division 2.2 (non-flammable gases) and Division 2.3 (poisonous gases). Division 2.3 would be divided into Packing Group IA (LC50 less than or equal to 200 ppm), Packing Group IB (LC50 greater than 200 ppm and less than or equal to 1000 ppm), Packing Group II (LC50 greater than 1000 ppm and less than or equal to 3000 ppm), and Packing Group III (LC50 greater than 3000 ppm or less than or equal to 5000 ppm). (See § 173.115.)

(b) The flammable liquid upper limit would be changed from 100 °F (38 °C) to 60.5 °C (141 °F), consistent with the U.N. Recommendations. The combustible liquid definition would include materials with flash points above 60.5 °C and below 93.3 °C (200 °F), materials with flash points above 93.3 °C that are transported as liquids at or above their flash points and, for domestic transportation, materials with flash points between 38 °C and 60.5 °C (See § 173.120.)

(c) Class 4 definitions consistent with the U.N. prior to December 1986 would be adopted; Division 4.1 for flammable solids, Division 4.2 for spontaneously combustible materials, and Division 4.3

for dangerous when wet materials. (See § 173.124.)

(d) Existing DOT definitions for oxidizers (Division 5.1) and organic peroxides (Division 5.2), which are consistent with the U.N. Recommendations, would be retained. (See § 173.132.)

(e) For poisonous materials other than gases (Division 6.1), the U.N. criteria for toxicity, including packing group criteria, would be adopted. (See § 173.133.)

(f) A definition for infectious substances (Division 6.2) would be adopted which refers to the regulations of the Department of Health and Human Services, as does the present definition for etiologic agents, but which is generally consistent with the U.N. Recommendations. (See § 173.134.)

(g) No changes would be made to radioactive materials (Class 7) definitions.

(h) The U.N. criteria for corrosive materials (Class 8) would be adopted and the ORM–B hazard class would be eliminated. (See § 173.136.)

(i) The U.N. definition for miscellaneous hazardous materials (Class 9) would be adopted and the ORM–A and OMR–C hazard classes would be eliminated. (See § 173.140.)

(j) The ORM–D and ORM–E hazard classes would be retained. (See § 173.144.)

10. Non-bulk packaging authorizations and exceptions would be revised to align them with performance-oriented packaging standards. (See Subpart E of Part 173.)

(a) Limited quantity and consumer commodity exceptions would generally be limited to Packing Group II and III materials and to packages not exceeding 30 kilograms (66.1 pounds) gross weight. Other exceptions would be similar to existing provisions. (See §§ 173.150 through 173.156.)

(b) Packing Group III packaging requirements would be made applicable to most Class 9 materials, to all ORM–E materials, and to all Packing Group III materials, including those in Class 3 and Division 6.1.

(c) Packagings for most materials would be authorized by packing group and physical form of a material rather than by hazard class. Generic non-bulk packaging sections would be added for Packing Group I, III, and III liquids and solids. These sections would present arrays of performance-oriented packagings. (See §§ 173.201–203 and 173.211–213.)

(d) Packagings for organic peroxides (Division 5.2) would be based on Chapter 11 of the U.N. Recommendations. (See § 173.225.)

(e) Provisions for packaging liquids which are toxic by inhalation, based on approval provisions, would be added. (See §§ 173.226 and 173.227.)

(f) Provisions for packaging lithium batteries, based on exemption requirements, would be added. (See § 173.185.)

11. Bulk packagings authorizations would be revised. (See Subpart F of Part 173.)

(a) Packagings would be authorized based on degree of hazard rather than historical precedent.

(b) Bulk packagings provisions for materials toxic by inhalation, based on approval provisions, would be added.

(c) Provisions of the IM Portable Tank Table would appear in the HMR. (See § 172.102.)

(d) General requirements applicable to filling limits for bulk packagings would be added or clarified. (See § 173.24b.)

(e) The bulk transport of hydrogen peroxide in strengths of 8 to 52% would be regulated.

12. Part 178 would be revised to adopt packaging standards and tests based on the U.N. Recommendations.

(a) One hundred existing specifications for non-bulk packagings would be removed and twenty performance standards would be added. (See Subpart L of Part 178.)

(b) Performance tests based on Chapter 9 of the U.N. Recommendations would be added, to include a drop test, leakproofness test, hydrostatic pressure test, stacking test, cooperage test for wooden barrels and chemical compatibility test for plastic receptacles. (See Subpart M of Part 178.)

(c) Manufacturers would be required to notify persons to whom packagings are transferred of any specification requirements which have not been met at time of transfer and retain copies of the notification for a one year period. (See § 178.0–2.)

(d) Manufacturers would be required to repeat performance tests at least once each year and retain records of test results for a one year period. (See § 178.601.)

V. Review by Sections

A. Part 171; General Information, Regulations, Definitions

Sections 171.1 through 171.5. The general provisions in Part 171 would remain essentially unchanged. Paragraph (e) of § 171.3 would be deleted and the existing provision, which allows the use of open-head drums for hazardous waste liquids containing solids or semi-solids, would be relocated to § 173.12. Sections 171.1, 171.2, 171.4 and 171.5 would not be changed.

Section 171.7. Section 171.7 would be revised to present material incorporated by reference in an easy-to-use format, to consolidate all references in one section and to update the material to reflect changes proposed in this notice. The proposed format is identical to that used by the **Federal Register** in the "FINDING AIDS" portions of the CFR. RSPA believes this format is much easier to use than the existing format in § 171.7. The proposed *Table of Material Incorporated by Reference* provides citations of the applicable 49 CFR sections in which material is referenced and clearly identifies sources for reference material. The listing would include some reference materials which are not found in the "FINDING AIDS" because the materials are informational rather than regulatory and, thus, not suitable for incorporation by reference under 5 U.S.C. 552(a) and 1 CFR Part 51 (e.g., DOT's "Guidelines for Selecting Preferred Highway Routes for Large Quantity Shipments of Radioactive Materials.") For purposes of this notice, the listing in § 171.7 is presented as a demonstration. It does not necessarily represent a complete listing of all additions, revisions and deletions that would be necessary to update the section.

Section 171.8. Section 171.8 would be revised to accommodate U.N. terminology and definitions and to define other terms which are used in this proposal, such as "international transportation", "kPa", "n.o.s. entry" and "subsidiary hazard". Approximately 38 definitions would be added and 11 would be revised. Numerous cross references would be added or revised. Definitions for terms rendered obsolete by this proposal, such as "STC" and "Poison A" would be deleted.

Sections 171.10 through 171.20. Section 171.10 would be revised to point out the distinction between "bulk packaging" as defined in § 171.8 and "bulk carrriage by vessel or barge" as addressed in 46 CFR, Subchapters D, I, O and N. Section 171.12a would be revised editorially to reflect changes in terminology and a new paragraph (g) would be added containing requirements, currently found in Part 179, applicable to couplers on Canadian tank cars. Section 171.14 would be removed and the provision for continued use of packagings marked "ICC" would be relocated to proposed § 173.23(b). No changes are proposed to §§ 171.1, 171.2, 171.4, 171.5, 171.9, 171.13, and 171.15 through 171.20.

B. Part 172; Hazardous Materials Table, Special Provisions and Hazardous Materials Communication Regulations

1. Subpart A of Part 172; General

Subpart A of Part 172 would not be changed.

2. Subpart B; § 172.101, Consolidated Hazardous Materials Table

The present HMR contain two tables that list hazardous materials: the Hazardous Materials Table ("§ 172.101 Table; or, "Table") in § 172.101 and the Optional Table in § 172.102. The § 172.101 Table is used to describe materials in domestic transportation by surface or air. The Optional Table may be used to describe a material being shipped internationally or domestically provided at least one leg of the journey is by vessel. A third table, the IM Tank Table, does not appear in the HMR but is implemented through the provisions of §§ 173.32c and 173.32d. It is used to specify conditions and limitations for the transport of hazardous materials in intermodal (IM) portable tanks. In addition to these three tables, the HMR allow two other tables to be used. One, implemented through the provisions of § 171.11, is found in the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). It may be used both internationally and domestically for transportation by aircraft and associated transportation by motor vehicle. The second, implemented through the provisions of § 171.12a, is in the Canadian Transport of Dangerous Goods Regulations (TDG Regulations) and may be used for import shipments from Canada.

Shipping names in the Optional Table, the ICAO Technical Instructions, the TDG Regulations and the IM Tank Table derive from the listing of materials in the U.N. Recommendations. Many of the shipping names in the § 172.101 Table also derive from the U.N. Recommendations. However, a substantial number of them do not. A major objective of RSPA in this rulemaking is a consolidation of the existing tables of the HMR. This consolidation would greatly simplify use of the HMR, would reduce the volume of the HMR, and is necessary to facilitate alignment with the U.N. Recommendations with regard to harmonizing shipping names and hazard classes for materials. Also, in making the transition to performance-oriented packaging standards, it would be necessary to revise the § 172.101 Table to accommodate packing group assignments and to revise packaging authorizations. Therefore, a new § 172.101 Table is being proposed. The proposed Table is a consolidation of the existing tables and contains approximately 3000 entries. It is derived from the existing §§ 172.101 and 172.102 Tables and from the ICAO Technical Instructions. For purposes of this notice, the proposed Table lists only shipping name, hazard class and identification number for each entry in the explosives hazard class (Class 1). Provisions for explosives are to be revised as part of a separate rulemaking project. For other than explosives, complete columnar entries are given, as discussed in the following paragraphs.

Column 1 of the proposed Table, entitled *Symbols*, retains the features of existing Column 1. To the existing symbols, "+", "A", "W" and "E", whose meanings would not be changed, two additional symbols, "D" and "I", would be added.

The letter "D" is an indicator that the shipping description is inappropriate when transportation of the material is for import from or export to a country other than Canada. The letter "D" is intended to alert the shipper that another proper shipping name may have to be selected for international transportation or the material may not be regulated as a hazardous material outside the U.S. and Canada. Most descriptions preceded by the letter "D" are hazardous substances which are not specifically listed in international regulations, but are regulated internationally under different proper shipping names. Others, in the ORM–E hazard class, may not be regulated under international regulations. To facilitate the through-shipment of the former materials, proposed paragraph (c)(14) would permit use of the internationally recognized shipping description in place of the more specific technical name. However, as the material may be a hazardous substance, the package markings and shipping paper descriptions may require identification of the technical constituent for these materials.

The letter "I" is an indicator that the shipping description is not acceptable for purely domestic transportation, but may be used for shipments of materials which originate or terminate at a point outside the U.S. For the most part, these descriptions are vague or unnecessary, or describe materials that present such a minimal risk that they may not meet the DOT definition of a hazardous material. Most of these descriptions were removed from the HMR (48 FR 52306, November 17, 1983), and RSPA is actively seeking to have those descriptions also removed from international standards.

Column 2, entitled *Hazardous Materials Descriptions and Proper Shipping Names*, would list the hazardous materials entries which have been consolidated from the aforementioned tables and integrated into the proposed Table. Provisions of existing Column 2 for selecting appropriate shipping names would be retained. Shipping names, for the most part, would be aligned with the U.N. Recommendations. In general, where an existing DOT shipping name is deleted in favor of an entry from the U.N. Recommendations, a cross reference from the old name to the new name would be included.

Column 3, entitled *Hazard Class*, would specify the hazard class or division for each proper shipping name, or the word "Forbidden" to indicate that a material may not be offered for transportation or transported. In general, the class or division numbers for each material are identical to those in the U.N. Recommendations, (e.g., Class 3, Division 6.1). Exceptions involve Class 2, for which gases would be divided into three divisions: Division 2.1 (flammable gases), Division 2.2 (non-flammable gases) and Division 2.3 (toxic gases). These divisions do not appear in the U.N. Recommendations. Also, it is proposed to retain the existing hazard classes of ORM–D (for consumer commodities and small arms ammunition) and ORM–E (for hazardous substances and hazardous wastes). Discussion of each of the proposed numerical hazard classes appears elsewhere in this notice.

Column 4, entitled *Identification Number*, would list the four digit identification number assigned to each proper shipping name, preceded by the letters "UN" or "NA". Those preceded by "UN" are listed in the U.N. Recommendations, and those preceded by "NA" are peculiar to domestic transportation.

Column 5, entitled *Packing Group*, would list the packing group assignment for each listed material except for explosives (Class 1), radioactive materials (Class 7) and non-toxic gases (Divisions 2.1 and 2.2). The packing group system is designed to identify the relative hazard of each material within a hazard class and then require a packaging performance standard appropriate to the risk. In most cases a material would be assigned to only one packing group. The assignment usually would be based on RSPA's knowledge of the material in its technical grade, and an understanding that the material,

as prepared for shipment, is rarely reduced to a state which would take it outside the limits for the specified packing group. In other cases, there are specified criteria, in Subpart D of Part 173, which identify the proper packing group and the user must make a determination of the appropriate packing group based on these criteria.

Column 6, entitled *Labels*, would specify the hazard warning label or labels required for non-bulk packagings filled with the listed hazardous materials. Proposed changes to labeling requirements, based on alignment with the U.N. Recommendations, are discussed elsewhere in this notice. Where a hazardous material is known to pose multiple hazards, Column 6 would list the label corresponding to the primary hazard (i.e., the specified hazard class) followed by labels corresponding to any subsidiary hazards.

In Column 7, entitled *Special Provisions*, there is proposed a series of codes for special provisions which grant exceptions from the regulations (in addition to those specified in Column 8a) or impose additional packaging requirements. The meaning and requirements for each special provision would be set forth in § 172.102. A code consisting of numbers only would apply to bulk and non-bulk packagings and to each mode of transportation. For example, "11" states "Package as a liquid or solid, as appropriate, depending on the form of the material at 55 °C (131 °F)." A code preceded by the letter "A", "H", "R", or "W" would apply respectively only to air, highway, rail or water modes of transportation. A code preceded by the letter "B" or "N" would apply, respectively, only to bulk or nonbulk packagings. A code preceded by the letter "T" would apply to use of IM portable tanks. The absence of a special provision in association with a hazardous material description would not automatically permit that packaging arrangement. The requirements indicated are known by RSPA to be essential to the safe transportation of the referenced materials. However, other materials may also require similar consideration. For instance, a shipper may not package in a steel drum a material which is incompatible with steel just because the special provisions column fails to list "N25" (Steel single packagings are not authorized). The general requirements for all packages prescribed in proposed § 173.24 effectively prohibit such packages in transportation.

Authorizations for use of specific IM portable tanks which are currently found in the IM Tank Table would be relocated to the HMR as a series of "T" codes listed in Column 7 of the § 172.101 Table and explained in § 172.102. For additional explanation of special provisions, refer to the preamble discussion for § 172.102, which follows this discussion of the § 172.101 Table.

Column 8, entitled *Packaging Authorizations*, would specify applicable packaging sections in Part 173 for materials. Column 8a would specify section references for exceptions from packagings requirements, or "None", indicating that no packaging exceptions are provided and is similar to the existing Column 5(a). Columns 8b and 8c would specify section references for non-bulk and bulk packagings, respectively. Another proposed revision deals with the presentation of packaging sections in Part 173. Columns 8a, 8b and 8c are each headed by the term "§ 173.***" to indicate that each of the numerical data elements in those columns replaces the asterisks (*) and the completed term is a section reference. For example, the material Allyl chloride has the entries "None", "201" and "240" in Columns 8a, 8b and 8c, respectively. This indicates: (1) in Column 8a, there are no limited quantity exceptions available for this material; (2) in Column 8b, the nonbulk packaging instructions prescribed in § 173.201 shall be complied with; and (3) in Column 8c, the bulk packaging instructions prescribed in § 173.240 shall be complied with. A "None" appearing in either of these latter columns would indicate that non-bulk or bulk packaging, as applicable, is not authorized.

Column 9, entitled *Quantity Limitations*, would be similar to existing Column 6 and would specify the maximum quantities that may be offered for transportation in one package aboard passenger-carrying aircraft or railcar (Column 9a) or by cargo aircraft (Column 9b). Quantity limitations are stated in metric units and in most instances are identical to limitations found in the ICAO Technical Instructions. Application of these limits to articles and devices is clarified in the introduction to the § 172.101 Table.

Column 10, entitled *Vessel Stowage Requirements*, would specify codes for stowage requirements for specific hazardous materials, similar to the presentation in Column 7 of the existing table. Column 10c would specify "Other stowage provisions" by means of numbered notes as opposed to written text. The meaning of each note is set forth in § 176.84. These notes provide stowage information above and beyond that given in Part 176. Examples of these notes are: "Stow 'away from' corrosives," "segregation same as for oxidizers." Column 10 requirements have been aligned to correspond to those in the International Maritime Dangerous Goods (IMDG) Code. During the analysis of the present Column 7 stowage provisions, numerous discrepancies were found internally within the present table and also in the comparison between the § 172.101, and § 172.102 Tables and the present IMDG Code. Since one effort of this rulemaking will be the elimination of the § 172.102 Table, the proposed Column 10 has been redone to conform with the IMDG Code (including Amendment 22, effective July 1, 1986) thereby filling the gap for international shipments. The net result should be greater uniformity and fewer problems with improperly stowed cargo. Any amendments subsequently adopted in the IMDG Code which affect Column 10 are planned to be incorporated into the final rule.

The existing provisions in § 172.101(j) would be retained in proposed § 172.101(1). This allows a period of time to use up preprinted shipping papers and package markings when a shipping description is changed by an amendment to the table. Section 172.101(1) would also contain approval functions similar to existing provisions, to allow the Director, OHMT, to approve changes to shipping descriptions or packing authorizations which may be found to be in error or to align descriptions with changes to the IMDG Code, until such time as the § 172.101 Table could be amended through rulemaking action.

3. Subpart B; § 172.102, Special Provisions and Appendix A

It is proposed to delete the Optional Hazardous Materials Table found at § 172.102 and substitute a new section, entitled *Special provisions*, in its place. Special provisions would be a series of alphanumeric codes which would appear in Column 7 of the § 172.101 Table and which would be explained in new § 172.102. There are eight different types of codes proposed. A code consisting of numbers only would be a general provision applying to all modes of transportation and to both bulk and non-bulk packagings. For example, the § 172.101 Table entry for Sodium metal, dispersion, would specify "22" in Column 7. Referring to § 172.102, the "22" special provision would state "If the hazardous material is in dispersion in organic liquid, the organic liquid must have a flash point above 50 °C (122 °F)."

Four types of codes would be used for modal-specific requirements and consist of a letter preceding a two-digit number. The letters "A", "H", "R" and "W" would be used to precede codes applying to, respectively, the air, highway, rail and water modes of transportation. For example, the § 172.101 Table entry for Aluminum hydride would specify "A19" in Column 7. The § 172.102 reference to this special provision would state "Combination packagings consisting of outer fiber drums or plywood drums, with inner plastic packagings, are not authorized for transportation by aircraft."

Two types of codes, preceded by the letters "B" and "N", would be used for special provisions applying, respectively, to bulk and non-bulk packagings. For example, the § 172.101 Table entries for Chlorosilanes, n.o.s., would refer in Column 8c to § 173.242 for bulk packaging authorizations and to "B2", in Column 7. Referring to § 172.102, the "B2" special provision would state "MC 306 cargo tanks, DOT 57 portable tanks, and riveted tank cars are not authorized", thus limiting the packaging authorizations found in § 173.242. The § 172.101 Table entry for Ethylamine, aqueous solution, would refer in Column 8b to § 173.202 for non-bulk packagings and in Column 7 to "N15". The "N15" special provision would state "Plastic materials of construction are not authorized for any part of a packaging which is normally in contact with the hazardous material." Further explanation of bulk and non-bulk packaging provisions is found in the preamble discussion for Subparts E and F of Part 173.

One other code, preceded by the letter "T", would be used to specify authorizations for use of IM portable tanks. For example, the § 172.101 Table entry for Ethyl acetate would specify "T2" in Column 7. Referring to § 172.102, the "T2" special provision would authorize, in a manner similar to the existing IM Tank Table, use of an IM 102 portable tank. Appropriate provisions, in "T2", would address tank test pressure rating, use of bottom outlets and pressure relief device settings. For a number of reasons, RSPA has not been able to update the IM Tank Table in a timely manner. The "T" codes would be used to incorporate provisions of the IM Tank Table into the HMR and would eliminate the need for maintaining this publication separate from the HMR.

The "A", "N", and numeric special provisions and the use of a "Special Provisions" column are based, in general, on comparable provisions found in the ICAO Technical Instructions. The other types of special provisions would be implemented to accommodate modal-specific requirements and to specify IM portable tank authorizations. Through the use of special provisions, it would be possible to eliminate the repetitious language that appears throughout Part 173 of the existing regulations and to reduce the volume of the HMR.

Appendix A to Subpart B of Part 172 would be revised to provide a cross reference of identification numbers and proper shipping names. This appendix was not available at the time of publication, and therefore, has not been included in the regulatory text portion of this notice.

4. Subpart C, Shipping Papers

The shipping paper requirements of Subpart C of Part 172 would be changed to incorporate features found in the U.N. Recommendations. The use of class or division numbers would replace the words used to describe the present hazard classes (e.g., "8" in place of "Corrosive Material" or "6.1" in place of "Poison B"). Packing group numbers would be added to the basic description after the identification number (e.g. "PG II"), to indicate the level of packaging integrity required. When an "n.o.s." entry is used, the constituent or constituents which make the material hazardous must be added to the description. The present HMR require that hazardous constituents be identified only in the descriptions of poisons and hazardous substances. The U.N. system and this proposal extend this practice to all hazard classes. It is possible under the present HMR to describe a shipment of Corrosive liquid, n.o.s., without identifying the technical constituents or indicating whether the material is acidic or basic. The proposal allows the use of hazard class words (e.g. "Flammable liquid") to be used in addition to the required U.N. class (e.g., "3") or division numbers for shippers who wish to show both. The requirement to identify "Poison-Inhalation Hazard" materials is extended to nonbulk packagings having primary receptacles of one liter (1.06 quarts) or less and to Division 2.3 gases. Editorial changes include deletion of references to the § 172.102 Table and to the ORM–A, B and C hazard classes.

5. Subpart D, Marking

Sections 172.301 and 172.302. Package marking requirements found in Subpart D of Part 172 would be changed to reflect the features of the U.N. Recommendations. Section 172.301 would contain general marking requirements for non-bulk packagings and § 172.302 would contain general marking requirements for bulk packagings. A requirement to mark exemption numbers on packagings used under the terms of exemptions would be relocated from Part 107 to §§ 172.301 and 172.302, for non-bulk and bulk packagings, respectively. As in the case of shipping papers, when an "n.o.s." proper shipping name is selected to describe a hazardous material, the technical name of the hazardous constituent or constituents (up to two) would be required, as a package marking on those packagings for which marking of shipping names is required. In § 172.302, minimum size requirements for markings on bulk packagings would be added, to include minimum height requirements of 100mm (3.94 inches) on rail cars, 75mm (2.95 inches) on cargo tanks and 50mm (1.97) inches on other bulk packagings.

Section 172.303. A new § 172.303 would be added containing a prohibition against offering or transporting a package marked with a proper shipping name or identification number unless the package actually contains the identified material. An exception would permit the transport of such packages, under certain conditions, when markings are not visible in transportation. These provisions parallel existing provisions in § 173.29(d).

Section 172.312. This section would be revised for clarity and to require arrows for orientation markings, instead of "THIS SIDE UP" or "THIS END UP". These text statements cause confusion, such as when "THIS SIDE UP" appears on an end or "THIS END UP" appears on a side.

Section 172.313. A new § 172.313, entitled "Poisonous hazardous materials.", would be added to Subpart D. The requirement for permanently marking "POISON" on plastic packagings used for poisonous materials would be relocated to this new section from § 173.24. The requirement for marking "Inhalation Hazard" on packages containing inhalation toxic materials would be relocated from § 172.301 and would be made applicable to both non-bulk and bulk packagings.

Section 172.332. In § 172.332, a provision would be added, at subparagraph (c)(3), to prohibit the display of identification numbers on placards corresponding to the subsidiary, rather than the primary, hazard of a material. This is believed necessary to avoid confusion that might result fom the display of identification numbers on subsidiary placards.

Other sections in Subpart D. Sections 172.306, 172.308, 172.312, 172.316, 172.324, and 172.334 would be revised editorially

to delete references to § 172.102 and to ORM–A, B, and C and for clarity. Section 172.334 would be revised to permit display of identification numbers on POSION GAS placards. In §§ 172.326, 172.328 and 172.330, many of the existing provisions would be consolidated and relocated to § 172.302. Remaining provisions in these sections would be revised editorially.

6. Subpart E; Labeling

Package labeling requirements found in Subpart E of Part 172 would be changed to reflect the features of the U.N. Recommendations. Numerous editorial and format changes would be made for clarity and ease of use. Label graphics would be revised to permit display of hazard class or division numbers in the lower corners of square-on-point labels. Size requirements on labels would be changed slightly with regard to overall label size and inner border size to accommodate labels conforming to the U.N. Recommendations without rendering obsolete many labels which conform to existing HMR requirements. Use of text on labels for Classes 2, 3, 4, 5, 6 and 8 would be optional. The EXPLOSIVE A, B and C and BLASTING AGENT, OXYGEN and IRRITANT labels would be removed. EXPLOSIVE 1.1, 1.2, 1.3, 1.4 and 1.5 and KEEP AWAY FROM FOOD and INFECTIOUS SUBSTANCE labels would be added. Specific changes are discussed in the following paragraphs.

Section 172.400. Section 172.400 would be revised in its entirety. Proposed paragraph (a) would set forth the types of packaging to which labeling requirements apply, i.e., non-bulk packagings, DOT–106 and 110 multi-unit tank car tanks, portable tanks of less than 1000 gallons capacity, and overpacks, freight containers and unit load devices of no greater than 640 cubic feet (18.1 cubic meters) capacity which contain labeled packages. Proposed paragraph (b) would set forth in tabular form, the labels corresponding to each hazard class and the applicable sections containing label designs.

Section 172.400a. A new § 172.400a would set forth exceptions from labeling requirements which would remain essentially unchanged.

Section 172.401. In § 172.401, paragraph (d) would be removed as unnecessary, because once the shipping name and hazard class are tentatively assigned for a material under the provisions of proposed § 172.101(c)(11), the appropriate label is set forth in the § 172.101 Table.

Section 172.402. Additional labeling requirements in § 172.402 would be revised to reflect numerical hazard class nomenclature. Existing paragraphs (c) through (i) of § 172.401 are believed unnecessary and would be removed.

Sections 172.403 and 172.404. Sections 172.403 and 172.404 would not be changed.

Section 172.405. Section 172.405 would be revised to make optional the display of hazard warning text (i.e., "POISON", "FLAMMABLE LIQUID", etc.) on labels for Classes 2, 3, 4, 5, 6 and 8. The appropriate hazard class or division number would have to be displayed on labels representing the primary hazard class of the materials. Class or division numbers would not be required on subsidiary hazard labels for the aforementioned classes. Existing provisions in § 172.405, for display of "OXYGEN" on OXIDIZER labels and "CHLORINE" on POISON labels, would be eliminated.

Section 172.406. Section 172.406 would be revised for clarity.

Section 172.407. It is proposed to change the format in § 172.407, for ease of use. Several changes to label designs are proposed to accommodate labels made in conformance to existing HMR requirements and labels made in conformance with IMO, ICAO or U.N. label specifications. These changes would entail a proposed minimum label size of 100 mm (3.9 inches) instead of 4 inches and a solid line inner border of 5.0 to 6.3 mm (0.20 to 0.25 inches) from the edge of the label instead of ¼ inch. Text indicating a hazard would not have to appear exactly "as shown" in the pictorial displays (§§ 172.411 through 172.448) but, in general, would have to conform to a minimum height of 7.6 mm (0.30 inches). Minimum and maximum sizes of 6.3 mm (0.25 inches) and 12.7 mm (0.5 inches), respectively, are proposed for the height of the U.N. class or division numbers. Provisions permitting inscriptions required by the country of origin (existing § 172.407(h)) and, for import or export purposes, inscriptions on Explosives A, B and C labels, would be deleted and replaced by a provision (proposed § 172.407(f)) which would allow use of any label conforming to the U.N. Recommendations in place of the corresponding label in Subpart E of Part 172.

Section 172.411. In § 172.411, the existing EXPLOSIVE A, B, C and BLASTING AGENTS labels would be replaced with EXPLOSIVE 1.1, 1.2, 1.3, 1.4 and 1.5 labels conforming to the U.N. Recommendations. Text would be mandatory on the Explosive 1.1, 1.2 and 1.3 labels. Division numbers and compatibility group letters would also be mandatory, and minimum size requirements would be specified for them.

Sections 172.415 through 172.427. The NON-FLAMMABLE GAS, POISON GAS, FLAMMABLE GAS and FLAMMABLE LIQUID labels (§§ 172.415, 172.416, 172.417 and 172.419 respectively) would be changed only to show hazard class numbers in the lower corners of the square-on-point designs. In § 172.420, provision would be made to permit text to be printed over the vertical stripes (per the U.N. Recommendations) or placed in a white rectangle (per the existing HMR). The class number would be displayed in the lower corner of the label. The DANGEROUS WHEN WET, OXIDIZER, ORGANIC PEROXIDE and POISON labels (§§ 172.423, 172.426, and 172.427, respectively) would be changed only to show hazard class or division numbers in the lower corners.

Sections 172.431 and 172.432. A new § 172.431 would be added to specify the design and color of the KEEP AWAY FROM FOOD label, also known as the St. Andrew's Cross label. In § 172.432, both existing IRRITANT labels would be removed. A new § 172.432 would accommodate the INFECTIOUS SUBSTANCE label from the U.N. Recommendations.

Sections 172.436, 172.438, 172.440 and 172.442. The RADIOACTIVE WHITE–I, YELLOW–II and YELLOW–III labels and the CORROSIVE label (§§ 172.436, 172.438, 172.440 and 172.442, respectively) would be changed only to show hazard class numbers in the lower corners.

Section 172.444. The ETIOLOGIC AGENT label in § 172.444 would not be changed, but paragraphs (b) and (c) of this section would be removed to delete obsolete provisions.

Section 172.448. The CARGO AIRCRAFT ONLY label (§ 172.448) would not be changed. Paragraphs (b) and (c) would be removed.

7. Subpart F; Placarding

The changes proposed to placarding requirements are similar to those proposed for labeling. Editorial and format changes would be made throughout the subpart for clarity and ease of use. Placard graphics would be revised to display hazard class or division numbers on placards. Use of text (e.g., "POISON GAS", "FLAMMABLE") on placards for classes 2, 3, 4, 5, 6 and 8 would be optional. Minor changes would be made to accommodate placards conforming to the U.N. Recommendations without rendering obsolete many placards which conform to existing HMR requirements.

For those existing placards which would be rendered obsolete, a "grandfather" clause would provide for their continued use until December 31, 1992.

U.N. placards, other than RADIOACTIVE, are essentially labels enlarged from 100 millimeters to 250 millimeters on edge. Symbols generally take up the upper half of the placard, with the lower half reserved for class or division numbers, hazard warning text and four-digit identification numbers. Placards in existing Subpart F of Part 172 measure 10 and ¾ inches (273 millimeters) on edge and have symbols in the upper third of the placard, with the middle third reserved for hazard warning text or four-digit, 3 and ½-inch (89 mm) high, identification numbers and the bottom third either left blank or used to display a 1 and ¾-inch (44.45mm) high hazard class number. In this notice, it is proposed to use existing size and graphics on placards, to accommodate 3 and ½-inch identification numbers. Use of graphics on placards sized in accordance with the U.N. Recommendations would necessitate a reduction in the size of identification numbers to approximately a 2-inch (50.8 mm) height, with potential for rendering the identification numbers more difficult to read in emergency situations.

Specific changes are discussed in the following paragraphs.

Section 172.500. Section 172.500 would be revised to delete references to etiologic agents and to ORM–A, B and C materials and to clarify that placarding provisions do not apply to combustible liquids in non-bulk packagings, to Class 9 materials or to materials packaged under the "small quantity" provisions of § 173.4.

Section 172.502. Section 172.502 would be revised for clarity. A new paragraph (e) would clarify that placarding is permitted, even when not required, if the placards are appropriate for the materials being transported.

Sections 172.504 through 172.516. Section 172.504 would be revised editorially for ease of use and substantively to present new placarding tables based on the numerical hazard classes proposed in this notice. Section 172.505 would be revised editorially. Sections 172.506 and 172.507 would not be changed. Minor editorial changes would be made to §§ 172.508, 172.510 and 172.512. The provisions of § 172.514 would be made applicable to all bulk packagings, other than tank cars, and would be revised editorially. The introductory text of paragraph (c) of § 172.516 would be revised editorially and subparagraph (c)(7) would be added to require that a placard either be affixed to a background of contrasting color or have an outer border which contrasts with the background color.

Section 172.519. It is proposed to change the format in § 172.519 for ease of use. Instead of specifying the exact sizes for graphic symbols, as is done in Appendix B to Part 172, it is proposed that symbols be "as shown" in §§ 172.521 through 172.558, as is done in Subpart E with respect to labels. Also, rather than specifying 17 different heights for letters as is done at present, minimum heights of 45.0 mm (1.77 inches) for printing (with certain exceptions) and 41.0 mm (1.62 inches) for hazard class numbers would be specified. Hazard warning text on placards for Classes 2, 3, 4, 5, 6 and 8 would be made optional. The hazard class or division number would be required on a placard representing the primary hazard of a material and prohibited on subsidiary placards to aid in identifying the primary hazard of materials with multiple hazards. Except on the CORROSIVE and RADIOACTIVE placards, the placard color would be permitted to extend to the outer edge rather than only to the inner border, as an optional means of conforming to placard color specifications in the U.N. Recommendations. A "grandfather" provision would be added to § 172.519 to permit use until December 31, 1992, of existing placards (e.g., the OXYGEN placard) which may be rendered obsolete. Exceptions to the placard specifications would be provided for placards conforming to the U.N. Recommendations or the Canadian Transport of Dangerous Goods Recommendations to accommodate any minor differences in the placarding systems.

Sections 172.522 through 172.558. In §§ 172.522 through 172.558 the specifications for placards would be revised to reflect the proposed placarding provisions. Placards deleted would include EXPLOSIVES A (§ 172.522), EXPLOSIVES B (§ 172.523), BLASTING AGENTS (§ 172.524), OXYGEN (§ 172.530), CHLORINE (§ 172.536) and FLAMMABLE SOLID W (§ 172.548). Placards added would include EXPLOSIVES 1.1, 1.2 and 1.3 (§ 172.522), EXPLOSIVES 1.4 (§ 172.523), EXPLOSIVES 1.5 (§ 172.524), SPONTANEOUSLY COMBUSTIBLE (§ 172.547), DANGEROUS WHEN WET (§ 172.548) and KEEP AWAY FROM FOOD (§ 172.553).

Hazard class numbers (or in the case of Division 5.1 and 5.2, division numbers) would appear on all except the DANGEROUS placard in numbers proportionately sized to a height of 1 and ¾ inches on full-sized placards. For other than the CORROSIVE and RADIOACTIVE placards, placard colors would be depicted as running to the outer edges in conformance with the U.N. Recommendations. The DANGEROUS (§ 172.521) and RESIDUE (§ 172.525) placards and the square white background in § 172.527 would not be changed.

Specific changes are discussed in the following paragraphs.

Section 172.500. Section 172.500 would be revised to delete references to etiologic agents and to ORM–A, B and C materials and to clarify that placarding provisions do not apply to combustible liquids in non-bulk packagings, to Class 9 materials or to materials packaged under the "small quantity" provisions of § 173.4.

Section 172.502. Section 172.502 would be revised for clarity. A new paragraph (e) would clarify that placarding is permitted, even when not required, if the placards are appropriate for the materials being transported.

Sections 172.504 through 172.516. Section 172.504 would be revised editorially for ease of use and substantively to present new placarding tables based on the numerical hazard classes proposed in this notice. Section 172.505 would be revised editorially. Sections 172.506 and 172.507 would not be changed. Minor editorial changes would be made to §§ 172.508, 172.510 and 172.512. The provisions of § 172.514 would be made applicable to all bulk packagings, other than tank cars, and would be revised editorially. The introductory text of paragraph (c) of § 172.516 would be revised editorially and subparagraph (c)(7) would be added to require that a placard either be affixed to a background of contrasting color or have an outer border which contrasts with the background color.

Section 172.519. It is proposed to change the format in § 172.519 for ease of use. Instead of specifying the exact sizes for graphic symbols, as is done in Appendix B to Part 172, it is proposed that symbols be "as shown" in §§ 172.521 through 172.558, as is done in Subpart E with respect to labels. Also, rather than specifying 17 different heights for letters as is done at present, minimum heights of 45.0 mm (1.77 inches) for printing (with certain exceptions) and 41.0 mm (1.62 inches) for hazard class numbers would be specified. Hazard warning text on placards for Classes 2, 3, 4, 5, 6 and 8 would be made optional. The hazard class or division number would be required on a placard representing the primary hazard of a material and

prohibited on subsidiary placards to aid in identifying the primary hazard of materials with multiple hazards. Except on the CORROSIVE and RADIOACTIVE placards, the placard color would be permitted to extend to the outer edge rather than only to the inner border, as an optional means of conforming to placard color specifications in the U.N. Recommendations. A "grandfather" provision would be added to § 172.519 to permit use until December 31, 1992, of existing placards (e.g., the OXYGEN placard) which may be rendered obsolete. Exceptions to the placard specifications would be provided for placards conforming to the U.N. Recommendations or the Canadian Transport of Dangerous Goods Recommendations to accommodate any minor differences in the placarding systems.

Sections 172.522 through 172.558. In §§ 172.522 through 172.558 the specifications for placards would be revised to reflect the proposed placarding provisions. Placards deleted would include EXPLOSIVES A (§ 172.522), EXPLOSIVES B (§ 172.523), BLASTING AGENTS (§ 172.524), OXYGEN (§ 172.530), CHLORINE (§ 172.536) and FLAMMABLE SOLID W (§ 172.548). Placards added would include EXPLOSIVES 1.1, 1.2 and 1.3 (§ 172.522), EXPLOSIVES 1.4 (§ 172.523), EXPLOSIVES 1.5 (§ 172.524), SPONTANEOUSLY COMBUSTIBLE (§ 172.547), DANGEROUS WHEN WET (§ 172.548) and KEEP AWAY FROM FOOD (§ 172.553).

Hazard class numbers (or in the case of Division 5.1 and 5.2, division numbers) would appear on all except the DANGEROUS placard in numbers proportionately sized to a height of 1 and ¾ inches on full-sized placards. For other than the CORROSIVE and RADIOACTIVE placards, placard colors would be depicted as running to the outer edges in conformance with the U.N. Recommendations. The DANGEROUS (§ 172.521) and RESIDUE (§ 172.525) placards and the square white background in § 172.527 would not be changed.

8. Appendices to Part 172.

Appendix A to Part 172, containing color tolerance charts and tables, would not be changed. Appendix B, containing dimensional specifications for placard designs, would be removed. Appendix C, containing recommended dimensions for placard holders, would not be changed.

C. Part 173; Shippers, General Requirements for Shipments and Packagings

1. Subpart A of Part 173, General

Section 173.1. In § 173.1, a paragraph would be added to indicate that, although the provisions in Subchapter C of 49 CFR generally are based on the U.N. Recommendations and are consistent with the regulations of ICAO and IMO, they are not identical in all respects and compliance with the HMR will not guarantee compliance with international regulations.

Section 173.2. Section 173.2 would be revised to list the various hazard classes, by class or division number and name, and to provide an index to the hazard class definitions which appear throughout Part 173.

Section 173.2a. Proposed § 173.2a would replace existing § 173.2 and provide requirements for classification of hazardous materials with multiple hazards. A precedence of hazard table, which is based on the U.N. Recommendations, would be used to classify those materials posing multiple hazards involving Classes 3, 4.1, 4.2, 4.3, 5.1, 6.1, and 8. For other hazards, a precedence of hazard ranking, similar to that in existing § 173.2, would be used to determine the appropriate hazard class. Under these proposed criteria, materials which are toxic by inhalation receive emphasis, in keeping with concerns expressed during the rulemaking process under Docket HM–196.

Section 173.3. Changes proposed to § 173.3 include an editorial revision of paragraph (a) and (b). Also, in paragraph (c) provisions for use of salvage drums are revised to permit use of plastic drums and to require that salvage drums conform to U.N. standards 1A2, 1B2, 1N2 or 1H2.

Section 173.3a. This section would be revised to address new packaging provisions for liquids which are toxic by inhalation.

Sections 173.4 and 173.5. These sections would be revised to conform to U.N. terminology (e.g., "Class 3" instead of "flammable liquid") and to include measurements in both U.S. standard and international units. In § 173.4, quantity limits for Division 6.1 (poisonous liquids), Packing Groups II and III, would be set at 30 milliliters for liquids and 30 grams for solids, and for Packing Group I poisons, 1 gram for both liquids or solids.

Section 173.6 through 173.11. Section 173.6 would be removed and requirements applicable to air shipments would be consolidated in proposed § 173.27. Sections 173.7, 173.9 and 173.10 would be revised editorially. No changes are proposed to § 173.11.

Section 173.12. This section would be revised to consolidate provisions applicable to the packaging of hazardous wastes. Provisions in existing § 171.3 applying to use of open head drums and in § 173.28 applying to reuse of packagings for waste materials would be relocated to § 173.12 and the section would be revised editorially.

2. Subpart B; Preparation of Hazardous Materials for Transportation

Section 173.21. Section 173.21 would be rewritten to improve its clarity. The categories of materials which are forbidden would be expanded to include electrical devices which are likely to create sparks or generate a dangerous quantity of heat, unless the devices are packaged in a manner which precludes such an occurrence. Also forbidden would be the packing of any incompatible material (hazardous or non-hazardous) in the same packaging, freight container, or overpack if the mixing of these materials would be likely to cause a dangerous evolution of heat, flammable or poisonous gases or vapors, or to produce corrosive materials. This is similar to an existing provision in § 173.21(a) which addresses the mixing of two hazardous materials.

Sections 173.22 and 173.22a. No changes are proposed to §§ 173.22 and 173.22a.

Section 173.23. The provision for continued use of packagings marked "ICC" would be relocated from § 171.14 to proposed § 173.23(a). Obsolete provisions in existing § 173.23(a) concerning DOT–34 drums would be removed.

Section 173.24. The standard requirements for all packages which appear in existing § 173.24 would be substantively revised and expanded into three sections. Proposed § 173.24 would address general requirements applicable to all packages. Proposed § 173.24a would address general requirements unique to non-bulk packages and proposed § 173.24b would address those requirements unique to bulk packages. A statement of applicability would be added to § 173.24 to make it clear that the section applies to all packagings used for hazardous materials: specification and non-specification, bulk and non-bulk, and new and reused packagings. General marking requirements for specification packages would be relocated from existing § 173.24 to § 178.0–3. Some requirements applying to workmanship and construction materials would be removed; others would be relocated to

the individual specifications in Part 178. Language in proposed § 173.24 would address what constitutes an "authorized packaging". Compatibility requirements would be restated for clarity, and general provisions applicable to the use of vents on packagings are proposed. A requirement would be included that liquids must not completely fill a receptacle at a temperature of 55 °C. (131 °F.) or less.

Section 173.24a. Proposed § 173.24a contains additional general requirements applicable to non-bulk packagings. Requirements applying to closures, securing and cushioning, use of nails, etc. are essentially a restatement of existing provisions and appear in paragraph (a). Also contained in this paragraph is a requirement that each non-bulk package must be capable of withstanding a vibration test. The absence of a vibration standard was a criticism of the U.N. system that was mentioned in numerous comments to the ANPRM. The test would appear in Appendix C to Part 173. Non-bulk filling limits, based on the U.N. Recommendations, are proposed. Also, requirements applicable to packing different hazardous materials in the same outer packaging are proposed.

Section 173.24b. In proposed § 173.24b, filling limits are standardized for all bulk packagings. A requirement has been added that non-reclosing pressure relief devices not be used for materials that are flammable or poisonous, or both. Several of the special provisions for packaging materials which are toxic by inhalation require stainless steel cargo tanks and portable tanks to be used, but also permit the use of other steels if they are of an "equivalent thickness", as determined from the formula presented in § 173.24b. See the preamble to Subpart F of Part 173 for additional discussion concerning filling limits and equivalent steels.

Section 173.25. In § 173.25, the provisions for overpacks would be revised to require the use of orientation arrows in place of the "This side up" or "This end up" marking, consistent with proposed § 172.312. Also, it is proposed to prohibit the overpacking of Packing Group I corrosives and oxidizers with other materials and to delete existing prohibitions against overpacking nitric acid, perchloric acid, and similar materials.

Section 173.26. Proposed § 173.26 would address quantity limitations on packagings. Existing provisions for metric conversions would be eliminated.

Section 173.27. Proposed § 173.27 would contain standard packaging requirements for transportation by aircraft. Pressure requirements and requirements for use of absorbent materials for packagings used for liquids, based on the ICAO Technical Instructions, are proposed. It is proposed that Packing Group III materials conform to Packing Group II performance requirements for transportation by aircraft. For combination packagings, quantity limitations for inner packagings would appear in two tables, one for passenger aircraft and the other for cargo aircraft only, primarily based on the ICAO Technical Instructions and on the maximum quantity per package authorized in the § 172.101 Table.

Section 173.28. Many of the present DOT specification packagings are marked "NRC" (non-reuseable container) or "STC" (single trip container) and may only be used one time for hazardous materials service. Existing § 173.28 contains the restrictions on reuse of packagings. It is proposed to remove many of these restrictions and generally align requirements with the U.N. Recommendations. Proposed § 173.28 allows the reuse of packagings for hazardous materials service if the packaging is free from corrosion or other damage, is leakproofness tested, and, in the case of a metal or plastic drum or jerrican, the packaging meets certain thickness requirements. Packagings made of paper, textiles, fiberboard and plastic film would not be authorized for reuse for hazardous materials. This proposal differs from existing provisions in that all packagings used for liquids would have to be leak tested. Only DOT–17 series drums are retested, or "reconditioned", at present. In addition, proposed § 173.28 defines the terms "reconditioning" and "remanufacture." Reconditioning is defined because even though the U.N. Recommendations do not specify reconditioning before reuse, they do acknowledge the practice and provide special markings for reconditioned packagings which would be adopted in this rulemaking. Remanufacturers would be made subject to the HMR to the same extent as manufacturers of new packagings.

Section 173.29. This section would be revised editorially for clarity.

Section 173.30. This section would not be changed.

Section 173.31. Paragraph (a) of this section would be revised to remove effective dates which have already passed, to relocate certain requirements currently in Part 179, and to enhance requirements applicable to the filling of tank cars and use of pressure relief devices. It would be prohibited to load a material into a tank car if the temperature of the material exceeded the tank's design temperature range. Provisions would be added to relate tank pressure ratings and the associated opening pressures of pressure relief devices to lading pressure at the maximum lading temperatures likely to be reached under normal transportation conditions. (See the preamble to Subpart F of Part 173 for additional discussion concerning proposals related to bulk packagings.) Use of air pressure for the loading or unloading of flammable materials would be restricted as would the use of non-reclosing pressure relief devices on tank car tanks used for Class 3, 4, or 6.1 liquids.

Section 173.32. Equivalency provisions would be added to permit the use of DOT 51 portable tanks where DOT 56, 57, or 60 tanks are authorized, and use of DOT 60 portable tanks where DOT 56 or 57 tanks are authorized. As for tank cars, restrictions would be imposed on lading density and temperature with respect to the lading density and temperature of the tank, on the use of air pressure for loading or unloading flammable materials and on the use of non-reclosing pressure relief devices on tanks used for Class 3, 4, or 6.1 liquids. Tank minimum design pressure requirements, based on lading pressures, would be prescribed. For DOT 60 and marine portable tanks used for multiple hazard liquids, a minimum tank design pressure of 25 p.s.i. is proposed.

Section 173.32c. This section would be editorially revised to implement inclusion of the IM Tank Table in § 172.102.

Section 173.32d. This section would no longer be needed and would be removed.

Section 173.33. Consistent with proposals made under Docket HM–183, it is proposed to amend the general use provisions for cargo tanks to address lading density and temperature, tank design pressure based on lading pressures, use of non-reclosing pressure relief devices and use of air pressure for loading or unloading. Equivalency provisions would be added to permit an MC 331 to be used where an MC 306, 307 or 312 cargo tank is authorized and to permit use of an MC 307 or 312 where an MC 306 is authorized. Also, a minimum design pressure of 25 p.s.i. (172.4 kPa) would be required for MC 307 and 312 cargo tanks used for multiple hazard liquids.

Section 173.40. This section would be added to implement general packagings requirements for use of cylinders for materials which are toxic by inhalation. The requirements are similar to those

applicable to Poison A liquids and gases in present § 173.327.

3. Subpart C; Explosives and Blasting Agents

Subpart C, containing the hazard class definitions and packagings requirements for explosives (i.e., Classes A, B and C explosives and blasting agents), has not been revised in this proposal. Proposals, to align DOT's requirements applicable to explosives with those in the U.N. Recommendations, will be published in a separate rulemaking action at a future date.

4. Subpart D; Hazard Class Definitions

In the present regulations a single hazard class or, in some instances, several classes of similar materials are placed in a single subpart of Part 173, from Subpart D (flammable, combustible and pyrophoric liquids) to Subpart O (ORM–E). Each subpart contains the hazard class definitions, general requirements applicable to specific classes of materials, exceptions, and packaging requirements for both "n.o.s" materials and specifically named materials or articles within the class or classes. In this proposal, this information is organized quite differently. Subpart D would contain definitions, packing group assignments and exceptions for all of the hazard classes, excluding explosives and radioactive materials. For the most part, hazard class definitions are based on the U.N. Recommendations. Subpart E would contain non-bulk packaging sections and Subpart F would contain bulk packaging sections for materials other than Classes 1 and 7.

Section 173.115. Danger from gases can arise from a number of characteristics, which in turn depend on the physical or chemical nature of the gas. One danger is flammability and is possessed by those gases which burn, such as methane, propane, hydrogen, etc. A second danger arises from the energy possessed by the gas in a compressed state. This danger depends on the gas being compressed and the gas under pressure may be in the liquid or gaseous form. Compressed air and dichlorodifluoromethane (Refrigerent 12) are examples of gases presenting only this danger. A third danger is that of toxicity and is possessed by poisonous gases. Phosgene is an example of a gas with this characteristic. A particular gas may exhibit more than one of these dangers. A forth danger is support of combustion by a gas which is not of itself flammable. Oxygen is an example of a gas with this hazard. Compressed carbon monoxide would be an example of a gas which is flammable, toxic and, depending on its pressure level, dangerous by compression as well.

The hazard class definitions for Class 2 (gases) in this proposal are not identical to the definitions contained in the U.N. Recommendations for that class. The U.N. classing procedures for gases (Class 2) do not distinguish between the three aforementioned sources of danger and, for that reason, RSPA considers the U.N. Recommendations to be deficient for this hazard class. It is proposed to divide Class 2 into three divisions as follows: Division 2.1 is for flammable gases, Division 2.2 is for compressed gases (non-flammable, non-toxic) and Divison 2.3 is for toxic (poisonous) gases. While this is a departure from the U.N. Recommendations, it is consistent with the IMDG Code of IMO which subdivides Class 2 into these same divisions for storage and segregation purposes (see 5.1.2 of the IMDG Code). In addition, Division 2.3 is assigned packing groups. Divisions 2.1 and 2.2 are not.

Division 2.1 (flammable gases) is defined in terms of the material being: (1) a gas under ambient conditions (i.e., 14.7 psia (101.4 kPa) and 68 °F (20 °C)), and (2) flammable. There are no pressure requirements. The flammability criteria, having to do with flammability limits, come from the existing regulations (§ 173.300(b)(1)), but the Bureau of Explosives Flame Projection test, a feature of the present HMR (§ 173.300(b)(2)), would be deleted.

Division 2.2 (non-flammable, compressed gas) is defined strictly in terms of the pressure that it exerts on the container. The pressure levels (40 psia (275.8 kPa) at 70 °F (21.1 °C) or 104 psia (717.1 kPa) at 130 °F (54.4 °C)) are the same as those in the existing regulations at § 173.300(a). The definition applies to both liquefied and non-liquefied compressed gases.

Division 2.3 (poisonous or toxic gas) is defined in terms of these materials being gases at ambient conditions (as in the case of Division 2.1) and by their toxicity. Toxicity is based either on known human experience, or on laboratory tests on unspecified animals. There are no pressure requirements for Division 2.3.

In addition to defining the hazard classes and divisions for gases, proposed § 173.115 defines certain other terms used in the classing of gases. These definitions of terms are similar to those presently found in the regulations at § 173.300 (c) through (i).

Section 173.116. Division 2.3 materials would be placed into packing groups for purposes of this proposal. Packing Group I (for the most dangerous materials) would be further subdivided into zones A and B with A being for the most lethal gases. So for Division 2.3, there would be four Packing Group levels: I zone A, I zone B, II, and III. The proposed levels are: Packing Group I zone A: LC50 less than or equal to 200 ppm; Packing Group I zone B: LC50 greater than 200 ppm and less than or equal to 1000 ppm; Packing Group II: LC50 greater than 1000 ppm and less than or equal to 3000 ppm; and Packing Group III: LC50 greater than 3000 ppm and less than or equal to 5000 ppm.

While there are no packing groups (or even divisions) for gases (Class 2) in the U.N. Recommendations, the levels of toxicity for Packing Groups I, II, and III for Division 2.3 in this proposal do have their origins in the U.N. system. Division 6.1 materials (poisonous materials, other than gases) are assigned packing groups based on their level of toxicity. For liquids this toxicity may be by the path of inhalation, and the criteria are the level of toxicity, given by the LC50, and the degree of volatility of the liquid. These criteria are presented in a graph found at Section 6.5 of Chapter 6 of the U.N. Recommendations, entitled "Inhalation Toxicity: Packing Group Borderlines". The volatility level in this graph is given in milliliters per cubic meter (mL/m^3) or ppm for the liquids. The right hand boundary of this graph is at the volatility value of 1,000,000 mL/m^3. This is in fact the boundary where liquids end and gases begin (i.e., the material is all in the gaseous state). The LC50 values in mL/m^3 for the packing group thresholds or border lines at this point (the right hand boundary of the graph) are the same as those for Division 2.3 in this proposal: Packing Group I, LC50 less than or equal to 1000 ppm; Packing Group II, LC50 greater than 1000 ppm and less than or equal to 3000 ppm; and Packing Group III, LC50 greater than 3000 ppm and less than or equal to 5000 ppm. In other words, the packing group criteria for Division 2.3 materials in this proposal are an extension of the criteria for inhalation toxicity for highly volatile liquids in Division 6.1 in the U.N. Recommendations. It is logical to treat toxic gases in the same fashion as toxic, volatile liquids, and that is what this notice proposes to do.

Section 173.120. Section 173.120 contains the proposed definitions for Class 3—flammable and combustible liquids. In the present regulations, flammable, combustible, and pyrophoric liquids are defined and regulated in Subpart D of Part 173 beginning at § 173.115. Flammable liquids are defined

as liquids with a flash point below 100 °F (38 °C), combustible liquids as liquids with a flash point at or above 100 °F to 200 °F (93.3 °C), and pyrophoric liquids as those which ignite spontaneously below 130 °F (54.4 °C). In the U.N. system pyrophoric liquids have their own division (4.2) within Class 4 along with other materials which are subject to spontaneous combustion, and flammable liquids (Class 3) are liquids with a flash point of 141 °F (60.5°) and below. Combustible liquids (with flash points between 141 °F (60.5 °C) and 200 °F) are not regulated.

In this proposal, pyrophoric liquids are moved to Division 4.2. Flammable liquids are defined as those with a flash point of 141 °F or lower, the same as in the U.N. Recommendations. However, RSPA proposes to continue to regulate materials with flash points between 141 °F and 200 °F as combustible liquids. A domestic shipper of a material with a flash point of 100 °F to 141 °F would have the choice of either shipping the material as a flammable liquid (as would have to be done if it were an international shipment) or could continue to classify the material as a combustible liquid and ship it with the present level of regulation applying to combustible liquids (e.g., no regulation in packagings of 110 gallons or less and, except for carriage by aircraft and vessel, shipping paper, package marking and placarding only for packagings greater than 110 gallons). For liquid material with flash points between 141 °F and 200 °F, a domestic shipper would have to ship his material as a combustible liquid, subject to the same level of regulation which presently exists for combustible liquids.

In addition, RSPA is proposing to regulate materials with flash points at or above 200 °F as combustible liquids when those materials are transported as liquids at or above their flash points. This proposal would apply to such things as asphalt which might even be solid during ambient conditions (especially in winter), but which may be transported heated. When heat is added to melt the material it may be sufficient to raise its temperature to or above the flash point. When the materials are above their flash points, they are easily ignited, and RSPA feels that at least hazard communication warnings should be carried on the transport vehicle to warn emergency responders and others at the scene of an accident of the potential danger of the lading in the tank.

Section 173.120 of the proposal also contains the definition of "flash point" presently found at § 173.115(d).

Section 173.121. Materials in Class 3 are assigned packing groups in the U.N. system based on their volatility and ignitability. Flash points and boiling points are used as the measures of these properties in assigning those packing groups. Proposed § 173.121 assigns packing groups to Class 3 materials using the criteria found in the U.N. Recommendations. Special procedures for classing and assigning packing groups to viscous liquids are also found in the U.N. Recommendations. These procedures are included in this proposal at § 173.121.

Section 173.124. In the U.N. system, Class 4 is made up of three types of materials which are placed in different divisions under that class. Division 4.1 consists of flammable solids, Division 4.2 consists of spontaneously combustible materials, including pyrophoric liquids, and Division 4.3 consists of dangerous when wet materials. In this proposal, § 173.124 contains the definitions for these materials.

In the present regulations, the flammable solid hazard class includes spontaneously combustible materials (except pyrophoric liquids which are found in Subpart D along with flammable and combustible liquids) and water-reactive materials. The definition of flammable solid is a very subjective one and contains no tests or other specific standard by which a material may be measured. The three definitions in the U.N. system for Divisions 4.1, 4.2, and 4.3 are very much the same, i.e., quite subjective.

The definitions in this proposal for Class 4 materials are a combination of the descriptions from both the U.N. Recommendations and the present HMR. Materials are generally placed in one of the three divisions in Class 4 based on experience.

In December of 1986 the U.N. Committee of Experts on the Transport of Dangerous Goods adopted tests and criteria for assignment of hazardous materials to the three divisions of Class 4. These tests and criteria have not been included in this proposal due to lack of time. However, comments are requested concerning the new U.N. criteria and their suitability for inclusion in the HMR as part of this rulemaking project. Copies of the text adopted by the committee may be obtained on request from RSPA.

Section 173.125. Class 4 materials of all three divisions are assigned packing groups. This is addressed in § 173.125 of this proposal. As in the case of the division definitions, the criteria for packing group assignment are not tests. In fact the U.N. system does not contain any criteria for packing group assignment of Class 4 materials. Packing groups are assigned to Divisions 4.1, 4.2, and 4.3 by experience, and one must consult the § 172.101 Table to obtain the packing group of a given Class 4 material. Prior to December 1986, this proposal follows the U.N. system.

Section 173.128. Section 173.128 of this proposal contains the definitions for Divisions 5.1 (oxidizers) and 5.2 (Organic peroxide) within Class 5. Like the Class 4 definition, the definition for oxidizer (Division 5.1) in both the HMR and the U.N. Recommendations is quite subjective and contains no tests or other scientific criteria. The definition in this proposal uses the language from the HMR as it seems to be more understandable (giving examples) and clearer than that in the U.N. Recommendations, but is consistent with the U.N. definition.

The definitions for Division 5.2 (organic peroxides) in both the HMR and the U.N. are more specific than those for Division 5.1 or Class 4. The definitions in the U.N. and the HMR are consistent with each other, but are not identical. For purposes of this proposal, the language from the HMR is proposed as being clearer than that of the U.N.

Section 173.129. Both Division 5.1 and Division 5.2 materials are assigned packing groups. As in the case of Class 4, this is not done based on criteria (none are given in the U.N. Recommendations), but on experience. The packing groups for Divisions 5.1 and 5.2 materials are found in column 5 of the § 172.101 Table, and § 173.129 references the § 172.101 Table for packing group assignment.

Section 173.132. Class 6 contains two divisions: Division 6.1 for poisonous (toxic materials), and Division 6.2 for infectious substances (etiologic agents). Proposed § 173.132 defines Division 6.1 materials. The U.N. system for the regulation of poisonous materials is quite different from the HMR. The present HMR have three hazard classes for poisons: Poison A's, the most dangerous class, encompass gases and volatile liquids which are classed by experience and not specific criteria; Poison B's encompass liquids and solids and have definite classing criteria for toxicity by the paths of oral ingestion, dermal contact, and inhalation ingestion; Irritating materials are a class of liquids or solids which cause extreme irritation, especially in confined spaces. The DOT class definition for irritating materials does not contain specific criteria, and these materials are simply designated, based on experience. This

class would be eliminated and irritating materials would be classed as Division 6.1 materials.

In the U.N. system, Division 6.1 materials are poisonous materials, other than gases (toxic gases are in Class 2), and the degree of danger is expressed by the packing group assignment. For each of the three packing groups, there are specific criteria, based on animal tests, for each of the three paths of exposure (oral, dermal and inhalation). This proposal adopts the U.N. definitions and accepts the U.N. criteria for exposure by the three paths. Packing groups are assigned in § 173.133, but the threshold criteria from Packing Group III are used in the Division 6.1 definition at § 173.132. In addition to the threshold levels given in the division definition, § 173.132 describes the animal tests which are used to discover the threshold toxicity levels of materials when their toxicity is not known.

Section 173.133. Section 173.133 of this proposal assigns packing groups to Division 6.1 materials based on specific toxicity criteria. In the case of inhalation toxicity, the criteria are given in the form of a graph. The graph is based on section 6.5(c) of Chapter 6 of the U.N. Recommendations. This graph was mentioned previously in the discussion of Division 2.3 toxic gases. The data presented in this graph can be extended beyond the boundary which exists between volatile liquids and gases, and this was done to obtain packing group criteria for toxic gases (see discussion on proposed § 173.115). The criteria in this graph are important because special packaging provisions are specified for liquids which fall into Packing Group I of Divison 6.1 because of inhalation toxicity.

Section 173.134. This proposed section contains the definition of the second division of Class 6, Division 6.2, infectious substances. This division is the same as the etiologic agent hazard class in the present HMR. The term "infectious substance" probably conveys a more meaningful message to most people than "etiologic agent". The definitions of these terms in the present HMR and the U.N. Recommendations are similar, with the exception that the HMR mentions the fact that in the U.S. the Department of Health and Human Services has authority to designate materials and specify packagings and labeling requirements for these materials and has promulgated rules to do this in Title 42 of the CFR.

The definition for Division 6.2 in this proposal is similar to that in the present HMR and references the requirements of HHS and their rules at Title 42 of the Code of Federal Regulations.

Section 173.136. In the U.N. Recommendations, corrosive materials are placed in Class 8. There are no divisions in Class 8, but there are three packing groups. Class 8 is comparable to the corrosive material hazard class in the present regulations, with one exception. In the HMR, a corrosive material is one which causes destruction of human skin tissue or which has a severe corrosion rate on steel. A U.N. Class 8 material is one which destroys human skin tissue, or has a severe corrosion rate on steel *or aluminum.* In the HMR, a material which corrodes aluminum is usually an ORM–B (Other Regulated Materials, category B) material.

Thus, the U.N. Class 8 definition combines the corrosive material definition (see existing § 173.240) and the ORM–B definition (see existing § 173.500) from the HMR. Under this proposal, the ORM–B hazard class would be eliminated and the U.N. definition for corrosive material would be adopted.

The present HMR references a rabbit skin test in the definition of the corrosive material hazard class to demonstrate destructiveness to human skin, and a corrosion test on steel to demonstrate corrosivity to this metal. The Class 8 definition in this proposal contains both of these tests plus a corrosion test for aluminum similar to the steel test. It should be noted that the Class 8 definition in the U.N. Recommendations does not contain any of these tests, but the criteria for packing group assignment do reference the two metal corrosion tests.

Section 173.137. Section 173.137 of this proposal contains the packing group assignments for Class 8 materials. The Packing Group I criterion specifies an animal skin test where necrosis occurs within a period of three minutes or less.

The Packing Group II criterion is a skin test with necrosis appearing in more than three minutes but not more than 60 minutes.

Packing Group III criteria for Class 8 materials contain three elements: a skin test, as in the case of Packing Group I and II materials, but with necrosis appearing in not more than four hours; or a corrosion test on steel with a rate greater than a 6.25 mm (0.246 inches) per year at a temperature of 55 °C (131 °F); or, a corrosion test on aluminum with a rate greater than 6.25 mm per year at 55 °C (131 °F). Materials which are only corrosive to metals and not to skin are assigned to Packing Group III.

Section 173.140. In the U.N. system, Class 9 is reserved for miscellaneous hazardous materials—e.g., materials which experience has shown need to be regulated but which do not fit any other hazard class definition. The hazard definition for Class 9 in this proposal includes the general wording of the U.N. Class 9 definition and, in addition, includes the definition for ORM–A's from the HMR. ORM–A's are defined in the HMR as materials with irritating or noxious effects that might cause hazardous situations in enclosed spaces, especially in aircraft. In this proposal, some ORM–A's would be regulated as Division 6.1, Packing Group III materials, but others would be regulated in Class 9. The ORM–A hazard class would disappear. Similarly, ORM–C materials, which do not meet a UN hazard class definition, would be regulated under Class 9 in this proposal. The ORM–C class would also disappear.

Section 173.144. Proposed § 173.144 defines the ORM–D and ORM–E hazard classes. These are the only ORM classes that would be retained from the present HMR. The ORM–D hazard class definition, which covers consumer commodities and small arms ammunition, would be essentially unchanged from the present HMR. Similarly, the ORM–E hazard class definition, which covers hazardous substances and hazardous wastes which do not satisfy any other hazard class definition, would be virtually unchanged from the existing HMR. These two hazard classes would be retained from the present system because the U.N. system either does not regulate them and DOT does (because of a statutory requirement or experience), or they may be regulated under the U.N. system but the level of regulation is inappropriate because of the form or quantity of the materials as shipped. In the case of ORM–E's, DOT is obligated to designate hazardous substances and hazardous wastes according to regulations issued by the Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA).

RSPA notes that in its December 1986 meeting, the U.N. Committee of Experts on the Transport of Dangerous Goods adopted shipping descriptions for environmentally hazardous substances (specifically, "Environmentally hazardous substances, solid, n.o.s., Class 9, UN 3077" and "Environmentally hazardous substances, liquid, n.o.s., Class 9, UN 3082"). In light of this, comments are requested concerning elimination of the ORM–E hazard class, and inclusion of hazardous substances and hazardous wastes in Class 9.

Comments are also requested concerning the elimination of the ORM–D hazard class and inclusion of ORM–D materials (i.e., consumer commodities and small arms ammunition) in Class 9.

Section 173.145. The packing groups for ORM material are found in Column 5 of the § 172.101 Table. Most are assigned to Packing Group III. Proposed § 173.145 references the § 172.101 Table for packing group assignment.

Sections 173.150 through 173.156 would contain exceptions from packaging requirements and other requirements of the regulations for Classes 3, 4.1, 5, 6.1, 8, 9, ORM–D and ORM–E. As is presently the case, exceptions are provided for a specific material only if the entry for that material in the § 172.101 Table (specifically, column 8a) contains a reference to one of the aforementioned sections for exceptions. In general, exceptions would not be provided for Packing Group I materials (excluding flammable liquids).

The proposed exceptions are based on existing provisions in the HMR, but are somewhat more restrictive. For example, for materials packaged under "limited quantity" provisions, there currently are no weight restrictions on outer packagings for many of the materials such as flammable liquids, corrosive materials and poisons. It is proposed to impose a per package limit of 30 kilograms (66.1 pounds) on most materials shipped under limited quantity provisions to minimize their aggregate risk. This parallels existing provisions for "consumer commodity" packages. Existing exceptions from rail and highway modal requirements would be removed to eliminate ambiguities concerning the applicability of incident reporting and training requirements to shipments of limited quantities transported by railroad car or motor vehicle.

Section 173.150. Proposed § 173.150 contains exceptions for flammable and combustible liquids (Class 3). Limited quantity provisions would be essentially unchanged except for the 30 kg package limitation previously mentioned. The limited quantity provision provides an exception from specification packaging requirements, labeling (except for transport by aircraft), placarding and the carrier requirements of Parts 174 and 177 (except those related to shipping papers.)

As in the HMR at present, a material which conforms to the limited quantity provisions and which meets the definition in § 171.8 for a consumer commodity, may be reclassed as an ORM–D material and renamed "Consumer commodity". The consumer commodity provision provides an exception from shipping paper requirements and certain other minor exceptions in addition to the exceptions provided for limited quantities.

Existing exceptions for alcoholic beverages and aqueous solutions of alcohol would be retained as would existing exceptions for combustible liquids. A provision would be added whereby a flammable liquid with a flash point at or above 38 °C (100 °F) may be reclassed as a combustible liquid, except for transport by aircraft or vessel.

The existing exceptions in § 173.118(b) for high flash point (73 °F or 22.8 °C) flammable liquids would be eliminated and these materials would be subject to Packing Group III packaging requirements under this proposal.

Section 173.151. This section would provide limited quantity and consumer commodity exceptions for flammable solids (Division 4.1) in Packing Groups II and III. Outer packagings would be limited to 30 kg gross weight. Inner packagings would be limited to 1 kilogram (2.2 pounds) net capacity each for Packing Group II materials and 5 kg (11.02 pounds) for Packing Group III. The relief provided would be the same as for flammable liquids (i.e., packaging, labeling, placarding, etc.)

Section 173.152. This section would provide limited quantity and consumer commodity exceptions for oxidizers (Division 5.1) and organic peroxides (Division 5.2) in Packing Groups II and III. The exceptions are generally the same as those now provided in the HMR.

Section 173.153. This section would provide limited quantity and consumer commodity exceptions for poisonous materials (Division 6.1). Limited quantity provisions would be limited to Packing Group III materials and would not include a labeling exception. Consumer commodity provisions would be provided for limited quantities and for drugs and medicines, irrespective of packing group.

Section 173.154. This section would provide limited quantity and consumer commodity exceptions for corrosive materials in Packing Groups II and III. The exceptions are generally the same as those now provided in the HMR. An additional exception is provided whereby materials, classed as Class 8, Packing Group III, solely because they are corrosive to aluminum, would not be subject to the HMR when transported by motor vehicle or rail.

Section 173.155. This section would provide limited quantity and consumer commodity exceptions for miscellaneous hazardous materials (Class 9). These materials are generally in Packing Group III. Exceptions from packaging requirements would be provided for outer packagings not exceeding 30 kg (661 pounds) gross weight and inner packagings with net capacities not over 4 liters (1.06 gallons) for liquids or 5.0 kilograms (11.02 pounds) for solids.

Section 173.156. This section would contain additional exceptions applicable to ORM–D materials when transported by a private or contract motor carrier from a distribution center to a retail outlet. These exceptions currently appear in § 173.505(b).

Since ORM–E materials would be subject to Packing Group III packaging requirements under this proposal, limited quantity provisions, identical to those for Class 9, are proposed for these materials.

5. Subpart E; Non-Bulk Packagings

A shift to the non-bulk packaging standards of the U.N. Recommendations is one of the original goals of Docket HM–181 and was the principal thrust of the ANPRM under this docket. The advantages of that system are discussed earlier in this proposal and are not repeated here, except to say that two principles from those arguments are used in the development of the non-bulk packaging authorizations. Those principles are: (1) materials of similar hazard are, in general, packaged in the same manner, and (2) any packaging which is suitable for a material because of the chemical and physical properties of the material is authorized for that material. In this notice, packagings are authorized even though they are not economical for use. Also, an attempt is made to avoid the practice of only authorizing those packagings which shippers have petitioned the Department to use. This happened extensively in the past as exemptions were converted into regulations. Exemption packagings often were suitable for other materials not covered by the exemption; but because those materials were not mentioned in the exemption, those packagings were not authorized for them when the exemption later was converted to a regulation.

In keeping with these principles, the majority of materials in the § 172.101 Table, when shipped in non-bulk packagings, are accommodated by eight packaging sections: three for liquids, three for solids, a general non-bulk section for materials not requiring DOT specification or U.N. standard packagings and a packaging section, for high hazard liquids, which authorizes only DOT specification gas cylinders. The three proposed general sections for

liquids, include one each for Packing Groups I, II, and III, and the three proposed general sections for solids include one each for Packing Groups I, II, and III. Packing Group II materials (liquid or solid) could be packaged in accordance with either the Packing Group I or II sections, and Packing Group III materials could be packaged in either Packing Group I, II, or III Packagings. (Note that for air shipments Packing Group III materials would have to be placed in packagings that meet Packing Group II performance levels.)

Sections 173.201–203 and 173.211–213. The proposed packaging sections for liquids are §§ 173.201, 173.202, and 173.203 and are, respectively, for Packing Group I, II, and III materials. Similarly, the proposed packaging sections for solids are §§ 173.211, 173.212, and 173.213, respectively, for Packing Group I, II, and III materials. Each section offers a number of combination and single packagings that provide roughly equivalent levels of packaging and that, in general, could be used for packaging a material of the packing group referenced by the section. It should be noted that other restrictions might apply either through the special provisions in the § 172.101 Table or through the general packaging requirements of Subpart B of Part 173. Also, for transportation aboard passenger-carrying aircraft, single packagings would not be authorized for Packing Group I or II materials.

As pointed out, each of the six proposed general sections is targeted for a particular packing group and offers an array of packagings of an equivalent level of packaging integrity. (For example, § 173.201 authorizes packagings for liquid materials in Packing Group I.) The equivalency among the various packagings is established by the performance tests which all of these packagings must meet. Packagings other than specification cylinders authorized in § 173.201 would have to meet the performance tests proposed in Subpart M of Part 178 at the Packing Group I level. For materials with a specific gravity of 1.2 or less, this would consist of a drop test at 1.8 meters (5.91 feet), a stacking test, a leakproofness test, and a hydrostatic pressure test with the pressure determined by the vapor pressure of the material or a specified minimum. In addition, plastic packagings would have to pass a chemical compatability test. Similarly, in §§ 173.202 and 173.203 equivalency would be established for the authorized array of liquid packagings at the Packing Group II and III levels, respectively, by the performance tests at those levels. For example, the drop test height for Packing Group II is 1.2 meters (3.94 feet) and for Packing Group III is 0.8 meters (2.62 feet). The same principles would apply to solid materials in §§ 173.211, 173.212 and 173.213.

Not all possible packagings are offered in each section. Proposed §§ 173.201, 173.202, and 173.203 all would authorize the 1A1 drum, for example, as a single unit packaging, but the wooden barrel, 2C2 is authorized for §§ 173.202 and 173.203 only. Similarly, §§ 173.212 and 173.213 authorize both the fiberboard box, 4G, and the fiber drum, 1G, as single unit packagings for solid materials, but neither is authorized by § 173.211. Thus, the system does not rely solely on the performance tests to establish packaging equivalency.

The proposed non-bulk packaging authorizations assigned in Column 8b of the § 172.101 Table usually are to one of the general packagings sections (i.e., § 173.201, 173.202, 173.203, 173.211, 173.212, or 173.213), based on the physical characteristics of the hazardous material and the assigned packing group. These packaging authorizations are not based on the material's hazard class, except to the extent that the hazard class reflects the physical state. For example, Class 3 materials are liquids and are not authorized in those packaging sections (§§ 173.211, 173.212, and 173.213) reserved for solids.

Section 173.204. Proposed § 173.204 is for liquid or solid materials which would not require packaging in conformance to any of the proposed U.N. standards; that is, non-specification or non-standard packaging would be authorized. This provision would apply to certain low hazard materials for which even Packing Group III performance levels are not considered necessary. The packaging restrictions for these materials would be those in Subpart B of Part 173, primarily § 173.24. These restrictions would be similar to those that now apply to use of non-specification packagings, as for limited quantities.

Section 173.205. Proposed § 173.205 is a packaging section which would authorize liquids, such as pentaborane, requiring a high level of package integrity, to be packaged in DOT specification gas cylinders.

Not all hazardous materials are accommodated by use of the general non-bulk packaging sections mentioned above. Because of unique physical, chemical or lethality problems, some materials require special handling. This notice proposes to handle these problem materials in one of two ways. The preferred system is to use one of the general non-bulk packaging sections and supplement it with special provisions found in Column 7 of the § 172.101 Table. The provisions beginning with the letter "N" apply to non-bulk packagings. For example, special provision "N5" states "Glass materials of construction are not authorized for any part of a packaging which is normally in contact with the hazardous material." So a Packing Group I liquid that attacks glass (such as hydrofluoric acid solution) is handled by specifying § 173.201 (Packing Group I liquids) and modifying it by specifying special provision "N5" in Column 7 of the § 172.101 Table.

Sections 173.158 through 173.229. The second, and less preferred method of dealing with these "problem" hazardous materials is to write a unique packaging section for the particular material. This notice proposes to do that where the general packaging sections, even modified by special provisions, are not adequate to safely package the material. There are approximately 42 sections between § 173.158 and § 173.229 which would cover the non-bulk packaging authorizations for particular materials or classes of materials or devices. Proposed § 173.158, for example, specified the authorized non-bulk packagings for nitric acid. Because of its special corrosive and oxidizing qualities, nitric acid requires special packaging materials. Stainless steel drums are one of the packagings used for it, and different alloys of stainless steel or different heat treatments of the same alloy are required for different strengths of nitric acid. Proposed § 173.158 lists these different requirements.

Machines and devices containing hazardous materials and the packagings for them are covered by special packaging sections because they usually cannot be packaged in ordinary hazardous material packagings, such as drums and boxes. For example, proposed § 173.174, covers refrigerating machines.

Section 173.225. Another proposed special packaging section, § 173.225, covers the packaging requirements for all organic peroxides (Division 5.2) in the § 172.101 Table. This consists of a table in § 173.225 which gives the ID number, Packing Group, Packaging Method (an alphanumeric code), and whether or not temperature control is required. There are approximately 145 organic peroxides in this list. To use the table, the shipper looks up the ID number for the organic peroxide in which he is interested in the table in § 173.225 and notes the Packing Group,

Packaging Method and whether or not the material is temperature controlled ("TC" in the right hand column). A second table in proposed § 173.225 lists the approved packagings associated with the Packaging Method code. The performance level of the packaging is given by the packing group from the first table. A shipper who is interested in an organic peroxide requiring temperature control (e.g., one requiring refrigeration) is referred to a requirement in § 173.21 (Forbidden materials and packages) which requires that the method of refrigeration be approved by the Director, OHMT, since materials requiring refrigeration for stability pose a significant hazard. Control temperatures would be specified under the conditions of the approval rather than appearing in the HMR. The proposed list of organic peroxides, their packing groups, their authorized packagings, and whether or not they are temperature controlled, is based on Chapter 11 of the U.N. Recommendations.

Sections 173.226 and 173.227. Two proposed sections (§§ 173.226 and 173.227) cover the non-bulk authorized packagings for Division 6.1, Packing Group I, materials that are toxic by inhalation. Proposed § 173.226 covers materials that fall into zone A of the inhalation toxicity Packing Group Borderlines graph (see proposed § 173.133), and proposed § 173.227 would cover materials that fall into zone B of the graph.

Proposed § 173.226 authorizes three distinct types or configurations of high-integrity packagings: a drum-within-a-drum configuration; U.N. standard combination packagings with an "inner packing system"; and gas cylinders. Proposed § 173.227 adds a fourth configuration: A single drum packaging. In the case of the drum-within-a-drum, both drums would have to be U.N. standard drums that meet Packing Group I performance tests. In addition, minimum thicknesses are specified for the inner and outer drums. The minimum thickness is specified because of the extreme toxicity of those materials. The single drum configuration authorized in proposed § 173.227 also has a minimum thickness requirement. In the case of the combination packagings, proposed § 173.226 would specify that each component (both the inner packaging system consisting of a combination packaging and the outer packaging) would have to withstand the Packing Group I performance tests without the benefit of the other packaging. In other words, each packaging must pass the performance tests alone. Both proposed sections would permit use of DOT specification cylinders in accordance with the provisions of proposed § 173.40.

6. Subpart F of Part 173; Bulk Packagings

The hazardous materials packaging sections in Part 173 of the HMR which authorize bulk packagings have evolved haphazardly throughout the years. Certain of these authorizations for particular materials provide a complete array of bulk packagings (tank cars, cargo tanks and portable tanks). In some sections, materials with similar transportation hazards are not authorized for similar bulk packagings due to oversight or because industry did not petition DOT to authorize them. In these cases safety is not the issue. Other sections, which reflect special permit or exemption experience, are very specific and only allow a limited array of bulk packagings when other types are just as suitable. Some sections authorize bulk packagings which are inappropriate for certain high hazard materials.

Sections 173.240 through 173.245. These variations and other inconsistencies prompted RSPA to develop for this proposal a method whereby a particular hazardous material can be matched with a group of bulk packagings which provide roughly equivalent levels of packaging integrity (referred to as "equivalent packagings" in this proposal). The matching of material and packaging is based on physical and chemical properties, hazard classification, secondary hazard assignment, and packing group. In order to understand this methodology, it is important to realize what is meant by equivalent bulk packagings and how this concept provides a means of easily matching a hazardous material with a package designed to safely contain the material in transportation. RSPA proposes to arrange the currently authorized specification bulk packagings (including Association of American Railroads (AAR) tank cars and marine portable tanks (MPT)) into new regulatory sections. While acknowledging that there are inherent differences in the specifications for each packaging, RSPA takes the position that the packagings can nonetheless be grouped into categories that provide equivalent levels of packaging integrity. The new sections begin by authorizing all bulk packagings for relatively low hazard materials and progressively eliminating those which are not suitable for the categories of hazardous materials which pose greater hazards.

The following table is a list of equivalent packagings:

Proposed sections	Tank cars	Cargo tanks	Portable tanks
§ 173.240	DOT, 103, 104, 105, 106, 107A, 109, 110, 111, 112, 113, 114, 115; AAR 203W, 206W, 207W; 211W; metal non-DOT spec. sift-proof tank cars and closed cars.	MC 300, 301, 302, 303, 304, 305, 306, 307, 310, 311, 312, 330, 331, 338; non-DOT spec. sift-proof cargo tanks and closed motor vehicles.	DOT 51, 52, 53, 56, 57, 60; marine portable tanks (MPT); non-DOT spec. sift-proof portable tanks and closed bins.
§ 173.241	DOT 103, 104, 105, 106, 107, 109, 110, 111, 112, 113, 114, 115, AAR 203W, 206W, 211W.	MC 300, 301, 302, 303, 304, 305, 306, 307, 310, 311, 312, 330, 331, 338; metal non-DOT spec. cargo tanks suitable for transport of liquids.	DOT 51, 52, 53, 56, 57, 60; MPT; metal non-DOT spec. portable tanks suitable for transport of liquids.
§ 173.242	DOT 103, 104, 105, 106, 107A, 109, 110, 111, 112, 113, 114, 115; AAR 206W.	MC 300, 301, 302, 303, 304, 305, 306, 307, 310, 311, 312, 330, 331, 338.	DOT 51, 52, 53, 56, 57, 60; MPT.
§ 173.243	DOT 103, 104, 105, 106, 107A, 109, 110, 111, 112, 113, 114, 115; (Gauging devices are required on DOT 103, 104, and 111.).	MC 310, 311 or 312 with design pressure (MAWP or MWP) of at least 25 psig; MC 304, 307, 330, 331, 338.	DOT 51, 60; MPT with design pressure (MAWP) of at least 25 psig.
§ 173.244	DOT 105, 106, 107A, 109, 110, 112, 113, 114	MC 330, 331, 338	DOT 51.
§ 173.245	DOT 105S500W, 112S500W (lagged); 105J500W, 106, 110, 112J500W; (Bottom outlets prohibited).	By approval only	By approval only.

While there are inherent differences in the individual specifications, RSPA believes that the level of integrity of packagings outlined above is equivalent, and that if a hazardous material can safely be carried in one type of cargo tank by highway, for instance, the authorization should be extended to all cargo tanks of similar or greater packaging integrity. A result of this type of packaging authorization is a general increase in the number of available authorized bulk packagings for a given material. RSPA has purposely ignored certain economic considerations in authorizing bulk packagings. For example, a shipper should be allowed to transport a flammable liquid with a subsidiary hazard in an MC 330 cargo tank rather than in an MC 307 cargo

tank even though this may not be economical.

Equivalent packagings are assigned to a hazardous material based on the material's hazard class, secondary hazard and packing group. These assignments reflect what is allowed in the regulations, as well as up-to-date toxicity, compatibility and other material-specific information. The following table represents the general method whereby hazardous materials are assigned bulk packaging sections:

Category of hazardous material (class or division number, packing group)	Proposed sections
Organic peroxides (Division 5.2)	No bulk packaging allowed.
Other high hazard materials, specifically identified.	
Poison A-type materials (Classes 2 and 6)	§ 173.245
Pyrophoric liquids (Division 4.2, PGI and 4.3, PGI).	§ 173.244
Compressed gases (Class 2)	
Poison B liquids (Division 6.1, PGI (inhalation)).	
Flammable liquids (Class 3, PGI)	
Poison B liquids (Division 6.1, PGI and II, (oral) and (dermal)).	§ 173.243
Pyrophoric liquids (Division 4.2, PGII and III; 4.3, PGII and III).	
Liquids with dual hazards (Classes 3, 4.2 PGII and III, 6.1).	
Liquid oxidizers (Division 5.1, PGI)	
Flammable liquids (Class 3, PGII and III)	§ 173.242
Corrosive liquids (Class 8, PGI and II)	
Poison solids (Division 6.1, PGI and II)	
Flammable solids (Divisions 4.2, PGI and 4.3, PGI).	
Flammable solids and poisonous materials (Divisions 4.1 and 6.1).	
Poison B liquids (Division 6.1, PGIII)	
Corrosive liquids (Class 8, PGIII)	§ 173.241
Flammable solids (Divisions 4.2, PGII and III, and 4.3, PGII and III).	
Oxidizers, solids in solution (Division 5.1, PGI, II and III).	
Oxidizers, liquid (Division 5.1, PGII and III)	
Combustible liquids (Class 3)	
ORM liquids	
Corrosive solids (Class 8, PGI, II and III)	§ 173.240
Poison solids (Division 6.1, PGIII)	
Oxidizers, solids (Division 5.1, PGI, II and III)	
Flammable solids (Division 4.1, PGI, II and III)	
ORM solids	

The equivalent packaging sections detailed above "fit" most hazardous materials listed in the § 172.101 Table. The result is that there are very few special sections devoted to bulk packagings for specific hazardous materials remaining in the regulations. Virtually all hazardous material entries are accommodated by the bulk packaging authorized in § 173.240 through § 173.245. Additional material-specific tailoring of packaging authorizations is made through special bulk packaging notes ("B" notes) in Column 7 of the § 172.101 Table. These notes are used to modify a particular packaging authorization based on material-specific needs.

Examples of bulk notes are as follows: "B6 Packagings shall be made of steel", "B16 The lading shall be completely covered with an inert gas", and "B2 MC 306 cargo tanks, DOT 57 portable tanks, and riveted tank cars are not authorized". Through the use of these notes, RSPA is able to eliminate numerous pages of repetitive regulatory text and standardize requirements.

Another type of note proposed in Column 7 of the § 172.101 Table is a "T" note. These notes apply to hazardous materials packaged in IM 101 and IM 102 portable tanks. The effect of the use of "T" notes is the elimination of the present IM Tank Table and associated interim authorizations issued by RSPA. If no "T" note appears, then use of IM portable tanks is not authorized for that material. If a "T" note is listed, it will prescribe a particular tank configuration, e.g., "IM 101, Test pressure—2.65 bars, bottom outlets prohibited, etc.". The proposed "T" notes and associated tank configurations are extracted directly from the U.N. tank container table. Deviations from the U.N. Recommendations for IM portable tanks occurs only for those hazardous materials which have been identified as being toxic by inhalation. These materials may not be transported in IM portable tanks. For consistency with the U.N., the pressure rating of the tank is noted in bars and is based on tank test pressure, not design pressure (MAWP). In the present IM Tank Table, the pressure referenced is the design pressure. The integrity of the tank is, nonetheless, the same since test pressure is equal to 150% of MAWP and this is taken into account in the "T" notes. Since test pressure is presently marked on IM tanks, this proposed change should present no problem.

In order to better understand the proposed bulk packaging authorizations outlined above, the following examples are provided:

Proper shipping name	Hazard class	UN ID#	Pkg.	Labels	Special provisions	Bulk pkg. auth.
Corrosive liquids, n.o.s.	8	UN 1760	I	CORROSIVE	B4, T42	242
			II	CORROSIVE	B2, T14	242
			III	CORROSIVE	T7	240

This is a single-hazard material which, in bulk, may be transported in any packaging listed in proposed § 173.242 or § 178.240, as appropriate. However, "B4" prohibits riveted tank cars, AAR 206 tank cars, MC 306 cargo tanks and DOT 57 portable tanks for Packing Group II materials. For the less corrosive Packing Group II materials, "B2" prohibits MC 306 cargo tanks and DOT 57 portable tanks, and riveted tank cars only. For Packing Group III materials, there are no "B" notes, and the entire packaging section, § 173.240, is authorized. Furthermore, since "T" notes are shown, IM portable tank carriage is allowed. "T42" permits use of IM portable tanks subject to approval by the Director, OHMT. Packing Groups II and III materials may be transported in IM tanks according to the exact tank configuration outlined in "T14" or "T7", as appropriate.

Proper shipping name	Hazard class	UN ID#	Pkg.	Labels	Special provisions	Bulk pkg. auth.
Corrosive liquids, poisonous, n.o.s.	8	UN 2922	I	CORROSIVE POISONOUS.		243
			II	CORROSIVE POISONOUS.		243
			III	CORROSIVE		241

This material is a dual hazard liquid. There are no bulk notes qualifying § 173.243, and each of the packagings listed may be used for Packing Groups I and II materials. Since no "T" notes are listed, IM portable tank movement would not be allowed for the material at any packing group level. Packing Group III materials may be transported according to the less restrictive § 173.241.

Proper shipping name	Hazard class	UN ID#	Pkg.	Labels	Special provisions	Bulk pkg. auth.
Cyclohexanone.	3	UN 1915	III	FLAMMABLE LIQUID.	B1, T1	242

This single-hazard material may have a flash point above 100°F. The "Special Provisions" entry appropriately shows "B1", a domestic exception for combustible liquids in bulk which allows them to be packaged under the less restrictive § 173.241, rather than § 173.242. In this situation the shipper must ascertain the flash point of the material and use either § 173.242 or § 173.241 (as provided for in "B1") accordingly. "T1" allows an IM 102 tank configuration.

Proper shipping name	Hazard class	UN ID#	Pkg.	Labels	Special provisions	Bulk pkg. auth.
Dimethylzinc	4.2	UN 1370	I	SPONTANEOUSLY COMBUSTIBLE.	B11, B16, T28, T29, T40.	244

This spontaneously combustible material may be transported in accordance with § 173.244 with a mandatory nitrogen or other inert gas blanket ("B16" and "T29"). Special provision "B11" imposes pressure requirements on tanks used for this material. Transportation is authorized in IM 101 portable tanks with "T28" configuration and 10mm shell and head thickness ("T40").

Proper shipping name	Hazard class	UN ID#	Pkg.	Labels	Special provisions	Bulk pkg. auth.
Ethyl chloroformate.	3	UN 1182	I	FLAMMABLE LIQUID, POISON & CORROSIVE.	10, B32	244

This flammable and corrosive liquid demonstrates a third hazard—toxic by inhalation. Recommendations will be made to the UN to change the hazard class of this and other underclassified materials to Division 6.1. This material must be packaged in conformance with the "10" note, which provides for inhalation hazard marking, and the "B32" note, which puts further restrictions on the cargo tanks and portable tanks authorized in § 173.244. The absence of a "T" note indicates that no importable tanks may be used.

While the majority of "B" notes are general in nature, "B30" through "B34" provide packaging criteria for liquids (Docket HM-196) and gases that are toxic by inhalation. Other hazardous materials that are toxic by inhalation but not originally listed in Docket HM-196 have been identified. Although there is no attempt to reclassify these materials in this notice, the proposed table reflects a change in packing group. All identified liquid materials are assigned to Packing Group I of the hazard class they are assigned in the U.N. Recommendations.

As indicated, "B30" through "B34" incorporate bulk packaging requirements for liquid materials and gases which demonstrate inhalation toxicity. The inhalation toxicity criteria for liquids are extracted from the U.N. Recommendations and parallel Division 6.1(i), Packing Groups I and II. In this notice, Packing Group I is further subdivided into Zones A and B to accommodate stricter packaging standards for the most toxic materials. See §§ 173.115, 173.116, 173.132, 173.133, 173.226 and 173.227 and the preamble of these sections for further discussions of classing, packing group assignments, and non-bulk packaging of Classes 2 and 6. Depending on the toxicity data for a particular liquid or gas, its new bulk packaging section is either § 173.245 or § 173.244 with appropriate "B" notes. More specifically, the following packaging criteria are proposed for these materials:

Liquids (Division 6.1(i))

(a) *Packing Group I, Zone B:* § 173.244 and notes "B14" and "B32" authorize DOT 105J300W, 112J340W and 114J340W tank cars, DOT 106 and 110 tank car tanks, MC 330 and 331 cargo tanks and DOT-51 portable tanks. Design pressure must be the greater of 1.3 times the vapor pressure at 115 °F. (46.1 °C.) or 100 psig (689.5 kPa). Minimum thickness for cargo tanks and portable tanks is 0.25 inch (6.35 mm) stainless steel or an equivalent thickness of carbon steel, determined in accordance with § 173.24b(c). Tanks must be insulated.

(b) *Packing Group I, Zone A:* § 173.244 and notes "B14" and "B30"authorize DOT 105J500W tank cars, DOT 106 and 110 tank car tanks, MC 330 and 331 cargo tanks and DOT 51 portable tanks. Design pressure must be the greater of 1.5 times the vapor pressure at 115 °F or 100 psig. Minimum thickness for cargo tanks and portable tanks is 0.30 inch (7.62 mm) stainless steel or an equivalent thickness of carbon steel, determined in accordance with § 173.24b(c). Tanks must be insulated.

2. Toxic Gases (Division 2.3)

(a) *Packing Group III:* § 173.244 and note "B34" authorize DOT Class 105, 109, 112 and 114 tank cars, DOT 106 and 110 tank car tanks, MC 330 and 331 cargo tanks and DOT 51 portable tanks. Design pressure must be the greater of 100 psig or 1.1 times the vapor pressure at 115 °F.

(b) *Packing Group II:* § 173.244 and notes "B14" and "B33" authorize DOT 105J300W, 112J340W and 114J340W tank cars, DOT 106 and 110 tank car tanks, MC 330 and 331 cargo tanks and DOT 51 portable tanks. Design pressure must be the greater of 1.2 time vapor pressure at 115 °F or 100 psig. Minimum thickness 0.25 inch stainless steel or an equivalent thickness of carbon steel, determined in accordance with § 173.24b(c). Tanks must be insulated.

(c) *Packing Group I, Zone B:* § 173.244 and note "B14" and "B31" authorize DOT 105J300W, 112J340W and 114J340W tank cars, DOT 106 and 110 tank car tanks, MC 330 and 331 cargo tanks and DOT 51 portable tanks. Design pressure must be the greater of 1.3 times the vapor pressure at 115 °F or 100 psig. Minimum thickness for cargo tanks and portable tanks 0.30 inch stainless steel or an equivalent thickness of carbon steel, determined in accordance with § 173.24b(c). Tanks must be insulated.

(d) *Packing Group I, Zone A:* § 173.245 authorizes DOT 105S500W, 112S500W, 105J500W and 112J500W tank cars and DOT 106 and 110 tank car tanks. Bottom outlets are prohibited and tanks must be insulated. Cargo tanks and portable tanks are authorized only as approved by the Director, OHMT.

Where the "B" note requires stainless steel but permits other steels, the minimum thickness of the shell and heads of each tank and portable tank constructed of a steel other than the reference stainless steel, would be obtained from the formula found in § 173.24b(c) as follows:

Formula for metric units:

$e_i = (10e_o/Rm_i\ A_i)^{1/3}$

Formula for nonmetric units:

$e_i = (112.3e_o/Rm_i\ A_i)^{1/3}$

where:

e_o = Required thickness of the reference stainless steel (from the "B" note) in millimeters or inches, as appropriate;

e_i = Equivalent thickness of the steel used in millimeters or inches, as appropriate;

Rm_i = Specified minimum tensile strength of the steel used (as specified in the appropriate specification in Part 178 of this subchapter in deka-newtons per square millimeter or pounds per square inch, as appropriate;

A_i = Specified minimum percentage elongation of the steel used (as specified in § 178.270–3) multiplied by 100 (e.g., if 20% use 20.0).

Where the "B" note requires insulation (e.g., "B14"), each cargo tank and portable tank would have to be insulated with a suitable insulation material of such thickness that the overall thermal conductance is not more than 0.08 B.t.u. per square foot per degree F. differential in temperature per hour. The conductance would be determined at 60 °F. Insulation material would have to be corkboard or self-extinguishing polyurethane foam with minimum thickness of 4 inches.

Other noteworthy features applicable to bulk packaging are as follows:

(1) Bulk transportation of most organic peroxides would still be prohibited. Highly toxic gases (present Poison A materials) would still be prohibited in cargo tanks and portable tanks, except under the terms of approvals and exemptions.

(2) Bulk transportation of hydrogen peroxide in strengths of 52% or less but not less than 8% would become subject to the HMR, to correct a safety deficiency in the existing regulations.

(3) Section 173.24b would be added to add or clarify general requirements that would apply to bulk tank filling limits. The proposed changes standardize the minimum outage (ullage) in a bulk tank packaging and require the outage to be the largest of the following:

(a) For nonflammable liquids, one percent outage at the reference temperature (115 °F (46.1 °C) for uninsulated tanks, 105 °F (40.6 °C) for insulated tanks).

(b) For flammable liquids or poisonous liquids (not toxic by inhalation), two percent outage at the reference temperature (115 °F (46.1 °C) for uninsulated tanks, 105 °F (40.6 °C) for insulated tanks).

(c) For liquid materials that are toxic by inhalation, five percent outage at the reference temperature (115 °F (46.1 °C) for uninsulated tanks, 105 °F (40.6 °C) for insulated tanks).

(d) Tank must not be liquid full at 55 °C (131 °F).

The ullage for tanks in cryogenic liquid service is included in the filling density limits given in §§ 173.318 and 173.319.

(4) Sections 173.31 through 173.33 would be revised to assure that during normal transport conditions, no lading would be released due to an increase in vapor pressure caused by a rise in temperature of the lading. This is accomplished by relating tank pressure ratings and the associated opening pressures of pressure relief devices to lading pressure at maximum lading temperatures likely to be reached under "normal" transport conditions. These reference temperatures are 115 °F (46.1 °C) for insulated tanks and 105 °F (40.6 °C) for uninsulated tanks. The tank pressure rating for cargo tanks and DOT specification portable tanks (except IM 101 and IM 102) would remain the tank design pressure. The pressure rating for tank cars and U.N. multimodal tank container tanks (IM 101 and IM 102 portable tanks) would be the tank test pressure.

(5) Section 173.315 would be revised to provide additional integrity for tanks loaded with multiple-hazard ladings.

7. Subpart G; Gases, Preparation and Packagings

Section 173.300. This section would be removed since the definitions for gases would appear in proposed § 173.115.

Sections 173.300a through 173.305. These sections would not be changed.

Section 173.306. § 173.306 would be revised editorially and a new paragraph (h) would be added containing consumer commodity provisions which are currently located in §§ 173.505 and 173.1200. The latter sections would be deleted.

Section 173.307. This section would not be changed.

Section 173.308. The section reference in paragraph (a) would be changed from "§ 173.21(e)" to "§ 173.21(i)".

Section 173.314. Paragraph (a) would be revised to correct the section reference for definitions of gases. The introductory text of paragaph (f) would be revised for clarity and entries in the filling table which appear in paragraph (f) would be corrected.

Section 173.315. Subparagraph (a)(2) would be added to provide for the shipment of gases, other than those listed in the table in subparagraph (a)(1), in cargo tanks and portable tanks meeting the specified minimum design pressure requirements.

Sections 173.316 through 173.320. These sections would not be changed.

Sections 173.321 through 173.340. Subpart G would be extended beyond § 173.320 with the addition of ten proposed new sections. These sections would prescribe the authorized non-bulk packagings for specific gases, or categories of gases, as follows: § 173.321, ethylamine; § 173.324, ethyl methyl ether; § 173.334, organic phosphates mixed with compressed gas; § 173.335, gas generator assemblies; § 173.336, nitrogen dioxide, nitrogen peroxide, and nitrogen tetroxide liquids; § 173.337, nitric oxide; § 173.338, tungsten hexafluoride; and § 173.340, tear gas devices.

8. Subpart H

This subpart, which currently contains the definitions and packagings for poisonous materials and etiologic agents, would be rendered obsolete by previously discussed changes and, therefore, would be deleted.

9. Subpart I; Radioactive Materials

Requirements for radioactive materials remain essentially unchanged. As discussed in the preamble to Subpart C of Part 172, description requirements would change to reflect the numerical hazard class, Class 7. Definitions and packagings would not change, except as mentioned in the proposed changed to § 173.417. Within Subpart I, only §§ 173.416 and 173.417 would be revised.

Section 173.416. This section would be revised to correct section references to packaging specifications for radioactive materials which would be redesignated. See the preamble to Part 178 for discussion concerning redesignation of specifications.

Section 173.417. This section would be revised to correct section references to redesignated packagings. Also, in subparagraph (a)(6) the reference to a specification 6J or 17H drum would be changed to a 1A2 steel drum.

10. Subparts J, K, L, M, N, and O

These subparts, which address the definitions, preparation and packagings for ORM materials, would be rendered obsolete and, therefore, would be deleted.

11. Appendices to Part 173

Appendix A. Appendix A would not be changed.

Appendix B. Appendix B would be revised editorially to correct section references and to change the word "polyethylene" to "plastic" wherever it appears in the appendix.

Appendix C. A base level vibration test, which would appear as new Appendix C, is proposed. The test is essentially the same test which appears in the HMR in §§ 178.16 and 178.19 for Specifications 35 and 34, respectively. As discussed in the preamble to § 173.24, this basic vibration test would be made applicable to all non-bulk packagings used for hazardous materials. The test is neither sophisticated nor rigorous and is intended only to point out gross packaging deficiencies.

D. Parts 174 through 177; Carriers' Requirements

Although changes to the regulatory text in Parts 174, 175, 176 and 177 are needed to implement the proposals of this notice, they have not been included due to time constraints. Various sections in these parts would have to be revised editorially to correct section references and to conform to aforementioned changes in hazard class terminology and to placarding. In addition, loading and storage provisions would have to be revised to accommodate the new classification system.

Part 176. Although they do not represent all the changes necessary to implement the proposals of this notice, several proposed changes to Part 176 are included in this notice, as follows.

Section 176.5. This section would be revised to differentiate between "bulk packagings", as defined in § 171.8, and bulk carriage by vessel as addressed in Subchapters D, I, O, and N of Title 46.

Section 176.83. This section would be revised to add a definition for the term "clear of living quarters".

Section 176.84. This new section would contain the meaning and requirements of the stowage provisions, or codes, which appear in column 10c of the § 172.101 Table. There are approximately 100 different stowage provisions listed. The intent of these provisions is to align the § 172.101 Table stowage provisions with those in the IMDG Code. Some of these provisions use terms which are further defined in § 173.83. For example, code "37" is "Stow 'away from' hydrazine." The term "away from" is defined in § 176.83.

E. Part 178; Specifications for Packagings

1. Part 178, General

The changes proposed to Part 178 are essentially those which were proposed in the ANPRM, except for certain changes made in response to comments received and those made on RSPA's own initiative. One hundred specifications for non-bulk packagings would be eliminated and twenty packaging standards based on the U.N. Recommendations would be added. Performance tests generally based on the U.N. Recommendations would also be added. The title to Part 178 would be changed to reference "packagings" rather than "shipping containers". A number of subparts have been removed and reserved. RSPA will consider consolidation and recodification of Part 178 in the final rule.

Since issuance of the ANPRM, two issues that related to the performance testing of packagings have been resolved in separate rulemaking actions. Compatibility and permeation criteria, for hazardous materials packaged in polyethylene packagings, were established under Docket HM–185 (final rule published June 14, 1984; 49 FR 24684) and appear in 49 CFR at § 173.24(d) and Appendix B to Part 173, entitled "PROCEDURE FOR TESTING CHEMICAL COMPATIBILITY AND RATE OF PERMEATION IN POLYETHYLENE PACKAGINGS AND RECEPTACLES". These criteria would be retained, but would be applied to all plastics which might be used as packaging materials, rather than solely to polyethylene.

Under Docket HM–194 (final rule published March 13, 1985; 50 FR 10060), RSPA revised Subpart E of Part 107 to adopt procedures by which the Director, OHMT could designate third-party packaging testing agencies, for the purpose of certifying conformance of packaging designs with U.N. standards. Use of these independent testing agencies was left to the discretion of shippers and manufacturers. No changes to these provisions are proposed in this notice.

Section 178.0. Section 178.0–2 would be revised for clarity and to require that manufacturers notify, in writing, persons to whom packagings are transferred of any specification requirements which have not been met at time of transfer and of any actions which need to be taken to comply with specification requirements. Copies of the notifications must be retained by the manufacturer for at least one year.

RSPA considers this notice especially important in this proposal where performance-oriented packagings standards would replace specification packagings. Shippers will be performing many functions normally considered as part of manufacturing (e.g., assembling boxes or closing drums) should an incident occur, or an enforcement investigation, which revealed a packagings deficiency, it is important to be able to establish who was responsible for that deficiency.

Specification marking requirements currently in § 173.24 are relocated to § 178.0–3 and this latter section is revised to address all specification markings. Whereas § 173.24 currently specifies a minimum size for specification markings of one half inch in height (except as otherwise provided in Part 178), proposed § 178.0–3 specifies a letter height of at least 6 millimeters (0.24 inches) for packagings having a capacity of less than or equal to 30 liters (7.9 gallons) for liquids or 30 kilograms (66.1 pounds) for solids and a letter height of at least 12 millimeters (0.47 inches) for other packagings.

2. Subparts A Through K; Non-Bulk Specification Packagings

Subpart A of Part 178. Subpart A contains seven specifications for carboys and two specifications for polyethylene drums. These specifications would be removed and Subpart A would be reserved.

Subpart B. Subpart B contains 18 specifications for inner receptacles and liners. Specifications 2P and 2Q are inner receptables for compressed gases and would be retained. Specification 2R is an inner packaging for radioactive materials. It would be relocated to Subpart K and be redesignated as § 178.360. The remaining specifications would be removed.

Subpart C. Subpart C contains specifications for cylinders and is not affected by this notice.

Subpart D. Subpart D contains 36 specifications for metal drums, kegs, overpacks and boxes and for Spec. 33A polystyrene cases. Four of the specifications (Specs. 6L, 6M, 20PF and 21PF) are packagings for radioactive materials. They would be moved to Subpart K and redesignated as §§ 178.352, 178.354, 178.356 and 178.358, respectively. The remaining specifications would be removed and the subpart would be removed and reserved.

Subpart E. Subpart I contains 22 specifications for wooden drums, barrels, boxes and overpacks. Two, Spec. 20WC and 21WC, are used for radioactive materials and would be redesignated and moved to Subpart K. The remaining specifications would be removed and Subpart E would be removed and reserved.

Subpart F. Subpart F contains 14 specifications for fiberboard boxes, drums and mailing tubes. The subpart would be removed and reserved.

Subpart G. Subpart G contains 9 specifications for paper, plastic and textile bags. The subpart would be removed and reserved.

Subpart H. In § 178.270–11, pressure relief device requirements for IM101 and IM102 intermodal tanks would be revised editorially to address pressure relief settings in terms of tank test pressure instead of mean average working pressure (MAWP).

Subpart K. Radioactive materials packagings from the aforementioned subparts would be relocated to Subpart K. No other changes are proposed in the subpart.

3. Subpart L; Non-Bulk Performance-Oriented Packaging Standards

A new Subpart L would be added to Part 178 containing marking requirements and packaging standards for non-bulk packagings based on Chapter 9 of the U.N. Recommendations.

Section 178.500. Proposed § 178.500 contains a general statement of scope and purpose and refers the user to § 171.8 for definitions of packaging terms.

Section 178.502. Proposed § 178.502 sets forth the identification codes for packagings as used in the U.N. Recommendations. For example, "4" designates a box and "G" designates fiberboard. Therefore, "4G" is the identification code for a fiberboard box.

Section 178.503. Proposed § 178.503 sets forth requirements for marking packages. In general, markings for the U.N. standards consist of the following nine elements:

(1) The U.N. symbol.

(2) The package identification code.

(3) A letter designating the packing group or groups for which the packaging has been performance tested.

(4) The specific gravity for liquids or the maximum gross mass for solids.

(5) The letter "S" to indicate that a packaging is intended for solids or the hydrostatic test pressure at which the packaging is rated.

(6) The last two digits of the year of manufacture.

(7) The letters "USA".

(8) The name and address or symbol of the manufacturer.

(9) For metal or plastic drums and jerricans intended for reuse, the thickness (in millimeters) of the packaging material.

In addition, reconditioned packagings would be marked with the following:

(1) The name of the country in which the reconditioning is performed.

(2) The name and address or symbol of the reconditioner.

(3) The month and last two digits of the year of reconditioning.

(4) The letter "R".

(5) If leakproofness tested, the letter "L".

In general, the proposed markings require more information on a packaging than is required currently. This additional information, such as packing group designation and hydrostatic test pressure rating, is believed necessary under this proposal for the shipper to be able to select a packaging appropriate for a specific hazardous material based on the characteristics of that material.

Sections 178.504 through 178.523. Sections 178.504 through 178.523 contain the standards for the 20 performance packagings which are proposed for adoption.

These standards specify the general requirements for materials, construction and capacity of packagings. As previously mentioned, they are more general than the existing specifications and give manufacturers wide latitude in designing and constructing packagings.

4. Subpart M; Testing of Nonbulk Packagings

There are presently wide differences in the application of test requirements in the various non-bulk packaging specifications in Part 178. Some specifications have no test criteria. Several have test criteria but no requirement to perform testing. Most have test requirements that must be performed at the start of production or upon change in design, materials or construction method and which must be repeated at intervals set forth in the individual specifications. For example, most of the metal drum specifications require testing to be repeated every four months. Some of the specifications call for production-oriented testing such as testing one packaging for every 1000 produced. Specific tests vary by type of packagings and, for similar types, from one specification to another.

Requirements for proof of testing also vary considerably. Proof of testing is not required for some specifications. Proof in the form of retained test samples is required for many specifications, including most of the metal and fiber drum specifications. Some specifications require filing of test reports with the Director, OHMT. Others require retention of test records at the manufacturer's location for periods ranging from four months to three years.

Section 178.601. In place of the existing hodgepodge of package testing and record retention requirements, proposed Subpart M standardizes requirements for all of the performance-oriented non-bulk packagings added in proposed Subpart L. In proposed § 178.601, general requirements for testing and test record retention are prescribed. Design qualification tests would be required at the start of production for each different packaging and "at intervals established by the manufacturer of sufficient frequency to ensure that all packagings are capable of passing the prescribed tests", except that tests would have to be repeated at least once each year that the packaging is produced. This would give the manufacturer the opportunity to determine effective test schedules for a particular manufacturing operation. Tests could be performed by the manufacturer or by an independent testing agency.

Retention of samples no longer would be required for any of the specifications. Manufacturers would be required to keep records of test results for one year. The format of these records would be left to the discretion of the individual manufacturers. Samples of each different packaging would have to be tested, with certain exceptions such as for packagings which differ only in surface treatment or in reduced height.

Proposed § 178.601 contains an approval provision whereby the Director, OHMT, may approve the selective testing of packagings that differ only in minor respects from the tested type, such as packagings which are produced with small reductions in dimensions. Another provision would permit the Director to require proof through testing that packagings meet specified requirements. It is envisioned that this testing would be performed by the manufacturer (with OHMT personnel or an independent inspector witnessing tests), by an independent testing agency, or by OHMT personnel.

Sections 178.602 through 178.608. Proposed § 178.602 contains general requirements for filling and conditioning packages in preparation for testing. Proposed §§ 178.603 through 178.606 contain requirements for the drop test, leakproofness test, hydrostatic pressure test and stacking test. These tests, based on the U.N. Recommendations, would apply to all of the performance-oriented packagings in proposed Subpart L. The leakproofness test would be performed on all packagings intended to contain liquids, except for the inner packagings of combination packagings. The drop test, hydrostatic pressure test and stacking test would be performed on representative samples of packagings, in accordance with the provisions of the specific test and the general test requirements of §§ 178.601 and 178.602. Proposed §§ 178.607 and 178.608 contain a cooperage test for bung-type wooden barrels and a chemical compatibility test for plastic receptacles.

It is believed that the proposed tests, in conjunction with the "beefed-up"

provisions in §§ 173.24 and 173.24a (including the vibration standard in § 173.24a(a)(5)) will ensure a level of packaging integrity equivalent or better than that provided by the existing DOT specification for non-bulk packagings. However, comments are solicited on whether these proposed tests are adequate or unnecessarily rigorous.

F. Part 179; Specifications for Tank Cars

Section 179.14. This section would be revised to update the list of approved couplers and to relocate performance requirements for coupler vertical restraint systems which currently appear in § 179.105–6.

Section 179.101–1. In the individual specification requirements table, the column for the DOT 112A400F tank car would be deleted and footnote 11 would be added to the "112A400W" column to accommodate these cars. The "Insulation" entries for DOT 112A200W, 112A340W, 112A400W, 112A500W, 114A340W, and 114A400W would be changed from "4 None" to "4, 13 Optional" to clarify that insulation is permitted on these cars. A footnote 13 would be added to permit cars to be stencilled to indicate conformance to the insulation provisions of § 179.100–18.

Section 179.102. This section, which specifies special commodity requirements for pressure tank cars, would be deleted. For bulk packagings, commodity-specific requirements would be accommodated through the special provisions in column 7 of the § 172.101 Table, and the packaging authorizations of Subpart F of Part 173.

Section 179.105. The provisions of § 179.105 would be revised to include DOT 105S, 105J and 111J tank cars. Section 179.105–1 would be editorially revised to address these tank cars and to delete references to implementation dates for coupler vertical restraint systems. Sections 179.105–2 and 179.105–3 contain obsolete implementation dates for coupler restraint systems and tank head puncture resistance systems, and would be removed. Section 179.105–4 would be revised to address DOT 105J and 111J tank cars. The requirements of § 179.105–6 would be relocated to § 179.14 and the section would be removed. Section 179.105–8 would be revised to add stencilling requirements for DOT 105S and 105J cars.

Section 179.106. The requirements of this section would be relocated to § 179.105, and the section would be deleted.

Section 179.202. This section, which specifies special commodity requirements for non-pressure tank cars, would be deleted. Commodity-specific requirements, where necessary, would be implemented through the special provisions in the § 172.101 Table and the bulk packaging authorizations in Subpart F of Part 173.

Section 179.203. In § 179.203–1, the requirements of paragraphs (c) and (d) would be relocated to § 171.12a and the paragraphs would be removed. In § 179.203–2, an obsolete reference in subparagraph (a)(1) would be removed.

Section 179.302. This section, which specifies special commodity requirements for multi-unit tank car tanks, would be deleted for the same reasons given for § 179.202.

VI. Enforcement of Performance-Oriented Packaging Standards

Inspection and enforcement of the regulations in Part 178 applicable to the manufacture of non-bulk packagings is a relatively uncomplicated process at the present time. Each individual specification provides the basis for the OHMT inspector to observe and compare a packaging with the requirements of the particular specification under which it was manufactured. If the manufacturer (or shipper or other person performing a manufacturing function) is not complying with the requirements of a specification, the inspector can determine this at the manufacturer's plant or at any point in the transportation process.

Under the proposed system of performance-oriented packaging standards, enforcement would become more complex. An inspector could no longer look to detailed specifications as the basis for inspecting a packaging facility. Although the manufacturer would still have to mark its packagings to indicate the type of service for which they are qualified, the most important determinant of qualification would be how well the packagings perform under test conditions. Thus, testing would become a critical factor in determining compliance under the proposed performance-oriented standards.

Under the proposed regulations, testing would increase in relative importance with random in-depth inspections of packagings by OHMT inspectors at freight terminals, intermodal transfer facilities, airports and other transportation facilities continuing to play an important role. However, while inspectors at such locations could continue to discover certain types of violations (e.g., improper markings, failure to use proper packagings for specific hazardous materials, etc.), in most instances they would be able to determine whether a specific package meets the required performance standards only by testing.

It should be noted that under the proposed regulations a shipper would have greater flexibility in selecting and combining packagings so long as required performance standards were met. This flexibility would be accompanied by a greater responsibility for the ultimate conformance of packaging with applicable requirements; thus, to the extent that the shipper would be performing manufacturer-type responsibilities, the shipper would be treated as a manufacturer and subject to enforcement as such. These proposed increased shipper responsibilities are described in proposed §§ 173.24, 173.24a, 173.24b and supplement the shipper responsibilities in § 173.22, which would not be changed. A balancing of manufacturer and shipper responsibilities would be provided by § 178.0–2(d), which proposes that manufacturers be required to notify recipients of their packagings of any actions which need to be taken in order for their packagings to conform to the regulations. The presence or absence of such a notice, as well as the thoroughness and accuracy of same, would be a major factor in determining whether and against whom to take enforcement action if nonconforming packages are found in commerce.

In light of the foregoing, if the performance standards proposed herein are adopted, it is likely that RSPA will focus its inspection efforts on packaging manufacturers' facilities (including shippers' facilities where they perform manufacturing functions) and testing-related activities. These activities would include review of packaging manufacturers' test records, observation of manufacturers' tests, and supervision of OHMT and OHMT-funded tests. Comments are solicited on these proposed changes to enforcement procedures.

Any testing program to determine compliance must have as its foundation a set of standard procedures by which to measure performance. For most existing DOT non-bulk specification packagings, OHMT's Enforcement Division has developed published test procedures and standards, in coordination with Wyle Laboratories, Huntsville, Alabama. These include test procedures and standards for DOT specification glass carboys, polyethylene bottles and containers, steel barrels and drums, fiberboard and wooden boxes, fiber drums, multiwall paper bags and several other types of packagings. These test procedures and standards are public information and are available from the National

Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

If the proposed rules are adopted, these previously developed test procedures and standards would be modified to reflect the specific performance standards promulgated in the final rule. As modified, these test procedures and standards would be used by OHMT's Enforcement Division as the basis for its monitoring, testing, and inspection program.

As noted above, if performance standards are adopted, testing for compliance would be the cornerstone of OHMT's enforcement effort relating to non-bulk packagings falling within the scope of the proposed regulations. There are, however, several alternative means of implementing a compliance testing program. These might include mandatory testing performed by manufacturers, shippers, independent testing agencies, or under the auspices of OHMT.

Suggestions concerning the means of carrying out such a testing program would be welcome. Commenters should be as specific as possible, indicate which approaches they believe would be more efficient, cost-effective, and fair to all concerned, and explain their conclusions. Specific comments might address such issues as government vs. contract laboratories, use of third-party testing or inspection agencies, test record retention requirements, the number of tests, and the appropriateness of OHMT or private parties bearing the costs of samples and testing.

In light of the proposed movement away from specific design criteria to more general performance standards, OHMT is committed to establishing enforcement procedures and policies which will encourage and ensure compliance with such standards. Since failure of a test may in any given case constitute *prima facie* evidence of noncompliance, enforcement action could be taken upon receipt of test results from a testing facility or after testing conducted at a manufacturing or shipping location. Such actions, of course, would be preceded by thorough investigation (possibly, by additional testing) to determine what caused the failure, whether a violation occurred, who committed it, and what the appropriate sanction should be.

Commenters should be aware that enforcement policies generally reflect internal agency decisions concerning the most effective and efficient means of enforcing the regulations. Obviously, the nature of the regulations themselves affects the determination of what types of enforcement approaches are most effective and efficient. Because of this relationship between the rules and enforcement policies, commenters should consider enforcement issues as part of this rulemaking. OHMT will consider all enforcement-related comments in determining to what extent the proposed regulations should be issued as final rules and in establishing policies for enforcing them.

If the regulations are issued substantially as proposed, OHMT may find it necessary to modify its enforcement policies in order to take into account experience it will have gained under those regulations.

VII. Transition Period

If the proposals contained in this notice lead to publication of a final rule, it is RSPA's intention to delay the effective date of that final rule, for most of the regulatory provisions contained therein, for five years from the date of publication. Voluntary compliance with the new requirements would be authorized immediately upon publication or as soon thereafter as is practicable. The five year period should facilitate the changeover from the present DOT specification system to the U.N. performance-oriented system for non-bulk packagings and mitigate the burden of complying with new or changed regulatory requirements, particularly with regard to hazard communication requirements. Assuming that a final rule would be published within two years of issuance of this notice, the voluntary compliance provision would permit shippers to change to the U.N. system prior to January 1, 1990, when existing grandfather provisions in international regulations terminate and DOT specification non-bulk packagings become virtually unacceptable in international commerce. It is anticipated that certain provisions of the final rule such as the conversion into general regulations of approval provisions for packagings for liquids which are toxic by inhalation, would be implemented over a transition period of less than five years.

VIII. Administrative Notices

A. Executive Order 12291

The effect of this rule, as proposed, does not meet criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule, but is a significant rule under the regulatory procedures of the Department of Transportation [44 FR 11034]. This proposed rule does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act [42 U.S.C. 4321 et seq.] A regulatory evaluation and flexibility analysis is available for review in the Docket.

B. Impact on Small Entities

Based on limited information concerning size and nature of entities likely affected by this proposed rule, I certify this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification is subject to modification as a result of a review of comments received in response to this proposal. A preliminary regulatory flexibility analysis is available for review in the docket.

C. Paperwork Reduction Act

Information collection requirements contained in this proposal are being submitted for approval to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511).

D. Request for Comments

Comments are encouraged on all proposals contained in this notice. It is requested that interested persons submit comments concerning obvious errors and omissions as soon as possible so that a supplementary notice can be issued, if necessary, in a timely manner to address these errors and omissions. Substantive comments concerning specific proposals may be submitted at any time during the comment period.

RSPA is interested in receiving comments on incremental costs and benefits associated with specific proposals contained in this notice. Of particular interest are comments addressed to costs, benefits and burden hours associated with proposals related to information collection.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Definitions.

49 CFR Part 172

Hazardous materials transportation, Markings, Labels, Placards, Packaging.

49 CFR Part 173

Hazardous materials transportation, Packaging.

49 CFR Part 174

Hazardous materials transportation, Rail carriers.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers.

49 CFR Part 177

Hazardous materials transportation, Motor carriers.

49 CFR Part 178

Hazardous materials transportation, Packaging specifications and standards.

49 CFR Part 179

Hazardous materials transportation, Tank cars.

In consideration of the foregoing, 49 CFR Parts 171 through 179 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

The authority citation for Part 171 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1.

§ 171.3 [Amended]

In § 171.3, paragraph (e) preceding Note 1 would be removed.

Section 171.7 would be amended as follows:

In § 171.7, paragraph (d) would be removed and paragraph (c) would be revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) *Table of material incorporated by reference.* The following Table sets forth material incorporated by reference. It gives the name and address of the organization from which the material is available, the name of the material, and the section(s) of this subchapter, other than § 171.7, in which the matter is referenced.

Source and name of material	49 CFR reference
The Aluminum Association, 420 Lexington Avenue, New York, NY 10017:	
Aluminum Standards and Data, 1970–71, December 1969	178.65–5.
Aluminum Standards and Data, Sixth Edition, 1979	
Aluminum Standards and Data, Seventh Edition, June 1982	
American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018:	
ANSI B9.1–64, Safety Code for Mechanical Refrigeration, 1964 Edition	173.306.
ANSI B16.5–77 Steel Pipe Flanges, Flanged Fittings	178.360.
ANSI N14.1–71 Packaging of Uranium Hexafluoride for Transport, 1982 Edition	173.417.
American Society of Mechanical Engineers, United Engineering Center, 354 47th Street, New York, NY 10017:	
ASME Code, section VIII (Division 1) and IX of 1977 Edition of American Society of Mechanical Engineers Boiler and Pressure Code Addenda through December 31, 1979.	173.32; 173.33; 173.306; 173.315; 177.814; 178.245; 178.251; 178.255; 178.337; 178.340; 178.342; 178.343; and 179.400.
ASME Code, section V (FR Nonedestructive Examination, 1977	173.33.
ASME Code, section IX (FR Welding and Brazing Qualification 77 and Addendum 79)	178.245; 178.340.
American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103:	
Noncurrent ASTM Standards are available from: Engineering Societies Library, 354 E. 47th Street, New York, NY 10017:	
ASTM A 20–81 Standard Specification for General Requirements for Steel Plates for Pressure Vessels, Revision C, 1982	178.337.
ASTM A 47–68 Malleable Iron Castings	179.200.
ASTM A 53–69a Welded and Seamless Steel Pipe	179.12–2.
ASTM A 178–70 Electric Resistance Welded Carbon Steel Boiler Tubes	179.12.
ASTM A 192–69 Seamless Carbon Steel Boiler Tubes for High Pressure Service	179.12.
ASTM A 211–75 Standard Specification for Spiral-Welded Steel or Iron Pipe App. B	192.113; Part 192; 195.106.
ASTM A 240–82 Standard Specification for Heat-Resisting Chromium and Chromium-Nickel Stainless Steel Plate, Sheet and Strip for Fusion-Welded Unfired Pressure Vessels, Revision A.	173.57; 179.100; 179.200; 179.201; 179.220; 179.400.
ASTM A 242–81 Standard Specification for High-Strength Low-Alloy Structural Steel, 1982	179.100.
ASTM A 262–68 Recommended Practices for Detecting Susceptibility to Intergranular Attach in Stainless Steels	179.200.
ASTM A 269–69 Seamless and Welded Austenitic Stainless Steel Tubing for General Service	179.12.
ASTM A 285–78 Pressure Vessel Plates, Carbon Steel, Low and Intermediate-Tensile Strength	179.100; 179.200; 179.220; 179.300.
ASTM A 300–58 Steel Plates for Pressure Vessels for Service at Low Temperatures	178.337.
ASTM A 300–68 Notch Toughness Requirements for Normalized Steel Pressure Plates for Pressure Vessels	179.102.
ASTM A 302–78 Pressure Vessel Plates, Alloy Steel, Manganese-Molybdenum and Manganese-Molybdenum Nickel	179.100; 179.200; 179.200.
ASTM A 312–70a Seamless and Welded Austenitic Stainless Steel Pipe	179.12.
ASTM A 333–67 Seamless and Welded Steel Pipe for Low-Temperature Service	178.45.
ASTM A 370–77 Standard Methods and Definition for Mechanical Testing of Steel Products, 1982	179.102.
ASTM A 388–67 Ultrasonic Testing and Inspection of Heavy Steel Forging	178.45.
ASTM A 441–81 Standard Specification for High-Strength Low-Alloy Structural Manganese Vanadium Steel	178.338.
ASTM A 514–81 Standard Specification for High-Yield Strength Quenched and Tempered Alloy Steel Plate, Suitable for Welding	178.338.
ASTM A 515–69 Carbon Steel Plates for Pressure Vessels for Intermediate and Higher Temperature Service	179.100; 179.200; 179.220; 179.300.
ASTM A 516–79b Standard Specification for Pressure Vessel Plates, Carbon Steel, for Moderate and Lower-Temperature Service, 1982 Edition.	178.337; 179.100; 179.102; 179.200; 179.220.
ASTM A 537–80 Standard Specification for Pressure Vessel Plates, Heat-Treated, Carbon-Manganese-Silicon Steel, 1982 Edition	179.100.
ASTM A 572–82 Standard Specification for High-Strength Low-Alloy Columbium-Vanadium Steels of Structural Quality, 1982 Edition	178.338; 179.100.
ASTM A 588–81 Standard Specification for High-Strength Low-Alloy Structural Steel with 50 Ksi Minimum Yield Point to 4 in. Thick	179.100; 178.338.
ASTM A 606–75 Standards Specification for Steel Sheet and Strip Hot-Rolled and Cold-Rolled, High-Strength, Low-Alloy, with Improved Atmospheric Corrosion Resistance, 1975 (Reapproved 1981).	178.338.
ASTM A 612–7a High Strength Steel Plates for Pressure Vessels for Moderate and Lower Temperature Service	178.337.
ASTM A 633–79a Standard Specification for Normalized High-Strength Low-Alloy Structural Steel, 1979 Edition	178.338.
ASTM A 715–81 Standard Specification for Steel Sheet and Strip, Hot-Rolled, High-Strength, Low-Alloy, with Improved Formability, 1981	178.338.
ASTM B 90–69 Magnesium Alloy Sheet and Plate	178.251.
ASTM B 161–70 Nickel Seamless Pipe and Tube, 1970	179.12.
ASTM B 162–69 Nickel Plate, Sheet, and Strip	179.200.
ASTM B 209–69 Aluminum Alloy Sheet and Plate	178.340; 179.100; 179.200; 179.220.
ASTM B 210–70 Aluminum Alloy Drawn Stainless Tables (FR B210–68(78))	179.12.
ASTM B 221–76 Aluminum Alloy Extruded Bars, Rods, Shapes and Tubes	179.12.
ASTM B 241–69 Standard Specification for Aluminum-Alloy Seamless Pipe and Seamless Extruded Tube	179.12.
ASTM B 557–81 Tension Testing Wrought and Cast Aluminum and Magnesium-Alloy Products, 1979	178.251.
ASTM B 580–79 Standard Specification for Anodic Oxide Coatings on Aluminum, 1979	173.316; 173.318.
ASTM C 148–77 Standard Methods of Polariscopic Examination of Glass Containers, 1977	178.17.
ASTM D 56–79 Standard Method of Test for Flash point by Tag Closed Tester	173.120.
ASTM D 88–56 (Reapproved 80) Standard Method for Test of Saybolt Viscosity	173.120.
ASTM D 93–80 Standard Method of Test for Flash point by Pensky Martens Closed Tester	173.120.
ASTM D 323–58, 68 Vapor Pressure of Petroleum Products (Reid Methods)	173.119; 173.300.
ASTM D 1838–64 Copper Strip Corrosion by Liquefied Petroleum (LP) Gases	173.315.
ASTM D 2161–79 Conversion of Kinematic Viscosity to Saybolt Universal Viscosity or to Saybolt Furol Viscosity	173.120.
ASTM D 3243–73T Flash Point of Aviation Tubine Fuels by Setaflash Closed Tester	173.120.
ASTM D 3278–78 Flash Point of Liquids by Setaflash Closed Tester	173.120.
ASTM E 8–69 Tension Testing of Metallic Materials	178.45.

Source and name of material	49 CFR reference
ASTM E 8-81 Tension Testing of Metallic Materials	178.36; 178.37; 178.38; 178.39; 178.40; 178.41; 178.43; 178.44; 178.48; 178.49; 178.50; 178.51; 178.52; 178.53; 178.54; 178.55; 178.56; 178.57; 178.58; 178.59; 178.60; 178.61; 178.68; 178.251.
ASTM E 23-60 Notched Bar Impact Testing of Metallic Materials	178.57; 179.400.
ASTM E 112-63 Estimating the Average Grain Size of Metals	Part 178, App. A.
ASTM E 290-77 Semi-Guided Bend Test for Ductility of Metallic Materials	
ASTM E 487-74 Constant Temperature Stability of Chemical Materials	173.21.
ASTM E 681-79 Standard Test Method for Limits of Flammability of Chemicals	173.115.
ASTM G 26-70 Standard Recommended Practice for Operating Light-and-Water Exposure Apparatus (Xenon-Arc-Type) for Exposure of Nonmetallic Materials, 1970.	172.407; 172.519.
Association of American Railroads, 59 East Van Buren Street, Chicago, IL 60605:	
AAR Catalog Nos. F70BHT; F71BHT; F72BHT; F73BHT; F79BHT	179.14.
AAR Catalog Nos. SE60CHT; SE60CHTE; SE70CHT; SE70CHTE	179.14.
AAR Catalog Nos. F70CHT; F70CHTE; F73AHT; F73AHTE; F79CHT; F79CHTE	179.14.
AAR Catalog Nos. SE67BTH; SE67BTHE; SE68BTH; SE68BTHE; SF79CHT; SF79CHTE	179.14.
AAR Catalog Nos. SE60CHT; SE60CHTE; SE67BHT; SE67BHTE; SE68BHT; SE68BHTE	179.50.
AAR Catalog Nos. SE70CHT; SE70CHTE; SE79CHT; SE70CHTE	179.105.
AAR Specification for Design Fabrication and Construction of Freight Cars; September 1, 1964	179.100.
AAR Specification for Tank Cars, Specification M-1002, 1981	173.31.
AAR Specification for Tank Cars, September 1985, Exclusive of (1) pp. 28-80, AAR, Part 179, changes to DOT regulations proposed by AAR Committee on Tank Cars, and (2) DOT Regulations in Effect, October 1985.	179.6; 179.12; 179.100; 179.101; 179.102; 179.103; 179.105; 179.200; 179.201; 179.220; 179.300; 179.400.
American Water Works Association, 1010 Vermont Avenue, NW., Suite 810, Washington, DC 20005:	
AWWA Standard C207-55, Steel Pipe Flanges, 1955	173.360.
Bureau of Explosives, 1920 L Street NW., Washington, DC 20036:	
Closed Drum Apparatus (Test)	173.300.
Impact Apparatus (Test), January 24, 1961	173.53; 173.64; 173.65; 173.114.
Open Drum Apparatus (Test)	173.300.
Fetterley's Formula (The Determination of the Relief Dimensions for Safety Valves on Containers in which Liquefied gas is charged and when the exterior surface of the container is exposed to a temperature of 1,200 °F.).	173.315.
Flame Projection Test, 1958	173.300.
Pamphlet No. 6, Illustrating Methods for Loading and Bracing Carload and Less Than Carload Shipments of Explosives and Other Dangerous Articles, 1962.	174.101; 174.290; 174.112; 174.115.
Pamphlet 6A (includes Appendix No. 1, October 1944 and Appendix 2, December 1945), Illustrating Methods for Loading and Bracing Carload and Less Than Carload Shipments of Loaded Projectiles, Loaded Bombs, etc., 1943.	174.101; 174.290.
Pamphlet 6C, Illustrating Methods for Loading and Bracing Trailers and Less-Than Trailer Shipments of Explosives and Other Dangerous Articles Via Trailer-on-Flatcar (TOFC) or Container-on-Flat (COFC), September 1968.	174.55; 174.63; 174.101; 174.112; 174.115.
Pamphlets 1 & 2, Emergency Handling of Hazardous Materials in Surface Transportation; June 1973	177.861.
Canadian Transport Commission, 275 Slater Street, Ottawa, Ontario K1A 0N9:	
Canadian Transport Commission Regulations; 1974	171.12a; 172.401; 172.502; 174.11.
Chlorine Institute, Inc., 342 Madison Avenue, New York, New York 10017:	
Type 1/1/2 JQ 225, Dwg. H5-1970, October 7, 1968; or Type 1 1/2 JQ 225, Dwg. H50155, Revision A, April 28, 1969	173.315.
Standards for Angle Valves, and Dwg. 104-4, May 5, 1958 or Dwg. 104-5, September 1, 1972	173.33.
Standards for Excess Flow Valves, Dwg. 101-4, and 106-3, May 16, 1969, Dwg. 101-6, and 106-5, September 1, 1973	173.33.
Standards for Housing and Manway Covers for Steel Cargo Tanks Manufactured on or before December 31, 1974, Dwg. 177-1, November 7, 1962 or Dwg. 173-2, September 11, 1971; Tanks manufactured after January 1, 1975, Dwg. 137-2 (9/1/71).	173.337.
Compressed Gas Association, Inc., 1235 Jefferson Davis Highway, Arlington, Virginia 22202:	
CGA Pamphlet C-3, Standards for Welding on Thin Walled Containers, 1975	178.47; 178.51; 178.54; 178.56; 178.57; 178.58; 178.60; 178.61; 178.68.
CGA Pamphlet C-6, Standards for Visual Inspection of Compressed Gas Cylinders, 1975	173.31; 173.34; 173.126.
CGA Pamphlet C-7, A Guide for the Preparation of Precautionary Markings for Compressed Gas Containers, Appendix A, May 15, 1972, and Addenda January 1976.	172.400.
CGA Pamphlet C-8, Standard for Requalification of DOT-3HT Cylinder Design, 1979	173.34.
CGA Pamphlet C-12, Qualification Procedure for Acetylene Cylinder Design, 1979	173.34; 173.303.
CGA Pamphlet C-14, Procedures for Fire Testing of DOT Cylinder Pressure Relief Device Systems, 1979	173.34.
CGA Pamphlet G-2.2, Tentative Standard Method for Determining Minimum of 0.2% Water in Anhydrous Ammonia, 1975	173.315.
CGA Pamphlet G-4.1, Cleaning Equipment for Oxygen Service, 1977	
CGA Pamphlet S-1.1, Pressure Relief Device Standards Part 1—Cylinders for Compressed Gases, 1979	173.34.
CGA Pamphlets S-1.2, Safety Relief Device Standards Part 2—and Portable Tanks for Compressed Gases, 1980	173.315; 173.318.
CGA Technical Bulletin TB-2, Guidelines for Inspection and Repair of MC-330 and MC-331 Cargo Tanks, 1975	173.33.
Department of Defense (DOD), 2461 Eisenhower Avenue, Alexandria, VA:	
DOD TB 700-2, Explosives Hazard Classification Procedures	173.86.
Department of Energy (USDOE), 1000 Independence Avenue SW., Washington, DC 20545:	
USDOE publications available from: Superintendent of Documents, Government Printing Office (GPO) or The National Technical Information Service (NTIS):	
USDC, USDOE Materials and Equipment Specification No. SP, Revision 1 and Supplement Fire Resistent Phenolic Foam	178.120.
USAEC, ORO 651—Uranium Hexafluoride Handling Procedures and Container Criteria, Revision 3, 1972	173.417; 178.120; 178.121.
Department of Health and Human Services (DHHS), Public Health Service Center for Disease Control, National Institute for Occupational Safety and Health (NIOSH), Cincinnatti, Ohio 45226:	
NIOSH Registry—of Toxic Effects of Chemical Substances, 1978 (Available from the Superintendent of Documents (GPO))S	172.203.
Department of Transportation (USDOT), 400 Seventh St., SW., Washington, DC 20590:	
Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials [51 FR 5968 February 18, 1986] Effective March 20, 1986, HMT-166T.	177.825.
Fertilizer Institute, 1015 18th Street, Washington, DC 10036:	
Definitions and Test Procedures for Ammonium Nitrate Fertilizer (Revised May 7, 1971) January 16, 1973	174.510.
General Services Administration, Specification Office, Rm. 6662, 7th and D Street, SW., Washington, DC 20407:	
Federal Specification RR-C-901b, General 1-3	173.304.
Institute of Makers of Explosives, 420 Lexington Avenue, New York, NY 10017:	
IME Safety Library Publication No. 22 (IME Standard 22), Recommendation for the Safe Transportation of Detonators in a Vehicle with Certain Other Explosive Materials, January 1, 1985.	177.835.
International Atomic Energy Agency (IAEA), Wagramerstrasse 5, P.O. Box 100, A-1400, Vienna, Austria:	
Also available from: Unipub Incorporated, P.O. Box 433, New York, NY 10016:	
IAEA, Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6, 1973, Revised Edition (as amended)	171.12; 173.417.
International Civil Aviation Organization (ICAO), P.O. Box 400, Place de l'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2:	
ICAO Technical Instructions available from: INTEREG, International Regulations, Publishing and Distribution Organization, P.O. Box 60105, Chicago, IL 60660:	
Technical Instructions for the Safe Transport of Dangerous; Goods by Air, DOC 9284-AN/905 (1986) [50 FR 49394, December 2, 1985]	171.11; 172.401.
International Maritime Organization (IMO), 4 Albert Embankment, London, SE17SR, United Kingdom;	
or New York Nautical Instrument & Service Corporation, 140 W. Broadway, New York, NY 10013:	
International Maritime Dangerous Goods Codes, Volumes I, II, III, IV, 1977, and Amendments 14-76, 15-77, and 16-78, 17-79, 19-80, 20-82, 21-83 and 22-84 thereto.	171.12; 172.102; 172.401; 172.407; 176.5; 176.11; 176.27; 176.30.

Source and name of material	49 CFR reference
International Organization for Standardization, Case Postale 56, CH-1211, Geneve 20, Switzerland:	
Also available from: ANSI, 1430 Broadway, New York, NY 10018:	
ISO 82-197(e) Steel Tensile Testing, 1974	178.270-3.
ISO-2431-72	173.121.
ISO R780-1968	172.312.
National Association of Corrosion Engineers, 1440 South Creek, Houston, Texas 77084:	
NACE Standard TM-01-69, Test Method Laboratory Corrosion Testing of Metals for the Process Industries, 1969	173.500.
National Bureau of Standards, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22151:	
USDC, NBS Handbook H-28 (1957), 1957 Handbook of Screw-Thread Standards for Federal Services, Part II, December 1966 Edition	178.45.
USDC, CAPE 1662, Civilian Applications Program Engineering Drawings (a package of information which includes drawings and bills of material, describing insulated, protective overpacks).	178.120; 178.121.
National Fire Protection Association, Batterymarch Park, Quincy, MA 02269:	
NFPA Pamphlet No. 58—Standard for the Storage and Handling of Liquefied Petroleum Gases, 1979	173.315.
National Motor Freight Traffic Association, Inc., Agent 1616 P Street, NW., Washington, DC 20036:	
National Motor Freight Classification NMF 100-1, 1982	177.841.
Nuclear Regulatory Commission, 1717 H Street, NW., Washington, DC 20555:	
(USNRC) 10 CFR Part 71, Packaging of Radioactive Material for Transport and Transportation of Radioactive Materials Under Certain Conditions.	173.417.
Society of Plastics Industries, Inc., Organic Peroxide Producers Safety Division, 355 Lexington Avenue, New York, NY 10017:	
Self Accelerating Decomposition Temperature Test, 1972	173.21.
Transport Canada, TDG Canadian Government Publishing Center, Supply and Services, Canada, Ottawa K1A 0S9:	
Transport of Dangerous Goods Regulations, as of July 1, 1985, incorporating Registration Numbers SOR/85-77, SOR85/585 and SOR/85-609.	171.12a; 172.401; 172.502.
Uniform Classification Committee, 222 South Riverside Plaza, Chicago, IL 60606:	
Uniform Freight Classification, (UFC), Rule 40, Section 5	173.620.
Uniform Freight Classification (UFC), Rule 41, Sections 2 and 3	173.620.
United Nations, United Nations Sales Section, New York, NY 10017:	
UN Recommendations for the Transport of Dangerous Goods, Forth Revised Edition (1986)	172.401; 172.407; 172.519.

* * * * *

In § 171.8, the following definitions and abbreviations would be added, revised, or removed as indicated, in appropriate alphabetical order:

§ 171.8 Definitions and abbreviations.

Add:

"Bag" means a flexible packaging made of paper, plastic film, textiles, woven material or other similar materials.

"Box" means a packaging with complete rectangular or polygonal faces, made of metal, wood, plywood, reconstituted wood, fiberboard, plastic, or other suitable material.

"Bulk packaging" means a packaging, including a transport vehicle, (1) having an internal volume greater than 450 liters (118.9 gallons) as a receptacle for a liquid, (2) having a capacity greater than 400 kilograms (881.8 pounds) as a receptacle for a solid, or (3) having a water capacity greater than 453.6 kilograms (1000.0 pounds) as a receptacle for a gas.

"Class" means hazard class. See "hazard class".

"Class 1" See § 173.50.

"Class 2" See § 173.115.

"Class 3" See § 173.120.

"Class 4" See § 173.124.

"Class 5" See § 173.128.

"Class 6" See § 173.132.

"Class 7" See § 173.403.

"Class 8" See § 173.136.

"Class 9" See § 173.140.

"Closure" means a device which closes an opening in a receptacle.

"Combination packaging" means a combination of packagings consisting of one or more inner packagings secured in a non-bulk outer packaging. It does not include a composite packaging.

"Composite packaging" means a packaging consisting of an outer packaging and an inner receptacle, so constructed that the inner receptacle and the outer packaging form an integral packaging. Once assembled it remains there after an integrated single unit; it is filled, stored, shipped and emptied as such.

"Crate" means an outer packaging with incomplete surfaces.

"Domestic transportation" means transportation between places within the United States other than through a foreign country.

"Dangerous when wet material" See § 173.124.

"Division" means a subdivision of a hazard class.

"Drum" means a flat-ended or convex-ended cylindrical packaging made of metal, fiberboard, plastic, plywood, or other suitable materials. This definition also includes packagings of other shapes made of metal or plastic (e.g., round taper-necked packagings or pail-shaped packagings) but does not include cylinders, jerricans, wooden barrels or bulk packagings.

"Hazard class" means the category of hazard assigned to a hazardous material under the defining criteria of Part 173 of this subchapter and the provisions of the § 172.101 Table.

"Infectious substance" See § 173.134.

"Inner packaging" means a receptacle which requires an outer packaging in order to perform its containment function.

"Inner receptacle" means a receptacle which requires an outer packaging in order to perform its containment function.

"International transportation" means transportation—

(1) Between any place in the United States and any place in a foreign country;

(2) Between places in the United States through a foreign country; or

(3) Between places in one or more foreign countries through the United States.

"Jerrican" means a metal or plastic packaging of rectangular or polygonal cross-section.

"kg" means kilogram.

"kPa" means kilopascal.

"L" means liter.

"Manufacturer" means a person who applies to a packaging a DOT specification marking or a United Nations mark (see § 178.503).

"Maximum capacity" means the maximum inner volume of receptacles or packagings.

"Maximum net mass" means the maximum net mass of contents in a single packaging or, as used in Subpart M of Part 178, the maximum combined mass of inner packagings and the contents thereof.

"mL" means milliliter.

"Non-bulk packaging" means a packaging (1) having an internal volume of 450 liters (118.9 gallons) or less as a receptacle for a liquid, (2) having a capacity of 400 kilograms (881.8 pounds) or less as a receptacle for a solid, or (3) having a water capacity of 453.6 kilograms (1000.0 pounds) or less as a receptacle for a gas.

"n.o.s. entry" means a shipping description from the § 172.101 Table which includes the abbreviation "n.o.s."

"Outer packaging" means the outermost enclosure of a composite or

combination packaging together with any absorbent materials, cushioning and any other components necessary to contain and protect inner receptacles or inner packagings.

"Pa" means pascal.

"Packing group" means a grouping according to the degree of danger presented by hazardous materials. Packing Group I indicates great danger; Packing Group II, medium danger; Packing Group III, minor danger. See § 172.101(f).

"Poisonous materials" See § 173.132

"Primary hazard" means the hazard class of a material, as assigned in the § 172.101 Table.

"Receptacle" means a containment vessel for receiving and holding materials, including any means of closing.

"Specification packaging" means a packaging conforming to one of the specifications or standards for packagings in Part 178 or Part 179 of this subchapter.

"Strong outer (or outside) packaging" means a packaging which meets or exceeds the performance requirements of § 173.24 of this subchapter applicable to non-specification packagings, either as a single packaging or as the outer packaging of a combination packaging.

"Subsidiary hazard" means a hazard of a material other than the primary hazard. See "primary hazard".

"Table in § 172.101" or "§ 172.101 Table" means the Hazardous Materials Table in § 172.101 of this subchapter.

"UN" means United Nations.

"Wooden barrel" means a packaging made of natural wood, of round cross-section, having convex walls, consisting of staves and heads and fitted with hoops.

"UN standard packaging" means a specification packaging conforming to the requirements in Subparts L and M of Part 178.

Revise

"Bottle" means a receptacle having a neck of relatively smaller cross section than the body and an opening capable of holding a closure for retention of the contents.

"Cargo aircraft only" means an aircraft that is used to transport cargo and is not engaged in carrying passengers. For purposes of this subchapter, the terms "cargo aircraft only", "cargo-only aircraft" and "cargo aircraft" have the same meaning.

"Combustible liquid" See § 173.120.

"Compressed gas" See § 173.115.

"Corrosive material" See § 173.136.

"Etiologic agent" See § 173.134.

"Flammable gas" See § 173.115

"Flammable liquid" See § 173.120.

"Flammable solid" See § 173.124.

"Flash point" means the minimum temperature at which a substance gives off flammable vapors which, in contact with sparks or flame, will ignite. (For criteria, see § 173.121.)

"Gross weight" or "Gross mass" means the weight of a packaging plus the weight of its contents.

"Limited quantity" when specified as such in a section applicable to a particular material, means the maximum amount of a hazardous material for which there is a specific labeling and packaging exception.

"Magnetic material" See § 173.21(d).

"Marking" means descriptive name, identification number, instructions, cautions, weight, specification, or UN marks, or combinations thereof, required by this subchapter on outer packagings of hazardous materials.

"Name of contents" means the proper shipping name as specified in § 172.101.

"Net weight", "Net mass", or "Net quantity" means the mass or volume of hazardous material contained in a package, excluding the weight or volume of any packaging material, except in the case of explosive devices where the net weight is the weight of the finished device excluding packagings. See also "maximum net mass".

"Organic peroxide" See § 173.128.

"ORM" means other regulated material. See § 173.144.

"Oxidizer" See § 173.128.

"Package" means the complete product of the packing operation, consisting of the packaging and its contents as prepared for transport. For radioactive materials, see § 173.403 of this subchapter.

"Packaging" means a receptacle and any other components or materials necessary for the receptacle to perform its containment function and to ensure compliance with the minimum packing requirements of this subchapter. For radioactive materials, see § 173.403 of this subchapter.

"Pyrophoric liquid" See § 173.124(b).

"Spontaneously combustible material" See § 173.124(b).

"Water reactive material" see "Dangerous when wet material."

Remove

NRC
Outside container
Poison A
Poison B
Pyrophoric solid
STC

The title and text of § 171.10 would be revised to read as follows:

§ 171.10 Hazardous materials in bulk on board vessels or barges.

Except for transportation in bulk packagings (as defined in § 171.8 of this Part), the requirements of this subchapter do not apply to the bulk carriage of hazardous materials by vessel or barge. See 46 CFR Subchapters D, I, O and N for requirements applicable to bulk carriage by vessel or barge.

§ 171.11 [Amended]

In § 171.11, paragraphs (d)(4)(i) and (d)(4)(ii) would be removed, and paragraphs (d)(4)(iii) and (d)(4)(iv) would be redesignated as (d)(4)(i) and (d)(4)(ii), respectively.

In § 171.12, paragraphs (c), (d) and (f) would be removed, paragraph (e) would be redesignated as paragraph (c) and paragraph (b) would be revised to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(b) Except for radioactive materials and explosives other than Class 1.4, a material which is packaged, marked, classed, labeled and described in accordance with the IMDG Code when being imported into or exported from the United States, or passing through the United States in the course of being shipped between places outside the United States, may be offered and accepted for transportation and transported within the United States if it is otherwise offered, accepted and transported in accordance with this subchapter, including the placarding requirements of Subpart F of Part 172. The provisions of this paragraph also apply to transportation, a portion of which includes transportation by vessel, between points in a State or between States.

* * * * *

§ 171.12a [Amended]

Section 171.12a would be amended as follows:

1. In paragraph (a) introductory text, the reference to "paragraph (b)" is changed to paragraphs (b) and (g)";

2. In paragraph (d), the introductory phrase preceding the word "specification" is changed to read "Except as specified in paragraph (g) of this section and § 173.301(i) of this subchapter,"

3. In paragraph (e) the reference to "paragraph (a)" is changed to read "paragraphs (a) and (g)".

In § 171.12a, the introductory text of paragraph (b)(2) would be revised and paragraph (g) would be added, as follows:

§ 171.12a Canadian shipments and packagings.

* * * * *

(b) * * *

(2) A material or article meeting the definition for Class 1 (explosives) according to this subchapter, except that, notwithstanding the requirements of Part 172 of this subchapter—

* * * * *

(g) Tank cars used under the provisions of this section must conform to the following requirements:

(1) Each class CTC–105, 112, and 114 tank car shall be equipped with a coupler vertical restraint system in accordance with § 179.14 of this subchapter.

(2) After December 31, 1987, each tank car which does not conform to a DOT specification shall be equipped with a coupler vertical restraint system in accordance with § 179.14 of this subchapter.

§ 171.14 [Removed]

Section 171.14 would be removed.

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

The authority citation for Part 172 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1, unless otherwise noted.

The index to Part 172 would be revised to read as follows:

Subpart A—General

Sec.
172.1 Purpose and scope.
172.3 Applicability

Subpart B—Table of Hazardous Materials and Special Provisions

172.101 Purpose and use of hazardous materials table.
172.102 Special provisions.

Appendix A to Subpart B—Identification Number Cross Reference to Proper Shipping Names in the § 172.101 Table

Subpart C—Shipping Papers

172.200 Applicability.
172.201 General entries.
172.202 Description of hazardous material on shipping papers.
172.203 Additional description requirements.
172.204 Shipper's certification.
172.205 Hazardous waste manifest.

Subpart D—Marking

172.300 Applicability
172.301 General marking requirements for non-bulk packagings.
172.302 General marking requirements for bulk packagings.
172.303 Prohibited marking.
172.304 Marking requirements.
172.306 Consignee's or consignor's name and address.
172.308 Authorized abbreviations.
172.310 Radioactive materials.
172.312 Liquid hazardous materials in non-bulk packagings.
172.313 Poisonous hazardous materials.
172.316 Packagings containing material classed as ORM–D or ORM–E.
172.324 Hazardous substances in non-bulk packagings.
172.326 Portable tanks.
172.328 Cargo tanks.
172.330 Tank cars and multi-unit tank car tanks.
172.332 Identification number markings.
172.334 Identification numbers; special provisions and exceptions.
172.338 Replacement of identification numbers.

Subpart E—Labeling

172.400 General labeling requirements.
172.400a Exceptions from labeling.
172.401 Prohibited labeling.
172.402 Additional labeling requirements.
172.403 Radioactive material.
172.404 Labels for mixed and consolidated packagings.
172.405 Authorized label modifications.
172.406 Placement of labels.
172.407 Label specifications.
172.411 EXPLOSIVE 1.1, 1.2, 1.3, 1.4 and 1.5 labels.
172.415 NON-FLAMMABLE GAS label.
172.416 POISON GAS label.
172.417 FLAMMABLE GAS label.
172.419 FLAMMABLE LIQUID label.
172.420 FLAMMABLE SOLID label.
172.422 SPONTANEOUSLY COMBUSTIBLE label.
172.423 DANGEROUS WHEN WET label.
172.426 OXIDIZER label.
172.427 ORGANIC PEROXIDE label.
172.430 POISON label.
172.431 KEEP AWAY FROM FOOD label.
172.432 INFECTIOUS SUBSTANCE label.
172.436 RADIOACTIVE WHITE-I label.
172.438 RADIOACTIVE YELLOW-II label.
172.440 RADIOACTIVE YELLOW-III label.
172.442 CORROSIVE label.
172.448 CARGO AIRCRAFT ONLY label.

Subpart F—Placarding

172.500 Applicability of placarding requirements.
172.502 Prohibited and permissive placarding.
172.503 Identification number display on placards.
172.504 General placarding requirements.
172.505 Multiple placarding.
172.506 Providing and affixing placards: Highway.
172.507 Special placarding provisions: Highway.
172.508 Placarding and affixing placards: Rail.
172.510 Special placarding provisions: Rail.
172.512 Freight containers and aircraft unit load devices.
172.514 Bulk packagings other than tank cars.
172.516 Visibility and display of placards.
172.519 General specifications for placards.
172.521 DANGEROUS placard.
172.522 EXPLOSIVES 1.1, EXPLOSIVES 1.2 and EXPLOSIVES 1.3 placards.
172.523 EXPLOSIVES 1.4 placard.
172.524 EXPLOSIVES 1.5 placard.
172.525 Standard requirements for the RESIDUE placard.
172.527 Background requirements for certain placards.
172.528 NON-FLAMMABLE GAS placard.
172.532 FLAMMABLE GAS placard.
172.540 POISON GAS placard.
172.542 FLAMMABLE placard.
172.544 COMBUSTIBLE placard.
172.546 FLAMMABLE SOLID placard.
172.547 SPONTANEOUSLY COMBUSTIBLE placard.
172.548 DANGEROUS WHEN WET placard.
172.550 OXIDIZER placard.
172.552 ORGANIC PEROXIDE placard.
172.553 KEEP AWAY FROM FOOD placard.
172.554 POISON placard.
172.556 RADIOACTIVE placard.
172.558 CORROSIVE placard.

Appendix A to Part 172—Office of Hazardous Materials Transportation Color Tolerance Charts and Tables

Appendix B to Part 172—[Reserved]

Appendix C to Part 172—Dimensional Specifications for Recommended Placard Holder

In Part 172, §§ 172.101 and 172.102 would be revised, as follows:

Subpart B—Table of Hazardous Materials and Special Provisions

§ 172.101 Purpose and use of hazardous materials table.

(a) The Hazardous Materials Table (Table) in this section designates the materials listed therein as hazardous materials for the purpose of transportation of those materials. For each listed material, the Table identifies the hazard class or specifies that the material is forbidden in transportation, and gives the proper shipping name or directs the user to the preferred proper shipping name. In addition, the Table specifies or references requirements in this subchapter pertaining to labeling, packaging, quantity limits aboard aircraft and stowage of hazardous materials aboard vessels.

(b) *Column 1: Symbols.* Column 1 of the Table contains six symbols as appropriate: Plus (+) and the letters "A", "D", "E", "I" and "W".

(1) The plus (+) fixes the proper shipping name and the hazard class for that entry without regard to whether the material meets the definition of that class. An alternate proper shipping name and hazard class may be authorized by the Director, OHMT.

(2) The letter "A" restricts the application of requirements of this subchapter to materials offered or intended for transportation by aircraft unless—

(i) The letter "E" also appears with it and the material is a hazardous substance; or

(ii) The material is a hazardous waste.

(3) The letter "D" identifies proper shipping names which are appropriate for describing materials for domestic transportation but may be inappropriate for international transportation under the provisions of international regulations (e.g., IMO, ICAO). Except for hazardous substances or hazardous wastes classed as ORM–E materials, an alternate proper shipping name may be selected when international transportation is involved.

(4) The letter "E" identifies a material which is subject to the requirements of this subchapter, regardless of the mode of transportation or hazard class, if it is a hazardous substance (as defined in § 171.8 of this subchapter). A hazardous substance which does not meet the defining criteria for another hazard class remains subject to certain requirements of this subchapter as an ORM–E.

(5) The letter "I" identifies proper shipping names which are appropriate for describing materials in international transportation. An alternate proper shipping name may be selected when only domestic transportation is involved.

(6) The letter "W" restricts the application of requirements of this subchapter to materials offered or intended for transportation by vessel unless—

(i) The letter "E" also appears with it and the material is a hazardous substance; or

(ii) The material is a hazardous waste.

(c) *Column 2: Hazardous materials descriptions and proper shipping names.* Column 2 lists the hazardous materials descriptions and proper shipping names of materials designated as hazardous materials. Modification of a proper shipping name may otherwise be required or authorized by this section. Proper shipping names are limited to those shown in Roman type (not italics).

(1) Proper shipping names may be used in the singular or plural and in either capital or lower case letters.

(2) The words in italics are not part of the proper shipping name but may be used in addition to the proper shipping name. The word "or" in italics indicates that any terms in the sequence may be used as the proper shipping name as appropriate.

(3) The abbreviation "n.o.i." or "n.o.i.b.n." may be used interchangeably with "n.o.s.".

(4) Except for hazardous wastes, when qualifying words are used as part of the proper shipping name, their sequence in the package markings and shipping paper description is optional. However, the entry in the Table reflects the preferred sequence.

(5) Except for a material classed as an organic peroxide, when one entry references another entry by use of the word "*see*", if both names are in Roman type, either name may be used as the proper shipping name (e.g., Ethyl alcohol. *See* Ethanol). However, the referenced entry is preferred. For a material classed as an organic peroxide, the technical name shall be used as the proper shipping name. An organic peroxide formulation that is not listed by its technical name, shall be described as "organic peroxide, mixture", "Organic peroxide, sample, n.o.s.", or "organic peroxide, trial quantities, n.o.s.", as appropriate.

(6) When a proper shipping name includes a concentration range as part of the shipping description, the actual concentration, if it is within the range stated, may be used in place of the concentration range. For example, an aqueous solution of hydrogen peroxide containing 30 percent peroxide may be described as "Hydrogen peroxide, aqueous solution *with not less than 20 percent but not more than 40 percent hydrogen peroxide*" or "Hydrogen peroxide, aqueous solution *with 30 percent hydrogen peroxide*".

(7) Use of the prefix "mono" is optional in any shipping name when appropriate. Thus, Iodine monochloride may be used interchangeably with Iodine chloride. In "Glycerol alpha-monochlorohydrin" the term "mono" is considered a prefix to the term "chlorohydrin" and may be deleted.

(8) The numbers in italics following a proper shipping name of a material identified by the letter "E" in Column 1 specify, in pounds and kilograms, the minimum quantity of that material, excluding water and other formulating materials, which constitutes a reportable quantity, for purposes of determining whether the material is a hazardous substance as defined in § 171.8 of this subchapter. For example: Ammonia solution *(RQ–1000/454)* means that the reportable quantity for the ammonia is 1,000 pounds or 454 kilograms. Any formulating material identified by the letter "E" in Column 1 of the Table and used in a mixture or solution shall be evaluated independently for the RQ determination. For example, if Mevinphos *(RQ–1/0.454)* is mixed with Xylene *(RQ–1000/454)* and is in a 10-pound package described as "Organophosphorus pesticide, liquid, flammable, toxic, n.o.s." Mevinphos could be in that package in a reportable quantity, but there could not be a reportable quantity of the Xylene present in that package. Except as otherwise provided, a material in a hazard class other than ORM–E is subject to the requirements of this subchapter even if not packaged in a reportable quantity. A material in the ORM–E class that is neither a hazardous substance nor a hazardous waste (see § 171.8 of this subchapter) is not subject to the requirements of this subchapter.

(9) If the word "waste" is not included in the hazardous material description in Column 2 of the Table, the proper shipping name for a hazardous waste (as defined in § 171.8 of this subchapter shall include the word "Waste" preceding the proper shipping name of the material. For example: Waste acetone.

(10) A mixture or solution comprised of a hazardous material identified in the Table by technical name and nonhazardous material may be described using the proper shipping name of the hazardous material, if—

(i) The mixture or solution is not specifically identified in the Table;

(ii) The hazard class of the mixture or solution is the same as that of the hazardous material; and

(iii) The qualifying word "mixture" or "solution", as appropriate, is added as part of the proper shipping name.

Example: A solution of Acetone, mineral oil, and water, meeting the definition of a flammable liquid, may be described under this optional provision as "Acetone solution, 3, UN 1090, PG II."

(11) Except for a material subject to or prohibited by §§ 173.21, 173.51, 173.86(d), 173.86(e)(1) or 173.114a(g)(2) of this subchapter, a material for which the hazard class is uncertain and must be determined by testing or a material that is a hazardous waste may be assigned a tentative shipping name, hazard class and identification number, based on the shipper's tentative determination according to—

(i) Defining criteria in this subchapter;

(ii) The hazard precedence prescribed in § 173.2a of this subchapter; and

(iii) The shipper's knowledge of the material.

(12) Except when the proper shipping name in the Table is preceded by a plus (+)—

(i) If it is specifically determined that a material meets the definition of a hazard class other than the class shown in association with the proper shipping name, the material shall be described by an appropriate proper shipping name listed in association with the correct class for the material.

(ii) If an appropriate technical name is not shown in the Table, selection of a proper shipping name shall be made

from the generic descriptions or "n.o.s." entries corresponding to the specific hazard class of the material. The name that most appropriately describes the material shall be used; e.g., an alcohol not listed by its technical name in the Table shall be described as "Alcohol, n.o.s." rather than "Flammable liquid, n.o.s.". Some mixtures may be more appropriately described according to their application, such as "Coating solution" or "Extract, flavoring, liquid", rather than by an "n.o.s." entry, such as "Flammable liquid, n.o.s.". It should be noted, however, that an n.o.s. entry as a proper shipping name may not provide sufficient information for shipping papers and package markings. Under the provisions of Subparts C and D of this part, the technical name of the constituent which makes the product a hazardous material may be required in association with the proper shipping name.

(iii) If a material meets the definition of more than one hazard class, and is not identified in the Table by a specific description or a dual hazard "n.o.s." entry (e.g., "Flammable liquid, corrosive, n.o.s."), the hazard class of the material shall be determined by using the precedence specified in § 173.2a of this subchapter, and an appropriate shipping description shall be selected as described in paragraph (c)(12)(ii) of this section.

(iv) If it is specifically determined that a material is not a forbidden material and does not meet the definition of any hazard class, the material is not a hazardous material.

(13) When the proper shipping name in the Table is preceded by the letter "D", the hazardous material may be described by an "n.o.s." entry or generic proper shipping name in place of the more specific technical name. However, the technical name of the hazardous material shall be entered in association with the proper shipping name, when appropriate, as for a hazardous substance.

(d) *Column 3: Hazard class.* Column 3 contains a designation of the hazard class or division corresponding to each proper shipping name, or the word "Forbidden".

(1) A material for which the entry in this column is "Forbidden" may not be offered for transportation or transported. This prohibition does not apply if the material is diluted, stabilized or incorporated in a device and it is classed in accordance with the definitions of hazardous materials contained in Part 173 of this subchapter.

(2) When a reevaluation of test data or new data indicates a need to modify the "Forbidden" designation or the hazard class specified for a material specifically identified in the Table, this data should be submitted to the Director, OHMT.

(3) A basic description of each hazard class and the section reference for class definitions appear in § 173.2 of this subchapter.

(e) *Column 4: Identification number.* Column 4 lists the identification number assigned to each proper shipping name. Those preceded by the letters "UN" are associated with proper shipping names considered appropriate for international transportation as well as domestic transportation. Those preceded by the letters "NA" are associated with proper shipping names not recognized for international transportation, except to and from Canada. Identification numbers in the "NA9000" series are associated with proper shipping names not appropriately covered by international hazardous materials (dangerous goods) transportation standards, or not appropriately addressed by international transportation standards for emergency response information purposes, except for transportation between the United States and Canada.

(f) *Column 5: Packing group.* Column 5 specifies the packing group(s) assignment for a material conforming to the associated hazard class and proper shipping name. Classes 1 and 7 and Divisions 2.1 and 2.2 of Class 2 do not have packing groups. Packing groups I, II and III indicate the degree of danger presented by the material is either great, medium or minor, respectively. If more than one packing group is indicated for an entry, the packing group for the hazardous material is determined using the criteria for assignment of packing groups specified in Subpart D of Part 173. When a reevaluation of test data or new data indicates a need to modify the specified packing group(s), the data should be submitted to the Director, OHMT.

(g) *Column 6: Labels.* Column 6 specifies the hazard warning label(s) required for a package filled with a material conforming to the associated hazard class and proper shipping name, unless the package is otherwise excepted from labeling by provisions in Subpart D of Part 172, or Part 173 of this subchapter. The first label shown for each entry is indicative of the primary hazard of the material, additional labels are indicative of subsidiary hazards. Provisions in § 172.402 may require that a label other than that specified in Column 6 be affixed to the package in addition to that specified in Column 6.

(h) *Column 7: Special provisions.* Column 7 specifies codes for special provisions applicable to hazardous materials. When Column 7 refers to a special provision for a hazardous material, the meaning and requirements of that special provision are as set forth in § 172.102.

(i) *Column 8: Packaging authorizations.* Columns 8a, 8b and 8c specify the applicable sections for exceptions, non-bulk packaging requirements and bulk packaging requirements, respectively, in Part 173 of this subchapter. Columns 8a, 8b and 8c are completed in a manner which indicates that "§ 173." precedes the designated numerical entry. For example, the entry "202" in column 8b associated with the proper shipping name "Gasoline" indicates that for this material conformance to non-bulk packaging requirements prescribed in § 173.202 of this subchapter is required. When packaging requirements are specified, they are in addition to the standard requirements for all packagings prescribed in § 173.24 of this subchapter and any other applicable requirements in Subparts A and B of Part 173 of this subchapter.

(1) *Exceptions.* Column 8a contains exceptions from some of the requirements of this subchapter. The referenced exceptions are in addition to those specified in Subpart A of Part 173 and elsewhere in this subchapter. A "None" in this column means no packaging exceptions are authorized, except as may be provided by special provisions in Column 7.

(2) *Non-bulk packaging.* Column 8b references the section in Part 173 of this subchapter which prescribes packaging requirements for non-bulk packagings. A "None" in this column means non-bulk packagings are not authorized, except as may be provided by special provisions in Column 7. Each reference in this column to a material which is a hazardous waste or a hazardous substance, and whose proper shipping name is preceded in column 1 of the Table by the letter "A" or "W", is modified to include "§ 173.204" on those occasions when the material is offered for transportation or transported by a mode in which its transportation is not otherwise subject to requirements of this subchapter.

(3) *Bulk packaging.* Column 8c specifies the section in Part 173 of this subchapter which prescribes packaging requirements for bulk packagings other than IM portable tanks. A "None" in this column means bulk packagings are not authorized, except as may be provided by special provisions in Column 7. Authorizations for use of IM portable tanks are set forth in Column 7.

(j) *Column 9: Quantity limitations.* Columns 9a and 9b specify the maximum quantities that may be offered for transportation in one package by passenger-carrying aircraft or rail car (Column 9a) or by cargo aircraft only (Column 9b), subject to the following:

(1) "Forbidden" means the material may not be offered for transportation or transported in the applicable mode of transport.

(2) The quantity limitation is "net" except where otherwise specified, such as for "Consumer commodity" which specifies "65 lbs. gross."

(3) When articles or devices are specifically listed by name, the net quantity limitation applies to the entire article or device (less packaging and packaging materials) rather than only to its hazardous components.

(4) A package offered or intended for transportation by aircraft and which is filled with a material forbidden on passenger-carrying aircraft but permitted on cargo aircraft only, or which exceeds the maximum net quantity authorized on passenger-carrying aircraft, shall be labelled with the CARGO AIRCRAFT ONLY label specified in § 172.448 of this Part.

(k) *Column 10: Vessel stowage requirements.* Columns 10a (Cargo vessel) and 10b (Passenger vessel) specify the authorized stowage locations on board vessels. Column 10c (Other stowage provisions) specifies codes for stowage requirements for specific hazardous materials. The meaning of each code in Column 10c is set forth in § 176.84 of this subchapter. Section 176.63 of this subchapter sets forth the physical requirements for each of the authorized locations listed in columns 10a and 10b. (For bulk transportation by vessel, see 46 CFR Parts 30 to 40, 70, 98, 148, 151, 153 and 154.) The authorized stowage locations specified in Columns 10a and 10b are defined as follows:

(1) "1" means the material shall be stowed "on deck."

(2) "2" means the material must be stowed "under deck."

(3) "3" means the material must be stowed "under deck away from heat."

(4) "1,2" means the material may be stowed "on deck" or "under deck." However, "under deck" stowage should be used, if available.

(5) "1,3" means the material may be stowed "on deck" or "under deck away from heat." However, "under deck away from heat" stowage should be used, if available.

(6) "4" means the material may be transported on a passenger vessel in only the quantity specified in column 9a of the Table, and is subject to the stowage requirements specified for a cargo vessel for the same material.

(7) "5" means the material is forbidden and may not be offered for transportation or transported by vessel.

(8) "6" means the material shall be transported in a magazine subject to the requirements of §§ 176.135 through 176.144 of this subchapter.

(l) *Changes to the Table.* (1) Unless specifically stated otherwise in the amendment or the "Effective date" entry in its preamble, if any entry in this Table is changed by an amendment to this subchapter—

(i) Such a change does not apply to the shipment of any package filled prior to the effective date of the amendment; and

(ii) Stocks of preprinted shipping papers and package markings may be continued in use, in the manner previously authorized, until depleted or for a one-year period, subsequent to the effective date of the amendment, whichever is less.

(2) A shipping description or any associated entry which is listed in the § 172.101 Table may be altered, if the alteration is approved by the Director, OHMT.

(3) A shipping description or any associated entry which is listed in the current edition of the IMDG Code but is not listed in the § 172.101 Table may be used as if it were listed in the Table, if approved by the Director, OHMT.

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Accellerene, see p-Nitrosodimethylaniline													
	Accumulators, electric, see Batteries, wet etc..													
D	Accumulators, pressurized (*pneumatic or hydraulic*) *containing non-flammable gas.*	2.2	NA1956		NONFLAMMABLE GAS.		306	306	None	No limit	No limit	1,2	1,2	
	Acetal	3	UN1088	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	5	12
E	Acetaldehyde (*RQ-1000/454*)	3	UN1089	I	FLAMMABLE LIQUID.	B16, N1, N15, T20, T26, T29.	None	201	243	Forbidden	30 L	1,3	5	12
AE	Acetaldehyde ammonia (*RQ-1000/454*)	9	UN1841	III	None		155	204	241	200 kg	200 kg	1,2	1,2	34
	Acetaldehyde oxime	3	UN2332	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	
E	Acetic acid, glacial *or* Acetic acid solution, *more than 80 per cent acid, by weight* (*RQ-1000/454*).	8	UN2789	II	CORROSIVE	B2, N1, N11, N26, N35, T8.	154	202	242	1 L	30 L	1,3	1,3	21
DE	Acetic acid solution *10 percent or less* (*RQ-1000/454*).	ORM-E	NA2790	III	None		156	203	241	1 L	30 L	1,2	1,2	
E	Acetic acid solution, *more than 10 per cent but not more than 80 per cent acid, by weight* (*RQ-1000/454*).	8	UN2790	II	CORROSIVE	B2, N1, N11, N26, N35, T8.	154	202	242	1 L	30 L	1,2	1,2	
E	Acetic anhydride (*RQ-1000/454*)	8	UN1715	II	CORROSIVE	B2, N1, N11, N26, N35, T8.	154	202	242	1 L	30 L	1,3	1,3	21, 40, 77
	Acetone	3	UN1090	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	
E	Acetone cyanohydrin (*RQ-10/4.54*)	6.1	UN1541	I	POISON	B14, B32, N1, N16, N34, 10.	None	227	244	Forbidden	Forbidden	1	5	25, 26, 27, 40, 95
	Acetone oils	3	UN1091	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	30 L	1,3	1	
	Acetonitrile, see Methyl cyanide													
	Acetyl acetone peroxide (3,5-Dimethyl-3,5-dihydroxydioxolane-1,2), *not more than 40 per cent in solution and not more than 9% by weight active oxygen.*	5.2	UN2080	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Acetyl acetone peroxide, (3,5-dimethyl-3,5-dihydroxydioxonale-1,2), *not more than 32% as a paste with not less than 44% solvent, not less than 9% water and not less than 11% inert solid.*	5.2	UN3061	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2
	Acetyl acetone peroxide with more than 9% by weight active oxygen.	Forbidden												
	Acetyl benzoyl peroxide, *not more than 40 per cent in solution.*	5.2	UN2081	II	ORGANIC PEROXIDE.		None	225	None	5 L	10 L	1	5	12, 40
	Acetyl benzoyl peroxide, solid, or more than 40% in solution.	Forbidden												
E	Acetyl bromide (*RQ-5000/2270*)	8	UN1716	II	CORROSIVE	B2, T12, T26.	154	202	242	1 L	30 L	1	1	80, 40
E	Acetyl chloride (*RQ-5000/2270*)	3	UN1717	II	FLAMMABLE LIQUID, CORROSIVE.	N1, N11, N16, N26, N34, T18, T26.	None	202	243	1 L	5 L	1,3	1	40
	Acetyl cyclohexanesulfonyl peroxide, more than 82 per cent wetted with less than 12 per cent water.	Forbidden												
	Acetyl cyclohexanesulfonyl peroxide, *not more than 32 per cent in solution.*	5.2	UN2083	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Acetyl cyclohexanesulfonyl peroxide, *not more than 82 per cent, wetted with not less than 12 per cent water.*	5.2	UN2082	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Acetylene, dissolved	2.1	UN1001		FLAMMABLE GAS.		None	303	None	Forbidden	15 kg	1	1	25, 40, 57, 93
	Acetylene (liquefied)	Forbidden												
	Acetylene silver nitrate	Forbidden												
	Acetylene tetrabromide, see Tetrabromoethane.													
	Acetyl iodide	8	UN1898	II	CORROSIVE	B2, T9	154	202	242	1 L	30 L	1	1	80, 40
	Acetyl methyl carbinol	3	UN2621	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Acetyl peroxide, *see* Diacetyl peroxide, *etc.*													
	Acid butyl phosphate, see Butyl acid phosphate.													
D	Acid, liquid, n.o.s.	8	NA1760	II	CORROSIVE	B2	154	202	242	1 L	5 L	1,2	1	
	Acid, sludge, *see* Sludge acid													
	Acridine	4.1	UN2713	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	40
	Acrolein dimer, stabilized	3	UN2607	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	
E	Acrolein, inhibited (*RQ-1/0.454*)	3	UN1092	I	FLAMMABLE LIQUID, POISON.	B14, B30, 10.	None	226	244	Forbidden	Forbidden	1,3	5	12, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Acrylamide	6.1	UN2074	III	KEEP AWAY FROM FOOD.	T8	153	213	240	100 kg	200 kg	1,2	1,2	12, 25, 34
	Acrylic acid, inhibited	8	UN2218	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1	1	80, 12, 21, 25, 40
E	Acrylonitrile, inhibited (*RQ-100/45.4*)	3	UN1093	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	5	12, 40
	Actuating cartridge, explosive, see Cartridges, power device.													
	Adhesives, *containing flammable liquid*	3	UN1133	II	FLAMMABLE LIQUID.	T7, T30	150	173	242	5 L	60 L	1,3	1	12
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	173	242	60 L	220 L	1,3	1,3	12
DE	Adipic acid (*RQ-5000/2270*)	ORM-E	NA9077	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Adiponitrile	6.1	UN2205	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	25, 34
	Aerosols, corrosive, n.o.s., *each not exceeding 1L capacity.*	2.2	UN1950		NONFLAMMABLE GAS, CORROSIVE.		None	302, 304, 305	None	75 kg	150 kg	1,3	1,3	40, 48, 85
	Aerosols, flammable, n.o.s. (*each not exceeding 1 L capacity*).	2.1	UN1950		FLAMMABLE GAS.		306	302, 304, 305	None	75 kg	150 kg	1,3	1,3	40, 48, 85
	Aerosols, non-flammable, n.o.s. (*each not exceeding 1 L capacity*).	2.2	UN1950		NONFLAMMABLE GAS.		306, 307	302, 304, 305	None	75 kg	150 kg	1,3	1,3	48, 85
	Aerosols, poison, n.o.s., *each not exceeding 1L capacity.*	2.3	UN1950	II	POISON GAS	10	None	302, 304, 305	None	Forbidden	Forbidden	1,3	1,3	40, 48, 85
	Air, compressed	2.2	UN1002		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	Aircraft evacuation slides, *see* Life rafts, *etc.*.													
D	Aircraft hydraulic power unit fuel tank (*containing a mixture of anhydrous hydrazine and monomenthyl hydrazine*) (*M86 fuel*).	3	NA9302	I	FLAMMABLE LIQUID, POISON, CORROSIVE.		None	172	None	Forbidden	42 L	1,3	5	
	Aircraft survival kits, *see* Life rafts, *etc.*													
	Aircraft thrust device *to assist take-off*	4.1	UN2791	II	FLAMMABLE SOLID.		None	180	None	Forbidden	250 kg	1,3	5	
	Air, refrigerated liquid, *low pressure or pressurized.*	2.2	UN1003		NONFLAMMABLE GAS, OXIDIZER.		320	316	318, 319	Forbidden	150 kg	1,3	1,3	55, 51, 85
	Air, refrigerated liquid, *non-pressurized*	2.2	UN1003		NONFLAMMABLE GAS, OXIDIZER.		320	316	318, 319	Forbidden	Forbidden	1,3	1,3	85
	Alarm devices, explosive, *automatic*	1.4S	UN0001											
	Alcoholic beverages	3	UN3065	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60	202 L	1,3	1,3	
	Alcohols, n.o.s	3	UN1987	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	12
				III	FLAMMABLE LIQUID.	T7, T30	150	203	242	60 L	220 L	1,3	1,3	12
	Alcohols, toxic, n.o.s.	3	UN1986	II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	12, 40
	Aldehydes, n.o.s.	3	UN1989	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	12
				III	FLAMMABLE LIQUID.	T7, T30	150	203	242	60 L	220 L	1,3	1,3	12
	Aldehydes, toxic, n.o.s.	3	UN1988	II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	5	12, 40
	Aldol	6.1	UN2839	II	POISON	T8	None	202	243	5 L	60 L	1,3	1,3	12, 25, 95
DE	Aldrin (*RQ-1/0.454*)	6.1	NA2761	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
DE	Aldrin, *RQ 1/0.454*	6.1	NA2762	II	POISON		None	212	243	5 L	60 L	1,3	1,3	
	Alkali metal alloys, liquid, n.o.s.	4.3	UN1421	I	DANGEROUS WHEN WET.	A2, N1, N15, N34.	None	201	244	Forbidden	1 L	1	5	
	Alkali metal amalgams, liquid	4.3	UN1389	I	DANGEROUS WHEN WET.	A2, N1, N15, N34.	None	201	244	Forbidden	1 L	1,3	1,3	
	Alkali metal amalgams, solid n.o.s	4.3	UN1389	I	DANGEROUS WHEN WET.	A2, N1, N15, N34.	None	211	242	Forbidden	15 kg	1,3	1,3	
	Alkali metal amides	4.3	UN1390	II	DANGEROUS WHEN WET.	A19, A20, N2, N11, N26.	None	212	241	15 kg	50 kg	1,3	5	40
	Alkali metal dispersions *or* Alkali earth metal dispersions.	4.3	UN1391	I	DANGEROUS WHEN WET.	A2, N1, N15, N34.	None	201	244	Forbidden	1 L	1	5	
	Alkaline corrosive liquids, n.o.s., see Caustic alkali liquids, n.o.s..													
	Alkaline earth metal alloys, n.o.s.	4.3	UN1393	II	DANGEROUS WHEN WET.	A19	None	212	241	15 kg	50 kg	1,3	5	
	Alkaline earth metal amalgams	4.3	UN1392	I	DANGEROUS WHEN WET.	A19, N34	None	211	242	Forbidden	15 kg	1,3	1,3	
	Alkaloids, n.o.s., *or* Alkaloid salts, n.o.s., *poisonous liquid.*	6.1	UN1544	I	POISON		None	201	243	1 L	30 L	1,2	1,2	95
				II	POISON		None	202	243	5 L	60 L	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	
	Alkaloids, n.o.s., *or* Alkaloid salts, n.o.s., *poisnous solid.*	6.1	UN1544	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
	Alkylamines, n.o.s. *or* Polyalkylamines, n.o.s., *corrosive, flammable.*	8	UN2734	I	CORROSIVE, FLAMMABLE LIQUID.	N1, N11, N34, T8, T31.	None	201	243	.5 L	2.5 L	1,3	1,3	22
				II	CORROSIVE, FLAMMABLE LIQUID.	T8, T31	None	202	243	1 L	30 L	1,3	1,3	22
	Alkylamines, n.o.s. *or* Polyalkylamines, n.o.s., *flammable, corrosive.*	3	UN2733	I	FLAMMABLE LIQUID, CORROSIVE.	T42	None	201	243	.5 L	2.5 L	1,3	1	40
				II	FLAMMABLE LIQUID, CORROSIVE.	T8, T31	None	202	243	1 L	5 L	1,3	1	40
				III	FLAMMABLE LIQUID, CORROSIVE.	B1, T8, T31.	None	203	242	5 L	60 L	1,3	1,3	
	Alkylamines, n.o.s, *or* Polyalkylamines, n.o.s., *corrosive.*	8	UN2735	I	CORROSIVE	B4, N1, N11, N34, T42.	None	201	242	.5 L	2.5 L	1,2	1	
				II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
				III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
	Alkyl, Aryl *or* Toluene sulfonic acid, liquid, *with more than 5 per cent free sulfuric acid.*	8	UN2584	II	CORROSIVE	B2, T8, T27.	154	202	242	1 L	30 L	1,2	1	9
	Alkyl, Aryl *or* Toluene sulfonic acid, liquid, *with not more than 5 per cent free sulfuric acid.*	8	UN2586	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1	9
	Alkyl, Aryl *or* Toluene sulfonic acid, solid, *with more than 5 per cent free sulfuric acid.*	8	UN2583	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Alkyl, Aryl *or* Toluene sulfonic acid, solid, *with not more than 5 per cent free sulfuric acid.*	8	UN2585	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Alkyl phenols, n.o.s. (*including C2-C8 homologues*) *liquid.*	6.1	UN2430	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Alkyl phenols, n.o.s. (*including C2-C8 homologues*) *solid.*	6.1	UN2430	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Allethrin, see Pesticides, liquid, toxic, n.o.s.													
	Allyl acetate	3	UN2333	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	5	12, 40, 94
E	Allyl alcohol (*RQ-100/45.4*)	3	UN1098	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	5	40
	Allylamine	3	UN2334	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	5	12, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Allyl bromide	3	UN1099	I	FLAMMABLE LIQUID, POISON.	T18	None	201	243	Forbidden	30 L	1,3	5	40
E	Allyl chloride (*RQ-1000/454*)	3	UN1100	I	FLAMMABLE LIQUID, POISON.	T18, T26	None	201	243	Forbidden	30 L	1,3	5	12, 40
	Allyl chlorocarbonate, see Allyl chloroformate.													
	Allyl chloroformate	8	UN1722	I	CORROSIVE	B4, N1, N34, N41, T18, T26.	None	201	242	Forbidden	2.5 L	1	5	21, 40, 77
	Allyl ethyl ether	3	UN2335	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	5	12, 40
	Allyl formate	3	UN2336	I	FLAMMABLE LIQUID, POISON.	T18, T26	None	201	243	Forbidden	30 L	1,3	5	12, 40
	Allyl glycidyl ether	3	UN2219	III	FLAMMABLE LIQUID.	B1, T7	150	203	242	60 L	220 L	1,3	1,3	
	Allyl iodide	3	UN1723	I	FLAMMABLE LIQUID, CORROSIVE.	N1, N11, N34, T18.	None	201	243	.5 L	2.5 L	1,3	5	40
	Allyl isothiocyanate, inhibited	6.1	UN1545	II	POISON	N1, N15, N16, N17, N26, T17.	None	202	243	Forbidden	60 L	1	5	21, 25, 40, 95
	Allyltrichlorosilane, stabilized	8	UN1724	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	21, 40, 77
	Aluminum alkyl halides	4.2	UN3052	I	SPONTANEOUSLY COMBUSTIBLE.	B11, T28, T29, T40.	None	181	244	Forbidden	Forbidden	1	5	
	Aluminum alkyls	4.2	UN3051	I	SPONTANEOUSLY COMBUSTIBLE.	B11, T28, T29, T40.	None	181	244	Forbidden	Forbidden	1	5	
	Aluminum borohydride *or* Aluminum borohydride in devices.	4.2	UN2870	I	SPONTANEOUSLY COMBUSTIBLE.	B11	None	181	244	Forbidden	Forbidden	1	5	
	Aluminum bromide, anhydrous	8	UN1725	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	40
	Aluminum bromide, solution	8	UN2580	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
	Aluminum carbide	4.3	UN1394	II	DANGEROUS WHEN WET.	A20, N34, N41.	None	212	242	15 kg	50 kg	1,3	1,3	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Aluminum chloride, anhydrous	8	UN1726	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	40
	Aluminum chloride, solution	8	UN2581	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
	Aluminum dross, wet or hot	Forbidden												
	Aluminum ferrosilicon powder	4.3	UN1395	II	DANGEROUS WHEN WET, POISON.	A19	None	212	242	15 kg	50 kg	1,3	1,3	40
	Aluminum hydride	4.3	UN2463	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	
	Aluminum nitrate	5.1	UN1438	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Aluminum phosphate solution, see Corrosive liquids, n.o.s.													
	Aluminum phosphide	4.3	UN1397	I	DANGEROUS WHEN WET, POISON.	A19, N2	None	211	242	Forbidden	15 kg	1,3	5	40, 85
	Aluminum phosphide pesticides	6.1	UN3048	I	POISON	N2	None	211	242	Forbidden	15 kg	1,2	1,2	95
	Aluminum powder, coated, *not less than 20 per cent aluminum powder, particle size less than 250 microns.*	4.1	UN1309	II	FLAMMABLE SOLID.		151	212	240	15 kg	50 kg	1,3	1,3	13, 39
	Aluminum powder, uncoated	4.3	UN1396	II	DANGEROUS WHEN WET.	A19, A20	None	212	240	15 kg	50 kg	1,3	1,3	39
	Aluminum resinate	4.1	UN2715	III	FLAMMABLE SOLID.		151	213	240	25 kg	100 kg	1,3	1,3	
	Aluminum silicon powder, uncoated	4.3	UN1398	III	DANGEROUS WHEN WET.	A1, A19	None	213	241	25 kg	100 kg	1,3	1,3	40
DE	Aluminum sulfate, solid (*RQ-5000/2270*)	ORM-E	NA9078	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Aluminum sulfate solution (*RQ-5000/2270*)	8	NA1760	III	CORROSIVE		154	203	241	15 kg	50 kg	1,2	1,2	
	Amatols, see Explosives, blasting, type B													
	2-Amino-4-chlorophenol	6.1	UN2673	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	2-Amino-5-diethylaminopentane	6.1	UN2946	III	KEEP AWAY FROM FOOD.	T1	153	203	240	60 L	220 L	1,2	1,2	34
	2-(2-Aminoethoxy) ethanol	8	UN3055	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,2	1,2	
	N-Aminoethylpiperazine	8	UN2815	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,3	1,3	12
	Aminophenols (*o-,m-,p-*)	6.1	UN2512	III	KEEP AWAY FROM FOOD.	T1	153	213	240	100 kg	200 kg	1,2	1,2	34
	Aminopropyldiethanolamine, see Alkylamines, n.o.s.													
	n-Aminopropylmorpholine, see Alkylamines, n.o.s.													
	Aminopyridines (*o-,m-,p-*)	6.1	UN2671	II	POISON	T7	None	212	242	25 kg	100 kg	1,3	1	12, 40, 95
E	Ammonia, anhydrous, liquefied	2.3	UN1005	III	POISON GAS	10	None	304	314, 315	Forbidden	Forbidden	1.2	5	40, 57
	Ammonia solutions, *density (specific gravity) between 0.880 and 0.957 at 15 degrees C in water, with more than 10 per cent but not more than 35 percent ammonia*(*RQ-1000/454*)	8	UN2672	III	CORROSIVE	T14	154	203	241	5 L	60 L	1,2	1,2	40, 85

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Ammonia solutions, *density (specific gravity) less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia* (RQ-1000/454.	2.2	UN1005		NONFLAMMABLE GAS.	B13	306	304	314, 315	Forbidden	25 kg	1,3	5	40, 57, 85, 95
E	Ammonia solutions, *density (specific gravity) less than 0.880 at 15 degrees C in water, with more than 35 per cent but not more than 50 per ce t ammonia (RQ-1000/454).*	2.2	UN2073		NONFLAMMABLE GAS.		306	304	314, 315	5 L	60 L	1,3	5	40, 57, 85
DE	Ammonia solutions *with 10 per cent or less ammonia (RQ-1000/454).*	ORM-E	NA2672	III	None		156	203	241	No limit	No limit	1,2	1,2	
DE	Ammonium acetate (*RQ-5000/2270*)	ORM-E	NA9079	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Ammonium arsenate	6.1	UN1546	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	27, 95
	Ammonium azide	Forbidden												
DE	Ammonium benzoate (*RQ-5000/2270*)	ORM-E	NA9080	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Ammonium bicarbonate (*RQ-5000/2270*)	ORM-E	NA9081	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Ammonium bifluoride, solid, see Ammonium hydrogen fluoride, solid.													
	Ammonium bifluoride solution, see Ammonium hydrogen fluoride, solution.													
DE	Ammonium bisulfite, solid solution (*RQ-5000/2270*).	8	NA2693	III	CORROSIVE		154	213	240	5 L	60 L	1,2	1,2	
D	Ammonium bisulfite, solution (*RQ-5000/2270*).	8	NA2693	III	CORROSIVE		154	203	241	5 L	60 L	1,2	1,2	
	Ammonium bromate	Forbidden												
DE	Ammonium carbamate (*RQ-5000/2270*)	ORM-E	NA9083	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Ammonium carbonate (*RQ-5000/2270*)	ORM-E	NA9084	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Ammonium chlorate	Forbidden												
DE	Ammonium chloride (*RQ-5000/2270*)	ORM-E	NA9085	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Ammonium chromate (*RQ-1000/454*)	ORM-E	NA9086	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Ammonium citrate, dibasic (*RQ-5000/2270*).	ORM-E	NA9087	III	None		156	213	240	No limit	No limit	1,2	1,2	
E	Ammonium dichromate (*ammonium bichromate*) (*RQ-1000/454*) solid.	5.1	UN1439	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	34
D	Ammonium dichromate (*ammonium bichromate*) solution (*RQ-1000/454*).	5.1	UN1439	II	OXIDIZER		152	202	241	5 L	60 L	1,2	1,2	
	Ammonium dinitro-o-cresolate	6.1	UN1843	II	POISON	T8	None	212	242	Forbidden	100 kg	1,2	1	36, 65, 66, 77
DE	Ammonium fluoborate (*RQ-5000/2270*)	8	NA9088	III	CORROSIVE		154	213	240	15 kg	50 kg	1,2	1,2	
E	Ammonium fluoride (*RQ-5000/2270*)	6.1	UN2505	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
E	Ammonium fluorosilicate (*RQ-1000/454*)	6.1	UN2854	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Ammonium fulminate	Forbidden												
E	Ammonium hydrogen fluoride, solid (*RQ-5000/2270*).	8	UN1727	II	CORROSIVE	N34	154	212	240	15 kg	50 kg	1,2	1,2	26, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Ammonium hydrogen fluoride, solution (*RQ-5000/2270*).	8	UN2817	II	CORROSIVE, POISON.	N34, T15...	None	202	243	1 L	30 L	1,2	1,2	40
AW	Ammonium hydrogen sulfate	8	UN2506	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	27, 40
	Ammonium hydrosulfide, solution, see Ammonium sulfide solution.													
D	Ammonium hydroxide, *see* Ammonia solutions, *etc.*.													
	Ammonium metavanadate	6.1	UN2859	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Ammonium nitrate fertilizers, n.o.s.	5.1	UN2072	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,3	1,3	31, 48, 59, 60
	Ammonium nitrate fertilizers: *uniform non-segregating mixtures of ammonium nitrate/ ammonium sulfate, with more than 45 per cent but not more than 70 per cent ammonium nitrate and not more than 0.4 per cent of total combustible material.*	5.1	UN2069	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 59, 60
	Ammonium nitrate fertilizers: *uniform non-segregating mixtures of ammonium nitrate with added matter which is inorganic and chemically inert towards ammonium nitrite, with not less than 90 per cent ammonium nitrate and not more than 0.2 per cent combustible material (including organic material calculated as carbon), or with more than 70 per cent but less than 90 per cent ammonium nitrate and not more than 0.4 per cent total combustible material.*	5.1	UN2067	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 59, 60
	Ammonium nitrate fertilizers: *uniform non-segregating mixtures of ammonium nitrate with calcium carbonate and/or dolomite, with more than 80 per cent but less than 90 per cent ammonium nitrate and not more than 0.4 per cent total combustible material.*	5.1	UN2068	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 59, 60
	Ammonium nitrate fertilizers: *uniform non-segregating mixtures of nitrogen/phosphate or nitrogen/potash types or complete fertilizers of nitrogen/phosphate/ potash type, with more than 70 per cent but less than 90 per cent ammonium nitrate and not more than 0.4 per cent total combustible material.*	5.1	UN2070	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 59, 60

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
AW	Ammonium nitrate fertilizers: *uniform non-segregating mixtures of nitrogen/phosphate or nitrogen/potash types or complete fertilizers of nitrogen/ phosphate/ potash type, with not more than 70 per cent ammonium nitrate and not more than 0.4 per cent total added combustible material or with not more than 45 per cent ammonium nitrate with unrestricted combustible material.*	9	UN2071	III	None		155	213	240	No limit	No limit	1,2	1,2	
D	Ammonium nitrate fertilizers *with not more than 0.2 percent carbon; which meet the definition in the Fertilizer Institute publication 'Definition and Test Procedures for Ammonium Nitrate Fertilizer', dated May 8, 1971.*	5.1	NA1942	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 60
	Ammonium nitrate fertilizer: *which is more liable to explode than ammonium nitrate with 0.2 per cent combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance.*	1.1D	UN0223											
	Ammonium nitrate, liquid (*hot concentrated solution*).	5.1	UN2426	II	OXIDIZER	B5, B17, T25.	None	None	243	Forbidden	Forbidden	5	5	
	Ammonium nitrate, *with more than 0.2 per cent combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance.*	1.1D	UN0222											
	Ammonium nitrate, *with not more than 0.2 per cent combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance.*	5.1	UN1942	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 59, 60
	Ammonium nitrite	Forbidden												
DE	Ammonium oxalate (*RQ-5000/2270*)	6.1	NA2449	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
	Ammonium perchlorate	5.1	UN1442	II	OXIDIZER	N13, N34	152	212	240	5 kg	25 kg	1,2	5	46
	Ammonium perchlorate, *average particle size less than 45 microns.*	1.1D	UN0402											
	Ammonium permanganate, see Permanganates, inorganic, n.o.s..													
	Ammonium persulfate	5.1	UN1444	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Ammonium picrate, *dry or wetted with less than 10 per cent water, by weight.*	1.1D	UN0004											
	Ammonium picrate, wetted *with not less than 10 per cent water, by weight.*	4.1	UN1310	I	FLAMMABLE SOLID.	A2, N15, N34, N41.	None	211	None	0.5 kg	0.5 kg	1	5	36

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ammonium polysulfide, solution	8	UN2818	II	CORROSIVE, POISON.	T14	None	202	243	1 L	30 L	1,3	1	12, 26, 40
	Ammonium polyvanadate	6.1	UN2861	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Ammonium silicofluoride, see Ammonium fluorosilicate.													
DE	Ammonium sulfamate (*RQ-5000/2270*)	ORM-E	NA9089	III	None		156	213	240	No limit	No limit	1,2	1,2	
E	Ammonium sulfide solution (*RQ-5000/2270*).	8	UN2683	II	CORROSIVE, POISON, FLAMMABLE LIQUID.	T14	None	202	243	1 L	30 L	1,3	1	12, 22, 49
DE	Ammonium sulfite (*RQ-5000/2270*)	ORM-E	NA9090	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Ammonium tartrate (*RQ-5000/2270*)	ORM-E	NA9091	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Ammonium thiocyanate (*RQ-5000/2270*)	ORM-E	NA9092	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Ammonium thiosulfate (*RQ-5000/2270*)	ORM-E	NA9093	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Ammunition, blank, see Cartridges for weapons, blank.													
	Ammunition, illuminating *with or without burster, expelling charge or propelling charge.*	1.2G	UN0171											
	Ammunition, illuminating *with or without burster, expelling charge or propelling charge.*	1.3G	UN0254											
	Ammunition, illuminating *with or without burster, expelling charge or propelling charge.*	1.4G	UN0297											
	Ammunition, incendiary *liquid or gel, with burster, expelling charge or propelling charge.*	1.3J	UN0247											
	Ammunition, incendiary (*other than water-activated ammunition*), *without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge.*	1.2G	UN0009											
	Ammunition, incendiary (*other than water-activated ammunition*), *without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge.*	1.3G	UN0010											
	Ammunition, incendiary (*other than water-activated ammunition*), *without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge.*	1.4G	UN0300											
	Ammunition, incendiary (*water-activated contrivances*) *with burster, expelling charge or propelling charge, see* Contrivances, water-activated, etc..													
	Ammunition, incendiary, white phosphorus, *with burster, expelling charge or propelling charge.*	1.2H	UN0243											

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ammunition, incendiary, white phosphorus, *with burster, expelling charge or propelling charge.*	1.3H	UN0244											
	Ammunition, practice	1.4G	UN0362											
	Ammunition, proof	1.4G	UN0363											
	Ammunition, rocket, see Warheads, rocket *etc.*.													
	Ammunition, SA (small arms), see Cartridges for weapons, *etc.*.													
	Ammunition, smoke (*other than water-activated ammunition*), *without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge.*	1.3G	UN0016											
	Ammunition, smoke (*other than water-activated ammunition*), *without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge.*	1.4G	UN0303											
	Ammunition, smoke (*other than water-activated ammunition*), *without white phosphorus or phosphides with or without burster, expelling charge or propelling charge.*	1.2G	UN0015											
	Ammunition, smoke (water-activated contrivances), white phosphorus, with burster, expelling charge or propelling charge, see Contrivances, water-activated, *etc. (UN 0248).*													
	Ammunition, smoke (water-activated contrivances), without white phosphorus or phosphides, with burster, expelling charge or propelling charge, see Contrivances, water-activated, *etc. (UN 0249).*													
	Ammunition, smoke, white phosphorus (*other than water-activated ammunition*), *with burster, expelling charge or propelling charge.*	1.3H	UN0246											
	Ammunition smoke, white phosphorus (*other than water-activated ammunition*), *with burster, expelling charge or propelling charge.*	1.2H	UN0245											
	Ammunition, sporting, see Cartridges for weapons, *etc. (UN 0012; 0328; 0339).*													
	Ammunition, tear-producing, non-explosive, *without burster or expelling charge, nonfuzed.*	6.1	UN2017	II	POISON, CORROSIVE.		None	212	None	Forbidden	50 kg	1,2	5	13, 20, 40, 95
	Ammunition, tear-producing *with burster, expelling charge or propelling charge.*	1.2G	UN0018											

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ammunition, tear-producing *with burster, expelling charge or propelling charge.*	1.3G	UN0019											
	Ammunition, tear-producing *with burster, expelling charge or propelling charge.*	1.4G	UN0301											
	Ammunition, toxic, nonexplosive, *without burster or expelling charge, non-fuzed.*	6.1	UN2016	II	POISON		None	212	None	Forbidden	100 kg	1,2	5	13, 40, 95
	Ammunition, toxic (*other than water-activated ammunition*), *with burster, expelling charge or propelling charge.*	1.2K	UN0020											
	Ammunition, toxic (*other than water-activated ammunition*), *with burster, expelling charge or propelling charge.*	1.3K	UN0021											
	Ammunition, toxic (water-activated contrivances), with burster, expelling charge or propelling charge, see Contrivances, water-activated, *etc.*													
	Amorces, see Caps, toy													
E	Amyl acetates (*RQ-1000/454*)	3	UN1104	III	FLAMMABLE LIQUID.	T1	150	203	241	5 L	60 L	1,3	1	
	Amyl acid phosphate	8	UN2819	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	
	Amyl alcohols	3	UN1105	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B2, T1	150	203	242	60 L	220 L	1,3	1,3	
	Amylamine	3	UN1106	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Amyl butyrates	3	UN2620	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Amyl chloride	3	UN1107	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	n-Amylene	3	UN1108	I	FLAMMABLE LIQUID.	T14	150	201	243	1 L	30 L	1,3	5	12
	Amyl formates	3	UN1109	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242			1,3	1,3	
	Tert - Amyl hydroperoxide *not more than 88% in solution with not less than 6% water.*	5.2	UN3067	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	
	Amyl mercaptan	3	UN1111	II	FLAMMABLE LIQUID.	N1, N15, T8.	None	202	242	5 L	60 L	1,3	1	
	Amyl methyl ketone	3	UN1110	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Amyl nitrate	3	UN1112	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Amyl nitrite	3	UN1113	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12, 40
	tert-Amylperoxybenzoate, *not more than 92 per cent in solution.*	5.2	UN3044	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	tert-Amyl peroxy-2-ethylhexanoate, *technically pure.*	5.2	UN2898	II	ORGANIC PEROXIDE.		152	225	None	Forbidden	Forbidden	1	5	20, 40
	tert-Amyl peroxyneodecanoate, *not more than 75 per cent with phlegmatiser.*	5.2	UN2891	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	tert-Amyl peroxypivalate, *not more than 77 per cent in solution.*	5.2	UN2957	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Amyltrichlorosilane	8	UN1728	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	77, 40
	Anhydrous hydrofluoric acid, see Hydrogen fluoride, anhydrous.													
E	Aniline (*RQ-1000/454*)	6.1	UN1547	II	POISON	T8	None	202	243	Forbidden	60 L	1,2	1,2	26, 40, 44, 95
	Aniline hydrochloride	6.1	UN1548	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	27, 34
	Aniline oil, see Aniline													
	Anisidines *liquid*	6.1	UN2431	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	34
	Anisidines *solid*	6.1	UN2431	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Anisole	3	UN2222	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,2	1,2	
	Anisoyl chloride	8	UN1729	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1	1	80, 13, 40
	Anti-freeze liquid, see Flammable liquids, n.o.s..													
	Antimonous chloride, see Antimony trichloride.													
	Antimony compounds, inorganic, n.o.s. *poisonous liquid.*	6.1	UN1549	I	POISON		None	201	243	1 L	30 L	1,2	1,2	95
				II	POISON		None	202	243	5 L	60 L	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	203	240	60 L	220 L	1,2	1,2	34
	Antimony compounds, inorganic, n.o.s. *poisonous solid.*	6.1	UN1549	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Antimony lactate	6.1	UN1550	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
E	Antimony pentachloride, liquid (*RQ-1000/454*).	8	UN1730	II	CORROSIVE	B2, T8, T26.	None	202	242	1 L	30 L	1	1	80, 13, 40
E	Antimony pentachloride, solution (*RQ-1000/454*).	8	UN1731	II	CORROSIVE	B2, T8, T27.	154	202	242	1 L	30 L	1	1	80, 40

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Antimony pentafluoride	8	UN1732	II	CORROSIVE, POISON.	N1, N3, N11, N16, N26, N35, T12, T26.	None	202	243	Forbidden	30 L	1	5	40
E	Antimony potassium tartrate (*RQ-1000/454*).	6.1	UN1551	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Antimony powder	6.1	UN2871	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Antimony sulfide and a chlorate, mixtures of.	Forbidden												
	Antimony sulfide, solid, see Antimony compounds, inorganic, n.o.s..													
DE	Antimony tribromide, solid (*RQ-1000/454*)	8	NA1549	II	CORROSIVE		154	212	240	25 kg	100 kg	1,2	1,2	
D	Antimony tribromide, solution (*RQ-1000/454*).	8	NA1549	II	CORROSIVE	B2	154	202	242	1 L	30 L	1	1	
E	Antimony trichloride , solid (*RQ-1000/454*)	8	UN1733	II	CORROSIVE		154	212	240	25 kg	100 kg	1,2	1,2	40
DE	Antimony trichloride solution (*RQ-1000/454*).	8	NA1549	II	CORROSIVE	B2	154	202	242	1 L	30 L	1	1	
DE	Antimony trifluoride, solid (*RQ-1000/454*)	8	NA1549	II	CORROSIVE		154	212	240	25 kg	25 kg	1,2	1,2	
DE	Antimony trifluoride solution (*RQ-1000/454*).	8	NA1549	II	CORROSIVE	B2	154	202	242	1 L	30 L	1	1	
DE	Antimony trioxide (*RQ-5000/2270*)	ORM-E	NA9201	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Aqua ammonia, see Ammonia solution, *etc.* .													
	Argon, compressed	2.2	UN1006		NONFLAMMABLE GAS.		306	302	314, 315	75 kg	150 kg	1,3	1,3	85
	Argon, refrigerated liquid (*cryogenic liquid*)	2.2	UN1951		NONFLAMMABLE GAS.		320	316	318	50 kg	500 kg	1,3	1	85
	Arsenic acid, liquid	6.1	UN1553	I	POISON	T18, T27	None	201	243	1 L	30 L	1,2	1,2	95
	Arsenic acid, solid	6.1	UN1554	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Arsenical dust	6.1	UN1562	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Arsenical pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2760	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Arsenical pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2993	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	21, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	241	60 L	220 L	1,2 ..	1,2	21, 34
	Arsenical pesticides, liquid, toxic, n.o.s.	6.1	UN2994	I	POISON	T42	None	201	243	1 L	30 L	1	1	95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34
	Arsenical pesticides, solid, toxic, n.o.s.	6.1	UN2759	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
	.....	.....	.....	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Arsenic bromide	6.1	UN1555	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	12, 40, 95
	Arsenic chloride, see Arsenic trichloride	.....	.....											
	Arsenic compounds, liquid, n.o.s., *including: Arsenates, n.o.s; Arsenites, n.o.s.; Arsenic sulfides, n.o.s.; Organic compounds of arsenic, n.o.s.; and Arsenic mixtures, n.o.s.*	6.1	UN1556	I	POISON		None	201	243	1 L	30 L	1,2	1	40, 95
	.....	.....	.....	II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1	34, 40
	Arsenic compounds, solid, n.o.s., *including. Arsenates, n.o.s.; Arsenites, n.o.s.; Arsenic sulfides, n.o.s.; Organic compounds of arsenic, n.o.s.; and Arsenic mixtures, n.o.s.*	6.1	UN1557	I	POISON		None	211	242	5 kg	50 kg	1,2	1	95
	.....	.....	.....	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
E	Arsenic pentoxide (*RQ-5000/2270*)	6.1	UN1559	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Arsenic *solid*	6.1	UN1558	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
DE	Arsenic sulfide (*RQ-5000/2270*)	6.1	NA1557	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Arsenic sulfide and a chlorate, mixtures of	Forbidden	.....											
E	Arsenic trichloride (*RQ-5000/2270*)	6.1	UN1560	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	40, 95
E	Arsenic trioxide (*RQ-5000/2270*)	6.1	UN1561	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
DE	Arsenic trisulfide (*RQ-5000/2270*)	6.1	NA1557	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Arsenic, white, solid, see Arsenic trioxide	.....	.....											
	Arsenious acid, solid, see Arsenic trioxide	.....	.....											
	Arsenious and mercuric iodide solution, see Arsenic compounds, liquid, n.o.s.	.....	.....											
	Arsine	2.3	UN2188	IA	POISON GAS, FLAMMABLE GAS.	10	None	192	245	Forbidden	Forbidden	1	5	40, 95
	Articles, explosive, n.o.s.	1.4S	UN0349											
	Articles, explosive, n.o.s.	1.4B	UN0350											
	Articles, explosive, n.o.s.	1.4C	UN0351											
	Articles, explosive, n.o.s.	1.4D	UN0352											
	Articles, explosive, n.o.s.	1.4G	UN0353											
	Articles, explosive, n.o.s.	1.1L	UN0354											
	Articles, explosive, n.o.s.	1.2L	UN0355											
	Articles, explosive, n.o.s.	1.3L	UN0356											
	Articles, pyrophoric	1.2L	UN0380											

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Articles, pyrotechnic *for technical purposes*	1.1G	UN0428											
	Articles, pyrotechnic *for technical purposes*	1.2G	UN0429											
	Articles, pyrotechnic *for technical purposes*	1.3G	UN0430											
	Articles, pyrotechnic *for technical purposes*	1.4G	UN0431											
	Articles, pyrotechnic *for technical purposes*	1.4S	UN0432											
	Asbestos, blue	9	UN2212	II	None		155	216	240	Forbidden	Forbidden	1,2	1,2	
	Asbestos, white (*chrysolite, actinolite, anthophyllite, tremolite*).	9	UN2590	III	None		155	216	240	200 kg	200 kg	1,2	1,2	
	Ascaridole (*organic peroxide*)	Forbidden												
DW	Asphalt, *at or above its flashpoint*	9	NA1999	III	None		155	None	242	Forbidden	Forbidden	1	5	
D	Asphalt, cut back, *see* Tars, liquid, *etc.*													
	Auto alarms, see Alarm devices, explosive													
	Automobile, motorcycle, tractor, or other self-propelled vehicle, engine, or other mechanical apparatus. See Vehicles, self-propelled.													
	Azaurolic acid (*salt of*) (*dry*)	Forbidden												
	Azidodithiocarbonic acid	Forbidden												
	Azidoethyl nitrate	Forbidden												
	Azido guanidine picrate (*dry*)	Forbidden												
	5-Azido-1-hydroxy tetrazole	Forbidden												
	Azido hydroxy tetrazole (*mercury and silver salts*).	Forbidden												
	3-Azido-1,2-Propylene glycol dinitrate	Forbidden												
DE	Azinphos methyl (*RQ-1/0.454*) *solid*	6.1	NA2783	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
DE	Azinphos methyl *liquid* (*RQ-1/0.454*)	6.1	NA2783	II	POISON		None	202	243	1 L	30 L	1,2	1,2	
	1-Aziridinyl phosphine oxide-(*tris*), *see* Tri-(1-aziridinyl) phosphine oxide, solution.													
	2,2'-Azodi-(2,4-dimethyl-4-methoxyvaleronitrile).	4.1	UN2955	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2
	2,2'-Azodi-(2,4 dimethylvaleronitrile)	4.1	UN2953	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2
	1,1'-Azodi-(hexahydrobenzonitrile)	4.1	UN2954	II	FLAMMABLE SOLID.		None	214	None	15 kg	50 kg	1,3	5	25
	Azodiisobutyronitrile	4.1	UN2952	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2
	2,2'-Azodi (2-methyl-butyronitrile)	4.1	UN3030	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	23, 52, 53
	Azotetrazole (*dry*)	Forbidden												
	Bags, having contained sodium nitrate, empty, unwashed.	4.1	UN1359	III	FLAMMABLE SOLID.		None	204	246	Forbidden	100 kg	1,3	5	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Barium	4.3	UN1400	II	DANGEROUS WHEN WET.	A19	None	212	241	15 kg	50 kg	1,3	5	
	Barium alloys, pyrophoric	4.2	UN1854	II	SPONTANEOUSLY COMBUSTIBLE.		None	181	None	Forbidden	Forbidden	1	5	
	Barium azide, *dry or wetted with less than 50 per cent water, by weight.*	1.1A	UN0224											
	Barium azide, wetted *with not less than 50 per cent water, by weight.*	4.1	UN1571	I	FLAMMABLE SOLID, POISON.	A2	None	182	None	Forbidden	Forbidden	1	5	36
	Barium bromate	5.1	UN2719	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	34, 46, 56
	Barium chlorate	5.1	UN1445	II	OXIDIZER, POISON.	N13, N34, T8.	None	212	242	5 kg	25 kg	1,2	1,2	46, 56, 95
	Barium compounds, n.o.s., *except Barium sulfate.*	6.1	UN1564	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
E	Barium cyanide (*RQ-10/4.54*)	6.1	UN1565	I	POISON	N74, N75	None	211	242	5 kg	50 kg	1,2	1,2	26, 40, 95
	Barium hypochlorite *with more than 22 per cent available chlorine.*	5.1	UN274	II	OXIDIZER	N13, N26, N34.	152	212	None	5 kg	25 kg	1,2	1,2	34
	Barium nitrate	5.1	UN1446	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	95
	Barium oxide	6.1	UN1884	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Barium perchlorate	5.1	UN1447	II	OXIDIZER, POISON.	T8	None	212	242	5 kg	25 kg	1,2	1,2	46, 95
					Poison									
	Barium permanganate	5.1	UN1448	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	56, 69, 95
	Barium peroxide	5.1	UN1449	II	OXIDIZER, POISON.		None	212	2	5 kg	25 kg	1,2	1,2	13, 95
	Barium selenate, *see* Selenates *or* Selenites.													
	Barium selenite, *see* Selenates *or* Selenites.													
AW	Batteries, dry, containing potassium hydroxide solid, *electric, storage.*	8	UN3028	III	CORROSIVE		159	159	None	25 kg gross.	25 kg gross.	1,2	1,2	
	Batteries, wet, filled with acid, *electric storage.*	8	UN2794	II	CORROSIVE		159	159	None	25 kg gross.	230 kg gross.	1,2	1,2	
	Batteries, wet, filled with alkali, *electric storage.*	8	UN2795	III	CORROSIVE		159	159	None	25 kg gross.	230 kg gross.	1,2	1,2	
AW	Batteries, wet, non-spillable, *electric storage.*	8	UN2800	III	CORROSIVE		159	159	None	No Limit	No Limit	1,2	1,2	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Battery fluid, acid	8	UN2796	II	CORROSIVE	B2, B15, N1, N26, N34, T9, T27.	154	202	242	1 L	30 L	1,2	1	33
	Battery fluid, alkali	8	UN2797	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
	Battery lithium type, see Lithium batteries													
E	Benzene (*RQ-1000/454*)	3	UN1114	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Benzene diazonium chloride (dry)	Forbidden												
	Benzene diazonium nitrate (dry)	Forbidden												
	Benzene-1,3-disulfohydrazide, *not more than 52 per cent as a paste.*	4.1	UN2971	II	FLAMMABLE SOLID.		None	214	None	15 kg	50 kg	1,3	1,3	12, 25, 48, 52, 53, 85
	Benzene phosphorus dichloride, see Phenyl phosphorus dichloride.													
	Benzene phosphorus thiodichloride, see Phenyl phosphorus thiodichloride.													
	Benzene sulfohydrazide	4.1	UN2970	II	FLAMMABLE SOLID.		None	214	None	15 kg	50 kg	1,3	1,3	12, 25, 48, 52, 53, 85
	Benzene sulfonyl chloride	8	UN2225	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	40
	Benzenethiol, see Phenyl mercaptan													
	Benzene triozonide	Forbidden												
	Benzidine	6.1	UN1885	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Benzine	3	UN1115	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	5	12
DE	Benzoic acid (*RQ-5000/2270*)	ORM-E	NA9094	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Benzoic derivative pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2770	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Benzoic derivative pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3003	I	POISON	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON	T18	None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	T18	153	203	241	60 L	220 L	1,2	1,2	21, 34, 40
	Benzoic derivative pesticides, liquid, toxic, n.o.s..	6.1	UN3004	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	40, 34

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Benzoic derivative pesticides, solid, toxic, n.o.s.	6.1	UN2769	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Benzol, see Benzene													
E	Benzonitrile (*RQ-1000/454*)	6.1	UN2224	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	26, 40, 95
	Benzoquinone	6.1	UN2587	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Benzotrichloride	8	UN2226	II	CORROSIVE	B2, T15	154	202	242	1 L	30 L	1,2	1,2	40
	Benzotrifluoride	3	UN2338	II	FLAMMABLE LIQUID.	T2	150	202	242	5 L	60 L	1,3	1	40
	Benzoxidiazoles (dry)	Forbidden												
	Benzoyl azide	Forbidden												
E	Benzoyl chloride (*RQ-1000/454*)	8	UN1736	II	CORROSIVE	B2, T9, T26.	154	202	242	1 L	30 L	1	1	80, 40
	Benzoyl peroxide, see Dibenzoyl peroxide, *etc.*													
	Benzyl bromide	6.1	UN1737	II	POISON, CORROSIVE.	N1, N26, N33, N34, T12, T26.	None	202	243	Forbidden	30 L	1	5	40
E	Benzyl chloride (*RQ-100/45.4*)*stabilized*	6.1	UN1738	II	POISON, CORROSIVE.	B41, N1, N26, N33, T12, T26.	None	202	243	Forbidden	30 L	1	5	13, 20, 40, 95
E	Benzyl chloride *unstabilized* (*RQ-100/45.4*)	6.1	UN1738	II	POISON, CORROSIVE.	B8, B11, N1, N26, N33, N34, T12, T26.	None	202	243	Forbidden	30 L	1	5	13, 20
	Benzyl chloroformate	8	UN1739	I	CORROSIVE	B4, N1, N11, N34, N41, T18, T26.	None	201	242	Forbidden	2.5 L	1	5	40
	Benzyl dimethylamine	8	UN2619	II	CORROSIVE	B2, T1	154	202	242	1 L	30 L	1,3	1,3	21, 40, 48
	4-(Benzyl(ethyl)amino)-3-ethoxybenzenediazonium zinc chloride.	4.1	UN3037	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2
	Benzylidene chloride	6.1	UN1886	II	POISON	T8	None	202	243	5 L	60 L	1	5	40, 95
	Benzyl iodide	6.1	UN2653	II	POISON	T8	None	202	243	5 L	60 L	1,3	1	12, 40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	4-(Benzyl(methyl)amino)3-ethoxybenzenediazonium zinc chloride.	4.1	UN3038	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2
DE	Beryllium chloride (*RQ-5000/2270*)	6.1	NA1566	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Beryllium compounds, n.o.s.	6.1	UN1566	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
DE	Beryllium fluoride (*RQ-5000/2270*)	6.1	NA1566	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
E	Beryllium nitrate (*RQ-5000/2270*)	5.1	UN2464	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,3	1,3	12, 48, 95
	Beryllium, powder	6.1	UN1567	II	POISON, FLAMMABLE SOLID.		None	212	242	15 kg	50 kg	1,2	1,2	24, 95
	Bifluorides, n.o.s.	8	UN1740	II	CORROSIVE	N3, N34	None	212	240	15 kg	50 kg	1,2	1,2	25, 26, 40
	Biphenyl triozonide	Forbidden												
	Bipyridilium pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2782	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Bipyridilium pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3015	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,3	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	242	60 L	220 L	1,3	1,3	21, 34, 40
	Bipyridilium pesticides, liquid, toxic, n.o.s.	6.1	UN3016	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Bipyridilium pesticides, solid, toxic, n.o.s.	6.1	UN2781	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	bis (Aminopropyl) piperazine, see Corrosive liquid, n.o.s..													
	Bisulfites, inorganic, aqueous solutions, n.o.s..	8	UN2693	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	89, 40, 49
	Black powder (Gunpowder), compressed *or* Black powder (Gunpowder), in pellets.	1.1D	UN0028											
	Black powder (Gunpowder), *granular or as a meal.*	1.1D	UN0027											
	Blasting agent, n.o.s., see Explosives, blasting.													
	Blasting cap assemblies, see Detonator assemblies, non-electric, *for blasting.*													
	Blasting caps, electric, see Detonators, electric *for blasting.*													

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Blasting caps, non-electric, see Detonators, non-electric, *for blasting.*													
	Bleaching powder, see Calcium hypochlorite mixtures, *etc.*.													
	Bombs, photo-flash	1.1F	UN0037											
	Bombs, photo-flash	1.1D	UN0038											
	Bombs, photo-flash	1.2G	UN0039											
	Bombs, photo-flash	1.3G	UN0299											
	Bombs, smoke, non-explosive, *with corrosive liquid, without initiating device.*	8	UN2028	II	CORROSIVE		None	160	None	Forbidden	50 kg	1,2	5	40
	Bombs, *with bursting charge*	1.1F	UN0033											
	Bombs, *with bursting charge*	1.1D	UN0034											
	Bombs, *with bursting charge*	1.2D	UN0035											
	Bombs, *with bursting charge*	1.2F	UN0291											
	Bombs with flammable liquid, *with bursting charge.*	1.1J	UN0399											
	Bombs with flammable liquid, *with bursting charge.*	1.2J	UN0400											
	Boosters, with detonator	1.1B	UN0225											
	Boosters, with detonator	1.2B	UN0268											
	Boosters, *without detonator*	1.1D	UN0042											
	Boosters, *without detonator*	1.2D	UN0283											
	Borate and chlorate mixtures, see Chlorate and borate mixtures.													
	Borneol	4.1	UN1312	III	FLAMMABLE SOLID.	A1		213	240	25 kg	100 kg	1,3	1,3	
	Boron tribromide	8	UN2692	I	CORROSIVE AND POISON.	N1, N11, N26, N34, T18, T27.	None	201	243	Forbidden	25 L	1	1	12, 34
	Boron trichloride	2.3	UN1741	IA	POISON GAS, CORROSIVE.	10	None	304	245	Forbidden	Forbidden	1,3	5	25, 34, 40, 85
	Boron trifluoride	2.3	UN1008	II	POISON GAS	B14, B31, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 95
	Boron trifluoride acetic acid complex	8	UN1742	II	CORROSIVE	B2, B6, T9, T27.	154	202	242	1 L	30 L	1,2	1,2	
	Boron trifluoride diethyl etherate	4.3	UN2604	II	DANGEROUS WHEN WET, CORROSIVE, FLAMMABLE LIQUID.	A19, T8, T26.	None	202	243	1 L	5 L	1	5	40
	Boron trifluoride dihydrate	8	UN2851	II	CORROSIVE	T9, T27	154	212	240	15 kg	50 kg	1,3	1	12, 40
	Boron trifluoride dimethyl etherate	4.3	UN2965	II	DANGEROUS WHEN WET, CORROSIVE, FLAMMABLE LIQUID.	A19, T8, T26.	None	202	243	1 L	5 L	1	5	
	Boron trifluoride propionic acid complex	8	UN1743	II	CORROSIVE	B2, T9, T27.	154	202	242	1 L	30 L	1,2	1,2	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Box toe gum, see Nitrocellulose													
	Brake fluid, *hydraulic*	3	UN1118	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Bromates, inorganic, n.o.s.	5.1	UN1450	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Bromine *or* Bromine solutions	8	UN1744	I	CORROSIVE, POISON.	N1, N11, N34, N41, T18, T41, 10.	None	227	249	Forbidden	Forbidden	1	5	12
	Bromine azide	Forbidden												
	Bromine chloride	2.3	UN2901	IB	POISON GAS, CORROSIVE, OXIDIZER.	B12, B14, B31, 10.	None	304	244	Forbidden	Forbidden	1	5	31, 40, 95
	Bromine pentafluoride	5.1	UN1745	I	OXIDIZER, POISON, CORROSIVE.	B14, B30, 10.	None	228	244	Forbidden	Forbidden	1	5	13, 25, 40, 95
	Bromine trifluoride	5.1	UN1746	I	OXIDIZER, POISON, CORROSIVE.	B14, B32, 10.	None	228	244	Forbidden	Forbidden	1	5	13, 25, 40, 95
	Bromoacetic acid, solid	8	UN1938	II	CORROSIVE	N26, N34, T9.	154	212	240	15 kg	50 kg	1,2	1,2	
	Bromoacetic acid, solution	8	UN1938	II	CORROSIVE	B2, T9	154	212	242	1 L	30 L	1,2	1,2	13
	Bromoacetone	6.1	UN1569	I	POISON	B14, B30, 10.	None	193	244	Forbidden	Forbidden	1	5	21, 40, 95
	Bromoacetyl bromide	8	UN2513	II	CORROSIVE	B2, T9, T26.	154	202	242	1 L	30 L	1	1	8
	Bromobenzene	3	UN2514	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Bromobenzyl cyanides, liquid	6.1	UN1694	I	POISON	T18	None	201	243	Forbidden	30 L	1	5	12, 40, 95
	Bromobenzyl cyanides, solid	6.1	UN1694	I	POISON	T18	None	201	241	Forbidden	50 kg	1	5	12, 40
	2-Bromobutane	3	UN2339	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	40
	Bromochloromethane	6.1	UN1887	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	4-Bromo-1,2-dinitrobenzene	Forbidden												
	2-Bromoethyl ethyl ether	3	UN2340	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Bromoform	6.1	UN2515	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,3	1,3	12, 34, 40
	1-Bromo-3-methylbutane	3	UN2341	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
	Bromomethylpropanes	3	UN2342	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	1-Bromo-3-nitrobenzene (unstable at 56 deg C).	Forbidden	.....											
	2-Bromopentane	3	UN2343	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Bromopropanes	3	UN2344	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	40
	.....	.....	.....	III	.....	B1, T3, T7.	150	203	241	60 L	220 L	1,3	1,3	
	Bromopropanes	3	UN2344	III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,2	1	
	3-Bromopropyne	3	UN2345	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Bromosilane	Forbidden	.....											
	Bromotoluene-alpha, see Benzyl bromide	.....	.....											
	Bromotrifluoroethylene	2.1	UN2419	.....	FLAMMABLE GAS.	B13	None	304	244	Forbidden	150 kg	1,3	5	40, 85
	Bromotrifluoromethane (*R-13B1 or H-1301*)	2.1	UN1009	.....	NONFLAMMABLE GAS.	.....	306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Brucine	6.1	UN1570	I	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Bursters, *explosive*	1.1D	UN0043											
	Butadiene, inhibited	2.1	UN1010	.....	FLAMMABLE GAS.	.....	306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Butane *or* Butane mixtures *see also* Petroleum gases, liquified.	2.1	UN1011	.....	FLAMMABLE GAS.	.....	306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Butane, butane mixtures and mixtures having similar properties in cartridges each not exceeding 500 grams, see Receptacles, *etc.*.	.....	.....											
	Butanedione	3	UN2346	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	1,2,4-Butanetriol trinitrate	Forbidden	.....											
	Butanols	3	UN1120	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	tert-Butoxycarbonyl azide	Forbidden	.....											
	Butoxyl	3	UN2708	III	FLAMMABLE LIQUID.	T1	150	203	241	60 L	220 L	1,3	1,3	
E	Butyl acetates (*RQ-5000/2270*)	3	UN1123	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T1	150	202	241	60 L	220 L	1,3	1,3	
	Butyl acid phosphate	8	UN1718	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	
	Butylacrylate	3	UN2348	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T7, T30.	150	202	241	60 L	220 L	1,3	1,3	
	Butyl alcohols, see Butanols	.....	.....											
E	n-Butylamine (*RQ-1000/454*)	3	UN1125	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	N-Butylaniline	6.1	UN2738	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Butyl benzenes	3	UN2709	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	n-Butyl bromide	3	UN1126	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	n-Butyl chloride, see Chlorobutanes	.....	.....											
	sec-Butylchloroformate	6.1	NA2743	I	POISON, CORROSIVE.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1,3	12, 40, 95
	n-Butylchloroformate	6.1	UN2743	I	POISON, CORROSIVE.	T18	None	201	243	Forbidden	1 L	1,3	1,3	12, 13, 21, 25, 40, 95
	tert-Butyl cumyl peroxide, *technically pure*	5.2	UN2091	II	ORGANIC PEROXIDE.	.....	152	225	None	5 L	10 L	1	5	12, 40
	tert-Butylcyclohexylchloroformate	6.1	UN2747	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,3	1,3	12, 13, 25, 34
	n-Butyl-4,4-di-(tertbutylperoxy) valerate, *not more than 52 per cent with inert solid.*	5.2	UN2141	II	ORGANIC PEROXIDE.	.....	None	225	None	5 kg	10 kg	1	5	12, 40
	n-Butyl-4,4-di-(tertbutylperoxy) valerate, *technically pure.*	5.2	UN2140	II	ORGANIC PEROXIDE.	.....	152	225	None	5 L	5 L	1	5	12, 40
	Butylene	2.1	UN1012	.....	FLAMMABLE GAS.	.....	None	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	1,2-Butylene oxide, stabilized	3	UN3022	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Butyl ethers, see Dibutyl ethers	.....	.....											
	Butyl ethyl ether, see Ethyl butyl ether	.....	.....											
	n-Butyl formate	3	UN1128	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	tert-Butyl hydroperoxide, more than 90 per cent with water.	Forbidden	.....											
	tert-Butyl hydroperoxide, *more than 72 per cent but not more than 90 per cent with water.*	5.2	UN2094	I	ORGANIC PEROXIDE.	.....	None	225	None	1 L	5 L	1	5	12, 40
	tert-Butyl hydroperoxide, *not more than 72 per cent with water.*	5.2	UN2093	I	ORGANIC PEROXIDE.	T9, T37	None	225	None	1 L	5 L	1	5	12, 40
	tert-Butyl hydroproxide, *not more than 80 per cent in di-tert-butyl peroxide, or* tert-Butyl hydroperoxide, *not more than 80 per cent in di-tert-butyl peroxide and solvent or* tert-Butyl hydroperoxide, *not more than 80 per cent in solvent.*	5.2	UN2092	I	ORGANIC PEROXIDE, FLAMMABLE LIQUID.	.....	None	225	None	1 L	5 L	1	5	12, 40
	N,n-Butyl imidazole	6.1	UN2690	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	40, 95
	tert-Butyl isocyanate	3	UN2484	I	FLAMMABLE LIQUID, POISON.	B14, B32, N26, 10.	None	227	244	Forbidden	Forbidden	1	5	12, 40, 48

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	n-Butyl isocyanate	3	UN2485	I	FLAMMABLE LIQUID, POISON.	B14, B32, N26, 10.	None	227	244	Forbidden	Forbidden	1	5	12, 40, 48
	Butyl mercaptan	3	UN2347	II	FLAMMABLE LIQUID.	N1, N15, T8.	150	202	242	5 L	60 L	1,3	1	
	-Butyl methacrylate	3	UN2227	II	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Butyl methyl ether	3	UN2350	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	tert-Butyl monoperoxymaleate, *not more than 55 per cent as a paste.*	5.2	UN2101	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	tert-Butyl monoperoxymaleate, *not more than 55 per cent in solution.*	5.2	UN2100	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	tert-Butyl monoperoxymaleate, *technically pure.*	5.2	UN2099	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	tert-Butyl monoperoxyphthalate, *technically pure.*	5.2	UN2105	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Butyl nitrite	3	UN2351	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
				III	FLAMMABLE LIQUID.	T8	150	202	241	60 L	220 L	1,3	1,3	40
	tert-Butyl peroxyacetate, more than 76 per cent in solution.	Forbidden												
	tert-Butyl peroxyacetate, *not more than 76 per cent in solution.*	5.2	UN2095	II	ORGANIC PEROXIDE.		152	225	None	Forbidden	Forbidden	1	5	12, 40
	tert-Butyl peroxyacetate, *not more than 52 per cent in solution.*	5.2	UN2096	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	tert-Butyl peroxybenzoate, *not more than 50 per cent with inert inorganic solid.*	5.2	UN2890	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	tert-Butyl peroxybenzoate, *not more than 75 per cent in solution.*	5.2	UN2098	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	tert-Butyl peroxybenzoate, *technically pure or* tert-Butyl peroxybenzoate, *more than 75 per cent in solution.*	5.2	UN2097	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	tert-Butyl peroxycrotonate, *not more than 76 per cent in solution.*	5.2	UN2183	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	n-Butyl peroxydicarbonate, see Di-n-butyl peroxidicarbonate, *etc.*.													
	tert-Butyl peroxydiethylacetate, *not more than 33 per cent,* with tert-Butyl peroxybenzoate, *not more than 33 per cent, and solvent.*	5.2	UN2551	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	tert-Butyl peroxydiethylacetate, *technically pure.*	5.2	UN2144	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	tert-Butyl peroxy-2-ethylhexanoate, *not more than 30 per cent* with 2,2-Di(tert-butyl-peroxy) butane, *not more than 35 per cent, with not less than 35 per cent phlegmatizer.*	5.2	UN2886	II	ORGANIC PEROXIDE.		152	225	None	Forbidden	Forbidden	1	5	20, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	tert-Butyl peroxy-2-ethylhexanoate, *not more than 50 per cent with phlegmatizer.*	5.2	UN2888	II	ORGANIC PEROXIDE.		152	225	None	Forbidden	Forbidden	1	5	20, 40
	tert-Butyl peroxy-2-ethylhexanoate, *not more than 12 per cent* with 2,2-Di-(tert-butyl-peroxy) butane, *not more than 14 per cent, with not less than 14 per cent phlegmatizer and 60 per cent inert organic solid.*	5.2	UN2887	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	tert-Butyl peroxy-2-ethylhexanoate, *technically pure.*	5.2	UN2143	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	tert-Butyl peroxyisobutyrate, *more than 52 per cent but not more than 77 per cent in solution.*	5.2	UN2142	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	tert-Butyl peroxyisobutyrate, more than 77 per cent in solution.	Forbidden												
	tert-Butyl peroxyisobutyrate, *not more than 52 per cent in solution.*	5.2	UN2562	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	tert-Butylperoxy isopropyl carbonate, *technically pure.*	5.2	UN2103	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	tert-Butyl peroxyneodecanoate, *not more than 77 per cent in solution.*	5.2	UN2177	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	tert-Butyl peroxyneodecanoate, *technically pure.*	5.2	UN2594	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	3-tert-Butylperoxy-3-phenylphthalide, *technically pure.*	5.2	UN2596	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	tert-Butyl peroxypivalate, *not more than 77 per cent in solution.*	5.2	UN2110	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	tert-Butyl peroxypivalate, *not more than 72 per cent in solution.*	5.2	UN3047	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	tert-Butylperoxy stearyl carbonate, *technically pure.*	5.2	UN3062	II	ORGANIC PEROXIDE.		None	255	None	Forbidden	Forbidden	1	5	
	tert-Butyl peroxy-3,5,5-trimethylhexanoate, *technically pure.*	5.2	UN2104	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Butylphenols, liquid	6.1	UN2228	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Butylphenols, solid	6.1	UN2229	III	KEEP AWAY FROM FOOD.	T7, T38	153	213	240	100 kg	200 kg	1,2	1,2	34
	Butyl phosphoric acid, see Butyl acid phosphate.													
DE	n-Butyl phthalate (*RQ-100/45.4*)	ORM-E	NA9095	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Butylpropionate	3	UN1914	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Butyl toluenes	6.1	UN2667	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	22, 25, 34
	Butyltrichlorosilane	8	UN1747	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	21, 40, 77

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	5-tert-Butyl-2,4,6-trinitro-m-xylene (Musk xylene).	4.1	UN2956	III	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	12, 25, 48
	Butyl vinyl ether, inhibited	3	UN2352	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	40
	1,4-Butynediol	4.1	UN2716	III	FLAMMABLE SOLID.	A1	None	213	240	25 kg	100 kg	1,2	1	52, 53, 67, 70
	Butyraldehyde	3	UN1129	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Butyraldoxime	3	UN2840	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
E	Butyric acid (*RQ-5000/2270*)	8	UN2820	III	CORROSIVE	T1	154	203	241	5 L	60 L	1,3	1,3	12
	Butyric anhydride	8	UN2739	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,2	1,2	
	Butyronitrile	3	UN2411	II	FLAMMABLE LIQUID, POISON.	T14	None	202	243	1 L	60 L	1,3	5	12, 40
	Butyryl chloride	3	UN2353	II	FLAMMABLE LIQUID, CORROSIVE.	T9, T26	None	202	243	1 L	5 L	1	1	13, 25, 40
	Cabazide	Forbidden												
	Cacodylic acid	6.1	UN1572	II	POISON		None	212	242	25 kg	100 kg	1,2	5	26, 95
DE	Cadmium acetate (*RQ-100/45.4*)	6.1	NA2570	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
DE	Cadmium bromide (*RQ-100/45.4*)	6.1	NA2570	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
DE	Cadmium chloride (*RQ-100/45.4*)	6.1	NA2570	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Cadmium compounds, *except Cadmium selenide and Cadmium sulfide.*	6.1	UN2570	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Calcium	4.3	UN1401	II	DANGEROUS WHEN WET.		None	212	241	15 kg	50 kg	1,3	5	
E	Calcium arsenate (*RQ-1000/454*)	6.1	UN1573	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
E	Calcium arsenate and calcium arsenite, mixtures, solid (*RQ-1000/454*).	6.1	UN1574	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
DE	Calcium arsenite, solid (*RQ-1000/454*)	6.1	NA1574	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Calcium bisulfite solution, see Bisulfites, inorganic, aqueous solutions, n.o.s..													
E	Calcium carbide (*RQ-5000/2270*)	4.3	UN1402	II	DANGEROUS WHEN WET.	A19, N2, N34.	None	212	241	15 kg	50 kg	1,3	1,3	32
	Calcium chlorate	5.1	UN1452	II	OXIDIZER	B10, N16, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Calcium chlorate solution	5.1	UN2429	II	OXIDIZER	A2, N34, N41, T8.	152	202	242	1 L	5 L	1,2	1	46, 56
	Calcium chlorite	5.1	UN1453	II	OXIDIZER	B10, N13, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
DE	Calcium chromate (*RQ-1000/454*)	ORM-E	NA9096	III	None		156	213	240	No limit	No limit	1,2	1,2	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Calcium cyanamide *with more than 0.1 per cent of calcium carbide.*	4.3	UN1403	III	DANGEROUS WHEN WET.	A1, A19	None	213	241	25 kg	100 kg	1,3	1,3	
E	Calcium cyanide (*RQ-10/4.54*)	6.1	UN1575	I	POISON	N79, N80	None	211	242	5 kg	50 kg	1,2	1,2	26, 40, 95
	Calcium dithionite *or* Calcium hydrosulfite	4.2	UN1923	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20	None	212	241	15 kg	50 kg	1,3	5	13
DE	Calcium dodecylbenzenesulfonate (*RQ-1000/454*).	ORM-E	NA9097	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Calcium hydride	4.3	UN1404	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	
	Calcium hydrosulfite, *see* Calcium dithionite													
E	Calcium hypochlorite, dry *or* Calcium hypochlorite mixtures *with more than 39 per cent available chlorine (8.8 per cent available oxygen)* (*RQ-100/45.4*).	5.1	UN1748	II	OXIDIZER	N13, N26, N34.	152	212	None	5 kg	25 kg	1,3	5	48, 56
E	Calcium hypochlorite, hydrated *or* Calcium hypochlorite, hydrated mixtures, *with not less than 5.5 per cent but not more than 10 per cent water* (*RQ-100/45.4*).	5.1	UN2880	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	50
	Calcium hypochlorite mixtures, dry, *with more than 10 per cent but not more than 39 per cent available chlorine.*	5.1	UN2208	III	OXIDIZER	A1, A29, N34.	152	213	240	25 kg	100 kg	1,2	1,2	
	Calcium manganese silicon	4.3	UN2844	III	DANGEROUS WHEN WET.	A1, A19	None	213	241	25 kg	100 kg	1,3	1,3	
	Calcium nitrate	5.1	UN1454	III	OXIDIZER	T2	152	213	240	25 kg	100 kg	1,2	1,2	
	Calcium oxide	8	UN1910	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Calcium perchlorate	5.1	UN1455	II	OXIDIZER	B10, T8	152	212	240	5 kg	25 kg	1,2	1,2	46
	Calcium permanganate	5.1	UN1456	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	56, 69
	Calcium peroxide	5.1	UN1457	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	13
	Calcium phosphide	4.3	UN1360	I	DANGEROUS WHEN WET.	A19, N2	None	211	242	Forbidden	15 kg	1,2	5	40, 85
	Calcium, pyrophoric *or* Calcium alloys, pyrophoric.	4.2	UN1855	II	SPONTANEOUSLY COMBUSTIBLE.		None	187	None	Forbidden	Forbidden	1	5	
	Calcium resinate	4.1	UN1313	III	FLAMMABLE SOLID.	A1, A19		213	240	25 kg	100 kg	1,3	1,3	
	Calcium resinate, fused	4.1	UN1314	III	FLAMMABLE SOLID.	A1, A19		213	240	25 kg	100 kg	1,3	1,3	
	Calcium selenate, *see* Selenates *or* selenites.													
	Calcium silicide	4.3	UN1405	II	DANGEROUS WHEN WET.	A19	None	212	241	15 kg	50 kg	1,3	1,3	
	Calcium silicon	4.3	UN1406	III	DANGEROUS WHEN WET.	A1, A19	None	213	241	25 kg	100 kg	1,3	1,3	
	Camphor oil	3	UN1130	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Camphor, *synthetic*	4.1	UN2717	III	FLAMMABLE SOLID.	A1		213	240	25 kg	100 kg	1,3	1,3	
	Cannon primers, see Primers, tubular													
	Caproic acid	8	UN2829	III	CORROSIVE	T1	154	203	241	5 L	60 L	1,2	1,2	
	Capryloyl peroxide, see n-Octanoyl peroxide.													
	Caps, blasting, see Detonators, *etc.*													
	Caps, toy (*Amorces*)	1.4S												
DE	Captan (*RQ-10/4.54*)	ORM-E	NA9099	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Carbamate pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2758	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Carbamate pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2991	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	242	60 L	220 L	1,2	1,2	21, 34, 40
	Carbamate pesticides, liquid, toxic, n.o.s.	6.1	UN2992	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Carbamate pesticides, solid, toxic, n.o.s.	6.1	UN2757	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
ADE	Carbaryl (*RQ-100/45.4*)	6.1	NA2757	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
DE	Carbofuran (*RQ-10/4.54*)	6.1	NA2757	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	
	Carbolic acid, see Phenol, solid *or* Phenol, molten.													
	Carbolic acid solutions, see Phenol solutions.													
I	Carbon, activated	4.2	UN1362	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	12
I	Carbon, *animal or vegetable origin*	4.2	UN1361	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	12
	Carbon bisulfide, see Carbon disulfide													
	Carbon dioxide	2.2	UN1013		NONFLAMMABLE GAS.	B13	306	302, 304	244	75 kg	150 kg	1,3	1,3	85

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Carbon dioxide and ethylene oxide mixtures *with more than 6 per cent ethylene oxide.*	2.3	UN1041	III	POISON GAS, FLAMMABLE GAS.	B13, B14, B33, 10.	306	304	244	Forbidden	Forbidden	1,3	1	40, 85, 95
	Carbon dioxide and ethylene oxide mixtures *with not more than 6 per cent ethylene oxide.*	2.2	UN1952		NONFLAMMABLE GAS.	B13	None	304	244	75 kg	150 kg	1,3	1	85
	Carbon dioxide and nitrous oxide mixtures	2.2	UN1015		NONFLAMMABLE GAS.	B13	306	304	244	75 kg	150 kg	1,3	1,3	85
	Carbon dioxide and oxygen mixtures	2.2	UN1014		NONFLAMMABLE GAS.	B13	306	304	244	Forbidden	Forbidden	1,3	1,3	85
	Carbon dioxide, refrigerated liquid	2.2	UN2187		NONFLAMMABLE GAS.		306	None	314, 315	50 kg	500 kg	1,3	1,3	85
AW	Carbon dioxide, solid (Dry ice)	9	UN1845	III	None	B12	217	217	240	200 kg	200 kg	1	1	40
E	Carbon disulfide (*RQ-5000/2270*)	3	UN1131	I	FLAMMABLE LIQUID, POISON.	B16, T18, T26, T29.	None	201	243	Forbidden	Forbidden	1	5	12, 18, 40
	Carbon monoxide	2.3	UN1016	III	POISON GAS, FLAMMABLE GAS.	B13, B14, B33, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 95
	Carbon monoxide and hydrogen mixture	2.3	UN2600	III	POISON GAS, FLAMMABLE GAS.	B13, B14, B33, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 95
D	Carbon monoxide, cryogenic liquid	2.3	NA9202	III	POISON GAS, FLAMMABLE GAS.	10	None	316	318	Forbidden	Forbidden	1	5	
I	Carbon remover, liquid	3	UN1132	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.		150	203	242	60 L	220 L	1,3	1,3	
	Carbon tetrabromide	6.1	UN2516	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	25, 34
AEW	Carbon tetrachloride (*RQ-5000/2270*)	6.1	UN1846	II	POISON	N36, T8	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Carbonyl chloride, see Phosgene													
	Carbonyl fluoride	2.3	UN2417	IB	POISON GAS	B13, B14, B31, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 95
	Carbonyl sulfide	2.3	UN2204	II	POISON GAS, FLAMMABLE GAS.	B13, B14, B31, 10.	None	304	244	Forbidden	Forbidden	1	5	40, 95
	Cartridge cases, empty primed, see Cases, cartridge, empty, with primer.													
	Cartridges, actuating, for aircraft ejector seat catapult, fire extinguisher, canopy removal or apparatus, see Cartridges, power device.													
	Cartridges, explosive, see Charges, demolition.													
	Cartridges, flash	1.1G	UN0049											
	Cartridges, flash	1.3G	UN0050											
	Cartridges for weapons, blank	1.1C	UN0326											
	Cartridges for weapons, blank	1.3C	UN0327											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Cartridges for weapons, blank	1.4C	UN0338											
	Cartridges for weapons, blank	1.2C	UN0413											
	Cartridges for weapons, blank (Cartridges, safety, blank).	1.4S	UN0014											
	Cartridges for weapons (Cartridges, safety), *other than blank*.	1.4S	UN0012											
	Cartridges for weapons, inert projectile	1.2C	UN0328											
	Cartridges for weapons, inert projectile	1.4C	UN0339											
	Cartridges for weapons, inert projectile	1.3C	UN0417											
	Cartridges for weapons, *with bursting charge*.	1.1F	UN0005											
	Cartridges for weapons, *with bursting charge*.	1.2F	UN0007											
	Cartridges for weapons, *with bursting charge*.	1.4F	UN0348											
	Cartridges for weapons, *with bursting charge*.	1.4E	UN0412											
	Cartridges for weapons, *with bursting charge* (*projectiles with propelling charge*).	1.1E	UN0006											
	Cartridges for weapons, *with bursting charge* (*projectiles with propelling charge*).	1.2E	UN0321											
	Cartridges, oil well	1.3C	UN0277											
	Cartridges, oil well	1.4C	UN0278											
	Cartridges, power device	1.3C	UN0275											
	Cartridges, power device	1.4C	UN0276											
	Cartridges, power device	1.2C	UN0381											
	Cartridges, power device (Cartridges, safety).	1.4S	UN0323											
	Cartridges, safety, *see* Cartridges for weapons, *other than blank or* Cartridges, power device (*UN 0323*).	.....	.....											
	Cartridges, safety, blank, *see* Cartridges for weapons, blank (*UN 0014*).	.....	.....											
	Cartridges, signal	1.3G	UN0054											
	Cartridges, signal	1.4G	UN0312											
	Cartridges, signal	1.4S	UN0405											
	Cartridges, sporting, see Cartridges for weapons, *other than blank*.	.....	.....											
	Cartridges, starter, jet engine, see Cartridges, power device.	.....	.....											
	Cases, cartridge, empty with primer	1.4S	UN0055											
	Cases, cartridges, empty with primer	1.4C	UN0379											
	Casinghead gasoline see Natural gasoline	.....	.....											
AW	Castor beans *or* Castor meal *or* Castor pomace *or* Castor flake.	9	UN2969	II	None		155	204	240	No limit	No limit	1,2	5	34, 40, 44
	Caustic alkali liquids, n.o.s.	8	UN1719	II	CORROSIVE	B2, T14	154	202	242	1 L	30 L	1,2	1,2	
	Caustic potash, see Potassium hydroxide *etc.*.	.....	.....											

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Caustic soda, (etc.) see Sodium hydroxide *etc.*.													
	Celluloid, *in blocks, rods, rolls, sheets, tubes, etc. (except scrap)*.	4.1	UN2000	III	FLAMMABLE SOLID.		None	213	240	25 kg	100 kg	1,3	1,3	
	Celluloid, scrap	4.2	UN2002	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1	5	
	Cement, see Adhesives *containing flammable liquid.*													
	Cerium, crude	4.1	UN1333	II	FLAMMABLE SOLID.	N34	None	212	240	15 kg	50 kg	1,3	5	65, 74
	Cerium, crude, *compact form*	4.1	UN1333	III	FLAMMABLE SOLID.	A1	None	213	240	25 kg	100 kg	1,3	1,3	65, 74
	Cesium	4.3	UN1407	I	DANGEROUS WHEN WET.	A19, A22, N34.	None	211	242	Forbidden	15 kg	1	5	
	Cesium hydroxide	8	UN2682	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Cesium hydroxide solution	8	UN2681	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
	Cesium nitrate	5.1	UN1451	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
D	Charcoal *briquettes, shell, screenings, wood, etc.*.	4.2	NA1361	III	FLAMMABLE SOLID.	B10	151	213	240	25 kg	100 kg	1,3	1,3	
D	Charged well casing jet perforating gun (*total explosive contents in guns 20 pounds or more per motor vehicle*).	1.1D	NA0059											
D	Charged well casing jet perforating gun (*total explosive contents in guns not exceeding 20 pounds per motor vehicle or special offshore down hole tool pallet*).	1.4D	NA0440											
	Charges, demolition	1.1D	UN0048											
	Charges, depth	1.1D	UN0056											
	Charges, expelling, explosive, for fire extinguishers, see Cartridges, power device.													
	Charges, explosive, commercial *without detonator.*	1.1D	UN0442											
	Charges, explosive, commercial *without detonator.*	1.2D	UN0443											
	Charges, explosive, commercial *without detonator.*	1.4D	UN0444											
	Charges, explosive, commercial *without detonator.*	1.4S	UN0445											
	Charges, propelling for cannon	1.2C	UN0414											
	Charges, propelling, for cannon	1.3C	UN0242											
	Charges, propelling, for cannon	1.1C	UN0279											
	Charges, propelling, for rocket motors	1.1C	UN0271											
	Charges, propelling, for rocket motors	1.3C	UN0272											
	Charges, propelling, for rocket motors	1.2C	UN0415											
	Charges, propelling, for rocket motors, *composite mixture.*	1.1C	UN0273											
	Charges, propelling, for rocket motors, *composite mixture.*	1.3C	UN0274											

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Charges, propelling, for rocket motors, *composite mixture.*	1.2C	UN0416											
	Charges, shaped, commercial *without detonator.*	1.2D	UN0439											
	Charges, shaped, commercial *without detonator.*	1.4D	UN0440											
	Charges, shaped, commercial *without detonator.*	1.4S	UN0441											
	Charges, shaped, commercial *without detonator.*	1.2D	UN0439											
	Charges, shaped, commercial, *without detonator.*	1.1D	UN0059											
	Charges, shaped, flexible, linear, *metal clad.*	1.4D	UN0237											
	Charges, shaped, flexible, linear, *metal clad.*	1.1D	UN0288											
	Charges, supplementary explosive	1.1D	UN0060											
D	Chemical kit	8	NA1760	II	CORROSIVE		154	161	None	1 L	1 L	1,3	1,3	
	Chemical kits (*must be classified and labelled according to the hazard class of the constituent(s)*).													
	Chloracetophenone (*CN*) *Solid*	6.1	UN1697	II	POISON	N1, N12, N16, N17, N32, N33, N34.	None	212	242	Forbidden	100 kg	1	5	12, 40, 95
	Chloral, anhydrous, inhibited	6.1	UN2075	II	POISON	T14	None	212	243	25 kg	100 kg	1	5	40, 95
	Chlorate and borate mixtures	5.1	UN1458	II	OXIDIZER	B10, N13, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Chlorate and magnesium chloride mixtures	5.1	UN1459	II	OXIDIZER	B10, N13, N34, T8.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Chlorate of potash, see Potassium chlorate													
	Chlorate of soda, see Sodium chlorate													
	Chlorates, inorganic, n.o.s.	5.1	UN1461	II	OXIDIZER	B10, N13, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
DE	Chlordane (*RQ-1/0.454*)	6.1	NA2762	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	
	Chloric acid solution, *with not more than 10 per cent chloric acid.*	5.1	UN2626	I	OXIDIZER	T25	None	229	243	Forbidden	Forbidden	1	5	46, 56
	Chloride of phosphorus, see Phosphorus trichloride.													
	Chloride of sulfur, see Sulfur chloride													
	Chlorinated anthracene oil	6.1	UN2230	II	POISON		None	202	243	5 L	60 L	1,2	1	
	Chlorinated lime, see Calcium hypochlorite mixtures, *etc.*.													
E	Chlorine (*RQ-10/4.54*)	2.3	UN1017	IB	POISON GAS	B14, B31, 10.	None	304	314, 315	Forbidden	Forbidden	1	5	40, 51, 55, 62, 68, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Chlorine azide	Forbidden												
D	Chlorine dioxide hydrate, frozen	5.1	NA9191	II	OXIDIZER, POISON.		None	229	None	Forbidden	Forbidden	5	5	
	Chlorine dioxide (not hydrate)	Forbidden												
	Chlorine pentafluoride	2.3	UN2548	IA	POISON GAS, OXIDIZER, CORROSIVE.	10	None	304	245	Forbidden	Forbidden	1	5	31, 40, 95
	Chlorine trifluoride	2.3	UN1749	IA	POISON GAS, OXIDIZER, CORROSIVE.	10	None	304	245	Forbidden	Forbidden	1,3	5	34, 40, 95
	Chlorites, inorganic, n.o.s.	5.1	UN1462	II	OXIDIZER	N26, N34, T8.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Chloroacetaldehyde	6.1	UN2232	II	POISON	T17	None	202	243	5 L	60 L	1	5	40, 95
	Chloroacetic acid, liquid	8	UN1750	I	CORROSIVE, POISON.	B8, B14, B32, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	40
	Chloroacetic acid, solid	8	UN1751	II	CORROSIVE, POISON.	N1, N26, N34.	None	212	242	15 kg	50 kg	1,2	1,2	40
	Chloroacetone, stabilized	6.1	UN1695	II	POISON	N12, N32, N34, T17.	None	202	243	Forbidden	60 L	1	5	40, 95
	Chloroacetone (unstabilized)	Forbidden												
	Chloroacetonitrile	6.1	UN2668	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1,3	12, 21, 25, 26, 40, 95
	Chloroacetophenone (*CN*)*Liquid*	6.1	UN1697	I	POISON	B14, B30, N1, N12, N16, N17, N32, N33, 10.	None	226	244	Forbidden	Forbidden	1	5	12, 40, 95
	Chloroacetyl chloride	8	UN1752	II	CORROSIVE	B2, B8, N1, N11, N26, N34, T9, T26.	None	202	242	Forbidden	30 L	1	5	40
	Chloroanilines, liquid	6.1	UN2019	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
	Chloroanilines, solid	6.1	UN2018	II	POISON	T14, T38	None	212	242	25 kg	100 kg	1,2	1,2	95
	Chloroanisidines	6.1	UN2233	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Chlorobenzene (*RQ-100/45.4*)	3	UN1134	III	FLAMMABLE LIQUID.	T1	150	203	241	5 L	60 L	1,3	1	
	Chlorobenzol, see Chlorobenzene													
	Chlorobenzotrifluorides	3	UN2234	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	40
	p-Chlorobenzoyl peroxide, *see* Di-4-chlorobenzoyl peroxide, *etc.*.													
	Chlorobenzylchlorides	6.1	UN2235	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	34
	1-Chloro-3-bromopropane	6.1	UN2688	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	34
	Chlorobutanes	3	UN1127	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Chlorocresols (*liquids*)	6.1	UN2669	II	POISON	T8	None	202	243	5 L	60 L	1,3	1,3	12, 95
	Chlorocresols (*solid*)	6.1	UN2669	II	POISON		None	212	242	25 kg	100 kg	1,3	1,3	12, 40, 95
	3-Chloro-4-diethylaminobenzenediazonium zinc chloride.	4.1	UN3033	II	FLAMMABLE SOLID.		None	214	None	15 kg	50 kg	1	1	25
	Chlorodifluorobromomethane	2.2	UN1974		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	50 kg	1,3	1,3	85
	1-Chloro-1,1-difluoroethane, see Chlorodifluoroethanes.													
	Chlorodifluoroethanes *or* Difluorochloroethanes.	2.1	UN2517		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Chlorodifluoromethane (*R-22*)	2.2	UN1018		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Chlorodifluoromethane and chloropentafluoroethane mixture *with fixed boiling point, with approximately 49 per cent chlorodifluoromethane.*	2.2	UN1973		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Chlorodinitrobenzene	6.1	UN1577	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95
AEW	Chloroform (*RQ-5000/2270*)	6.1	UN1888	II	POISON	N36, T14	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Chloroformates, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2742	II	POISON, CORROSIVE, FLAMMABLE LIQUID.		None	202	243	1 L	30 L	1,3	1,3	12, 13, 22, 25, 40, 95
	Chloromethylchloroformate	6.1	UN2745	II	POISON, CORROSIVE.	T18	None	202	243	1 L	30 L	1,3	1,3	12, 13, 23, 25, 40, 95
	Chloromethyl ethyl ether	3	UN2354	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	5	12, 40
	3-Chloro-4-methylphenylisocyanate	6.1	UN2236	II	POISON		None	202	243	5 L	60 L	1,2	1,2	25, 40, 95
	Chloronitroanilines	6.1	UN2237	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	26, 34
	Chloronitrobenzene, *ortho, liquid*	6.1	UN1578	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
	Chloronitrobenzenes *meta or para, solid*	6.1	UN1578	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95
	Chloronitrotoluenes	6.1	UN2433	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Chloropentafluoroethane (*R-115*)	2.2	UN1020		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	3-Chloroperoxybenzoic acid, *not more than 86 per cent with 3-chlorobenzoic acid.*	5.2	UN2755	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	3-Chloroperoxybenzoic acid, *not more than 57 per cent with water and 3-Chlorobenzoic acid.*	5.2	UN3081	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Chlorophenates, liquid	8	UN2904	III	CORROSIVE		154	203	241	5 L	60 L	1,2	1,2	
	Chlorophenates, solid	8	UN2905	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Chlorophenols, liquid	6.1	UN2021	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Chlorophenols, solid	6.1	UN2020	III	KEEP AWAY FROM FOOD.	T7	153	213	240	100 kg	200 kg	1,2	1,2	34
	Chlorophenyl trichlorosilane	8	UN1753	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Chloropicrin	6.1	UN1580	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	5	40, 95
	Chloropicrin and methyl bromide mixtures	2.3	UN1581	IB	POISON GAS	B13, B14, B31, 10.	None	193	244	Forbidden	Forbidden	1	5	25, 40, 95
	Chloropicrin and methyl chloride mixtures	2.3	UN1582	IB	POISON GAS	B13, B14, B31, 10.	None	193	244	Forbidden	Forbidden	1	5	25, 40, 95
	Chloropicrin mixture, flammable (pressure not exceeding 14.7 psia at 115 degrees F flash point below 100 deg F) see Poisonous liquids, flammable, n.o.s..													
	Chloropicrin mixtures, n.o.s.	6.1	UN1583	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	1	40, 95
				II	POISON		None	201	243	.5 L	2.5 L	1	1	40, 95
	Chloropivaloyl chloride	6.1	NA2810	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1	20, 40, 95
	Chloroplatinic acid, solid	8	UN2507	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Chloroprene, inhibited	3	UN1991	I	FLAMMABLE LIQUID, POISON.	T15	None	201	243	Forbidden	30 L	1,3	1	12, 40
	Chloroprene, uninhibited	Forbidden												
	2-Chloropropane	3	UN2356	I	FLAMMABLE LIQUID.	N15, N36, T14.	150	201	243	1 L	30 L	1,3	5	12
	3-Chloropropanol-1	6.1	UN2849	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	34
	2-Chloropropene	3	UN2456	I	FLAMMABLE LIQUID.	N1, N15, N36, T14.	150	201	243	Forbidden	30 L	1,3	5	12
	alpha-Chloropropionic acid	8	UN2511	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	8
	2-Chloropyridine	6.1	UN2822	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Chlorosilanes, n.o.s.	8	UN2987	II	CORROSIVE	B2	154	202	242	1 L	30 L	1	1	40, 77

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Chlorosilanes, n.o.s., *flash point less than 23 degrees C.*	3	UN2985	I	FLAMMABLE LIQUID, CORROSIVE.		None	201	243	0.5 L	2.5 L	1,3	5	40
	Chlorosilanes, n.o.s., *flash point not less than 23 degrees C.*	8	UN2986	II	CORROSIVE, FLAMMABLE LIQUID.		None	202	243	1 L	30 L	1	1	23, 40
	Chlorosilanes, n.o.s., *which in contact with water emit flammable gas.*	4.3	UN2988	I	DANGEROUS WHEN WET, FLAMMABLE LIQUID, CORROSIVE.	A2	None	201	244	Forbidden	1 L	1	5	40
E	Chlorosulfonic acid (*with or without sulfur trioxide*) (*RQ-1000/454*).	8	UN1754	I	CORROSIVE	B4, N1, N11, N35, T12, T27.	None	201	242	.5 L	2.5 L	1	1	80, 33, 40
	Chlorotetrafluoroethane (*R-124*)	2.2	UN1021		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Chlorotoluenes	3	UN2238	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	4-Chloro-o-toluidine hydrochloride	6.1	UN1579	III	KEEP AWAY FROM FOOD.		153	213	241	100 kg	200 kg	1,2	1,2	34
	Chlorotoluidines *liquid*	6.1	UN2239	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
							153	213	260l	100 kg	200 kg	1,2	1,2	
	Chlorotoluidines *solid*	6.1	UN2239	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Chlorotrifluoroethane	2.2	UN1983		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Chlorotrifluoromethane (*R-13*)	2.2	UN1022		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Chlorotrifluoromethane and trifluoromethane azeotropic mixture *with approximately 60 per cent chlorotrifluoromethane.*	2.2	UN2599		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
ADE	Chlorpyrifos (*RQ-1/0.454*)	6.1	NA2783	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
DE	Chromic acetate (*RQ-1000/454*)	ORM-E	NA9101	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Chromic acid, solid (*RQ-1000/454*)	5.1	NA1463	II	OXIDIZER, CORROSIVE.	B10	None	212	240	5 kg	25 kg	1,2	1,2	
E	Chromic acid solution (*RQ-1000/454*)	8	UN1755	II	CORROSIVE	B2, T9, T27.	154	202	242	1 L	30 L	1	1	40
	Chromic anhydride, see Chromium trioxide, anhydrous.													
	Chromic fluoride, solid	8	UN1756	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Chromic fluoride, solution	8	UN1757	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
DE	Chromic sulfate (*RQ-1000/454*)	ORM-E	NA9100	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Chromium nitrate	5.1	UN2720	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Chromium oxychloride	8	UN1758	I	CORROSIVE	B4, N1, N11, N26, N34, T12, T26.	None	201	242	Forbidden	2.5 L	1	1	80, 40
E	Chromium trioxide, anhydrous (*RQ-1000/454*).	5.1	UN1463	II	OXIDIZER, CORROSIVE.	B10	None	212	240	5 kg	25 kg	1,2	1,2	34, 65
	Chromosulfuric acid	8	UN2240	I	CORROSIVE	B4, B6, N1, N11, N26, N34, T12, T27.	None	201	242	.5 L	2.5 L	1,2	1	80, 9, 40
DE	Chromous chloride (*RQ-1000/454*)	ORM-E	NA9102	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Chromyl chloride, see Chromium oxychloride.													
	Cigar and cigarette lighter fluid, see Lighter fluids.													
	Cigar and cigarette lighters, charged with fuel, see Lighters for cigars, cigarettes, *etc.*.													
	Cigarettes, self-lighting	4.1	UN1867	III	FLAMMABLE SOLID.		None	213	None	Forbidden	Forbidden	1,3	1,3	13
	Coal briquettes, hot	Forbidden												
	Coal gas	2.3	UN1023	II	POISON GAS, FLAMMABLE GAS.	B38, 10	None	302	245	Forbidden	Forbidden	1	5	40, 95
	Coal tar distillates, flammable	3	UN1136	I	FLAMMABLE LIQUID.	T8	150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Coal tar dye, corrosive, liquid, n.o.s, see Dyes, n.o.s. *or* Dye intermediates, n.o.s., *corrosive*.													
	Coating solution	3	UN1139	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Cobalt naphthenates, powder	4.1	UN2001	III	FLAMMABLE SOLID.	A19	151	213	240	25 kg	100 kg	1,3	1,3	
DE	Cobaltous bromide (*RQ-1000/454*)	ORM-E	NA9103	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Cobaltous formate (*RQ-1000/454*)	ORM-E	NA9104	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Cobaltous sulfamate (*RQ-1000/454*)	ORM-E	NA9105	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Cobalt resinate, precipitated	4.1	UN1318	III	FLAMMABLE SOLID.	A1, A19	151	213	240	25 kg	100 kg	1,3	1,3	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Cocculus	6.1	UN1584	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Coke, hot	Forbidden												
	Collodion, see Nitrocellulose *etc.*													
D	Combustible liquid, n.o.s.	3	NA1993	III	None		150	203	241	60 L	220 L	1,3	1,3	
	Components, explosive train, n.o.s.	1.2B	UN0382											
	Components, explosive train, n.o.s.	1.4B	UN0383											
	Components, explosive train, n.o.s.	1.4S	UN0384											
	Composition B, see Hexolite, *etc.*													
	Compounds, cleaning liquid, corrosive, see Corrosive liquids, n.o.s..													
	Compounds, cleaning liquid, flammable, see Flammable liquid preparations, *etc.*.													
	Compressed *or* Liquefied gases, flammable, n.o.s..	2.1	UN1954		FLAMMABLE GAS.	B13	306	302, 304, 305	244	Forbidden	150 kg	1	5	40
	Compressed *or* Liquefied gases, flammable, toxic, n.o.s. *LC5O less than or equal to 1000 ppm.*	2.3	UN1953	IB	POISON GAS, FLAMMABLE GAS.	10	None	302, 304, 305	245	Forbidden	Forbidden	1	5	40, 95
	Compressed *or* Liquefied gases, n.o.s.	2.2	UN1956		NONFLAMMABLE GAS.	B13	306, 307	302, 304, 305	244	75 kg	150 kg	1,3	1,3	85
	Compressed *or* Liquefied gases, toxic, n.o.s. *LC50 less than or equal to 200 ppm.*	2.3	UN1955	IA	POISON GAS	10	None	302, 304, 305	245	Forbidden	Forbidden	1	5	40, 95
	Compressed *or* liquefied gases, flammable, toxic, n.o.s. *LC50 over 1000 up to 5000 ppm.*	2.3	UN1953	II	POISON GAS, FLAMMABLE GAS.	B14, B38, 10.	None	302, 304, 305	244	Forbidden	Forbidden	1	5	40
	Compressed *or* liquefied gases, toxic, n.o.s. *LC50 over 200 up to 5000 ppm.*	2.3	UN1955	II	POISON GAS	B14, B35, 10.	None	302, 304, 305	244	Forbidden	Forbidden	1	5	40
D	Consumer commodity	ORM-D	None	III	None		156, 306	156, 306	None	65 lb gross	65 lb gross	1,2	1,2	
	Contrivances, water-activated, *with burster, expelling charge or propelling charge.*	1.2L	UN0248											
	Contrivances, water-activated, *with burster, expelling charge or propelling charge.*	1.3L	UN0249											
E	Copper acetoarsenite (*RQ-100/45.4*)	6.1	UN1585	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Copper acetylide	Forbidden												
	Copper amine azide	Forbidden												
	Copper arsenite	6.1	UN1586	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Copper based pesticides, liquid, flammable, toxic n.o.s., *flash point less than 23 degrees C.*	3	UN2776	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	1	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Copper based pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3009	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	21, 40, 95
	Copper based pesticides, liquid, toxic, n.o.s..	6.1	UN3010	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Copper based pesticides, solid, toxic, n.o.s.	6.1	UN2775	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Copper chlorate	5.1	UN2721	II	OXIDIZER	A1, B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
AEW	Copper chloride (*RQ-10/4.54*)	8	UN2802	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Copper cyanide	6.1	UN1587	II	POISON		None	204	242	25 kg	100 kg	1,2	1,2	26, 95
	Copper selenate, *see* Selenates *or* Selenites.													
	Copper selenite, *see* Selenates *or* Selenites.													
	Copper tetramine nitrate	Forbidden												
AW	Copra	4.2	UN1363	III	None		None	213	241	Forbidden	Forbidden	1,3	1,3	13, 19
	Cord, detonating, *flexible*	1.1D	UN0065											
	Cord, detonating, *flexible*	1.4D	UN0289											
	Cordeau detonant fuse, see Cord (Fuse), detonating, *etc.;* Cord, detonating, *flexible.*													
	Cord (Fuse), detonating, *metal clad*	1.2D	UN0102											
	Cord (Fuse), detonating, *metal clad*	1.1D	UN0290											
	Cord (Fuse), detonating, mild effect *metal clad.*	1.4D	UN0104											
	Cord, igniter	1.4G	UN0066											
	Cordite, see Powder, smokeless													
	Corrosive liquids, flammable, n.o.s.	8	UN2920	I	CORROSIVE, FLAMMABLE LIQUID.	B4, N1, N11, N34, T42.	None	201	243	0.5 L	2.5 L	1	1	12, 21, 25
				II	CORROSIVE, FLAMMABLE LIQUID.	B2, T15, T26.	None	202	243	1 L	30 L	1	1	12, 21, 25
	Corrosive liquids, n.o.s.	8	UN1760	I	CORROSIVE	B4, N1, N11, N26, N34, T42.	None	201	242	0.5 L	2.5 L	1,2	1	40
				II	CORROSIVE	B2, T14	154	202	242	1 L	30 L	1,2	1	40
				III	CORROSIVE	T7	154	203	240	5 L	60 L	1,2	1,2	40

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Corrosive liquids, poisonous, n.o.s.	8	UN2922	I	CORROSIVE, POISON.	N1, N11, N34.	None	201	243	0.5 L	2.5 L	1,2	1	40
				II	CORROSIVE, POISON.		None	202	243	1 L	30 L	1,2	1,2	40
				III	CORROSIVE		154	203	241	5 L	60 L	1,2	1,2	40
	Corrosive solids, flammable, n.o.s.	8	UN2921	I	CORROSIVE, FLAMMABLE SOLID.		None	211	242	1 kg	25 kg	1,3	1	12, 25
				II	CORROSIVE, FLAMMABLE SOLID.		None	212	242	15 kg	50 kg	1,3	1	12, 25
	Corrosive solids, n.o.s.	8	UN1759	I	CORROSIVE		None	211	240	1 kg	25 kg	1,2	1	
				II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
				III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Corrosive solids, oxidizing, n.o.s.	8	UN3084	I	CORROSIVE, OXIDIZER.		None	211	240	1 kg	25 kg	1,2	1	
				II	CORROSIVE, OXIDIZER.		None	212	240	15 kg	50 kg	1,2	1	
	Corrosive solids, poisonous, n.o.s.	8	UN2923	I	CORROSIVE, POISON.		None	211	242	1 kg	25 kg	1,2	1	13, 40
				II	CORROSIVE, POISON.		None	212	240	15 kg	50 kg	1,2	1	40
				III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1	40
DW	Cotton	9	NA1365	III	None		155	None	240	No limit	No limit	1,2	1,2	
I	Cotton waste, oily	4.2	UN1364	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	None	Forbidden	Forbidden	1,3	1,3	13, 54, 64
AIW	Cotton, wet	4.2	UN1365	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	13
DE	Coumaphos (*RQ-10/4.54*)	6.1	NA2783	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	
	Coumarin derivative pesticides, liquid, flammable, toxic, n.o.s., *flashpoint less than 23 deg C.*	3	UN3024	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Coumarin derivative pesticides, liquid, toxic, flammable, n.o.s. *flashpoint not less than 23 deg C.*	6.1	UN3025	I	POISON, FLAMMABLE LIQUID.		None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.		None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD, FLAMMABLE LIQUID.	B1	153	203	241	60 L	220 L	1,2	1,2	21, 34, 40

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Coumarin derivative pesticides, liquid, toxic, n.o.s..	6.1	UN3026	I	POISON		None	201	243	1 L	30 L	1	1	40, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34, 40
	Coumarin derivative pesticides, solid, toxic, n.o.s..	6.1	UN3027	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
D	Creosote, coal tar	3	NA1993	III	FLAMMABLE LIQUID.		150	203	241	60 L	220 L	1,3	1,3	
E	Cresols (*o-,m-,p-*) (*RQ-1000/454*)	6.1	UN2076	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	95
	Cresylic acid	6.1	UN2022	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	
E	Crotonaldehyde, stabilized (*RQ-100/45.4*)	3	UN1143	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1	
	Crotonic acid	8	UN2823	III	CORROSIVE		154	203	240	5 L	60 L	1,3	1,3	12
	Crotonylene	3	UN1144	I	FLAMMABLE LIQUID.	T20	150	201	243	1 L	30 L	1,3	5	12
	Cumene hydroperoxide, *see* Cumyl hydroperoxide.													
	Cumyl hydroperoxide (Cumene hydroperoxide), *technically pure.*	5.2	UN2116	I	ORGANIC PEROXIDE.	B17, B22, T25.	None	225	243	1 L	5 L	1	5	12, 40
	Cumyl peroxyneodecanoate, *not more than 77 per cent in solution.*	5.2	UN2963	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Cumyl peroxypivalate, *not more than 77 per cent in solution.*	5.2	UN2964	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
DE	Cupric acetate (*RQ-100/45.4*)	ORM-E	NA9106	III	None		156	203	240	No limit	No limit	a,2	1,2	
DE	Cupric nitrate (*RQ-100/45.4*)	5.1	NA1479	II	OXIDIZER		152	212	240	5 kg	25 kg	1,2	1,2	
DE	Cupric oxalate (*RQ-100/45.4*)	6.1	NA2449	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
DE	Cupric sulfate (*RQ-10/4.54*)	ORM-E	NA9109	III	None		156	203	240	No limit	No limit	1,2	1,2	
DE	Cupric sulfate, ammoniated (*RQ-100/45.4*)	ORM-E	NA9110	III	None		156	203	240	No limit	No limit	1,2	1,2	
DE	Cupric tartrate (*RQ-100/45.4*)	ORM-E	NA9111	III	None		156	203	240	No limit	No limit	1,2	1,2	
	Cupriethylenediamine solution	8	UN1761	II	CORROSIVE, POISON.	T8, T26	154	202	243	1 L	30 L	1,2	1,2	
	Cutters, cable, explosive	1.4S	UN0070											
	Cyanide or cyanide mixtures, dry, see Cyanides, inorganic, n.o.s..													
	Cyanides, inorganic, n.o.s.	6.1	UN1588	I	POISON	N74, N75	None	211	242	5 kg	50 kg	1,2	1,2	26, 95
				II	POISON	N74, N75	None	212	242	25 kg	100 kg	1,2	1,2	26, 95
				III	KEEP AWAY FROM FOOD.	N74, N75	None	213	240	100 kg	200 kg	1,2	1,2	26
	Cyanide solutions	6.1	UN1935	I	POISON	B37, T18, T26.	None	201	243	1 L	30 L	1,2	1,2	26, 40, 95
				II	POISON	T18, T26	None	202	243	5 L	60 L	1,2	1,2	26, 40

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Cyanogen bromide	6.1	UN1889	I	POISON, CORROSIVE.	B14, B30, N2, N11, 10.	None	211	244	Forbidden	Forbidden	1	5	20, 25, 40, 95
E	Cyanogen chloride (*RQ-10/4.54*)	2.3	UN1589	IA	POISON GAS, FLAMMABLE GAS.	10	None	192	245	Forbidden	Forbidden	1	5	40, 95
	Cyanogen, liquefied	2.3	UN1026	IB	POISON GAS, FLAMMABLE GAS.	B14, B31, 10.	None	192	244	Forbidden	Forbidden	1	5	34, 40
AW	Cyanuric chloride	8	UN2670	III	CORROSIVE		None	213	240	25 kg	100 kg	1,3	1,3	12, 40
	Cyanuric triazide	Forbidden												
	Cyclobutane	2.1	UN2601		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Cyclobutylchloroformate	6.1	UN2744	II	POISON, CORROSIVE.	T18	None	202	243	1 L	30 L	1,3	1,3	12, 13, 23, 25, 40, 95
	1,5,9-Cyclododecatriene	6.1	UN2518	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	5	34, 40
	Cycloheptane	3	UN2241	II	FLAMMABLE LIQUID.	T1	None	202	242	5 L	60 L	1,3	1	40
	Cycloheptatriene	3	UN2603	II	FLAMMABLE LIQUID, POISON.	T14	None	202	243	1 L	60 L	1,3	5	12, 40
	Cycloheptene	3	UN2242	II	FLAMMABLE LIQUID.	T7	150	202	241	5 L	60 L	1,3	1	
E	Cyclohexane (*RQ-1000/454*)	3	UN1145	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	Cyclohexanone	3	UN1915	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Cyclohexanone peroxide(s) (*1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide, technically pure, or 1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide and Di-(1-hydroxy cyclohexyl) peroxide mixtures), more than 90 per cent with water with not more than 9 percent available oxygen.*	5.2	UN2117	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Cyclohexanone peroxide(s) (*1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide, technically pure, or 1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide and Di-(1-hydroxy cyclohexyl) peroxide mixtures), not more than 90 per cent with water with not more than 9 percent available oxygen.*	5.2	UN2119	I	ORGANIC PEROXIDE.		None	225	None	1 kg	5 kg	1	5	12, 40
	Cyclohexanone peroxide(s), *not more than 72 per cent as a paste with not more than 9 per cent available oxygen.*	5.2	UN2896	II	ORGANIC PEROXIDE.		152	225	None	1 kg	5 kg	1	5	12, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Cyclohexanone peroxide(s), *not more than 72 per cent in solution with not more than 9 per cent available oxygen.*	5.2	UN2118	I	ORGANIC PEROXIDE.		None	225	None	1 kg	5 kg	1	5	12, 40
	Cyclohexene	3	UN2256	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	12
	Cyclohexenyltrichlorosilane	8	UN1762	II	CORROSIVE	B2, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Cyclohexyl acetate	3	UN2243	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Cyclohexylamine	8	UN2357	II	CORROSIVE, FLAMMABLE LIQUID.	T8, T26	None	202	243	1 L	30 L	1,3	1,3	
	Cyclohexyl isocyanate	6.1	UN2488	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	5	21, 25, 40, 95
	Cyclohexyl mercaptan	3	UN3054	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Cyclohexyltrichlorosilane	8	UN1763	II	CORROSIVE	B2, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Cyclonite, *see* Cyclotrimethylenetrinitramine, *etc.*.													
	Cyclooctadiene phosphines, *see* 9-Phosphabicyclononanes.													
	Cyclooctadienes	3	UN2520	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Cyclooctatetraene	3	UN2358	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Cyclopentane	3	UN1146	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	5	12
	Cyclopentane, methyl, see Methyl cyclopentane.													
	Cyclopentanol	3	UN2244	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Cyclopentanone	3	UN2245	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Cyclopentene	3	UN2246	II	FLAMMABLE LIQUID.	T13	150	202	242	5 L	60 L	1,3	5	12
	Cyclopropane, liquified	2.1	UN1027		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	1	40, 85
	Cyclotetramethylene tetranitramine (dry or unphlegmatized) (HMX).	Forbidden												
	Cyclotetramethylenetetranitramine (HMX; Octogen), wetted *with not less than 15 per cent water, by weight, or* Cyclotetramethylenetetranitramine (HMX; Octogen) desensitized *with not less than 10 per cent phlegmatizer, by weight.*	1.1D	UN0226											

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Cyclotrimethylenetrinitramine (Cyclonite; Hexogen; RDX), and Cyclotetramethylenetetranitramine (HMX; Octogen) mixtures, wetted *with not less than 15 per cent water, by weight, or* Cyclotrimethylenetrinitramine (Cyclonite; Hexogen; RDX) and Cyclotetramethylenetetranitramine (HMX; Octogen) mixtures desensitized *with not less than 10 per cent phlegmatizer, by weight.*	1.1D	UN0391											
	Cyclotrimethylenetrinitramine (Cyclonite; Hexogen; RDX) wetted *with not less than 15 per cent water, by weight, or* Cyclotrimethylenetrinitramine (Cyclonite; Hexogen; RDX) desensitized *with not less than 10 per cent phlegmatizer, by weight.*	1.1D	UN0072											
	Cymenes	3	UN2046	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	2,4-D. *See* 2,4-Dichlorophenoxyacetic acid													
DE	DDT *or* Dichlorodiphenyltrichloroethane (*RQ-1/0.454*).	6.1	NA2761	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
	Decaborane	4.1	UN1868	II	FLAMMABLE SOLID, POISON.	A19, A20	None	212	None	Forbidden	50 kg	1,3	1,3	
	Decahydronaphthalene	3	UN1147	III	FLAMMABLE LIQUID.	T1	150	203	242	5 L	60 L	1,3	1	40
	n-Decane	3	UN2247	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Decanoyl peroxide, *see* Didecanoyl peroxide, *technically pure.*													
	Deflagrating metal salts of aromatic nitroderivatives, n.o.s.	1.3C	UN0132											
	Delay electric igniter, see Igniters													
D	Denatured alcohol	3	NA1986	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1	150	203	242	60 L	220 L	1,3	1,3	
	Depth charges, see Charges, depth													
AE	2,4-D ester. *See* 2,4-Dichlorophenoxyacetic acid ester.													
	Detonating relays, see Detonators, *etc.*													
	Detonator assemblies, non-electric *for blasting.*	1.1B	UN0360											
	Detonator assemblies, non-electric, *for blasting.*	1.4B	UN0361											
	Detonators, electric, *for blasting*	1.1B	UN0030											
	Detonators, electric, *for blasting*	1.4B	UN0255											
	Detonators for ammunition	1.1B	UN0073											
	Detonators for ammunition	1.2B	UN0364											

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Detonators for ammunition	1.4B	UN0365											
	Detonators for ammunition	1.4S	UN0366											
	Detonators, non-electric, *for blasting*	1.1B	UN0029											
	Detonators, non-electric, *for blasting*	1.4B	UN0267											
	Deuterium	2.1	UN1957		FLAMMABLE GAS.	B13	306	302	244	Forbidden	150 kg	1,3	5	40, 85
	Diacetone alcohol	3	UN1148	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Diacetone alcohol peroxides, more than 57% in solution with more than 9% hydrogen peroxide, less than 26% diacetone alcohol and less than 9% water; total active oxygen content more than 9% by weight.	Forbidden												
	Diacetone alcohol peroxides, *not more than 57 per cent in solution with not more than 9 per cent hydrogen peroxide, not less than 26 per cent diacetone alcohol and not less than 9 per cent water; total active oxygen content not more than 9 per cent.*	5.2	UN2163	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Diacetyl, see Butanedione													
	Diacetyl peroxide (Acetyl peroxide), *not more than 25 per cent in solution (dimethyl phthalate or other approved phlegmatizer).*	5.2	UN2084	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Diacetyl peroxide, solid, or more than 25% in solution.	Forbidden												
	Diallylamine	3	UN2359	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Diallylether	3	UN2360	II	FLAMMABLE LIQUID, POISON.	N12, T8	None	202	243	1 L	60 L	1,3	5	12, 40
	4,4'-Diaminodiphenyl methane	6.1	UN2651	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Di-n-amylamine	6.1	UN2841	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	1,3	12, 40, 95
	p-Diazidobenzene	Forbidden												
	1,2-Diazidoethane	Forbidden												
DE	Diazinon (*RQ-1/0.454*)	6.1	NA2783	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
	1,1'-Diazoaminonaphthalene	Forbidden												
	Diazoaminotetrazole (dry)	Forbidden												

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Diazodinitrophenol (dry)	Forbidden												
	Diazodinitrophenol, wetted *with not less than 40 per cent water, by weight, or mixture of alcohol and water.*	1.1A	UN0074											
	Diazodiphenylmethane	Forbidden												
	2-Diazo-1-naphthol-4-sulpho-chloride	4.1	UN3042	II	FLAMMABLE SOLID.		None	212	None	15 kg	50 kg	1	5	25
	2-Diazo-1-naphthol-5-sulpho-chloride	4.1	UN3043	II	FLAMMABLE SOLID.		None	212	None	15 kg	50 kg	1	5	25
	Diazonium nitrates (dry)	Forbidden												
	Diazonium perchlorates (dry)	Forbidden												
	1,3-Diazopropane	Forbidden												
	Dibenzoyl peroxide (Benzoyl peroxide), *more than 77 per cent but less than 95 per cent with water.*	5.2	UN2088	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Dibenzoyl peroxide (Benzoyl peroxide), *not less than 30 per cent but not more than 52 per cent with inert solid.*	5.2	UN2089	II	ORGANIC PEROXIDE.		152	225	None	10 kg	25 kg	1	5	12, 40
	Dibenzoyl peroxide (Benzoyl peroxide), *not more than 72 per cent as a paste.*	5.2	UN2087	II	ORGANIC PEROXIDE.		152	225	None	10 kg	25 kg	1	5	12, 40
	Dibenzoyl peroxide (Benzoyl peroxide),*not more than 77 per cent with water.*	5.2	UN2090	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Dibenzoyl peroxide (Benzoyl peroxide), *technically pure, or* Dibenzoyl peroxide (Benzoyl peroxide), *more than 52 per cent with inert solid.*	5.2	UN2085	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Dibenzoyl peroxide *more than 72 percent but less than 95 percent as a paste.*	5.2	UN2086	I	ORGANIC PEROXIDE.		None	225	246	Forbidden	Forbidden	1	5	
	Dibenzyldichlorosilane	8	UN2434	II	CORROSIVE	B2, T8, T26.	154	202	242	1 L	30 L	1	1	40
	Dibenzyl peroxydicarbonate, more than 87 per cent with water.	Forbidden												
	Dibenzyl peroxydicarbonate, *not more than 87 per cent with water.*	5.2	UN2149	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Diborane	2.3	UN1911	IA	POISON GAS, FLAMMABLE GAS.	10	None	302	245	Forbidden	Forbidden	1	5	40, 57, 74, 95
D	Diborane mixtures	2.3	NA1911	IA	POISON GAS, FLAMMABLE GAS.	B35, 10	None	302	245	Forbidden	Forbidden	1	5	40, 57, 74, 95
	Dibromoacetylene	Forbidden												
	Dibromobenzene	3	UN2711	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	1,2-Dibromobutan-3-one	6.1	UN2648	II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Dibromochloropropane	6.1	UN2872	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
A	Dibromodifluoromethane	9	UN1941	III	None	T13	155	203	241	100 L	220 L	1,2	1,2	25, 34
	1,2-Dibromoethane, see Ethylene dibromide.													
	Dibromomethane	6.1	UN2664	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Di-(n-butyl)amine	8	UN2248	I	CORROSIVE, FLAMMABLE LIQUID.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	21, 40, 95
	Dibutylaminoethanol	6.1	UN2873	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	34
	Di-(4-tert-butylcyclohexyl) peroxydicarbonate, *not more than 42 per cent, stable dispersion, in water.*	5.2	UN2894	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Di-(4-tert-butylcyclohexyl) peroxydicarbonate, *technically pure.*	5.2	UN2154	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Dibutyl ethers	3	UN1149	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Di-tert-butyl peroxide (tert-Butyl-peroxide), *technically pure.*	5.2	UN2102	II	ORGANIC PEROXIDE, FLAMMABLE LIQUID.		152	225	None	1 L	5 L	1	5	12, 40
	2,2-Di-(tert-butylperoxy) butane, more than 55 per cent in solution.	Forbidden												
	2,2-Di-(tert-butylperoxy) butane, *not more than 55 per cent in solution.*	5.2	UN2111	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	1,1-Di-(tert-butylperoxy) cyclohexane, *not more than 40 per cent with inert inorganic solid with not less than 13 per cent in phlegmatizer.*	5.2	UN2885	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	1,1-Di-(tert-butylperoxy) cyclohexane, *not more than 50 per cent with phlegmatizer.*	5.2	UN2897	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	1,1-Di-(tertbutyl peroxy) cyclohexane *not more than 27% in solution with not less than 36% diluent type A and not less than 36% diluent type B.*	5.2	UN3069	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2
	1,1-Di-(tert-butylperoxy) cyclohexane, *not more than 77 per cent in solution.*	5.2	UN2180	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	1,1-Di-(tert-butylperoxy) cyclohexane, *technically pure.*	5.2	UN2179	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Di-n-butyl peroxydicarbonate, more than 52 per cent in solution.	Forbidden												
	Di-n-butyl peroxydicarbonate, *not more than 52 per cent in solution.*	5.2	UN2169	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Di-n-butyl peroxydicarbonate, *not more than 27 per cent in solution.*	5.2	UN2170	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Di-sec-butyl peroxydicarbonate, *not more than 52 per cent in solution.*	5.2	UN2151	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Di-sec-butyl peroxydicarbonate, *technically pure.*	5.2	UN2150	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	1,4-Di-(2-tert-butylperoxyisopropyl) benzene, *technically pure, or* 1,4-Di-(2-tert-butylperoxyisopmpyl) benzene, *more than 40 per cent with inert solid, or* 1,3-Di-(2-tert-butylperoxyisopropyl) benzene, *technically pure, or* 1,3-Di-(2-tert-butylperoxyisopropyl) benzene, *more than 40 per cent with inert solid, or* 1,4-Di-(2-tert-butylperoxyisopropyl) benzene and 1,3-Di-(2-tertbutylperoxyisopropyl) benzene mixtures, *technically pure, or* 1,4-Di-(2-tert-butylperoxyisopropyl) benzene and 1,3-Di-(2-tert-butylperoxyisopropyl) benzene mixtures, *more than 40 per cent with inert solid.*	5.2	UN2112	II	ORGANIC PEROXIDE.		152	225	None	10 kg	25 kg	1	5	12, 40
	Di-(tert-butylperoxy) phthalate, more than 55 per cent in solution.	Forbidden												
	Di-(tert-butylperoxy) phthalate, *not more than 55 per cent as a paste.*	5.2	UN2108	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Di-(tert-butylperoxy) phthalate, *not more than 55 per cent in solution.*	5.2	UN2107	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Di-(tert-butylperoxy) phthalate, *technically pure.*	5.2	UN2106	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	2,2-Di-(tert-butylperoxy) propane, *not more than 40 per cent with inorganic inert solid with not less than 13 per cent phlegmatizer.*	5.2	UN2884	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	2,2-Di-(tert-butylperoxy) propane, *not more than 50 per cent with phlegmatizer.*	5.2	UN2883	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	1,1-Di-(tert-butylperoxy)3,3,5-trimethyl cyclohexane, *not more than 57 per cent in solvent.*	5.2	UN2146	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	1,1-Di-(tert-butylperoxy)3,3,5-trimethyl cyclohexane, *not more than 58 per cent with inert solid.*	5.2	UN2147	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	1,1-Di-(tert-butylperoxy)3,3,5-trimethyl cyclohexane, *technically pure.*	5.2	UN2145	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
DE	Dicamba (*RQ-1000/454*)	ORM-E	NA2769	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Dicetyl peroxydicarbonate, *not more than 42 per cent stable dispersion, in water.*	5.2	UN2895	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Dicetyl peroxydicarbonate, *technically pure*	5.2	UN2164	II	ORGANIC PEROXIDE.		None	225	None	5 kg	10 kg	1	5	20, 40
DE	Dichlobenil (*RQ-1000/454*)	ORM-E	NA2769	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Dichlone (*RQ-1/0.454*)	ORM-E	NA2761	III	None		156	213	240	No limit	No limit	1,2	1,2	
	N,N'-Dichlorazodicarbonamidine (salts of) (dry).	Forbidden												

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Dichloroacetic acid	8	UN1764	II	CORROSIVE	B2, N1, N11, N26, N34, T9, T27.	154	202	242	1 L	30 L	1,2	1,2	
	1,3-Dichloroacetone	6.1	UN2649	II	POISON		None	212	243	25 kg	100 kg	1,3	1	12, 40, 95
	Dichloroacetyl chloride	8	UN1765	II	CORROSIVE	B2, B6, N1, N11, N26, N34, T8, T26.	154	202	242	1 L	30 L	1	5	40
	Dichloroacetylene	Forbidden												
	Dichloroanilines	6.1	UN1590	II	POISON	T14	None	202	242	5 L	60 L	1,2	1,2	26, 40, 95
E	o-Dichlorobenzene (*RQ-100/45.4*)	6.1	UN1591	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
E	p-Dichlorobenzene (*RQ-100/45.4*)	6.1	UN1592	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Di-4-chlorobenzoyl peroxide (p-Chlorobenzoyl peroxide), *not more than 52 per cent as a paste.*	5.2	UN2114	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Di-4-chlorobenzoyl peroxide (p-Chlorobenzoyl peroxide), *not more than 52 per cent in solution.*	5.2	UN2115	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Di-4-chlorobenzoyl peroxide (p-Chlorobenzoyl peroxide), *not more than 77 per cent with water.*	5.2	UN2113	I	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
D	Dichlorobutene	8	NA2920	I	CORROSIVE, FLAMMABLE LIQUID.		None	201	243	.5 L	2.5 L	1,2	1	
	Dichlorodifluoromethane (*R-12*)	2.2	UN1028		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Dichlorodifluoromethane and difluoroethane azeotropic mixture (*R500*) *with approximately 74 per cent dichlorodifluoromethane.*	2.2	UN2602		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Dichlorodifluoromethane and ethylene oxide mixture, *with not more than 12% ethylene oxide.*	2.3	UN3070	III	POISON GAS, FLAMMABLE GAS.	B14, B33, 10.	None	304	244	Forbidden	Forbidden	1	5	40
	Dichlorodimethyl ether, symmetrical	6.1	UN2249	I	POISON	T25	None	201	243	Forbidden	30 L	1	5	23, 40, 95
	Dichlorodiphenyltrichloroethane. *See* DDT													
	1,1-Dichloroethane	3	UN2362	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	40
	1,2-Dichloroethane, see Ethylene dichloride.													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Dichloroethylene	3	UN1150	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	1	
	Dichloroethyl ether	6.1	UN1916	II	POISON	N33, N34, T8.	None	202	243	5 L	60 L	1,2	1,2	95
	Dichloroethyl sulfide	Forbidden												
	Dichlorofluoromethane	2.2	UN1029		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Dichloroisocyanuric acid, dry *or* Dichloroisocyanuric acid salts.	5.1	UN2465	II	OXIDIZER	B10, 28	152	212	240	5 kg	25 kg	1,2	1,2	
	Dichloroisopropyl ether	6.1	UN2490	II	POISON	T8	None	202	243	5 L	60 L	1,2	1	95
	Dichloromethane	6.1	UN1593	III	KEEP AWAY FROM FOOD.	N36, T13	153	203	241	60 L	220 L	1,2	1,2	25, 34
D	Dichloromethane	9	NA1593	III	NONE	N36, T13	155	204	241	No limit	No limit	1,2	1,2	25
	1,1-Dichloro-1-nitroethane	6.1	UN2650	II	POISON	T8	None	202	243	5 L	60 L	1,3	1,3	12, 40, 95
	Dichloropentanes	3	UN1152	III	FLAMMABLE LIQUID.	B1, T1	150	202	241	5 L	60 L	1,3	1,3	
DE	2,4-Dichlorophenoxyacetic acid (*RQ-100/45.4*).	ORM-E	NA2765	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	2,4-Dichlorophenoxyacetic acid ester (*RQ-100/45.4*).	ORM-E	NA2765	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Dichlorophenyl isocyanates	6.1	UN2250	II	POISON		None	212	242	25 kg	100 kg	1,3	1,3	25, 40, 95
	Dichlorophenyltrichlorosilane	8	UN1766	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Dichloropropane, see Propylene dichloride													
	1,3-Dichloropropanol-2	6.1	UN2750	II	POISON	T8	None	202	243	5 L	60 L	1,3	1,3	12, 40, 95
E	Dichloropropene (*RQ-5000/2270*)	3	UN2047	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	
	Dichloropropene and propylene dichloride mixture, see Propylene dichloride.													
DE	2,2-Dichloropropionic acid (*RQ-5000/2270*)	8	NA1760	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
	Dichlorosilane	2.3	UN2189	II	POISON GAS, FLAMMABLE GAS.	B13, B14, B31, 10.	None	304	244	Forbidden	Forbidden	1	5	40, 95
	Dichlorotetrafluoroethane	2.2	UN1958		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	3.5 Dichloro-2,4,6 trifluoropyridine	6.1	NA2810	I	POISON	B14, B32, 10.		227	244	Forbidden	Forbidden	1	1,3	40, 95
	Dichlorovinylchloroarsine	Forbidden												
DE	Dichlorvos (*RQ-10/4.54*)	6.1	NA2783	III	KEEP AWAY FROM FOOD.		153	213	241	100 kg	200 kg	1,2	1,2	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Dicumyl peroxide, *technically pure, or* Dicumyl peroxide *with inert solid.*	5.2	UN2121	II	ORGANIC PEROXIDE.	B9, B20	152	225	243	10 kg	25 kg	1	5	12, 40
	Dicycloheptadiene *see* Norbornadiene													
AW	Dicyclohexylamine	8	UN2565	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
	Dicyclohexylammonium nitrite	6.1	UN2687	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Dicyclohexyl peroxydicarbonate, *not more than 91 per cent with water.*	5.2	UN2153	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Dicyclohexyl peroxydicarbonate, *technically pure.*	5.2	UN2152	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Dicyclopentadiene	3	UN2048	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	
	Didecanoyl peroxide, *technically pure*	5.2	UN2120	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	2,2-Di-(4,4-di-tert-butylperoxycyclohexyl) propane, more than 42 per cent with inert solid.	Forbidden												
	2,2-Di-(4,4-di-tert-butylperoxycyclohexyl) propane, *not more than 42 per cent with inert solid.*	5.2	UN2168	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Di-2,4-dichlorobenzoyl peroxide, more than 75 per cent with water.	Forbidden												
	Di-2,4-dichlorobenzoyl peroxide, *not more than 52 per cent as a paste.*	5.2	UN2138	II	ORGANIC PEROXIDE.		152	225	None	10 kg	25 kg	1	5	12, 40
	Di-2,4-dichlorobenzoyl peroxide, *not more than 52 per cent in solution.*	5.2	UN2139	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Di-2,4-dichlorobenzoyl peroxide, *not more than 75 per cent with watr.*	5.2	UN2137	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	1,2-Di-(dimethylamino) ethane	3	UN2372	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Didymium nitrate	5.1	UN1465	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	
DE	Dieldrin (*RQ-1/0.454*)	6.1	NA2761	II	POISON		None	212	242	0.5 kg	5 kg	1,2	1,2	
D	Diesel fuel	3	NA1202	III	None		150	203	241	60 L	220 L	1,3	1,3	
	Diethanol nitrosamine dinitrate (dry)	Forbidden												
	Diethoxymethane	3	UN2373	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	2,5-Diethoxy-4-morpholinobenzenediazonium zinc chloride.	4.1	UN3036	II	FLAMMABLE SOLID.		None	212	None	Forbidden	Forbidden	1	5	25
	3,3-Diethoxypropene	3	UN2374	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
E	Diethylamine (*RQ-1000/454*)	3	UN1154	II	FLAMMABLE LIQUID.	N34, T8	150	202	242	Forbidden	60 L	1,3	5	12, 40
	Diethylaminoethanol	3	UN2686	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
AW	Diethylaminopropylamine	8	UN2684	III	CORROSIVE, FLAMMABLE LIQUID.	B1, B2, T8.	154	203	243	5 L	60 L	1,2	1,2	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	N,N-Diethyl aniline	6.1	UN2432	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	34
	Diethylbenzene	3	UN2049	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	40
	Diethyl carbonate	3	UN2366	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	
	Diethyl cellosolve, see Ethylene glycol diethyl ether.													
	Diethyldichlorosilane	8	UN1767	II	CORROSIVE, FLAMMABLE LIQUID.	B6, N16, N26, N34, T8, T26.	None	202	243	Forbidden	30 L	1	1	21, 40, 77
	Diethylene glycol dinitrate	Forbidden												
	Diethylene glycol dinitrate, desensitized *with not less than 25 percent non-volatile water-insoluble phlegmatizer, by weight.*	1.1D	UN0075											
	Diethylenetriamine	8	UN2079	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	26, 32, 40, 71
	Diethyl ether	3	UN1155	I	FLAMMABLE LIQUID.	T21	150	201	243	Forbidden	30 L	1,3	5	12, 40
	N,N-Diethylethylene diamine	8	UN2685	II	CORROSIVE, FLAMMABLE LIQUID.	T8	None	202	243	1 L	30 L	1,3	1,3	12, 21
	Diethylgold bromide	Forbidden												
	Di-2-ethylhexyl peroxydicarbonate, *not more than 77 per cent in so ution.*	5.2	UN2123	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Di-2-ethylhexyl peroxydicarbonate, *not more than 32 per cent, stab e dispersion in water.*	5.2	UN2960	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Di-2-ethylhexyl peroxydicarbonate, *technically pure.*	5.2	UN2122	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Di-2-ethylhexyl phosphoric acid, see Diisooctyl acid phosphate.													
	Diethyl ketone	3	UN1156	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Diethyl peroxydicarbonate, more than 27 per cent in solution.	Forbidden												
	Diethyl peroxydicarbonate, *not more than 27 per cent in solution.*	5.2	UN2175	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Diethyl sulfate	6.1	UN1594	II	POISON	T14	None	202	243	5 L	60 L	1	1	95
	Diethyl sulfide	3	UN2375	II	FLAMMABLE LIQUID, POISON.	T14	None	202	243	1 L	60 L	1,3	5	12, 13, 95
	Diethylthiophosphoryl chloride	8	UN2751	II	CORROSIVE	B2, T8	None	202	242	1 L	30 L	1	5	12, 21, 40

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Diethylzinc	4.2	UN1366	I	SPONTANEOUSLY COMBUSTIBLE.	B11, T28, T40.	None	181	244	Forbidden	Forbidden	1	5	18
	Difluorochloroethanes, *see* Chlorodifluoroethanes.													
	Difluoroethane (*R-152a*)	2.1	UN1030		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	1,1-Difluoroethylene	2.1	UN1959		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Difluorophosphoric acid, anhydrous	8	UN1768	II	CORROSIVE	B2, N5, N11, N16, N26, N34, T9, T27.	None	202	242	Forbidden	30 L	1,2	1,2	40
	2,2-Dihydroperoxy propane, *not more than 25 per cent with inert organic solid.*	5.2	UN2178	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	2,3-Dihydropyran	3	UN2376	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Di-(1-hydroxycyclohexyl) peroxide, *technically pure.*	5.2	UN2148	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	1,8-Dihydroxy-2,4,5,7-tetranitroanthraquinone (chrysamminic acid).	Forbidden												
	Di-(1-hydroxytetrazole) (dry)	Forbidden												
	Diiodoacetylene	Forbidden												
	Diisobutylamine	3	UN2361	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	
	Diisobutylene, isomeric compounds	3	UN2050	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Diisobutyl ketone	3	UN1157	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Diisobutyryl peroxide, *not more than 52 per cent in solution.*	5.2	UN2182	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Diisooctyl acid phosphate	8	UN1902	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	
	Diisopropylamine	3	UN1158	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Diisopropylbenzene hydroperoxide, *see* Isopropylcumyl hydroperoxide, *etc.*.													
	Diisopropyl ether	3	UN1159	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12, 40
	Diisopropyl peroxydicarbonate *or* Isopropyl peroxydicarbonate, *technically pure.*	5.2	UN2133	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Diisopropyl peroxydicarbonate *or* Isopropyl peroxydicarbonate, *not more than 52 per cent in solution.*	5.2	UN2134	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Diisotridecyl peroxydicarbonate, *technically pure.*	5.2	UN2889	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Diketene, inhibited	3	UN2521	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	
	Dilauroyl peroxide (Lauroyl peroxide), *not more than 42 per cent, stable dispersion, in water.*	5.2	UN2893	II	ORGANIC PEROXIDE.		152	225	None	10 L	25 L	1	5	12, 40
	Dilauroyl peroxide (Lauroyl peroxide), *technically pure.*	5.2	UN2124	II	ORGANIC PEROXIDE.		152	225	None	10 kg	25 kg	1	5	12, 40
	1,1-Dimethoxyethane	3	UN2377	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	12
	1,2-Dimethoxyethane	3	UN2252	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
E	Dimethylamine, anhydrous (*RQ-1000/454*)	2.3	UN1032	II	POISON GAS, FLAMMABLE GAS.	B14, B33, 10.	None	304	314, 315	Forbidden	Forbidden	1,3	5	40, 85
E	Dimethylamine solution (*RQ-1000/454*)	3	UN1160	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	12
	2-Dimethylaminoacetonitrile	3	UN2378	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	1	40
	4-Dimethylamino-6-(2-dimethylaminoethoxy) toluene-2-diazonium zinc chloride.	4.1	UN3039	II	FLAMMABLE SOLID.		None	212	None	Forbidden	Forbidden	1	5	2
	Dimethylaminoethyl methacrylate	6.1	UN2522	II	POISON	T8	None	202	243	5 L	60 L	1,2	1	40, 95
	N,N-Dimethylaniline	6.1	UN2253	II	POISON	T8	None	202	243	5 L	60 L	1,3	1,3	95
	Di-(2-methylbenzoyl) peroxide, *not more than 85 per cent with water.*	5.2	UN2593	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	2,3-Dimethylbutane	3	UN2457	II	FLAMMABLE LIQUID.	T13	150	202	242	5 L	60 L	1,3	5	12
	1,3-Dimethylbutylamine	3	UN2379	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Dimethylcarbamoyl chloride	8	UN2262	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	40
	Dimethyl carbonate	3	UN1161	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Dimethyl chlorothiophosphate, see Corrosive liquid, poisonous, n.o.s..													
	Dimethylcyclohexanes	3	UN2263	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Dimethylcyclohexylamine	8	UN2264	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,3	1,3	12, 21, 40
	2,5-Dimethyl-2,5-di-(benzoylperoxy) hexane, *not more than 82 per cent with inert solid.*	5.2	UN2173	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	2,5-Dimethyl-2,5-di-(benzoylperoxy) hexane, *not more than 82 per cent with water.*	5.2	UN2959	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	2,5-Dimethyl-2,5-di-(benzoylperoxy) hexane, *technically pure.*	5.2	UN2172	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	2,5-Dimethyl-2,5-di(tert-butylperoxy) hexane, *not more than 52 per cent with inert solid.*	5.2	UN2156	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	2,5-Dimethyl-2,5-di-3 (tert-butylperoxy) hexane, *technically pure.*	5.2	UN2155	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	2,5-Dimethyl-2,5-di(tert-butylperoxy) hexyne-3, *not more than 52 per cent with inert solid.*	5.2	UN2159	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	2,5-Dimethyl-2,5-di(tert-butylperoxy)*technically pure.*	5.2	UN2158	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Dimethyldichlorosilane	3	UN1162	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1	40
	Dimethyldiethoxysilane	3	UN2380	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	2,5-Dimethyl-2,5-di(2-ethylhexanoylperoxy) hexane, *technically pure.*	5.2	UN2157	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	2,5-Dimethyl-2,5-dihydroperoxy hexane *or* Dimethylhexane dihydroperoxide, *not more than 82 per cent with water.*	5.2	UN2174	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	2,5-Dimethyl-2,5-dihydroperoxy hexane, more than 82 per cent with water.	Forbidden												
	Dimethyldioxanes	3	UN2707	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Dimethyl disulfide	3	UN2381	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	2,5-Dimethyl-2,5-di-(3,5,5-trimethyl hexanoylperoxy)-hexane, *or*2,5-Dimethyl-2,5-di(isononanoylperoxy)-hexane *not more than 77% in solution .*	5.2	UN3060	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	
	Dimethylethanolamine	3	UN2051	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Dimethyl ether	2.1	UN1033		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	N,N-Dimethylformamide	3	UN2265	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Dimethylhexane dihydroperoxide, see 2,5-Dimethyl2,5-dihydroperoxy hexane, *etc.*.													
	Dimethylhydrazine, symmetrical	3	UN2382	I	FLAMMABLE LIQUID, POISON.	B14, B32, N15, N26, 10.	None	227	244	Forbidden	Forbidden	1,3	5	12, 40, 95
	Dimethylhydrazine, unsymmetrical	3	UN1163	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B32, N15, N26, 10.	None	227	244	Forbidden	Forbidden	1,3	5	40, 61, 74, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Dimethyl magnesium	4.2	UN1368	I	SPONTANEOUSLY COMBUSTIBLE.		None	181	244	Forbidden	Forbidden	1	5	18
D	Dimethyl phosphorochloridothioate	6.1	NA2927	I	POISON, CORROSIVE.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1	20, 95
	2,2-Dimethylpropane *other than pentane or isopentane.*	2.1	UN2044		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	1	40, 85
	Dimethyl-N-propylamine	3	UN2266	II	FLAMMABLE LIQUID, CORROSIVE.	T14, T26	None	202	243	1 L	5 L	1,3	1	40
	Dimethyl sulfate	6.1	UN1595	I	POISON, CORROSIVE.	T18, T26	None	201	243	Forbidden	30 L	1	5	40, 95
	Dimethyl sulfide	3	UN1164	I	FLAMMABLE LIQUID.	T14	None	201	243	Forbidden	30 L	1,3	5	12
AW	Dimethyl thiophosphoryl chloride	8	UN2267	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1	85, 25
	Dimethylzinc	4.2	UN1370	I	SPONTANEOUSLY COMBUSTIBLE.	B11, B16, T28, T29, T40.	None	181	244	Forbidden	Forbidden	1	5	18
	Dimyristyl peroxydicarbonate, *not more than 22 per cent, stable dispersion, in water.*	5.2	UN2892	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Dimyristyl peroxydicarbonate, *technically pure.*	5.2	UN2595	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Di-(1-naphthoyl) peroxide	Forbidden												
	Dinitroanilines	6.1	UN1596	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
E	Dinitrobenzenes (*RQ-1000/454*) (*poisonous liquid*).	6.1	UN1597	II	POISON	T14, 11	None	202	243	5 L	60 L	1,2	1,2	95
E	Dinitrobenzenes (*RQ-1000/454*) (*poisonous solid*).	6.1	UN1597	II	POISON	11	None	212	242	25 kg	100 kg	1,2	1,2	95
	Dinitrochlorobenzene, see Chlorodinitrobenzene.													
	Dinitro-o-cresol	6.1	UN1598	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95
	Dinitro-7,8-dimethylglycoluril (dry)	Forbidden												
	1,3-Dinitro-5,5-dimethyl hydantoin	Forbidden												
	1,3-Dinitro-4,5-dinitrosobenzene	Forbidden												
	1,2-Dinitroethane	Forbidden												
	1,1-Dinitroethane (dry)	Forbidden												
	Dinitroglycoluril	Forbidden												
	Dinitromethane	Forbidden												

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Dinitrophenolates (*alkali metals*), *dry or wetted with less than 15 per cent water, by weight.*	1.3C	UN0077											
	Dinitrophenolates, wetted *with not less than 15 per cent water, by weight.*	4.1	UN1321	I	FLAMMABLE SOLID, POISON.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1,3	5	36
E	Dinitrophenol, *dry or wetted with less than 15 per cent water, by weight(RQ-1000/454).*	1.1D	UN0076											
E	Dinitrophenol solutions (*RQ-1000/454*)	6.1	UN1599	II	POISON	T8	None	202	243	5 L	60 L	1,2	5	23, 36, 95
E	Dinitrophenol, wetted *with not less than 15 per cent water, by weight(RQ-1000/454).*	4.1	UN1320	I	FLAMMABLE SOLID, POISON.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1,3	5	36, 47
	Dinitropropylene glycol	Forbidden												
	Dinitroresorcinol, *dry or wetted with less than 15 per cent water, by weight.*	1.1D	UN0078											
	4,6-Dinitroresorcinol (heavy metal salts of) (dry).	Forbidden												
	2,4-Dinitroresorcinol (heavy metal salts of) (dry).	Forbidden												
	Dinitroresorcinol, wetted *with not less than 15 per cent water, by weight.*	4.1	UN1322	I	FLAMMABLE SOLID.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1,3	5	36
	3,5-Dinitrosalicylic acid (lead salt) (dry)	Forbidden												
	Dinitrosobenzene	1.3C	UN0406											
	Dinitrosobenzylamidine and salts of (dry)	Forbidden												
	N,N'-Dinitroso-N,N'-dimethyl terephthalamide.	4.1	UN2973	II	FLAMMABLE SOLID.		None	212	None	Forbidden	Forbidden	1	5	12, 25, 48, 52, 53
	N,N'-Dinitrosopentamethylenetetramine	4.1	UN2972	II	FLAMMABLE SOLID.		None	212	None	Forbidden	Forbidden	1	5	12, 25, 48, 52, 53
	2,2-Dinitrostilbene	Forbidden												
	1,4-Dinitro-1,1,4,4-tetramethylolbutanetetranitrate (dry).	Forbidden												
DE	Dinitrotoluene, liquid (*RQ-1000/454*)	6.1	NA1600	II	POISON	T14, T38	None	202	243	5 L	60 L	1,2	1,2	
				III	KEEP AWAY FROM FOOD.	T14, T38	153	203	241	60 L	220 L	1,2	1,2	
E	Dinitrotoluenes, molten (*RQ-1000/454*)	6.1	UN1600	II	POISON	T14, T38	None	202	243	Forbidden	Forbidden	1,2	1,2	95
E	Dinitrotoluenes, solid (*RQ-1000/454*)	6.1	UN2038	II	POISON	T8, T38	None	212	242	25 kg	100 kg	1,2	1,2	95
	2,4-Dinitro-1,3,5-trimethylbenzene	Forbidden												

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Di-(beta-nitroxyethyl) ammonium nitrate	Forbidden												
	a,a'-Di-(nitroxy) methylether	Forbidden												
	1,9-Dinitroxy pentamethylene-2,4, 6,8-tetramine (dry).	Forbidden												
	Di-n-nonanoyl peroxide, *technically pure*	5.2	UN2130	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Di-n-octanoyl peroxide, *technically pure*	5.2	UN2129	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Dioxane	3	UN1165	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Dioxolane	3	UN1166	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Dipentene	3	UN2052	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Diperoxy azelaic acid *not more than 27 per cent with not less than 13 per cent azelaic acid and not less than 53 per cent sodium sulfate.*	5.2	UN2958	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Diperoxy dodecane diacid, *not more than 42% with nor less than 56% sodium sulfate.*	5.2	UN3063	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2
	Di-(2 Phenoxyethyl)-peroxy dicarbonate, *not more than 85% with water.*	5.2	UN3059	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2
	Di-(2 phenoxyethyl)-peroxy dicarbonate, *technically pure.*	5.2	UN3058	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2
	Diphenylamine chloroarsine (*DM*)	6.1	UN1698	II	POISON		None	212	None	Forbidden	35 kg	1	5	40, 95
	Diphenylchloroarsine	6.1	UN1699	I	POISON	B14, B32, N2, N33, N34, 10.	None	211	244	Forbidden	Forbidden	1	5	40, 95
	Diphenyldichlorosilane	8	UN1769	II	CORROSIVE	B2, N16, N26, N34, T8, T26.	None	202	244	Forbidden	30 L	1	1	40
	Diphenylmethane-4,4'diisocyanate	6.1	UN2489	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	34, 48
	Diphenylmethyl bromide	8	UN1770	II	CORROSIVE		154	212	240	15 kg	50 kg	1	5	40
	Diphenyloxide-4,4'disulfohydrazide	4.1	UN2951	II	FLAMMABLE SOLID.		None	212	None	15 kg	50 kg	1,3	1	12, 25, 48, 52, 53, 85
	Dipicrylamine, *see* Hexanitrodiphenylamine													
	Dipicryl sulfide, *dry or wetted with less than 10 per cent water, by weight.*	1.1D	UN0401											
	Dipicryl sulfide, wetted *with not less than 10 per cent water, by weight.*	4.1	UN2852	I	FLAMMABLE SOLID.	A2, N15, N34, N41.	None	211	None	Forbidden	0.5 kg	1	5	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Dipropionyl peroxide *or* Propionyl peroxide, *not more than 28 per cent in solution.*	5.2	UN2132	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Dipropionyl peroxide, more than 28 per cent in solution.	Forbidden												
	Dipropylamine	3	UN2383	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	4-Dipropylaminobenzenediazonium zinc chloride.	4.1	UN3034	II	FLAMMABLE SOLID.		None	212	None	Forbidden	Forbidden	1	5	25
	Dipropyl ether	3	UN2384	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	5	12
	Dipropylketone	3	UN2710	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Di-n-propyl peroxydicarbonate, *technically pure.*	5.2	UN2176	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
DE	Diquat (*RQ-1000/454*)	ORM-E	NA2781	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Disinfectants, corrosive liquid, n.o.s.	8	UN1903	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
				III	CORROSIVE		154	203	241	5 L	60 L	1,2	1,2	
	Disinfectants, n.o.s. *poisonous liquid*	6.1	UN1601	I	POISON		None	201	243	1 L	30 L	1,2	1	40, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34, 40
	Disinfectants, n.o.s. *poisonous solid*	6.1	UN1601	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Dispersant gas, see Compressed *or* liquefied gases, *etc.*													
	Distearyl peroxydicarbonate, *not more than 85 per cent with stearyl alcohol.*	5.2	UN2592	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Disuccinic acid peroxide *or* Succinic acid peroxide, *technically pure.*	5.2	UN2135	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Disuccinic acid peroxide, *not more than 72 per cent, wetted with water.*	5.2	UN2962	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
DE	Disulfoton (*RQ-1/0.454*)	6.1	NA2783	II	POISON		None	202	243	5 L	60 L	1,2	1	
	Dithiocarbamate pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23deg C.*	3	UN2772	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Dithiocarbamate pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23deg C.*	6.1	UN3005	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,3	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1	21, 34, 40
	Dithiocarbamate pesticides, liquid, toxic, n.o.s.	6.1	UN3006	I	POISON		None	201	243	1 L	30 L	1	1	40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	II	POISON	.....	None	202	243	5 L	60 L	1,2	1	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Dithiocarbamate pesticides, solid, toxic, n.o.s..	6.1	UN2771	I	POISON	.....	None	211	242	5 kg	50 kg	1,2	1,2	40, 95
	.....	.....	.....	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Di-(3,5,5-trimethyl-1,2-dioxolanyl-3) peroxide, *not more than 50 per cent as a paste, with phlegmatizer.*	5.2	UN2597	II	ORGANIC PEROXIDE.	.....	None	225	None	Forbidden	Forbidden	1	5	20, 40
	Di-(3,5,5-trimethylhexanoyl) peroxide, *in solution, or* Di-(3,5,5-trimethylhexanoyl) peroxide, *technically pure.*	5.2	UN2128	II	ORGANIC PEROXIDE.	.....	None	225	None	Forbidden	Forbidden	1	5	20, 40
DE	Diuron (*RQ-100/45.4*)	ORM-E	NA2767	III	None	.....	156	213	240	No limit	No limit	1,2	1,2	
	Divinyl ether, inhibited	3	UN1167	II	FLAMMABLE LIQUID.	N15, T14	None	202	241	Forbidden	60 L	1,3	5	12, 40
DE	Dodecylbenzenesulfonic acid (*RQ-1000/454*).	8	NA2584	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
	Dodecyltrichlorosilane	8	UN1771	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Driers, paint *or* varnish, liquid, n.o.s.	3	UN1168	II	FLAMMABLE LIQUID.	T8, T31	150	173	242	5 L	60 L	1,3	1	
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T7, T30.	150	173	242	60 L	220 L	1,3	1,3	
	Driers, paint *or* varnish, solid, n.o.s.	4.1	UN1371	III	FLAMMABLE SOLID.	A1, A19, B16.	151	213	242	25 kg	100 kg	1,3	1,3	
	Dry ice, *see* Carbon dioxide, solid	.....	.....											
	Dyes, n.o.s. *or* Dye intermediates, n.o.s., *corrosive liquid.*	8	UN2801	II	CORROSIVE	B2, T14, 11.	154	202	242	1 L	30 L	1,2	1,2	23
	.....	.....	.....	III	CORROSIVE	T14, 11	154	203	241	5 L	60 L	1,2	1,2	23
	Dyes, n.o.s. *or* Dye intermediates, n.o.s. *poisonous liquid.*	6.1	UN1602	I	POISON	.....	None	201	243	1 L	30 L	1,2	1	23, 95
	.....	.....	.....	II	POISON	.....	None	202	243	5 L	60 L	1,2	1,2	23, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	203	241	60 L	220	1,2	1,2	34
	Dyes, n.o.s. *or* Dye intermediates, n.o.s. *poisonous solid.*	6.1	UN1602	I	POISON	.....	None	211	242	5 kg	50 kg	1,2	1	95
	.....	.....	.....	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	.....	.....	.....	II	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg	200 kg	1,2	1,2	34
	Dyes, n.o.s. *or* Dye intermediates, n.o.s. *corrosive solid.*	8	UN2801	II	CORROSIVE	11	154	212	242	15 kg	50 kg	1,2	1,2	
	.....	.....	.....	III	CORROSIVE	11	154	213	240	25 kg	100 kg	1,2	1,2	
	Dynamite, see Explosive, blasting, type A	.....	.....											
	EDTA. *See* Ethylenediaminetetraacetic acid.	.....	.....											

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Electrolyte (acid or alkali) for batteries, see Battery fluid, acid *or* Battery fluid, alkali.													
DE	Endosulfan (*RQ-1/0.454*)	6.1	NA2761	II	POISON		None	212	242	0.5 kg	5 kg	1,2	1,2	
DE	Endosulfan mixture, liquid (*RQ-1/0.454*)	6.1	NA2761	II	POISON		None	202	243	5 L	60 L	1,2	1	
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	
DE	Endrin (*RQ-1/0.454*)	6.1	NA2761	II	POISON		None	212	242	0.5 kg	5 kg	1,2	1,2	
DE	Endrin mixture, liquid (*RQ-1/0.454*)	6.1	NA2761	II	POISON		None	202	243	5 L	60 L	1,2	1	
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	
	Engines, internal combustion, *see* Vehicle, self-propelled.													
	Engine starting fluid, *with flammable gas*	2.1	UN1960		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Epibromohydrin	6.1	UN2558	I	POISON		None	201	243	Forbidden	30 L	1	5	23, 25, 40, 95
E	Epichlorohydrin (*RQ-1000/454*)	6.1	UN2023	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	23, 40, 95
	1,2-Epoxy-3-ethoxypropane	3	UN2752	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
I	Eradicators, paint *or* grease, liquid	3	UN1850	I	FLAMMABLE LIQUID.		150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1	150	203	242	60 L	220 L	1,2	1,3	
I	Eradicators, paint *or* grease, liquid	6.1	UN1850	II	POISON		None	202	243	5 L	60 L	1,2	1	
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1	
I	Eradicators, paint *or* grease, liquid	8	UN1850	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1	
				III	CORROSIVE		154	203	241	5 L	60 L	1,2	1	
	Etching acid, liquid, n.o.s. , see Hydrofluoric acid, solution.													
	Ethane, compressed	2.1	UN1035		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
D	Ethane-Propane mixture, refrigerated liquid	2.1	NA1961		FLAMMABLE GAS.	B13	None	316	244	Forbidden	Forbidden	1	5	40
	Ethane, refrigerated liquid	2.1	UN1961		FLAMMABLE GAS.	B13	None	316	244	Forbidden	Forbidden	1	5	40
	Ethanolamine *or* Ethanolamine solutions	8	UN2491	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	
	Ethanol amine dinitrate	Forbidden												
	Ethanol (Ethyl alcohol) *or* Ethanol (Ethyl alcohol) solutions, *including* Alcoholic beverages.	3	UN1170	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ether, see Diethyl ether													
DE	Ethion (*RQ-10/4.54*)	6.1	NA2783	II	POISON		None	202	243	Forbidden	1 L	1,2	1	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ethyl acetate	3	UN1173	II	FLAMMABLE LIQUID.	T2	150	202	242	5 L	60 L	1,3	1	
	Ethyl acetylene, inhibited	2.1	UN2452		FLAMMABLE GAS.	B13	None	304	244	Forbidden	150 kg	1	5	40
	Ethyl acrylate, inhibited	3	UN1917	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Ethyl alcohol, *see* Ethanol													
	Ethyl aldehyde, see Acetaldehyde													
E	Ethylamine (*RQ-1000/454*)	2.1	UN1036		FLAMMABLE GAS.	B13	None	321	244	Forbidden	150 kg	1,3	5	40, 85
	Ethylamine, aqueous solution *with not less than 50 per cent but not more than 70 per cent ethylamine.*	3	UN2270	II	FLAMMABLE LIQUID.	N15, T14	150	202	242	5 L	60 L	1,3	5	12, 40
	Ethyl amyl ketone	3	UN2271	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	N-Ethylaniline	6.1	UN2272	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	26, 34
	2-Ethylaniline	6.1	UN2273	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	26, 34
E	Ethylbenzene (*RQ-1000/454*)	3	UN1175	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	N-Ethyl-N-benzylaniline	6.1	UN2274	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	34
	N-Ethylbenzyltoluidines	6.1	UN2753	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,3	1,3	12, 34
	Ethyl borate	3	UN1176	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Ethyl bromide	6.1	UN1891	II	POISON	T17	None	202	243	5 L	60 L	1,3	1	40, 48, 95
	Ethyl bromoacetate	6.1	UN1603	II	POISON	T14	None	202	243	Forbidden	1 L	1	5	23, 40, 95
	2-Ethylbutanol	3	UN2275	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethylbutyl acetate	3	UN1177	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethyl butyl ether	3	UN1179	II	FLAMMABLE LIQUID.	B1, T1	150	202	242	5 L	60 L	1,3	1	
	2-Ethylbutyraldehyde	3	UN1178	II	FLAMMABLE LIQUID.	B1, T1	150	202	242	5 L	60 L	1,3	1	
	Ethyl butyrate	3	UN1180	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	
	Ethyl chloride	2.3	UN1037	II	POISON GAS, FLAMMABLE GAS.	B13, B33, 10.	None	322	244	Forbidden	Forbidden	1,3	5	40, 85
	Ethyl chloroacetate	6.1	UN1181	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	23, 40, 48, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ethyl chloroformate	3	UN1182	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B32, N1, N11, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1,3	5	40
	Ethyl-2-chloropropionate	3	UN2935	III	FLAMMABLE LIQUID.	B1	150	203	242	60 L	220 L	1,3	1,3	
	Ethyl chlorothioformate	3	UN2826	I	FLAMMABLE LIQUID, CORROSIVE.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	1,3	21, 40, 95
	Ethyl crotonate	3	UN1862	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Ethyl cyanoacetate	6.1	UN2666	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	26, 34
	Ethyl-3,3-di-(tert-butylperoxy) butyrate, *not more than 50 per cent with inert inorganic solid.*	5.2	UN2598	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Ethyl-3,3-di-(tert-butylperoxy) butyrate, *not more than 77 per cent in solution.*	5.2	UN2185	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Ethyl-3,3-di-(tert-butylperoxy) *technically pure.*	5.2	UN2184	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Ethyldichloroarsine	6.1	UN1892	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	5	40, 95
	Ethyldichlorosilane	4.3	UN1183	I	DANGEROUS WHEN WET, CORROSIVE, POISON, FLAMMABLE LIQUID.	A2, N1, N15, N26, N34, T18, T26.	None	201	244	Forbidden	1 L	1	1	40
	Ethylene chlorohydrin	6.1	UN1135	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	23, 40, 48, 95
	Ethylene, compressed	2.1	UN1962		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Ethylenediamine (*RQ-1000/454*)	8	UN1604	II	CORROSIVE, FLAMMABLE LIQUID.	T14	154	202	243	1 L	30 L	1,3	1,3	21, 40
	Ethylene diamine diperchlorate	Forbidden												
DE	Ethylenediaminetetraacetic acid (*RQ-5000/2270*).	ORM-E	NA9117	III	None		156	213	240	No limit	No limit	1,2	1,2	
E	Ethylene dibromide (*RQ-1000/454*)	6.1	UN1605	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	40, 95
	Ethylene dibromide and methyl bromide liquid mixtures, see Methyl bromide and ethylene dibromide, liquid mixtures.													
E	Ethylene dichloride (*RQ-5000/2270*)	3	UN1184	II	FLAMMABLE LIQUID, POISON.	T14	None	202	243	1 L	60 L	1,3	1	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ethylene glycol diethyl ether	3	UN1153	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethylene glycol dinitrate	Forbidden												
	Ethylene glycol monobutyl ether	6.1	UN2369	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,3	1,3	22, 25, 40, 34
	Ethylene glycol monoethyl ether	3	UN1171	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethylene glycol monoethyl ether acetate	3	UN1172	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethylene glycol monomethyl ether	3	UN1188	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethylene glycol monomethyl ether acetate	3	UN1189	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethyleneimine, inhibited	6.1	UN1185	I	POISON, FLAMMABLE LIQUID.	B14, B32, N16, N17, N25, N32, 10.	None	227	244	Forbidden	Forbidden	1,3	1	
	Ethylene oxide and carbon dioxide mixtures, see Carbon dioxide and ethylene oxide mixtures, *etc.*.													
	Ethylene oxide and propylene oxide mixtures, *not more than 30 per cent ethylene oxide.*	3	UN2983	I	FLAMMABLE LIQUID, POISON.	N4, N15, N34, N40.	None	201	243	Forbidden	30 L	1,3	5	12, 40
	Ethylene oxide, *pure or with nitrogen*	2.3	UN1040	II	POISON GAS, FLAMMABLE GAS.	10	None	323	248	Forbidden	Forbidden	1,3	1	40, 85, 95
	Ethylene, refrigerated liquid (*cryogenic liquid*).	2.1	UN1038		FLAMMABLE GAS.		None	316	318, 319	Forbidden	Forbidden	1	5	40, 85
	Ethyl ether, *see* Diethyl ether													
	Ethyl fluoride	2.3	UN2453	II	POISON GAS	B13, B33, 10.	None	304	244	Forbidden	Forbidden	1,3	5	40, 85
	Ethyl formate	3	UN1190	II	FLAMMABLE LIQUID.	T8	150	202	242	1 L	60 L	1,3	5	12
	Ethylhexaldehyde, see Octyl aldehydes *etc.*.													
	2-Ethylhexylamine	8	UN2276	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,3	1,3	21
	2-Ethylhexylchloroformate	6.1	UN2748	II	POISON, CORROSIVE.		None	202	243	5 L	60 L	1,3	1,3	12, 13, 23, 25, 40, 95
	Ethyl hydroperoxide	Forbidden												
	Ethyl isobutyrate	3	UN2385	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ethyl isocyanate	3	UN2481	I	FLAMMABLE LIQUID, POISON.	B13, B14, B30, N15, N26, 10.	None	226	244	Forbidden	Forbidden	1	5	12, 40, 48
	Ethyl lactate	3	UN1192	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethyl mercaptan	3	UN2363	II	FLAMMABLE LIQUID, POISON.		None	202	243	Forbidden	60 L	1,3	5	12, 13, 34, 35, 40
	Ethyl methacrylate	3	UN2277	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Ethyl methyl ether	2.1	UN1039		FLAMMABLE GAS.	B13	None	324	244	Forbidden	150 kg	1,3	1	25, 40, 85
	Ethyl methyl ketone *or* Methyl ethyl ketone	3	UN1193	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
D	Ethyl nitrate (*nitric ether*)	3	NA1993	II	FLAMMABLE LIQUID.		150	202	None	Forbidden	Forbidden	1,3	1	
	Ethyl nitrite solutions	3	UN1194	I	FLAMMABLE LIQUID, POISON.		None	201	None	Forbidden	Forbidden	1,3	5	12, 40
	Ethyl orthoformate	3	UN2524	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1,3	
	Ethyl oxalate	6.1	UN2525	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Ethyl perchlorate	Forbidden												
	Ethylphenyldichlorosilane	8	UN2435	II	CORROSIVE	B2, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	
	Ethyl phosphonothioic dichloride, anhydrous, see Corrosive liquid, n.o.s.													
	Ethyl phosphonous dichloride, anhydrous, see Pyrophoric liquids, n.o.s.													
	Ethyl phosphorodichloridate, see Corrosive liquid, n.o.s.													
	1-Ethyl piperidine	3	UN2386	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Ethyl propionate	3	UN1195	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Ethyl propyl ether	3	UN2615	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	Ethyl silicate, see Tetraethyl silicate													
	Ethylsulfuric acid	8	UN2571	II	CORROSIVE	B2, T9, T27.	154	202	242	1 L	30 L	1,2	1	14
	N-Ethyltoluidines	6.1	UN2754	II	POISON	T14	None	202	243	5 L	60 L	1,3	1,3	12, 22, 25, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ethyltrichlorosilane	3	UN1196	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B32, N26, N34, 10.	None	226	244	Forbidden	Forbidden	1,3	1	40
D	Etiologic agent, n.o.s.(*see also* Infectious substances, *etc.*).	6.2	NA2814		ETIOLOGIC AGENT.		196	196	None	50ml	4 L	5	5	
	Explosive articles, see Articles, explosive													
	Explosive, blasting, type A	1.1D	UN0081											
	Explosive, blasting, type B	1.1D	UN0082											
	Explosive, blasting, type B	1.5D	UN0331											
	Explosive, blasting, type C	1.1D	UN0083											
	Explosive, blasting, type D	1.1D	UN0084											
	Explosive, blasting, type E	1.1D	UN0241											
	Explosive, blasting, type E	1.5D	UN0332											
	Explosive, forbidden. See Sec. 173.51	Forbidden												
	Explosives, slurry, see Explosive, blasting, type E.													
	Explosive substances, see Substances, explosive.													
	Explosives, water gels, see Explosive, blasting, type E.													
	Extracts, aromatic, liquid	3	UN1169	I	FLAMMABLE LIQUID.	T7, T30	150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	T7, T30	150	203	242	60 L	220 L	1,3	1,3	
	Extracts, flavouring, liquid	3	UN1197	I	FLAMMABLE LIQUID.	T7, T30	150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	T7, T30	150	203	242	60 L	220 L	1,3	1,3	
	Fabric with animal or vegetable oil. See Fibers *or* fabrics, *etc.*.													
DE	Ferric ammonium citrate (*RQ-1000/454*)	ORM-E	NA9118	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Ferric ammonium oxalate (*RQ-1000/454*)	ORM-E	NA9119	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Ferric arsenate	6.1	UN1606	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Ferric arsenite	6.1	UN1607	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
E	Ferric chloride (*RQ-1000/454*)	8	UN1773	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
E	Ferric chloride, solution (*RQ-1000/454*)	8	UN2582	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
DE	Ferric fluoride (*RQ-100/45.4*)	ORM-E	NA9120	III	None		156	213	240	No limit	No limit	1,2	1,2	
E	Ferric nitrate (*RQ-1000/454*)	5.1	UN1466	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
DE	Ferric sulfate (*RQ-1000/454*)	ORM-E	NA9121	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Ferrocerium	4.1	UN1323	II	FLAMMABLE SOLID.	A19	151	212	240	15 kg	50 kg	1,3	1,3	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ferrosilicon, *with more than 30 per cent but less than 90 per cent silicon.*	4.3	UN1408	III	DANGEROUS WHEN WET, KEEP AWAY FROM FOOD.	A1, A19	None	213	242	25 kg	100 kg	1,3	1,3	13, 40, 85
DE	Ferrous ammonium sulfate (*RQ-1000/454*)	ORM-E	NA9122	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Ferrous arsenate	6.1	UN1608	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
DE	Ferrous chloride, solid (*RQ-100/45.4*)	8	NA1759	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
DE	Ferrous chloride, solution (*RQ-100/45.4*)	8	NA1760	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
	Ferrous metal borings, shavings, turnings *or* cuttings *in a form liable to self-heating.*	4.2	UN2793	III	SPONTANEOUSLY COMBUSTIBLE.	A1, A19	None	213	241	25 kg	100 kg	1,2	1,2	
DE	Ferrous sulfate (*RQ-1000/454*)	ORM-E	NA9125	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Fertilizer ammoniating solution *with free ammonia.*	2.2	UN1043		NONFLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
AIW	Fibers *or* Fabrics, animal *or* vegetable, n.o.s. *with animal or vegetable oil.*	4.2	UN1373	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	
AIW	Fibers, animal *or* vegetable, n.o.s., *burnt, wet or damp.*	4.2	UN1372	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	
	Films, nitrocellulose base, from which gelatine has been removed; film scrap, see Celluloid scrap.													
	Films, nitrocellulose base, *gelatine coated (except scrap).*	4.1	UN1324	III	FLAMMABLE SOLID.		None	183	None	25 kg	100 kg	1	5	98
	Fire extinguisher charges, *corrosive liquid*	8	UN1774	II	CORROSIVE	N15, N34, N41.	154	202	None	1 L	30 L	1,2	1,2	
	Fire extinguisher charges, expelling, explosive, see Cartridges, power device.													
	Fire extinguishers *with compressed or liquefied gas.*	2.2	UN1044		NONFLAMMABLE GAS.		306	306	None	75 kg	150 kg	1,3	1,3	85
	Firelighters, solid *with flammable liquid*	4.1	UN2623	II	FLAMMABLE SOLID.	A19	None	212	None	15 kg	50 kg	1,3	1,3	
				III	FLAMMABLE SOLID.	A1, A19	None	213	None	25 kg	100 kg	1,3	1,3	
	Fireworks, type A	1.1G	UN0333											
	Fireworks, type B	1.2G	UN0334											
	Fireworks, type C	1.3G	UN0335											
	Fireworks, type D	1.4G	UN0336											
	Fireworks, type D	1.4S	UN0337											
	Fish meal *or* fish scrap, unstabilized	4.2	UN1374	II	SPONTANEOUSLY COMBUSTIBLE.	A1, A19	None	212	241	15 kg	50 kg	1,3	1,3	
ADW	Fish meal *or* fish scrap containing 6% to 12% water.	9	NA9300	III	None	A1	155	213	241	No limit	No limit	1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Fissile radioactive materials, see Radioactive material, fissile, n.o.s..	.....	.....											
	Flammable compressed gas, see Compressed *or* Liquefied gas, flammable, *etc.*.	.....	.....											
	Flammable compressed gas (small receptacles not fitted with a dispersion device, not refillable), see Receptacles, *etc.*.	.....	.....											
	Flammable gas in lighters, see Lighters for cigars *or* cigarettes, *with flammable gas.*	.....	.....											
I	Flammable liquid preparations n.o.s. *for the purpose of cleaning enamel, lacquer, paint, varnish, etc.; removing, reducing or thinning liqu making products for polishing, vulcanizing or de-icing, or for dressing leather.*	3	UN1142	I	FLAMMABLE LIQUID.	T42	150	201	243	1 L	5 L	1,3	1	
	.....	.....	.....	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1,3	
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Flammable liquids, corrosive, n.o.s.	3	UN2924	I	FLAMMABLE LIQUID, CORROSIVE.	T42	None	201	243	0.5 L	2.5 L	1,3	5	40
	.....	.....	.....	II	FLAMMABLE LIQUID, CORROSIVE.	T15, T26	None	202	243	1 L	5 L	1,3	1	40
	.....	.....	.....	III	FLAMMABLE LIQUID, CORROSIVE.	B1, T15, T26.	150	203	242	5 L	60 L	1,3	1,3	40
	Flammable liquids, n.o.s.	3	UN1993	I	FLAMMABLE LIQUID.	T42	150	201	243	1 L	30 L	1,3	5	
	.....	.....	.....	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Flammable liquids, poisonous, n.o.s.	3	UN1992	I	FLAMMABLE LIQUID, POISON.	B38, T42	None	201	243	Forbidden	30 L	1,3	5	40
	.....	.....	.....	II	FLAMMABLE LIQUID, POISON.	T18	None	202	243	1 L	60 L	1,3	1	40
	.....	.....	.....	III	FLAMMABLE LIQUID, KEEP AWAY FROM FOOD.	B1, T18	150	203	242	60 L	220 L	1,3	1,3	40
	Flammable solids, corrosive, n.o.s.	4.1	UN2925	I	FLAMMABLE SOLID, CORROSIVE.	A19	None	211	242	1 kg	15 kg	1	5	40, 74

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				II	FLAMMABLE SOLID, CORROSIVE.		None	212	242	15 kg	50 kg	1	5	40, 74
				III	FLAMMABLE SOLID, CORROSIVE.	A1	151	213	242	25 kg	100 kg	1	5	
Flammable solids, n.o.s.		4.1	UN1325	II	FLAMMABLE SOLID.		151	212	240	15 kg	50 kg	1,3	1	
				III	FLAMMABLE SOLID.		151	213	240	25 kg	100 kg	1,3	1	
Flammable solids, poisonous, n.o.s.		4.1	UN2926	I	FLAMMABLE SOLID, POISON.	A19	None	211	242	1 kg	15 kg	1,3	5	
				II	FLAMMABLE SOLID, POISON.		None	212	242	15 kg	50 kg	1,3	1	
				III	FLAMMABLE SOLID, POISON.	A1	151	213	242	25 kg	100 kg	1,3	1	
Flares, aerial		1.3G	UN0093											
Flares, aerial		1.4G	UN0403											
Flares, aerial		1.4S	UN0404											
Flares, aerial		1.1G	UN0420											
Flares, aerial		1.2G	UN0421											
Flares, airplane, see Flares, aerial														
Flares, signal, see Cartridges, signal														
Flares, surface (*other than water activated contrivances*).		1.1G	UN0418											
Flares, surface (*other than water activated contrivances*).		1.2G	UN0419											
Flares, surface (*other than water-activated contrivances*).		1.3G	UN0092											
Flares, water-activated, see Contrivances, water-activated, *etc.*.														
Flash powder, in units, see Photo-flash powder, in units.														
Flue dusts, poisonous, see Arsenical dust														
Fluoboric acid		8	UN1775	II	CORROSIVE	B2, B15, N3, N11, N26, N34, T15, T27.	154	202	242	1 L	30 L	1,2	1,2	
Fluoric acid, see Hydrofluoric acid, solution, *etc.*.														
Fluorine, compressed		2.3	UN1045	IA	POISON GAS, OXIDIZER.	10	None	302	245	Forbidden	Forbidden	1	5	40, 43, 95
Fluoroacetic acid		6.1	UN2642	I	POISON		None	211	242	1 kg	15 kg	1,3	1,3	12, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	4-Fluoroaniline	6.1	UN2944	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	23, 34
	2-Fluoroaniline	6.1	UN2941	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	23, 34
	Fluorobenzene	3	UN2387	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Fluorophosphoric acid anhydrous	8	UN1776	II	CORROSIVE	B2, N3, N11, N26, N34, T9, T27.	None	202	242	1 L	30 L	1,2	1,2	
	Fluorosilicates, n.o.s.	6.1	UN2856	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Fluorosilicic acid	8	UN1778	II	CORROSIVE	B2, B15, N3, N11, N26, N34, T12, T27.	None	202	242	1 L	30 L	1,2	1,2	
	Fluorosulfonic acid	8	UN1777	I	CORROSIVE	B41, B4, B6, N1, N3, N11, N26, N35, T12, T27.	None	201	242	0.5 L	2.5 L	1	5	33, 40
	Fluorotoluenes	3	UN2388	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
				III	FLAMMABLE LIQUID.	B1, T8	150	202	242	60 L	220 L	1,3	1,3	
	Forbidden materials. See 173.21	Forbidden												
	Formaldehyde, solutions (*RQ-1000/454*)(*flashpoint greater than 60.5 degrees C*).	9	UN2209	III	None	T1	155	204	240	100 L	220 L	1,2	1,2	34
	Formaldehyde, solutions, *flammable* (*RQ-1000/454*).	3	UN1198	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	40
				III	FLAMMABLE LIQUID.	B1, T8	150	203	242	60 L	220 L	1,3	1,3	40
	Formalin, see Formaldehyde, solutions													
	Formic acid (*RQ-5000/2270*)	8	UN1779	II	CORROSIVE	B2, B12, B28, T8.	154	202	242	1 L	30 L	1,2	1,2	40
	Fracturing devices, explosive, *for oil wells*	1.1D	UN0099											
	Fuel, aviation, turbine engine	3	UN1863	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
D	Fuel oil(*No. 1, 2, 4, 5 or 6*)	3	NA1202	III	None		150	203	241	60 L	220 L	1,3	1,3	
	Fuel, pyrophoric, n.o.s.	4.2	UN1375	I	SPONTANEOUSLY COMBUSTIBLE.	B11	None	181	244	Forbidden	Forbidden	1	5	18
	Fulminate of mercury (dry)	Forbidden												
	Fulminate of mercury, wet, see Mercury fulminate, *etc.*.													
	Fulminating gold	Forbidden												
	Fulminating mercury	Forbidden												
	Fulminating platinum	Forbidden												
	Fulminating silver	Forbidden												
	Fulminic acid	Forbidden												
DE	Fumaric acid (*RQ-5000/2270*)	ORM-E	NA9126	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Fumaryl chloride	8	UN1780	II	CORROSIVE	B2, T8, T26.	154	202	242	1 L	30 L	1	1	80, 40
	Furan	3	UN2389	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	1,3	12, 40, 95
	Furfural (*RQ-1000/454*)	3	UN1199	II	FLAMMABLE LIQUID.	T1	150	202	241	5 L	60 L	1,3	1,3	
	Furfuryl alcohol	6.1	UN2874	III	KEEP AWAY FROM FOOD.	T2	153	203	240	60 L	220 L	1,2	1,2	34, 74
	Furfurylamine	3	UN2526	II	FLAMMABLE LIQUID.	T1	150	202	241	5 L	60 L	1,3	1,3	
	Fuse, detonating, *metal clad, see* Cord, detonating, *metal clad*.													
	Fuse, detonating, mild effect, *metal clad, see* Cord, detonating, mild effect, *metal clad*.													
D	Fusee (*railway or highway*)	4.1	NA1325	II	FLAMMABLE SOLID.		None	184	None	15 kg	50 kg	1,3	1	
	Fuse, igniter *tubular metal clad*	1.4G	UN0103											
	Fuse, instantaneous, non-detonating	1.3G	UN0101											
	Fusel oil	3	UN1201	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Fuse, safety	1.4S	UN0105											
	Fuses, tracer, see Tracers for ammunition													
	Fuzes, combination, percussion and time, see Fuzes, detonating (*UN 0257, 0367*); Fuzes, igniting (UN 0317, 0368).													
	Fuzes, detonating	1.1B	UN0106											

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Fuzes, detonating	1.2B	UN0107											
	Fuzes, detonating	1.4B	UN0257											
	Fuzes, detonating	1.4S	UN0367											
	Fuzes, detonating, *with protective features*	1.1D	UN0408											
	Fuzes, detonating, *with protective features*	1.2D	UN0409											
	Fuzes, detonating, *with protective features*	1.4D	UN0410											
	Fuzes, igniting	1.3G	UN0316											
	Fuzes, igniting	1.4G	UN0317											
	Fuzes, igniting	1.4S	UN0368											
	Galactsan trinitrate	Forbidden												
	Gallium	8	UN2803	I	CORROSIVE		None	162	240	20 kg	20 kg	1,3	1	26, 48
	Gas drips, *hydrocarbon*	3	UN1864	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	202	242	60 L	220 L	1,3	1,3	
	Gas generator assemblies (aircraft), *containing chlorodifluoromethane (R22) and a propellant cartridge.*	2.2			NONFLAMMABLE GAS.		None	335	None	75 kg	150 kg	1,3	1,3	
D	Gas identification set	2.3	NA9035	II	POISON GAS	10	None	194	None	Forbidden	Forbidden	1	5	
D	Gas identification set	6.1	NA9035	I	POISON		None	194	None	Forbidden	Forbidden	1,2	5	
D	Gasohol (*gasoline mixed with ethyl alcohol, max. 20% alcohol*).	3	NA1203	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	5	12
	Gas oil	3	UN1202	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Gasoline	3	UN1203	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	Gasoline, casinghead, see Natural gasoline													
	Gelatine, blasting, see Explosive, blasting, type A.													
	Gelatine dynamites, see Explosive, blasting, type A.													
	Germane	2.3	UN2192	IB	POISON GAS, FLAMMABLE GAS.	10	None	192	245	Forbidden	Forbidden	1	5	40, 95
	Glycerol-1,3-dinitrate	Forbidden												
	Glycerol gluconate trinitrate	Forbidden												
	Glycerol lactate trinitrate	Forbidden												
	Glycerol alpha-monochlorohydrin	6.1	UN2689	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	34
	Glyceryl trinitrate, see Nitroglycerin, *etc.*													
	Glycidaldehyde	3	UN2622	II	FLAMMABLE LIQUID, POISON.	T8	150	202	243	1 L	60 L	1,3	1,3	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Grenades, *hand or rifle, with bursting charge.*	1.1D	UN0284											
	Grenades, *hand or rifle, with bursting charge.*	1.2D	UN0285											
	Grenades, *hand or rifle, with bursting charge.*	1.1F	UN0292											
	Grenades, *hand or rifle, with bursting charge.*	1.2F	UN0293											
	Grenades, illuminating, see Ammunition, illuminating, *etc.*.	.....	.....											
	Grenades, practice, *hand or rifle*	1.4S	UN0110											
	Grenades, practice, *hand or rifle*	1.3G	UN0318											
	Grenades, practice, *hand or rifle*	1.2G	UN0372											
	Grenades, smoke, see Ammunition, smoke, *etc.*.	.....	.....											
	Guanidine nitrate	5.1	UN1467	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	73
	Guanyl nitrosaminoguanylidene hydrazine (dry).	Forbidden	.....											
	Guanyl nitrosaminoguanylidene hydrazine, wetted *with not less than 30 per cent water, by weight.*	1.1A	UN0113											
	Guanyl nitrosaminoguanyltetrazene (dry)	Forbidden	.....											
	Guanyl nitrosaminoguanyltetrazene (Tetrazene), wetted *with not less than 30 per cent water by weight, or mixture of alcohol and water.*	1.1A	UN0114											
	Gunpowder, compressed *or* Gunpowder in pellets, *see* Black powder (*UN 0028*).	.....	.....											
	Gunpowder, *granular or as a meal, see* Black powder (*UN 0027*).	.....	.....											
DE	Guthion. *See* Azinphos methyl	.....	.....											
	Gutta percha solution	3	UN1205	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Hafnium powder, dry (*a*) *mechanically produced, particle size between 3 and 53 microns;* (*b*) *chemically produced, particle size between 10 and 840 microns.*	4.2	UN2545	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N34.	None	212	241	15 kg	50 kg	1	5	
	Hafnium powder, wetted *with not less than 25 per cent water (a visible excess of water must be present)* (*a*) *mechanically produced, particle size less than 53 microns;* (*b*) *chemically produced, particle size less than 840 microns.*	4.1	UN1326	II	FLAMMABLE SOLID.	A19, A20, N11, N34.	None	212	241	15 kg	50 kg	1,3	5	
	Halogenated irritating liquids, n.o.s.	6.1	UN1610	I	POISON	T42	None	201	243	Forbidden	30 L	1	5	23, 40, 95
	.....	.....	.....	II	POISON	T14	None	202	243	5 L	60 L	1	5	23, 40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	III	POISON	T14	153	202	241	60 L	220 L	1	5	23, 34, 40
	Hand signal device, see Signal devices, hand.	.....	.....											
DE	Hazardous substance, liquid *or* solid, n.o.s.	ORM-E	NA9188	III	None		156	203	241	No limit	No limit	1,2	1,2	
D	Hazardous waste, liquid *or* solid, n.o.s.	ORM-E	NA9189	III	None		156	203	241	No limit	No limit	1,2	1,2	
	Helium, compressed	2.2	UN1046	.....	NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	Helium-oxygen mixture, see Rare gases and oxygen mixtures.	.....	.....											
	Helium, refrigerated liquid (*cryogenic liquid*)	2.2	UN1963	.....	NONFLAMMABLE GAS.		320	316	318	50 kg	500 kg	1,3	1	85
DE	Heptachlor (*RQ-1/0.454*)	ORM-E	NA2761	III	None		156	213	240	No limit	No limit	1,2	1,2	
	n-Heptaldehyde	3	UN3056	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,2	1	
	Heptanes	3	UN1206	II	FLAMMABLE LIQUID.	T2	150	202	242	5 L	60 L	1,3	1	
	n-Heptene	3	UN2278	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Hexachloroacetone	6.1	UN2661	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	12, 34, 40
	Hexachlorobenzene	6.1	UN2729	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Hexachlorobutadiene	6.1	UN2279	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
E	Hexachlorocyclopentadiene (*RQ-1/0.454*)	6.1	UN2646	I	POISON	T18, T26	None	201	243	1 L	30 L	1	5	40, 95
	Hexachlorophene	6.1	UN2875	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Hexadecyltrichlorosilane	8	UN1781	II	CORROSIVE	B2, B6, N26, N34, T8.	None	202	242	Forbidden	30 L	1	1	40
	Hexadiene	3	UN2458	II	FLAMMABLE LIQUID.	T7	None	202	242	Forbidden	60 L	1,3	5	12
	Hexaethyl tetraphosphate and compressed gas mixtures.	2.3	UN1612	IB	POISON GAS	B14, B31, 10.	None	334	244	Forbidden	Forbidden	1	5	40, 95
	Hexaethyl tetraphosphate, *liquid*	6.1	UN1611	I	POISON	A4	None	201	243	Forbidden	30 L	1,2	5	40, 95
	.....	.....	.....	II	POISON	N76	None	202	243	Forbidden	60 L	1,2	5	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	N77	None	203	241	Forbidden	220 L	1,2	5	34, 40
	Hexaethyl tetraphosphate mixture, see Organophosphorous pesticide *etc.*.	.....	.....											
	Hexaethyl tetraphosphate, *solid*	6.1	UN1611	I	POISON		None	211	242	Forbidden	15 kg	1,2	5	95
	.....	.....	.....	II	POISON	N76	None	212	242	25 kg	100 kg	1,2	5	95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	N77	153	213	240	100 kg	200 kg	1,2	5	34
	Hexafluoroacetone	2.3	UN2420	IB	POISON GAS	B14, B31, 10.	None	304	244	Forbidden	Forbidden	1	5	40, 95
	Hexafluoroacetone hydrate	6.1	UN2552	II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Hexafluoroethane	2.2	UN2193		NONFLAMMABLE GAS.	B13	306	304	244	75 kg	150 kg	1,3	1,3	85
	Hexafluorophosphoric acid	8	UN1782	II	CORROSIVE	B2, N3, N11, N26, N34, T9, T27.	None	202	242	Forbidden	30 L	1,2	1,2	
	Hexafluoropropylene	2.2	UN1858		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
D	Hexafluoropropylene oxide	2.2	NA1956		NONFLAMMABLE GAS.	B13	306	304	244, 314	75 kg	150 kg	1,3	1,3	85
	Hexaldehyde	3	UN1207	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Hexamethylenediamine, solid	8	UN2280	III	CORROSIVE		154	213	242	25 kg	100 kg	1,3	1,3	12
	Hexamethylenediamine solution	8	UN1783	II	CORROSIVE, POISON.	T8	None	202	243	1 L	30 L	1,2	1,2	
	Hexamethylenediisocyanate	6.1	UN2281	II	POISON	T14	None	202	243	5 L	60 L	1,2	1	13, 40, 95
	Hexamethyleneimine	3	UN2493	II	FLAMMABLE LIQUID, CORROSIVE.	T8	None	202	243	1 L	5 L	1,3	1	40
	Hexamethylene triperoxide diamine (dry)	Forbidden												
	Hexamethylol benzene hexanitrate	Forbidden												
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane, *not more than 52 per cent in solution.*	5.2	UN2167	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane, *not more than 52 per cent with inert solid.*	5.2	UN2166	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane, *technically pure.*	5.2	UN2165	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Hexamine	4.1	UN1328	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Hexanes	3	UN1208	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	Hexanitroazoxy benzene	Forbidden												
	2,2',4,4',6,6'-Hexanitro-3,3'-dihydroxyazobenzene (dry).	Forbidden												
	2,2',3',4,4',6-Hexanitrodiphenylamine	Forbidden												
	Hexanitrodiphenylamine (Dipicrylamine; Hexyl).	1.1D	UN0079											
	2,3',4,4',6,6'-Hexanitrodiphenylether	Forbidden												
	N,N'-(hexanitrodiphenyl) ethylene dinitramine (dry).	Forbidden												

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Hexanitrodiphenyl urea	Forbidden												
	Hexanitroethane	Forbidden												
	Hexanitrooxanilide	Forbidden												
	Hexanitrostilbene	1.1D	UN0392											
	Hexanoic acid, see Corrosive liquid, n.o.s.													
	Hexanols	3	UN2282	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Hexatonal, cast	1.1D	UN0393											
	1-Hexene	3	UN2370	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	Hexogen, *see* Cyclotrimethylenetrinitramine, *etc.*.													
	Hexolite, *dry or wetted a less than 15 per cent water, by weight.*	1.1D	UN0118											
	Hexyl, *see* Hexanitrodiphenylamine													
	Hexyltrichlorosilane	8	UN1784	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	High explosives, see individual explosives' entries.													
	HMX, *see* Cyclotetramethylene-tetranitramine, *etc.*.													
	Hydrazine, anhydrous *or* Hydrazine aqueous solutions *with more than 64 per cent hydrazine, by weight.*	3	UN2029	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B16, B17, B24, N1, N11, N26, N35, T25.	None	201	243	Forbidden	2.5 L	1	5	40
	Hydrazine azide	Forbidden												
	Hydrazine chlorate	Forbidden												
	Hydrazine dicarbonic acid diazide	Forbidden												
	Hydrazine hydrate *or* Hydrazine aqueous solutions, *with not more than 64 per cent hydrazine, by weight.*	8	UN2030	II	CORROSIVE, POISON.	B16, B17, B24, T15.	None	202	243	Forbidden	30 L	1	5	40, 42, 82
	Hydrazine perchlorate	Forbidden												
	Hydrazine selenate	Forbidden												
	Hydrides, metal, n.o.s.	4.3	UN1409	I	DANGEROUS WHEN WET.	A19, N34	None	211	242	Forbidden	15 kg	1	5	22

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Hydriodic acid, anhydrous, see Hydrogen iodide, anhydrous.													
	Hydriodic acid, solution	8	UN1787	II	CORROSIVE	B2, N1, N11, N16, N34, N41, T9, T27.	154	202	242	1 L	30 L	1	1	8
	Hydrobromic acid, anhydrous, see Hydrogen bromide, anhydrous.													
	Hydrobromic acid solution, *more than 49 per cent strength.*	8	UN1788	I		B4, B15, N1, N11, N16, N34, N41.	None	201	242	Forbidden	Forbidden	1	1	83, 33
	Hydrobromic acid solution, *not more than 49 per cent strength.*	8	UN1788	II	CORROSIVE	B2, B15, N1, N11, N16, N34, N41.	154	202	242	1 L	30 L	1	1	
	Hydrocarbon gases, compressed, n.o.s. *or* Hydrocarbon gases mixtures, compressed, n.o.s..	2.1	UN1964		FLAMMABLE GAS.	B13	306	302	244	Forbidden	150 kg	1,3	1	40, 85
	Hydrocarbon gases, liquefied, n.o.s. *or* Hydrocarbon gases mixtures, liquefied, n.o.s..	2.1	UN1965		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	1	40, 85
	Hydrochloric acid, anhydrous, see Hydrogen chloride, anhydrous.													
E	Hydrochloric acid, solution (*RQ-5000/2270*).	8	UN1789	II	CORROSIVE	B2, B8, B15, N1, N11, N34, N41, T9, T27.	154	202	242	1 L	30 L	1	1	83, 33
	Hydrocyanic acid, anhydrous, see Hydrogen cyanide.													
E	Hydrocyanic acid, aqueous solutions (*RQ-10/4.54*)*not more than 20% HCN.*	6.1	UN1613	I	POISON	B12, B14, B32, 10.	None	195	244	Forbidden	Forbidden	1	5	40, 95
E	Hydrocyanic acid, aqueous solutions (*RQ-10/4.54*)*less than 5% HCN.*	6.1	UN1613	II	POISON	B12, T18, T26.	None	195	243	Forbidden	5 L	1	5	40
	Hydrocyanic acid, liquefied, see Hydrogen cyanide, *etc.*.													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Hydrofluoric acid and Sulfuric acid mixtures (*RQ-1000/454*).	8	UN1786	I	CORROSIVE, POISON.	B15, B23, N5, N11, N26, N34, T18, T27.	None	201	243	Forbidden	2.5 L	1	5	33, 40
	Hydrofluoric acid, anhydrous, see Hydrogen fluoride, anhydrous.													
E	Hydrofluoric acid, solution, *more than 60 per cent* (*RQ-5000/2270*).	8	UN1790	I	CORROSIVE, POISON.	B4, B12, B15, B23, N5, N11, N26, N34, T18, T27.	None	201	243	0.5 L	2.5 L	1	5	12
E	Hydrofluoric acid, solution, *not more than 60 per cent* (*RQ-5000/2270*).	8	UN1790	II	CORROSIVE, POISON.	B12, B15, N5, N11, N26, N34, T18, T27.	None	202	243	1 L	30 L	1	5	12
	Hydrofluoroboric acid, see Fluoboric acid													
	Hydrofluorosilicic acid, see Fluorosilicic acid.													
	Hydrogen and Methane mixtures, compressed.	2.1	UN2034		FLAMMABLE GAS.	B13	306	302	244	Forbidden	150 kg	1,3	5	40, 85
	Hydrogen bromide, anhydrous	2.3	UN1048	II	POISON GAS, CORROSIVE.	B13, B14, B33, 10.	None	304	244	Forbidden	Forbidden	1	5	40, 95
E	Hydrogen chloride, anhydrous (*RQ-5000/2270*).	2.3	UN1050	II	POISON GAS, CORROSIVE.	B13, B34, 10.	None	304	244	Forbidden	Forbidden	1	5	34, 40, 95
E	Hydrogen chloride, refrigerated liquid (*RQ-5000/2270*).	2.3	UN2186	II	POISON GAS, CORROSIVE.	B6, 10	None	None	314, 315	Forbidden	Forbidden	1,3	4	40
	Hydrogen, compressed	2.1	UN1049		FLAMMABLE GAS.	B13	306	302	244	Forbidden	150 kg	1,3	5	40, 57, 85
E	Hydrogen cyanide, anhydrous, stabilized (*RQ-10/4.54*).	6.1	UN1051	I	POISON, FLAMMABLE LIQUID.	B12, B14, B30, 10.	None	195	244	Forbidden	Forbidden	1	5	21, 25, 40, 95
E	Hydrogen cyanide, anhydrous, stabilized, *absorbed in a porous inert material* (*RQ-10/4.54*).	6.1	UN1614	I	POISON	B12	None	195	243	Forbidden	5 L	1	5	25, 40, 95
	Hydrogen cyanide, unstabilized	Forbidden												
E	Hydrogen fluoride, anhydrous (*RQ-5000/2270*).	8	UN1052	I	CORROSIVE, POISON.	B12, T24, T27.	None	163	243	Forbidden	Forbidden	1	5	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Hydrogen iodide, anhydrous	2.2	UN2197		NONFLAMMABLE GAS, CORROSIVE.	B13	306	304	244	Forbidden	Forbidden	1	5	40, 85
	Hydrogen iodide solution, see Hydriodic acid, solution.													
	Hydrogen peroxide, aqueous solutions *with more than 40 per cent but not more than 60 per cent hydrogen peroxide (stabilized as necessary).*	5.1	UN2014	II	OXIDIZER, CORROSIVE.	B12, B17, B28, N1, N11, N41, T14.	None	202	243	Forbidden	Forbidden	1	5	25, 46, 75
	Hydrogen peroxide, aqueous solutions *with not less than 20 per cent but not more than 40 per cent hydrogen peroxide (stabilized as necessary).*	5.1	UN2014	II	OXIDIZER, CORROSIVE.	A2, B11, B12, B17, B28, N1, N11, N41, T14.	None	202	243	1 L	5 L	1	5	25, 46, 75
	Hydrogen peroxide, aqueous solutions *with not less than 8 per cent but less than 20 per cent hydrogen peroxide (stabilized as necessary).*	5.1	UN2984	III	OXIDIZER	A1, N41, 17.	152	203	241	2.5 L	30 L	1,2	1	25, 46, 75
	Hydrogen peroxide, stabilized *or* Hydrogen peroxide aqueous solutions, stabilized *with more than 60 per cent hydrogen peroxide.*	5.1	UN2015	I	OXIDIZER, CORROSIVE.	B12, B17, B28, N1, N11, N41, T15.	None	201	243	Forbidden	Forbidden	1	5	25, 46, 75
	Hydrogen, refrigerated liquid (*cryogenic liquid*).	2.1	UN1966		FLAMMABLE GAS.		None	316	318, 319	Forbidden	Forbidden	5	5	40, 85
	Hydrogen selenide, anhydrous	2.3	UN2202	IA	POISON GAS, FLAMMABLE GAS.	10	None	192	245	Forbidden	Forbidden	1	5	40, 95
	Hydrogen sulfate, see Sulfuric acid													
E	Hydrogen sulfide, liquefied (*RQ-100/45.4*)	2.3	UN1053	IB	POISON GAS, FLAMMABLE GAS.	B13, 10	None	304	245	Forbidden	Forbidden	1	5	34, 40, 95
	Hydroquinone	6.1	UN2662	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Hydrosilicofluoric acid, see Fluorosilicic acid.													
	3-(2-Hydroxyethoxy)-4-pyrrolidin-1-ylbenzenedazonium zinc chloride.	4.1	UN3035	II	FLAMMABLE SOLID.		None	214	240	Forbidden	Forbidden	1	5	2
	Hydroxyl amine iodide	Forbidden												
AW	Hydroxylamine sulfate	8	UN2865	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
DE	Hypochlorite solution containing not more than 5% available chlorine *by weight* (*RQ-100/45.4*).	ORM-E	NA9301	III	None		156	203	241	No limit	No limit	1,2	1,2	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Hypochlorite solutions *with more than 5 per cent but less than 16 per cent available chlorine* (*RQ-100/45.4*).	8	UN1791	III	CORROSIVE	N34, T7	154	203	241	5 L	60 L	1,2	1	
E	Hypochlorite solutions *with not less than 16 per cent available chlorine* (*RQ-100/45.4*).	8	UN1791	II	CORROSIVE	B2, B15, B37, N26, N34, T7.	154	202	242	1 L	30 L	1,2	1	
	Hyponitrous acid	Forbidden												
	Igniter for aircraft thrust device *for assisted take-off*.	4.1	UN2792	II	FLAMMABLE SOLID.		None	180	None	Forbidden	50 kg	1,3	5	
	Igniter fuse, metal clad, see Fuse, igniter, tubular, metal clad.													
	Igniters	1.1G	UN0121											
	Igniters	1.2G	UN0314											
	Igniters	1.3G	UN0315											
	Igniters *Iminobispropylamine, see* 3,3'-Iminodipropylamine.	1.4G	UN0325											
	3,3'-Iminodipropylamine	8	UN2269	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
I	Infectious substances, affecting animals *only*, n.o.s. (*See also* Etiologic agent,n.o.s.).	6.2	UN2900		INFECTIOUS SUBSTANCE.		196	196	None	50ml	4 L	5	5	
I	Infectious substances, affecting humans (*See also* Etiologic agent,n.o.s.).	6.2	UN2814		INFECTIOUS SUBSTANCE.		196	196	None	50ml	4 L	5	5	
	Inflammable, see Flammable													
	Initiating explosives (*dry*)	Forbidden												
	Ink, *printer's, flammable*	3	UN1210	II	FLAMMABLE LIQUID.	T7, T30,	150	173	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	173	242	60 L	220 L	1,3	1,3	
	Inositol hexanitrate (*dry*)	Forbidden												
	Insecticide gases, n.o.s.	2.2	UN1968		NONFLAMMABLE GAS.	B13	306	304	244	75 kg	150 kg	1,3	1,3	85
	Insecticide gases, toxic, n.o.s.	2.3	UN1967	IB	POISON GAS	10	None	193, 334	245	Forbidden	Forbidden	1	5	25, 40, 95
	Inulin trinitrate (*dry*)	Forbidden												
	Iodine azide (*dry*)	Forbidden												
	Iodine monochloride	8	UN1792	II	CORROSIVE	B6, N16, N34, N41, T8, T26.	None	202	242	Forbidden	50 kg	1	5	40
	Iodine pentafluoride	5.1	UN2495	I	OXIDIZER, POISON.		None	205	243	Forbidden	2.5 L	1	5	13, 40
	2-Iodobutane	3	UN2390	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Iodomethylpropanes	3	UN2391	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Iodopropanes	3	UN2392	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
				III	FLAMMABLE LIQUID.		150	203	241	60 L	220 L	1,2	1,2	
	Iodoxy compounds (dry)	Forbidden												
	Iridium nitratopentamine iridium nitrate	Forbidden												
	Iron chloride, see Ferric chloride													
	Iron oxide, spent, *or* Iron sponge, spent (*obtained from coal gas purification*).	4.2	UN1376	III	SPONTANEOUSLY COMBUSTIBLE.	B18	None	213	240	Forbidden	Forbidden	1,3	5	
	Iron pentacarbonyl	6.1	UN1994	I	POISON, FLAMMABLE LIQUID.	B14, B30, 10.	None	192	244	Forbidden	Forbidden	1	5	21, 25, 40, 95
	Iron sesquichloride, see Ferric chloride													
	Irritating agents, see Tear gas substances, *etc.*.													
	Isobutane *or* Isobutane mixtures *see also* Petroleum gases, liquified.	2.1	UN1969		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Isobutanol *or* Isobutyl alcohol	3	UN1212	III	FLAMMABLE LIQUID.	T1	150	203	241	5 L	60 L	1,3	1	
E	Isobutyl acetate (*RQ-5000/2270*)	3	UN1213	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isobutyl acrylate	3	UN2527	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	
	Isobutyl alcohol, *see* Isobutanol													
	Isobutyl aldehyde, *see* Isobutyraldehyde													
E	Isobutylamine (*RQ-1000/454*)	3	UN1214	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Isobutylene *see also* Petroleum gases, liquified.	2.1	UN1055		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Isobutyl formate	3	UN2393	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isobutyl isobutyrate	3	UN2528	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Isobutyl isocyanate	3	UN2486	II	FLAMMABLE LIQUID, POISON.	T9	None	202	243	1 L	60 L	1	5	12, 40, 48
	Isobutyl methacrylate	3	UN2283	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Isobutyl propionate	3	UN2394	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isobutyraldehyde *or* Isobutyl aldehyde	3	UN2045	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12, 40
E	Isobutyric acid (*RQ-5000/2270*)	3	UN2529	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Isobutyric anhydride	3	UN2530	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Isobutyronitrile	3	UN2284	II	FLAMMABLE LIQUID, POISON.	T17	None	202	243	1 L	60 L	1,3	5	12, 40
	Isobutyryl chloride	3	UN2395	II	FLAMMABLE LIQUID, CORROSIVE.	T9, T26	None	202	243	1 L	5 L	1	1	13, 25, 40
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s. *boiling point not less than 300deg C.*	6.1	UN2207	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34, 48
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s., *flash point more than 60.5deg C and boiling point less than 300deg C.*	6.1	UN2206	II	POISON	T15	None	202	243	5 L	60 L	1,3	1	25, 40, 95
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s., *flash point not less than 23deg C but less than 60.5deg C and boiling point less than 300deg C.*	6.1	UN2206	II	POISON, FLAMMABLE LIQUID.	T15	None	202	243	5 L	60 L	1,3	1	22, 25, 40, 95
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s., *flash point less than 23deg C.*	3	UN2478	I	FLAMMABLE LIQUID, POISON.	B40, N1, N26.	None	201	243	Forbidden	Forbidden	1	5	12, 40, 48
				II	FLAMMABLE LIQUID, POISON.	N1, N26	None	202	243	1 L	60 L	1	5	12, 40, 48
	Isocyanatobenzotrifluorides	6.1	UN2285	II	POISON	T14	None	202	243	5 L	60 L	1,2	1	25, 40, 95
	Isoheptene	3	UN2287	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	5	12
	Isohexene	3	UN2288	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	5	12
	Isononanoyl peroxide, see Di-(3,3,5-trimethylhexanoyl) peroxide.													
	Isooctane, see Octanes													
	Isooctene	3	UN1216	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Isopentane, *see* n-Pentane													
	Isopentanoic acid, see Corrosive liquids, n.o.s..													
	Isopentenes	3	UN2371	I	FLAMMABLE LIQUID.	N15, T20	150	201	243	1 L	30 L	1,3	5	12
AW	Isophoronediamine	8	UN2289	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	8
	Isophoronediisocyanate	6.1	UN2290	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1	34, 40
E	Isoprene, inhibited (*RQ-1000/454*)	3	UN1218	I	FLAMMABLE LIQUID.	T20	150	201	243	Forbidden	30 L	1,3	5	12
	Isopropanol *or* Isopropyl alcohol	3	UN1219	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
DE	Isopropanolamine dodecylbenzenesulfonate (*RQ-1000/454*).	ORM-E	NA9127	III	None		156	213	240	No limit	No limit	1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Isopropenyl acetate	3	UN2403	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isopropenyl benzene	3	UN2303	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	
	Isopropyl acetate	3	UN1220	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isopropyl acid phosphate	8	UN1793	III	CORROSIVE	T7	154	213	240	25 kg	100 kg	1,2	1,2	
	Isopropyl alcohol, *see* Isopropanol													
	Isopropylamine	3	UN1221	I	FLAMMABLE LIQUID.	T20	None	201	243	Forbidden	30 L	1,3	5	12, 40
	Isopropylbenzene	3	UN1918	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isopropyl butyrate	3	UN2405	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isopropyl chloroacetate	3	UN2947	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Isopropyl chloroformate	3	UN2407	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1	40
	Isopropyl-2-chloropropionate	3	UN2934	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Isopropylcumyl hydroperoxide *or* Diisopropylbenzene hydroperoxide, *not more than 72 per cent in solution.*	5.2	UN2171	I	ORGANIC PEROXIDE.	B21, T25	None	225	243	1 L	5 L	1	5	12, 40
	Isopropylcumyl hydroperoxide, more than 72 per cent in solution.	Forbidden												
	Isopropyl isobutyrate	3	UN2406	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isopropyl isocyanate	3	UN2483	I	FLAMMABLE LIQUID, POISON.	N15, N26, T18, T26.	None	201	243	Forbidden	30 L	1	5	12, 40
	Isopropyl mercaptan, see Propanethiols													
	Isopropyl nitrate	3	UN1222	II	FLAMMABLE LIQUID.	T25	150	202	None	5 L	60 L	1,3	1	
	Isopropyl peroxydicarbonate, *see* Diisopropyl peroxydicarbonate, *etc.*.													
	Isopropyl phosphoric acid, see Isopropyl acid phosphate.													
	Isopropyl propionate	3	UN2409	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isosorbide dinitrate mixture *with not less than 60 per cent lactose, mannose, starch or calcium hydrogen phosphate.*	4.1	UN2907	II	FLAMMABLE SOLID.		None	212	None	15 kg	50 kg	1,3	5	
	Isothiocyanic acid	Forbidden												
	Jet fuel, see Fuel aviation, turbine engine													
	Jet perforating guns, charged *oil well, without detonator.*	1.1D	UN0124											

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Jet perforators, see Charges, shaped, commercial.													
	Jet tappers, without detonator, see Charges, shaped, etc..													
	Jet thrust igniters, for rocket motors or Jato, see Igniters.													
	Jet thrust unit (Jato), see Rocket motors													
DE	Kelthane (*RQ-5000/2270*)	ORM-E	NA2761	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Kepone (*RQ-1/0.454*)	ORM-E	NA2761	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Kerosene	3	UN1223	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ketones, liquid, n.o.s.	3	UN1224	II	FLAMMABLE LIQUID.	T8, T30	150	202	242	5 L	60 L	1,3	1	12
				III	FLAMMABLE LIQUID.	B1, T7, T31.	150	203	242	60 L	220 L	1,3	1,3	
	Krypton, compressed	2.2	UN1056		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	Krypton, refrigerated liquid	2.2	UN1970		NONFLAMMABLE GAS.	B13	320		244	50 kg	500 kg	1,3	1,3	85
D	Lacquer base, *or* Lacquer chips, dry	4.1	NA2557	II	FLAMMABLE SOLID.	A19, N16	151	212	240	1 kg	15 kg	1	1	
	Lacquer base or lacquer chips, nitrocellulose, dry, see Nitrocellulose, *etc.* (*UN 2557*).													
	Lacquer base or lacquer chips, plastic, wet with alcohol or solvent, see Nitrocellulose (*UN 2059, 2060, 2555, 2556*) *or* Paints, enamels, *etc.* (*UN 1263*).													
	Lauroyl peroxide, *see* Dilauroyl peroxide													
E	Lead acetate (*RQ-5000/2270*)	6.1	UN1616	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
E	Lead arsenates (*RQ-5000/2270*)	6.1	UN1617	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Lead arsenites	6.1	UN1618	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Lead azide (*dry*)	Forbidden												
	Lead azide, wetted *with not less than 20 per cent water, by weight, or mixture of alcohol and water.*	1.1A	UN0129											
DE	Lead chloride (*RQ-5000/2270*)	6.1	NA2291	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
	Lead compounds, soluble, n.o.s.	6.1	UN2291	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Lead cyanide	6.1	UN1620	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	26, 95
	Lead dioxide	5.1	UN1872	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	34
	Lead dross, see Lead sulphate, *with more than 3% free acid.*													
DE	Lead fluoborate (*RQ-5000/2270*)	6.1	NA2291	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
DE	Lead fluoride (*RQ-1000/454*)	6.1	NA2811	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
DE	Lead iodide (*RQ-5000/2270*)	ORM-E	NA2811	III	None		156	213	240	No limit	No limit	1,2	1,2	
E	Lead nitrate (*RQ-5000/2270*)	5.1	UN1469	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	95
	Lead nitroresorcinate (dry)	Forbidden												
	Lead perchlorate	5.1	UN1470	II	OXIDIZER, POISON.	T8	None	212	242	5 kg	25 kg	1,2	1,2	46, 95
	Lead peroxide, see Lead dioxide													
	Lead phosphite, dibasic	4.1	UN2989	II	FLAMMABLE SOLID.		None	212	240	5 kg	25 kg	1,3	1	34
	Lead picrate (dry)	Forbidden												
DE	Lead stearate (*RQ-5000/2270*)	ORM-E	NA2811	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Lead styphnate (dry)	Forbidden												
	Lead styphnate (Lead trinitroresorcinate), wetted *with not less than 20 per cent water, by weight (or mixture of alcohol and water).*	1.1A	UN0130											
DE	Lead sulfate (*RQ-5000/2270*)	6.1	NA2291	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
E	Lead sulfate *with more than 3 per cent free acid* (*RQ-5000/2270*).	8	UN1794	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
DE	Lead sulfide (*RQ-5000/2270*)	6.1	NA2291	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
DE	Lead thiocyanate (*RQ-5000/2270*)	6.1	NA2291	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
	Lead trinitroresorcinate, *see* Lead styphnate, *etc.*.													
	Life-saving appliances, not self inflating *containing hazardous materials as equipment.*	9	UN3072	III	None			219	None	No limit	No limit	1,2	1,2	
	Life-saving appliances, self inflating	9	UN2990	III	None			219	None	No limit	No limit	1,2	1,2	
I	Lighter fluids	3	UN1226	II	FLAMMABLE LIQUID.		150	202	None	5 L	60 L	1,3	5	12
	Lighter replacement cartridges containing liquefied petroleum gases (and similar devices, each not exceeding 65 grams), see Lighters for cigars, cigarettes, *etc. with flammable gas.*													
	Lighters for cigars, cigarettes, *etc. with flammable gas; or* Flammable gas in lighters.	2.1	UN1057		FLAMMABLE GAS.	21	None	308	None	1 kg	15 kg	1	1	40
	Lighters for cigars, cigarettes, *etc., with lighter fluids.*	3	UN1226	II	FLAMMABLE LIQUID.	N72	150	202	None	Forbidden	Forbidden	1,3	1	12
	Lighters, fuse	1.4S	UN0131											
	Lime, unslaked, see Calcium oxide													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
DE	Lindane (*RQ-1/0.454*)	6.1	NA2761	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
	Liquefied gases, *non-flammable charged with nitrogen, carbon dioxide or air.*	2.2	UN1058		NONFLAMMABLE GAS.	B13	306	304	244	75 kg	150 kg	1,3	1,3	85
	Liquefied hydrocarbon gas, see Hydrocarbon gases, liquefied, n.o.s., *etc.*.													
	Liquefied natural gas, see Methane, *etc.* (*UN 1972*).													
	Liquefied petroleum gas *see* Petroleum gases, liquefied.													
	Lithium	4.3	UN1415	II	DANGEROUS WHEN WET.	A19, N16, N26, N34, N45, 22.	None	212	None	Forbidden	50 kg	1	5	
	Lithium acetylide ethylenediamine complex, see Substances which in contact with water emit flammable gases.													
	Lithium alkyls	4.2	UN2445	I	SPONTANEOUSLY COMBUSTIBLE.	B11, T28, T40.	None	181	244	Forbidden	Forbidden	1	5	
	Lithium aluminum hydride	4.3	UN1410	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1	5	
	Lithium aluminum hydride, ethereal	4.3	UN1411	I	DANGEROUS WHEN WET, FLAMMABLE LIQUID.	A2, N1, N16, N34, N40.	None	201	244	Forbidden	1 L	1	5	40
	Lithium batteries	4.3		II	DANGEROUS WHEN WET.		None	185	None	Forbidden	35 kg	1,3	5	
	Lithium borohydride	4.3	UN1413	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	
DE	Lithium chromate (*RQ-1000/454*)	ORM-E	NA9134	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Lithium ferrosilicon	4.3	UN2830	II	DANGEROUS WHEN WET.	A19	None	212	241	15 kg	50 kg	1,3	5	
	Lithium hydride	4.3	UN1414	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1	5	
	Lithium hydride, fused solid	4.3	UN2805	II	DANGEROUS WHEN WET.	A19, A20, N2.	None	212	241	15 kg	50 kg	1	5	
	Lithium hydroxide, monohydrate	8	UN2680	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Lithium hydroxide, solution	8	UN2679	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	96
	Lithium hypochlorite, dry *or* Lithium hypochlorite mixtures.	5.1	UN1471	II	OXIDIZER	N13, N34	152	212	None	5 kg	25 kg	1,2	1,2	
	Lithium in cartridges, see Lithium													
	Lithium nitrate	5.1	UN2722	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	
	Lithium nitride	4.3	UN2806	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	
	Lithium peroxide	5.1	UN1472	II	OXIDIZER	N13, N34	152	212	None	5 kg	25 kg	1,2	1,2	13
	Lithium silicon	4.3	UN1417	II	DANGEROUS WHEN WET.	A19, A20	None	212	241	15 kg	50 kg	1,3	1,3	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	LNG, see Methane *etc. (UN 1972)*													
	London Purple	6.1	UN1621	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	LPG, see Petroleum gases, liquefied													
	Lye, see Sodium hydroxide, solutions													
	Magnesium *or* Magnesium alloys *with more than 50 per cent magnesium in pellets, turnings or ribbons.*	4.1	UN1869	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	39
	Magnesium alkyls	4.2	UN3053	I	SPONTANEOUSLY COMBUSTIBLE.	B11, T28, T29, T42.	None	181	244	Forbidden	Forbidden	1	5	18
	Magnesium aluminum phosphide	4.3	UN1419	I	DANGEROUS WHEN WET.	A19, N34	None	211	242	Forbidden	15 kg	1,3	5	40, 85
	Magnesium arsenate	6.1	UN1622	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Magnesium bisulfite solution, *see* Bisulfites, inorganic aqueous solutions, n.o.s.													
	Magnesium bromate	5.1	UN1473	III	OXIDIZER	A1	152	213	240	5 kg	25 kg	1,2	1,2	46, 56
	Magnesium chlorate	5.1	UN2723	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Magnesium diamide	4.2	UN2004	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N2.	None	212	241	15 kg	50 kg	1	1	
	Magnesium diphenyl	4.2	UN2005	I	SPONTANEOUSLY COMBUSTIBLE.		None	211	244	Forbidden	Forbidden	1	1	
	Magnesium dross, wet or hot	Forbidden												
	Magnesium fluorosilicate	6.1	UN2853	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Magnesium granules, coated, *particle size not less than 149 microns.*	4.3	UN2950	I	DANGEROUS WHEN WET.	A1, A19	None	211	None	25 kg	100 kg	1,3	1,3	
	Magnesium hydride	4.3	UN2010	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1	5	
	Magnesium nitrate	5.1	UN1474	III	OXIDIZER	A1, T2	152	213	240	25 kg	100 kg	1,2	1,2	
	Magnesium perchlorate	5.1	UN1475	II	OXIDIZER	B10, T8	152	212	240	5 kg	25 kg	1,2	1,2	46
	Magnesium peroxide	5.1	UN1476	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	13
	Magnesium phosphide	4.3	UN2011	I	DANGEROUS WHEN WET, POISON.	A19	None	211	None	Forbidden	15 kg	1,3	5	85
	Magnesium, powder *or* Magnesium alloys, powder.	4.3	UN1418	II	DANGEROUS WHEN WET, SPONTANEOUSLY COMBUSTIBLE.	A19	None	212	241	15 kg	50 kg	1,3	1,3	39
	Magnesium scrap, see Magnesium, *etc. (UN 1869).*													
	Magnesium silicide	4.3	UN2624	II	DANGEROUS WHEN WET.	A19, A20	None	212	241	15 kg	50 kg	1,3	1	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Magnetized material. See 173.21													
DE	Malathion (*RQ-10/4.54*)	6.1	NA2783	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	
DE	Maleic acid (*RQ-5000/2270*)	8	NA2215	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
E	Maleic anhydride (*RQ-5000/2270*)	8	UN2215	III	CORROSIVE	T7, T38	154	213	240	25 kg	100 kg	1,2	1,2	34, 40
	Malononitrile	6.1	UN2647	II	POISON		None	202	243	5 L	60 L	1,3	1,3	12, 95
	Maneb *or* Maneb preparations, *stabilized against self-heating.*	4.3	UN2968	III	DANGEROUS WHEN WET.	A1, A19	None	213	240	25 kg	100 kg	1,3	1	34
	Maneb *or* Maneb preparations *with not less than 60 per cent maneb.*	4.2	UN2210	III	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	A1, A19	None	213	240	25 kg	100 kg	1,3	1,3	12, 13, 34
	Manganese nitrate	5.1	UN2724	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	
	Manganese resinate	4.1	UN1330	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Mannitan tetranitrate	Forbidden												
	Mannitol hexanitrate (dry)	Forbidden												
	Mannitol hexanitrate (Nitromannite), wetted *with not less than 40 per cent water, by weight or mixture of alcohol and water.*	1.1D	UN0133											
	Matches, block, see Matches, 'strike anywhere'.													
	Matches, fusee	4.1	UN2254	III	FLAMMABLE SOLID.		186	186	None	Forbidden	Forbidden	1,3	1,3	
	Matches, safety (*book, card or strike on box*).	4.1	UN1944	III	FLAMMABLE SOLID.		186	186	None	25 kg	100 kg	1,3	1,3	
	Matches, 'strike anywhere'	4.1	UN1331	III	FLAMMABLE SOLID.		186	186	None	Forbidden	Forbidden	1,3	1	
	Matches, wax, 'Vesta'	4.1	UN1945	III	FLAMMABLE SOLID.		186	186	None	25 kg	100 kg	1,3	1	
	Matting acid, see Sulfuric acid													
	Medicines, *corrosive, liquid,* n.o.s.	8	UN1851	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
				III	CORROSIVE		154	203	241	5 L	60	1,2	1,2	
	Medicines, *corrosive, solid,* n.o.s.	8	UN1851	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
				III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Medicines, *flammable, liquid,* n.o.s.	3	UN1851	I	FLAMMABLE LIQUID.		150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1	150	203	242	60 L	220 L	1,3	1,3	
	Medicines, *flammable, solid,* n.o.s.	4.1	UN1851	II	FLAMMABLE SOLID.		151	212	240	15 kg	50 kg	1,3	1,3	
	Medicines, *oxidizing substance, solid,* n.o.s.	5.1	UN1851	II	OXIDIZER	B10	152	212	240	5 kg	25 kg			
	Medicines, *poisonous, liquid,* n.o.s.	6.1	UN1851	I	POISON		153	201	243	1 L	30 L	1,2	1	95
				II	POISON		153	202	243	5 L	60 L	1,2	1	95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	203	241	60 L	220 L	1,2	1	34
	Medicines, *poisonous, solid,* n.o.s.	6.1	UN1851	I	POISON	.....	153	211	242	5 kg	50 kg	1,2	1	95
	.....	.....	.....	II	POISON	.....	153	212	242	25 kg	100 kg	1,2	1	95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg	200 kg	1,2	1	34
	Memtetrahydrophthalic anhydride, see Corrosive liquids, n.o.s..	.....	.....											
	p-Menthane hydroperoxide, *see* p-Menthyl hydroperoxide, *technically pure.*	.....	.....											
	p-Menthyl hydroperoxide, *technically pure*	5.2	UN2125	I	ORGANIC PEROXIDE.	B21, T9, T35.	None	225	243	1 L	5 L	1	5	12, 40
	Mercaptan, liquid n.o.s. *or* Mercaptan mixtures, liquid, n.o.s..	6.1	UN3071	I	POISON, FLAMMABLE LIQUID.	B40, T42	None	202	243	1 L	30 L	1,3	1	21
	.....	.....	.....	II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,3	1	21
	.....	.....	.....	III	POISON, FLAMMABLE LIQUID.	T14	None	202	241	60 L	220 L	1,3	1,3	
	Mercaptans, liquid, n.o.s. *or* Mercaptan mixtures, liquid, n.o.s..	3	UN1228	II	FLAMMABLE LIQUID, POISON.	N16, T14	None	202	243	Forbidden	60 L	1,3	5	12
DE	Mercaptodimethur (*RQ-100/45.4*)	ORM-E	NA2757	III	None	.....	156	213	240	No limit	No limit	1,2	1,2	
	Mercuric arsenate	6.1	UN1623	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercuric chloride	6.1	UN1624	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercuric compounds, see Mercury compounds, *etc.*.	.....	.....											
E	Mercuric nitrate (*RQ-10/4.54*)	6.1	UN1625	II	POISON	N73	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercuric potassium cyanide	6.1	UN1626	I	POISON	N74, N75	None	211	242	5 kg	50 kg	1,2	1,2	26, 95
E	Mercuric sulfate (*RQ-10/4.54*)	6.1	UN1645	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercuric sulfocyanate, see Mercury thiocyanate.	.....	.....											
	Mercurol, see Mercury nucleate	.....	.....											
	Mercurous azide	Forbidden	.....											
	Mercurous compounds, see Mercury compounds, *etc.*.	.....	.....											
E	Mercurous nitrate (*RQ-10/4.54*)	6.1	UN1627	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercurous sulfate	6.1	UN1628	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury acetate	6.1	UN1629	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury acetylide	Forbidden	.....											
	Mercury ammonium chloride	6.1	UN1630	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury based pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23deg C.*	3	UN2778	I	FLAMMABLE LIQUID, POISON.	.....	None	201	243	Forbidden	30 L	1,3	5	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	II	FLAMMABLE LIQUID, POISON.	.....	None	202	243	1 L	60 L	1,3	1	
	Mercury based pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23deg C.*	6.1	UN3011	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	40, 95
	.....	.....	.....	II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	T14	153	202	241	60 L	220 L	1,2	1	34, 40
	Mercury based pesticides, liquid, toxic, n.o.s..	6.1	UN3012	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
	.....	.....	.....	II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Mercury based pesticides, solid, toxic, n.o.s..	6.1	UN2777	I	POISON	.....	None	211	242	5 kg	100 kg	1,2	1,2	40, 95
	.....	.....	.....	II	POSION	.....	None	212	242	25 kg	100 kg	1,2	1,2	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Mercury benzoate	6.1	UN1631	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury bisulfate	6.1	UN1633	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury bromides	6.1	UN1634	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury compounds, liquid, n.o.s.	6.1	UN2024	I	POISON	.....	None	201	243	1 L	30 L	1,2	1	40, 95
	.....	.....	.....	II	POISON	.....	None	202	243	5 L	60 L	1,2	1	40, 95
	.....	.....	.....	III	POISON	.....	153	203	241	60 L	220 L	1,2	1	34, 40
	Mercury compounds, solid, n.o.s.	6.1	UN2025	I	POISON	.....	None	211	242	5 kg	50 kg	1,2	1,2	95
	.....	.....	.....	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg	200 kg	1,2	1,2	34
A	Mercury *contained in manufactured articles*	8	UN2809	I	CORROSIVE	.....	None	164	None	No limit	No limit	1,2	1	40
E	Mercury cyanide (*RQ-1/0.454*)	6.1	UN1636	II	POISON	N74, N75	None	212	242	25 kg	100 kg	1,2	1,2	26, 95
	Mercury fulminate, wetted *with not less than 20 per cent water, or mixture of alcohol and water, by weight.*	1.1A	UN0135											
	Mercury gluconate	6.1	UN1637	II	POISON	.....	None	212	242	25 kg	25 kg	a82	1,2	95
	Mercury iodide aquabasic ammonobasic (Iodide of Millon's base).	Forbidden	.....											
	Mercury iodide, *solid*	6.1	UN1638	II	POISON	.....	None	212	242	25 kg	25 kg	1,2	1,2	95
	Mercury iodide, *solution*	6.1	UN1638	II	POISON	.....	None	202	243	5 L	60 L	1,2	1,2	95
	Mercury *metallic*	8	UN2809	III	CORROSIVE	.....	None	164	None	2.5 L	2.5 L	1,2	1	40, 97
	Mercury nitride	Forbidden	.....											
	Mercury nucleate	6.1	UN1639	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury oxide	6.1	UN1641	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury oxycyanide	Forbidden	.....											
	Mercury oxycyanide, desensitized	6.1	UN1642	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	26, 95
	Mercury potassium iodide	6.1	UN1643	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Mercury salicylate	6.1	UN1644	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
E	Mercury thiocyanate (*RQ-10/4.54*)	6.1	UN1646	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mesityl oxide	3	UN1229	II	FLAMMABLE LIQUID.	B1, T1	None	202	242	5 L	60 L	1,3	1	
	Metal alkyl halides, n.o.s.	4.2	UN3049	I	SPONTANEOUSLY COMBUSTIBLE.	B11	None	181	244	Forbidden	Forbidden	1	5	
	Metal alkyl hydrides, n.o.s.	4.2	UN3050	I	SPONTANEOUSLY COMBUSTIBLE.	B11	None	181	244	Forbidden	Forbidden	1	5	
	Metal alkyls, n.o.s.	4.2	UN2003	I	SPONTANEOUSLY COMBUSTIBLE.	B11	None	181	244	Forbidden	Forbidden	1	5	
D	Metal alkyl, solution, n.o.s.	3	NA9195	II	FLAMMABLE LIQUID.		150	202	242	1 L	4 L	1,3	1	
	Metaldehyde	4.1	UN1332	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Metal salts of methyl nitramine (dry)	Forbidden												
	Methacrylaldehyde	3	UN2396	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	5	12, 40
	Methacrylic acid, inhibited	8	UN2531	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,3	1,3	82, 12
	Methacrylonitrile, inhibited	6.1	UN3079	I	POISON, FLAMMABLE LIQUID.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1	21
	Methallyl alcohol	3	UN2614	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	
	Methane and hydrogen, mixtures, see Hydrogen and methane, mixtures, *etc.*.													
	Methane, compressed *or* Natural gas, compressed (*with high methane content*).	2.1	UN1971		FLAMMABLE GAS.	B13	306	302	244	Forbidden	150 kg	1,3	5	40, 85
	Methane, refrigerated liquid *or* Natural gas, refrigerated liquid (*with high methane content*) (*cryogenic liquid*).	2.1	UN1972		FLAMMABLE GAS.		None	316	318, 319	Forbidden	Forbidden	1	5	40
	Methanol *or* Methyl alcohol	3	UN1230	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	1	40
	Methazoic acid	Forbidden												
DE	Methoxychlor (*RQ-1/0.454*)	ORM-E	NA2761	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Methoxymethyl isocyanate	3	UN2605	I	FLAMMABLE LIQUID, POISON.	B14, B30, 10.	None	226	244	Forbidden	Forbidden	1	5	12, 40, 48
	4-Methoxy-4-methylpentan-2-one	3	UN2293	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Methyl acetate	3	UN1231	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Methyl acetone	3	UN1232	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Methyl acetylene and propadiene mixtures, stabilized.	2.1	UN1060		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Methyl acrylate, inhibited	3	UN1919	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,2	1	40
	Methylal	3	UN1234	II	FLAMMABLE LIQUID.	T14	None	202	242	Forbidden	60 L	1,3	5	12
	Methyl alcohol, *see* Methanol													
	Methyl allyl chloride	3	UN2554	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12, 40
E	Methylamine, anhydrous (*RQ-1000/454*)	2.3	UN1061	II	POISON GAS, FLAMMABLE GAS.	B33, 10	None	304	314, 315	Forbidden	Forbidden	1,3	5	40
E	Methylamine, aqueous solution (*RQ-1000/454*).	3	UN1235	II	FLAMMABLE LIQUID.	B1, T8	150	202	242	5 L	60 L	1,3	5	12, 41
	Methylamine dinitramine and dry salts thereof.	Forbidden												
	Methylamine nitroform	Forbidden												
	Methylamine perchlorate (dry)	Forbidden												
	Methylamyl acetate	3	UN1233	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Methyl amyl ketone, see Amyl methyl ketone.													
	N-Methylaniline	6.1	UN2294	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	95
	Methyl benzoate	6.1	UN2938	III	KEEP AWAY FROM FOOD.	T1	153	203	240	60 L	220 L	1,2	1,2	
	alpha-Methylbenzyl alcohol	6.1	UN2937	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	
	Methyl bromide	2.3	UN1062	IB	POISON GAS	B13, B14, B31, 10.	None	193	244	Forbidden	Forbidden	1,3	5	40, 81, 85, 95
	Methyl bromide and chloropicrin mixtures with more than 2 per cent chloropicrin, see Chloropicrin and methyl bromide mixtures.													
	Methyl bromide and chloropicrin mixtures with not more than 2 per cent chloropicrin, see Methyl bromide.													
E	Methyl bromide and ethylene dibromide mixtures, liquid (*RQ-1000/454*).	6.1	UN1647	I	POISON	B13, B14, B32, N65, 10.	None	227	244	Forbidden	Forbidden	1	1	40, 95
	Methyl bromoacetate	6.1	UN2643	II	POISON	T8	None	202	243	5 L	60 L	1	5	12, 40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	3-Methyl butan-2-one	3	UN2397	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	3-Methyl-1-butene	3	UN2561	I	FLAMMABLE LIQUID.	T20	None	201	243	1 L	30 L	1,3	5	
	2-Methyl-1-butene	3	UN2459	I	FLAMMABLE LIQUID.	T14	None	201	243	Forbidden	30 L	1,3	5	12, 40
	2-Methyl-2-butene	3	UN2460	II	FLAMMABLE LIQUID.	T14	None	202	242	5 L	60 L	1,3	5	12
	N-Methylbutylamine	3	UN2945	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Methyl-tert-butylether	3	UN2398	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	1	12
	Methyl butyrate	3	UN1237	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Methyl chloride	2.3	UN1063	II	POISON GAS, FLAMMABLE GAS.	B13, B14, B33, 10.	None	304	244	Forbidden	Forbidden	1,3	5	40, 85, 95
	Methyl chloride and chloropicrin mixtures, see Chloropicrin and methyl chloride mixtures.													
	Methyl chloride and methylene chloride mixture.	2.1	UN1912		FLAMMABLE GAS.	B13, B38	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Methyl chloroacetate	6.1	UN2295	II	POISON, FLAMMABLE LIQUID.	T11	None	202	243	5 L	60 L	1,3	1,3	95
	Methyl chlorocarbonate, see Methyl chloroformate.													
	Methyl chloroform, see 1,1,1-Trichloroethane.													
	Methyl chloroformate	3	UN1238	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B6, B14, B32, N1, N11, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1,3	5	40
	Methylchloromethyl ether	3	UN1239	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	5	12, 40
	Methyl-2-chloropropionate	3	UN2933	III	FLAMMABLE LIQUID.	B1, T7	150	203	242	60 L	220 L	1,3	1,3	
	Methyl chlorosilane	3	UN2534	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	A2, B14, B30, NI, N15, N26, N34, 10.	None	226	244	Forbidden	Forbidden	1,3	1	40

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Methyl cyanide	3	UN1648	II	FLAMMABLE LIQUID, POISON.	T14	None	202	243	1 L	60 L	1,3	1	40
	Methyl cyclohexane	3	UN2296	II	FLAMMABLE LIQUID.	B1, T1	150	202	242	5 L	60 L	1,3	1	
	Methyl cyclohexanols, *flash point not more than 60.5 degrees C.*	3	UN2617	III	FLAMMABLE LIQUID.	B1, T2	150	203	242	60 L	220 L	1,3	1,3	
	Methyl cyclohexanone	3	UN2297	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Methylcyclohexanone peroxide(s) *not more than 67 per cent in solution with not more than 9 per cent available oxygen.*	5.2	UN3046	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 19, 25, 40
	Methyl cyclopentane	3	UN2298	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Methyl dichloroacetate	6.1	UN2299	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	34, 40
D	Methyldichloroarsine	2.3	NA1556	II	POISON GAS	B14, B32, 10.	None	192	244	Forbidden	Forbidden	1	5	40, 95
	Methyldichlorosilane	4.3	UN1242	I	DANGEROUS WHEN WET, CORROSIVE, POISON, FLAMMABLE LIQUID.	A2, B6, B14, B32, N1, N15, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1	5	21, 40, 49, 91
	Methylene chloride, see Dichloromethane													
	Methylene glycol dinitrate	Forbidden												
D	Methylene isocyanate	6.1	NA2929	I	POISON, FLAMMABLE LIQUID.	B14, B30, 10.	None	226	244	Forbidden	Forbidden	L2	1	
	Methyl ethyl ether see Ethyl methyl ether													
	Methyl ethyl ketone, *see* Ethyl methyl ketone.													
	Methyl ethyl ketone peroxide, in solution with more than 9 per cent by weight active oxygen.	Forbidden												
	Methyl ethyl ketone peroxide(s), *not more than 40% in diiso-butylnylonate, with not more than 8.2% available oxygen.*	5.2	UN3068	I	ORGANIC PEROXIDE.		None	255	None	Forbidden	5 L	1	5	
	Methyl ethyl ketone peroxide(s), *not more than 60 per cent in solution and not more than 9 per cent by weight active oxygen.*	5.2	UN2127	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Methyl ethyl ketone peroxide(s), *not more than 50 per cent in solution and not more than 9 per cent by weight active oxygen.*	5.2	UN2550	I	ORGANIC PEROXIDE.		None	225	None	1 L	5 L	1	5	12, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	2-Methyl-5-ethyl pyridine	6.1	UN2300	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Methyl fluoride	2.1	UN2454		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Methyl formate	3	UN1243	I	FLAMMABLE LIQUID.	T20	150	201	243	Forbidden	30 L	1,3	5	12
	2-Methylfuran	3	UN2301	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	5	12
	a-Methylglucoside tetranitrate	Forbidden												
	a-Methylglycerol trinitrate	Forbidden												
	5-Methylhexan-2-one	3	UN2302	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Methylhydrazine	3	UN1244	I	FLAMMABLE LIQUID, CORROSIVE.	B14, B32, N15, N34, 10.	None	227	244	Forbidden	Forbidden	1,3	5	49
	Methyl iodide	6.1	UN2644	II	POISON	T14	None	202	243	5 L	60 L	1,3	1,3	12, 40, 95
	Methyl isobutyl carbinol	3	UN2053	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Methyl isobutyl ketone	3	UN1245	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Methyl isobutyl ketone peroxide, in solution with more than 9 per cent by weight active oxygen.	Forbidden												
	Methyl isobutyl ketone peroxide(s), *not more than 62 per cent in solution and not more than 9 per cent by weight active oxygen.*	5.2	UN2126	I	ORGANIC PEROXIDE.		None	225	None	1 L	5 L	1	5	12, 40
	Methyl isocyanate *or* Methyl isocyanate solutions.	3	UN2480	I	FLAMMABLE LIQUID, POISON.	B14, B30, N15, N26, 10.	None	226	244	Forbidden	Forbidden	1	5	12, 40, 48
	Methyl isopropenyl ketone, inhibited	3	UN1246	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Methyl isothiocyanate	3	UN2477	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	1,3	12, 40, 48, 95
	Methyl isovalerate	3	UN2400	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Methyl magnesium bromide, in ethyl ether	4.3	UN1928	I	DANGEROUS WHEN WET.	N15	None	201	243	Forbidden	15 kg	1	5	
E	Methyl mercaptan (*RQ-100/45.4*)	2.3	UN1064	IB	POISON GAS, FLAMMABLE GAS.	B14, B31, 10.	None	304	314, 315	Forbidden	Forbidden	1,3	1	40, 85, 95
E	Methyl methacrylate monomer, inhibited (*RQ-5000/2270*).	3	UN1247	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Methylmorpholine	3	UN2535	II	FLAMMABLE LIQUID, CORROSIVE.	B6, T8	None	202	243	1 L	5 L	1,3	1	40
	Methyl nitramine (dry)	Forbidden												
	Methyl nitrite	Forbidden												
	Methyl norbornene dicarboxylic anhydride, see Corrosive liquids, n.o.s.													
	Methyl orthosilicate	3	UN2606	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	5	12, 40
DE	Methyl parathion (*RQ-100/45.4*) *liquid*	6.1	NA2783	II	POISON	N76	None	202	243	Forbidden	1 L	1,3	1,3	
DE	Methyl parathion (*RQ-100/45.4*) *solid*	6.1	NA2783	II	POISON	N77	None	212	242	25 kg	100 kg	1,2	1,2	
	Methylpentadiene	3	UN2461	II	FLAMMABLE LIQUID.	T7	150	202	241	5 L	60 L	1,3	5	12
	Methylpentanes, see Hexanes													
	2-Methylpentan-2-ol	3	UN2560	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Methylphenyldichlorosilane	3	UN2437	II	FLAMMABLE LIQUID.	T8, T26	150	202	242	5 L	60 L	1	1	13, 40
D	Methyl phosphonic dichloride	8	NA9206	I	CORROSIVE, POISON.	B8, B25, B32, N1, N15, N34, N43, 10.	None	227	244	Forbidden	Forbidden	1	1	
	Methyl phosphonothioic dichloride, anhydrous, see Corrosive liquid, n.o.s.													
D	Methyl phosphonous dichloride, *pyrophoric liquid.*	6.1	NA2845	I	POISON, SPONTANEOUSLY COMBUSTIBLE, CORROSIVE.	B8, B14, B16, B32, 10.	None	181	244	Forbidden	Forbidden	1	5	18
	Methyl picric acid (heavy metal salts of)	Forbidden												
	1-Methylpiperidine	3	UN2399	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Methyl propionate	3	UN1248	II	FLAMMABLE LIQUID.	T2	150	202	242	5 L	60 L	1,3	1	
	Methyl propyl ether	3	UN2612	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	5	12, 40
	Methyl propyl ketone	3	UN1249	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Methyl sulfate, see Dimethyl sulfate													
	Methyl sulfide, see Dimethyl sulfide													
	Methyltetrahydrofuran	3	UN2536	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Methyl trichloroacetate	6.1	UN2533	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	34
	Methyltrichlorosilane	3	UN1250	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B6, B14, B32, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1,3	1	40
	Methyl trimethylol methane trinitrate	Forbidden												
	alpha-Methyl valeraldehyde	3	UN2367	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Methyl vinyl ketone *inhibited*	3	UN1251	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
DE	Mevinphos (*liquid*)	6.1	NA2783	I	POISON	N76	None	201	243	Forbidden	1 L	1,2	5	
				II	POISON	N76	None	202	243	0.5 L	30 L	1,2	5	
				III	KEEP AWAY FROM FOOD.	N76	153	203	241	60 L	220 L	1,2	1,2	
DE	Mevinphos (*solid*)	6.1	NA2783	I	POISON	N77	None	211	242	Forbidden	100 kg	1,2	5	
				II	POISON	N77	None	212	242	1 kg	200 kg	1,2	5	
				III	KEEP AWAY FROM FOOD.	N77	153	213	240	100 kg	200 kg	1,2	1,2	
DE	Mexacarbate (*RQ-1000/454*)	6.1	NA2757	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
	Mine rescue equipment containing carbon dioxide, see Carbon dioxide.													
	Mines *with bursting charge*	1.1F	UN0136											
	Mines *with bursting charge*	1.1D	UN0137											
	Mines *with bursting charge*	1.2D	UN0138											
	Mines *with bursting charge*	1.2F	UN0294											
	Mixed acid, see Nitrating acid, mixtures													
AW	Molybdenum pentachloride	8	UN2508	III	CORROSIVE	T8, T26	154	213	240	25 kg	100 kg	1	1	80, 40
	Monochloroacetone (unstabilized)	Forbidden												
	Monochloroethylene, see Vinyl chloride													
	Monoethanolamine, see Ethanolamine													
	Monoethylamine, see Ethylamine													
	Morpholine	3	UN2054	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Morpholine, aqueous, mixture, see Corrosive liquid, n.o.s..													
	Motorcycles, see Vehicles, self-propelled													
	Motor fuel anti-knock mixtures	6.1	UN1649	I	POISON	B11, B12, B14, T26, T39.	None	201	244	Forbidden	30 L	1	5	22, 40, 95
	Motor spirit, *see* Gasoline													
	Motor vehicle, see Vehicles, self-propelled													
	Muriatic acid, see Hydrochloric acid solution.													

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Musk xylene, *see* 5-tert-Butyl2,4,6-trinitro-m-xylene.													
DE	Naled (*RQ-10/4.54*)	ORM-E	NA2783	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Naphtha	3	UN2553	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1	
E	Naphthalene, crude *or* refined (*RQ-5000/2270*).	4.1	UN1334	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Naphthalene diozonide	Forbidden												
	Naphthalene, molten	4.1	UN2304	III	FLAMMABLE SOLID.	A1, T8, T38.	151	213	241	25 kg	100 kg	1	1	
	Naphtha, *petroleum*	3	UN1255	I	FLAMMABLE LIQUID.	T8	150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T8	150	203	242	60 L	220 L	1,3	1,3	
	Naphtha, *solvent*	3	UN1256	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
DE	Naphthenic acid (*RQ-100/45.4*)	ORM-E	NA9137	III	None		156	203	241	No limit	No limit	1,2	1,2	
	alpha-Naphthylamine	6.1	UN2077	III	KEEP AWAY FROM FOOD.	T7	153	213	240	100 kg	200 kg	1,2	1,2	34
	beta-Naphthylamine	6.1	UN1650	II	POISON	T12, T26	None	212	242	25 kg	100 kg	1,2	1,2	95
	Naphthyl amineperchlorate	Forbidden												
	Naphthylthiourea	6.1	UN1651	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Naphthylurea	6.1	UN1652	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Natural gases (with high methane content), see Methane, *etc.* (*UN 1971, 1972*).													
	Natural gasoline	3	UN1257	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	Neohexane, see Hexanes													
	Neon, compressed	2.2	UN1065		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	Neon, refrigerated liquid (*cryogenic liquid*)	2.2	UN1913		NONFLAMMABLE GAS.	B13	320	320	244	50 kg	500 kg	1,3	1	85
	New explosive or explosive device. See 173.51 and 173.86.													
DE	Nickel ammonium sulfate (*RQ-5000/2270*)	ORM-E	NA9138	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Nickel carbonyl	6.1	UN1259	I	POISON, FLAMMABLE LIQUID.	B14, B30, 10.	None	198	244	Forbidden	Forbidden	1	5	18, 21, 40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Nickel catalyst, dry	4.2	UN2881	I	SPONTANEOUSLY COMBUSTIBLE.	N15, N34	None	211	None	Forbidden	Forbidden	1,3	1	
	Nickel catalyst, wetted *with not less than 40 per cent water or other suitable liquid, by weight, finely divided, activated or spent.*	4.2	UN1378	II	SPONTANEOUSLY COMBUSTIBLE.	A2, N2, N15, N34.	None	212	None	Forbidden	50 kg	1,3	1	
DE	Nickel chloride (*RQ-5000/2270*)	ORM-E	NA9139	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Nickel cyanide	6.1	UN1653	II	POISON	N74, N75	None	212	242	25 kg	100 kg	1,2	1,2	26, 95
DE	Nickel hydroxide (*RQ-1000/454*)	ORM-E	NA9140	III	None		156	213	240	No limit	No limit	1,2	1,2	
E	Nickel nitrate (*RQ-5000/2270*)	5.1	UN2725	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	
	Nickel nitrite	5.1	UN2726	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	34, 56, 58
	Nickel picrate	Forbidden												
DE	Nickel sulfate (*RQ-5000/2270*)	ORM-E	NA9141	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Nicotine	6.1	UN1654	II	POISON		None	202	243	Forbidden	60 L	1,2	1	95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Nicotine compounds, n.o.s. *or* Nicotine preparations, n.o.s. *liquid.*	6.1	UN1655	I	POISON		None	201	243	1 L	30 L	1,2	1,2	95
				II	POISON		None	202	243	5 L	60 L	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Nicotine compounds, n.o.s. *or* Nicotine preparations, n.o.s. *solid.*	6.1	UN1655	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Nicotine hydrochloride *or* Nicotine hydrochloride solution.	6.1	UN1656	II	POISON		None	202	243	5 L	60 L	1,2	1,2	95
	Nicotine salicylate	6.1	UN1657	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Nicotine sulfate, solid	6.1	UN1658	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Nicotine sulfate, solution	6.1	UN1658	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
	Nicotine tartrate	6.1	UN1659	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Nitrated paper (unstable)	Forbidden												
	Nitrates, inorganic, n.o.s.	5.1	UN1477	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46
	Nitrates of diazonium compounds	Forbidden												
E	Nitrating acid mixtures, spent *with more than 50 per cent nitric acid* (*RQ-1000/454*).	8	UN1826	I	CORROSIVE, OXIDIZER.	B28, T12, T27.	None	158	243	Forbidden	30 L	1	5	33, 40
E	Nitrating acid mixtures spent *with not more than 50 per cent nitric acid* (*RQ-1000/454*).	8	UN1826	II	CORROSIVE	B2, B28, T12, T27.	None	158	242	Forbidden	30 L	1	5	33, 40
E	Nitrating acid mixtures *with more than 50 per cent nitric acid* (*RQ-1000/454*).	8	UN1796	I	CORROSIVE, OXIDIZER.	B28, T12, T27.	None	158	243	Forbidden	2.5 L	1	5	33, 40

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Nitrating acid mixtures *with not more than 50 per cent nitric acid (RQ-1000/454).*	8	UN1796	II	CORROSIVE	B2, B28, T12, T27.	None	158	242	Forbidden	30 L	1	5	33, 40
E	Nitric acid, *other than red fuming, with more than 70 per cent nitric acid (RQ-1000/454).*	8	UN2031	I	CORROSIVE	B4, B12, B17, B28, T9, T27.	None	158	242	Forbidden	2.5 L	1	5	33, 37, 38, 63
E	Nitric acid, *other than red fuming, with not more than 70 per cent nitric acid (RQ-1000/454).*	8	UN2031	II	CORROSIVE	B2, B12, B17, B28, T9, T27.	None	158	242	Forbidden	30 L	1	5	33, 37, 38, 63
E	Nitric acid, red fuming *(RQ-1000/454)*	8	UN2032	I	CORROSIVE, OXIDIZER, POISON.	B17, B28, B30, 10.	None	158	244	Forbidden	Forbidden	1	5	33, 37, 38, 40, 63
	Nitric ether. See Ethyl nitrate													
	Nitric oxide	2.3	UN1660	IB	POISON GAS	B7, B14, B28, B31, B37, 10.	None	337	244	Forbidden	Forbidden	1	5	40, 95
	Nitric oxide and nitrogen tetroxide mixtures	2.3	UN1975	IA	POISON GAS, OXIDIZER.	10	None	337	245	Forbidden	Forbidden	1	5	40, 43, 95
	Nitrites, inoganic, n.o.s.	5.1	UN2627	II	OXIDIZER	A33	152	212	None	5 kg	25 kg	1,2	1,2	34, 46, 56, 58
	N-Nitroaniline	Forbidden												
	Nitroanilines (*o-,m-,p-*)	6.1	UN1661	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95
	Nitroanisole	6.1	UN2730	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,3	1,3	12, 34
E	Nitrobenzene *(RQ-1000/454)*	6.1	UN1662	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	40, 95
	m-Nitrobenzene diazonium perchlorate	Forbidden												
	Nitrobenzenesulfonic acid	8	UN2305	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Nitrobenzol, see Nitrobenzene													
	5-Nitrobenzotriazol	1.1D	UN0385											
	Nitrobenzotrifluorides	6.1	UN2306	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Nitrobromobenzene	6.1	UN2732	III	KEEP AWAY FROM FOOD.	T8, T38	153	203	241	60 L	220 L	1,3	1,3	12, 95
	Nitrocellulose, *dry or wetted with less than 25 per cent water (or alcohol), by weight.*	1.1D	UN0340											
	Nitrocellulose, plasticized *with not less than 18 per cent plasticizing substance, by weight.*	1.3C	UN0343											
	Nitrocellulose, solution, flammable *with not more than 12.6 per cent nitrogen, by weight, and not more than 55 per cent nitrocellulose, flash point less than 23 degrees C.*	3	UN2059	II	FLAMMABLE LIQUID.	A32, T9	150	202	242	5 L	60 L	1,3	1	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Nitrocellulose, solution, flammable *with not more than 12.6 per cent nitrogen, by weight, and not more than 55 per cent nitrocellulose, flash point not less than 23 degrees C but not more than 60.5 degrees C.*	3	UN2060	II	FLAMMABLE LIQUID.	A32, T9	150	202	242	5 L	60 L	1,3	1	
	Nitrocellulose, *unmodified or plasticized with less than 18 per cent plasticizing substance, by weight.*	1.1D	UN0341											
	Nitrocellulose, wetted *with not less than 25 per cent alcohol, by weight.*	1.3C	UN0342											
	Nitrocellulose with alcohol, *not less than 25 per cent by weight, and not more than 12.6 per cent nitrogen, by dry weight.*	4.1	UN2556	II	FLAMMABLE SOLID.		151	212	None	1 kg	15 kg	1	5	25
	Nitrocellulose with plasticizing substance, *not less than 18 per cent, by weight, and not more than 12.6 per cent nitrogen, by dry weight.*	4.1	UN2557	II	FLAMMABLE SOLID.		151	212	None	1 kg	15 kg	1	5	25
	Nitrocellulose with water, *not less than 25 per cent, by weight.*	4.1	UN2555	II	FLAMMABLE SOLID.		151	212	None	15 kg	50 kg	1,3	5	25
	Nitrochlorobenzene, see Chloronitrobenzenes.													
	3-Nitro-4-chlorobenzotrifluoride	6.1	UN2307	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Nitrocresols	6.1	UN2446	III	KEEP AWAY FROM FOODS.		153	213	240	100 kg	200 kg	1,2	1,2	34
	6-Nitro-4-diazotoluene-3-sulfonic acid (dry)	Forbidden												
	Nitroethane	3	UN2842	III	FLAMMABLE LIQUID.	T8	150	203	242	60 L	220 L	1,3	1,3	
	Nitroethylene polymer	Forbidden												
	Nitroethyl nitrate	Forbidden												
	Nitrogen, compressed	2.2	UN1066		NONFLAMMABLE GAS.		306	302	314, 315	75 kg	150 kg	1,3	1,3	85
E	Nitrogen dioxide, liquefied (*RQ-1000/454*)	2.3	UN1067	IA	POISON GAS, OXIDIZER.	10	None	336	245	Forbidden	Forbidden	1	5	40, 43, 95
	Nitrogen fertilizer solution, see Fertilizer ammoniating solution *etc.*.													
	Nitrogen, mixtures with rare gases, see Rare gases and nitrogen mixtures.													
	Nitrogen peroxide, see Nitrogen dioxide, liquified.													
	Nitrogen, refrigerated liquid (*cryogenic liquid*).	2.2	UN1977		NONFLAMMABLE GAS.		320	316	318	50 kg	500 kg	1,3	1,3	85
	Nitrogen tetroxide, see Nitrogen dioxide, liquefied.													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Nitrogen tetroxide and nitric oxide mixtures, see Nitric oxide and nitrogen tetroxide mixtures.	.....	.....											
	Nitrogen trichloride	Forbidden	.....											
	Nitrogen trifluoride	2.3	UN2451	III	POISON GAS	B13, B14, B34, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 43, 95
	Nitrogen triiodide	Forbidden	.....											
	Nitrogen triiodide monoamine	Forbidden	.....											
	Nitrogen trioxide	2.3	UN2421	IB	POISON GAS, OXIDIZER.	B13, 10	None	336	245	Forbidden	Forbidden	1	5	31, 40, 95
	Nitroglycerin, desensitized *with not less than 40 per cent non-volatile water insoluble phlegmatizer, by weight.*	1.1D	UN0143											
	Nitroglycerin (Glyceryl trinitrate) solution in alcohol *with not more than 1 per cent nitroglycerin.*	3	UN1204	II	FLAMMABLE LIQUID.	N34, T25	None	202	None	5 L	60 L	1,3	1	
	Nitroglycerin, liquid, not desensitized	Forbidden	.....											
	Nitroglycerin, solution in alchol, *with more than 1% but not greater than 5% nitroglycerin.*	3	UN3064	II	FLAMMABLE LIQUID.	.....	None	202	None	Forbidden	Forbidden	.....	.....	
	Nitroglycerin, spirit of, *with more than 1 per cent but not more than 10 per cent nitroglycerin in solution in alcohol.*	1.1D	UN0144											
	Nitroguanidine nitrate	Forbidden	.....											
	Nitroguanidine (Picrite), *dry or wetted with less than 20 per cent water, by weight.*	1.1D	UN0282											
	Nitroguanidine (Picrite), wetted *with not less than 20 per cent water, by weight.*	4.1	UN1336	I	FLAMMABLE SOLID.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1,3	5	
	1-Nitrohydantoin	Forbidden	.....											
E	Nitrohydrochloric acid (*RQ-1000/454*)	8	UN1798	I	CORROSIVE	B4, N1, N15, N34, N41, T18, T27.	None	201	242	Forbidden	2.5 L	1	5	33, 40
	Nitro isobutane triol trinitrate	Forbidden	.....											
	Nitromannite (dry)	Forbidden	.....											
	Nitromannite, wetted, *see* Mannitol hexanitrate, *etc.*.	.....	.....											

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Nitromethane	3	UN1261	II	FLAMMABLE LIQUID.	T25	150	202	None	Forbidden	60 L	1,3	1,3	
	N-Nitro-N-methylglycolamide nitrate	Forbidden												
	2-Nitro-2-methylpropanol nitrate	Forbidden												
	Nitromuriatic acid, see Nitrohydrochloric acid.													
	Nitronaphthalene	4.1	UN2538	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
E	Nitrophenols (*o-,m-,p-*) (*RQ-1000/454*)	6.1	UN1663	III	KEEP AWAY FROM FOOD.	T8, T38	153	213	240	100 kg	200 kg	1,2	1,2	34
	m-Nitrophenyldinitro methane	Forbidden												
	Nitropropanes	3	UN2608	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	p-Nitrosodimethylaniline	4.2	UN1369	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N34.	None	212	241	15 kg	50 kg	1,3	5	34
	Nitrostarch, *dry or wetted with less than 20 per cent water, by weight.*	1.1D	UN0146											
	Nitrostarch, wetted *with not less than 20 per cent water, by weight.*	4.1	UN1337	I	FLAMMBLE SOLID.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1	5	
	Nitrosugars (dry)	Forbidden												
	Nitrosyl chloride	2.3	UN1069	II	POISON GAS, CORROSIVE.	10	None	304	245	Forbidden	Forbidden	1	5	40, 95
	Nitrosylsulfuric acid	8	UN2308	II	CORROSIVE	B2, N1, N11, N26, N34, T9, T27.	154	202	242	1 L	30 L	1	5	40, 43
E	Nitrotoluenes, *liquid* (*RQ-1000/454*), *o-*	6.1	UN1664	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
E	Nitrotoluenes, *solid* (*RQ-1000/454*) *m- or p-*.	6.1	UN1664	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95
	Nitrotoluidines (mono)	6.1	UN2660	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Nitro urea	1.1.D	UN0147											
	Nitrous oxide and carbon dioxide mixtures, see Carbon dioxide and nitrous oxide mixtures.													
	Nitrous oxide, compressed	2.3	UN1070	II	POISON GAS, OXIDIZER.	B13, B33, 10.	None	304	244	Forbidden	Forbidden	1,3	1,3	40, 85
	Nitrous oxide, refrigerated liquid	2.3	UN2201	II	POISON GAS, OXIDIZER.	B6, B14, B33, 10.	None	316	314, 315	Forbidden	Forbidden	1,3	1	40, 85
	Nitroxylenes (*o-,m-,p-*)	6.1	UN1665	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
	Nitroxylol, see Nitroxylenes													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Nonanes	3	UN1920	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Nonflammable gas, n.o.s., see Compressed *or* Liquefied gases, *e tc. (UN 1955, 1956).*													
	Nonliquefied gases, see Compressed gases, *etc.*.													
	Nonliquefied hydrocarbon gas, see Hydrocarbon gases, compressed, n.o.s..													
	Nonyltrichlorosilane	8	UN1799	II	CORROSIVE	B2, B6, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	2,5 Norbornadiene	3	UN2251	II	FLAMMABLE LIQUID.		150	202	241	5 L	60 L	1	5	12
	Nordhausen acid, see Sulfuric acid, fuming													
	Octadecyltrichlorosilane	8	UN1800	II	CORROSIVE	B2, B6, N26, N34, T8.	None	202	242	Forbidden	30 L	1	1	40
	Octadiene	3	UN2309	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	1,7-Octadine-3,5-diyne-1,8-dimethoxy-9-octadecynoic acid.	Forbidden												
	Octafluorobut-2-ene	2.2	UN2422		NONFLAMMABLE GAS.	B13	None	304	244	75 kg	150 kg	1,3	1,3	85
	Octafluorocyclobutane	2.2	UN1976		NONFLAMMABLE GAS.	B13	None	304	244	75 kg	150 kg	1,3	1,3	85
	Octafluoropropane	2.2	UN2424		NONFLAMMABLE GAS.	B13	None	304	244	75 kg	150 kg	1,3	1,3	85
	Octanes	3	UN1262	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	n-Octanoyl peroxide, *see* Di-n-octanoyl peroxide, *technically pure.*													
	Octogen, *see* Cyclotetramethylene tetranitramine, etc..													
	Octol, *see* Octolite, *etc.*													
	Octolite (Octol), *dry or wetted with less than 15 per cent water, by weight.*	1.1D	UN0266											
	Octyl aldehydes, *flammable*	3	UN1191	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	tert-Octylmercaptan	6.1	UN3023	I	POISON, FLAMMABLE LIQUID.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	21, 40
	Octyltrichlorosilane	8	UN1801	II	CORROSIVE	B2, B6, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Oil gas	2.1	UN1071		FLAMMABLE GAS.	B13	None	304	244	Forbidden	150 kg	1	5	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Oleum, see Sulfuric acid, fuming													
	Organic peroxides, mixtures	5.2	UN2756	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Organic peroxides, samples, n.o.s.	5.2	UN2255	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Organic peroxides, trial quantities, n.o.s.	5.2	UN2899	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
D	Organic phosphate, Organic phosphate compound, *or* Organic phosphorus compound; mixed with compressed gas.	2.3	NA1955	IB	POISON GAS	10	None	334	None	Forbidden	Forbidden	1	5	40, 95
	Organochlorine pesticides liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2762	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Organochlorine pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2995	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	242	60 L	220 L	1,2	1,2	23, 34, 40
	Organochlorine pesticides, liquid, toxic, n.o.s..	6.1	UN2996	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	242	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Organochlorine pesticides, solid toxic n.o.s.	6.1	UN2761	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1.2	34, 40
	Organophosphorus pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2784	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Organophosphorus pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3017	I	POISON, FLAMMABLE LIQUID.	N76, T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	N76, T14	None	202	243	5 L	60 L	1,3	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, N76, T14.	153	203	242	60 L	220 L	1,3	1,3	23, 34, 40
	Organophosphorus pesticides, liquid, toxic, n.o.s..	6.1	UN3018	I	POISON	N76, T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	N76, T14	None	202	243	5 L	60 L	1,2	1	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	N76, T14...	153	203	241	60 L.....	220 L.....	1,2.....	1,2.....	34, 40
	Organophosphorus pesticides, solid, toxic, n.o.s..	6.1	UN2783	I	POISON.....	N77.....	None	211	242	5 kg.....	50 kg.....	1,2.....	1,2.....	40, 95
	.....	.....	.....	II	POISON.....	N77.....	None	212	242	25 kg.....	100 kg.....	1,2.....	1,2.....	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	N77.....	153	213	240	100 kg.....	200 kg.....	1,2.....	1,2.....	34, 40
	Organotin compounds, n.o.s. *liquid*.....	6.1	UN2788	I	POISON.....	N1, N16, N33, N34.	None	201	243	1 L.....	30 L.....	1,2.....	1.....	40, 95
	.....	.....	.....	II	POISON.....	N1, N16, N33, N34.	None	202	243	5 L.....	60 L.....	1,2.....	1.....	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	203	241	60 L.....	220 L.....	1,2.....	1.....	34, 40
	Organotin compounds, n.o.s. *solid*.....	6.1	UN2788	I	POISON.....	A2, A5, N1.	None	211	242	5 kg.....	50 kg.....	1,2.....	1.....	40, 95
	.....	.....	.....	II	POISON.....	A1, N1.....	None	212	242	25 kg.....	100 kg.....	1,2.....	1.....	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	A29.....	153	213	240	100 kg.....	200 kg.....	1,2.....	1,2.....	34, 40
	Organotin pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23deg C.*	3	UN2787	I	FLAMMABLE LIQUID, POISON.	.....	None	201	243	Forbidden....	30 L.....	1,3.....	5.....	
	.....	.....	.....	II	FLAMMABLE LIQUID, POISON.	.....	None	202	243	1 L.....	60 L.....	1,3.....	1.....	
	Organotin pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23deg C.*	6.1	UN3019	I	POISON, FLAMMABLE LIQUID.	.....	None	201	243	1 L.....	30 L.....	1.....	1.....	23, 40, 95
	.....	.....	.....	II	POISON, FLAMMABLE LIQUID.	.....	None	202	243	5 L.....	60 L.....	1,2.....	1.....	23, 40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	203	241	60 L.....	220 L.....	1,2.....	1,2.....	23, 34, 40
	Organotin pesticides, liquid, toxic, n.o.s.....	6.1	UN3020	I	POISON.....	.....	None	201	243	1 L.....	30 L.....	1.....	1.....	40, 95
	.....	.....	.....	II	POISON.....	.....	None	202	243	5 L.....	60 L.....	1,2.....	1.....	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	203	241	60 L.....	220 L.....	1,2.....	1,2.....	34, 40
	Organotin pesticides, solid, toxic, n.o.s.....	6.1	UN2786	I	POISON.....	.....	None	211	242	5 kg.....	50 kg.....	1,2.....	1,2.....	40, 95
	.....	.....	.....	II	POISON.....	.....	None	212	242	25 kg.....	100 kg.....	1,2.....	1,2.....	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg.....	200 kg.....	1,2.....	1,2.....	34, 40
	Orthonitroaniline, see Nitroanilines *etc.*.....	.....	.....											
	Osmium tetroxide	6.1	UN2471	I	POISON.....	N2, N33, N34.	None	211	242	5 kg.....	50 kg.....	1,2.....	1.....	40, 95
	Oxalates, *water soluble*	6.1	UN2449	III	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg.....	200 kg.....	1,2.....	1,2.....	34
D	Oxidizing substances, liquid, corrosive, n.o.s..	5.1	NA9193	II	OXIDIZER, CORROSIVE.	B2.....	None	202	243	Forbidden....	1 L.....	1.....	5.....	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Oxidizing substances, liquid, poisonous, n.o.s..	5.1	NA9199	II	OXIDIZER, POISON.		None	202	243	Forbidden	1 L	1	5	
	Oxidizing substances, n.o.s. *liquid*	5.1	UN1479	I	OXIDIZER	A2	None	201	None	Forbidden	Forbidden	1	5	40, 46, 56
				II	OXIDIZER	A2	152	202	242	1 L	5 L	1,2	1,2	40, 46, 56
				III	OXIDIZER	A2	152	203	240	5 L	60 L	1,2	1,2	40, 46, 56
	Oxidizing substances, n.o.s. *solid*	5.1	UN1479	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	
	Oxidizing substances, solid, corrosive, n.o.s..	5.1	UN3085,	I	OXIDIZER, CORROSIVE.	B10	None	211	242	1 kg	15 kg	1	4	
				II	OXIDIZER, CORROSIVE.	B10	None	212	240	5 kg	25 kg	1	4	
				III	OXIDIZER, CORROSIVE.	B10	152	213	240	25 kg	100 kg	1	4	
	Oxidizing substances, solid poisonous, n.o.s..	5.1	UN3087	I	OXIDIZER, POISON.	B10	None	211	242	1 kg	15 kg	1,2	4	
				II	OXIDIZER, POISON.	B10	None	212	240	5 kg	25 kg	1,2	4	
				III	OXIDIZER, POISON.	B10	152	213	240	25 kg	100 kg	1,2	4	
	Oxygen and carbon dioxide mixtures, see Carbon dioxide and oxygen mixtures.													
	Oxygen, compressed	2.2	UN1072		NONFLAMMABLE GAS, OXIDIZER.		306	302	314, 315	75 kg	150 kg	1,3	1,3	85
	Oxygen difluoride	2.3	UN2190	IA	POISON GAS	10	None	304	245	Forbidden	Forbidden	1	5	13, 40
	Oxygen, mixtures with rare gases, see Rare gases and oxygen mixtures.													
	Oxygen, refrigerated liquid (*cryogenic liquid*).	2.2	UN1073		NONFLAMMABLE GAS, OXIDIZER.		320	316	318	Forbidden	Forbidden	1	5	5
	Paint *or* Paint related material	3	UN1263	I	FLAMMABLE LIQUID.		150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.	T7, T30	150	173	242	5 L	60 L	1,2	1	
				III	FLAMMABLE LIQUID.	T7, T30	150	173	241	60 L	220 L	1,3	5	
	Paint *or* Paint related material	8	UN3066	II	CORROSIVE	B2, N71, T7.	154	202	242	1 L	5 L	1,2	1,2	
				III	CORROSIVE	N71, T7	154	203	241	5 L	60 L	1,2	1,2	
	Paint driers, see Driers, paint *or* varnish, *etc.*.													
	Paper, unsaturated oil treated *incompletely dried* (*includes carbon paper*).	4.2	UN1379	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	
E	Paraformaldehyde (*RQ-1000/454*)	4.1	UN2213	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Paraldehyde	3	UN1264	II	FLAMMABLE LIQUID.	T1	150	202	242	60 L	220 L	1,3	1	
	Paranitroaniline, solid, see Nitroanilines *etc.*.													
DE	Parathion (*RQ-1/0.454*)	6.1	NA2783	I	POISON		None	201	243	Forbidden	1 L	1,3	1,3	
				II	POISON		None	202	243	Forbidden	5 L	1,3	1,3	
DE	Parathion and compressed gas mixture (*RQ-1/0.454*).	2.3	NA1967	IB	POISON GAS	B14, B31, 10.	None	334	244	Forbidden	Forbidden	1,3	5	40, 95
	Paris green, solid, see Copper acetoarsenite.													
DE	PCB. *See* Polychlorinated biphenyls													
	Pelargonyl peroxide, *see* Di-n-nonanoyl peroxide, *technically pure.*													
	Pentaborane	4.2	UN1380	I	SPONTANEOUSLY COMBUSTIBLE, POISON.		None	205	246	Forbidden	Forbidden	1	5	
	Pentachloroethane	6.1	UN1669	II	POISON		None	202	243	5 L	60 L	1,2	1,2	40, 95
DE	Pentachlorophenol (*RQ-10/4.54*)	ORM-E	NA2020	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Pentaerythrite tetranitrate (dry)	Forbidden												
	Pentaerythrite tetranitrate (Pentaerythritol tetranitrate; PETN) wetted *with not less than 25 per cent water, by weight, or* Pentaerythrite tetranitrate (Pentaerythritol tetranitrate ; PETN) desensitized *with not less than 15 per cent phlegmatizer by weight.*	1.1D	UN0150											
	Pentaerythrite tetranitrate (PETN) *with not less than 7 per cent wax by weight.*	1.1D	UN0411											
	Pentaerythritol tetranitrate, *see* Pentaerythrite tetranitrate, *etc.*.													
	Pentamethylheptane	3	UN2286	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Pentan-2,4-dione	3	UN2310	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	n-Pentane *or* Isopentane	3	UN1265	I	FLAMMABLE LIQUID.	T20	150	201	243	Forbidden	30 L	1,3	5	12
	Pentanitroaniline (dry)	Forbidden												
	3-Pentanol	3	UN2706	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	
	1-Pentol	8	UN2705	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1	38
	Pentolite, *dry or wetted with less than 15 per cent water, by weight.*	1.1D	UN0151	II										
	Perchlorates, inorganic, n.o.s.	5.1	UN1481	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Perchloric acid *more than 50 per cent but not more than 72 per cent acid, by weight.*	5.1	UN1873	I	OXIDIZER, CORROSIVE.	A2, N1, N34, N41, T9, T27.	None	201	243	Forbidden	2.5 L	1	5	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Perchloric acid, more than 72 per cent acid by weight.	Forbidden												
	Perchloric acid *not more than 50 per cent acid by weight.*	8	UN1802	II	CORROSIVE, OXIDIZER.	N15, N34, N41, T9.	None	202	243	Forbidden	30 L	1	1	37
	Perchloroethylene, see Tetrachloroethylene.													
	Perchloromethylmercaptan	6.1	UN1670	I	POISON	B14, B25, B32, N1, N15, N17, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1	5	40, 95
	Perchloryl fluoride	2.3	UN3083	1B	POISON GAS, OXIDIZER.	B12, B14, B31, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 43, 95
	Percussion caps, see Primers, cap type													
	Perfluoro-2-butene, see Octafluorobut-2-ene.													
	Perfumery products *with flammable solvents.*	3	UN1266	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	15 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Permanganates, inorganic, n.o.s. (*except Ammonium permanganate, which is forbidden*).	5.1	UN1482	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	56, 69
	Peroxides, inoganic, n.o.s.	5.1	UN1483	II	OXIDIZER	A20, B10, N26, N34.	None	212	240	5 kg	25 kg	1,2	1	13, 46
	Peroxyacetic acid, more than 43 per cent and with more than 6 per cent hydrogen peroxide.	Forbidden												
	Peroxyacetic acid *not more than 43 per cent in acetic acid, or* Peroxyacetic acid *in a mixture of acid and water, with not more than 6 per cent hydrogen peroxide and not more than 1 per cent sulfuric acid.*	5.2	UN2131	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Peroxyacetic acid, *not more than 16 per cent in a mixture with at least 39 per cent water, at least 15 per cent acetic acid, not more than 24 per cent hydrogen peroxide, with stabilizer.*	5.2	UN3045	I	ORGANIC PEROXIDE, CORROSIVE.		None	225	None	1 kg	5 kg	1	5	12, 40
	Pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN3021	I	FLAMMABLE LIQUID, POISON.	B5	None	201	243	Forbidden	30 L	1,3	5	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	II	FLAMMABLE LIQUID, POISON.	.....	None	202	243	1 L	60 L	1,3	1	
	Pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2903	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	23, 40, 95
	.....	.....	.....	II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	23, 40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	T14	153	203	242	60 L	220 L	1,2	1,2	23, 34, 40
	Pesticides, liquid, toxic, n.o.s.	6.1	UN2902	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
	.....	.....	.....	II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Pesticides, solid, toxic, n.o.s.	6.1	UN2588	I	POISON	.....	None	211	242	5 kg	50 kg	1,2	1,2	40, 95
	.....	.....	.....	II	POISON	.....	None	212	242	25 kg	100 kg	1,2	1,2	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	PETN, *see* Pentaerythrite tetranitrate	.....	.....											
	PETN/TNT, *see* Pentolite, *etc.*	.....	.....											
	Petrol, *see* Gasoline	.....	.....											
	Petroleum crude oil	3	UN1267	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	5	12
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T8, T31.	150	203	242	60 L	220 L	1,3	1,3	12
	Petroleum distillates, n.o.s.	3	UN1268	I	FLAMMABLE LIQUID.	T42	150	201	243	1 L	30 L	1,3	5	12
	.....	.....	.....	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	5	12
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	12
	Petroleum ether, see Petroleum spirit	.....	.....											
	Petroleum gases, liquefied	2.1	UN1075	.....	FLAMMABLE GAS.	.....	306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Petroleum naphtha, see Naphtha, *petroleum.*	.....	.....											
	Petroleum oil	3	UN1270	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	5	12
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T8, T31.	150	203	242	60 L	220 L	1,3	1,3	12
	Petroleum spirit	3	UN1271	I	FLAMMABLE LIQUID.	T8	150	201	243	5 L	60 L	1,3	5	12
	.....	.....	.....	II	FLAMMABLE LIQUID.	B1, T8	150	202	242	60 L	220 L	1,3	1	12
	.....	.....	.....	III	FLAMMABLE LIQUID.	T8	150	202	241	60 L	220 L	1,2	1,2	
	Phenacyl bromide	6.1	UN2645	II	POISON	.....	None	212	242	25 kg	100 kg	1,3	1	12, 40, 95

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Phenetidines	6.1	UN2311	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
E	Phenol, molten (*RQ-1000/454*)	6.1	UN2312	II	POISON	B14, T8, T38.	None	202	243	Forbidden	Forbidden	1	1	40, 95
E	Phenol, solid (*RQ-1000/454*)	6.1	UN1671	II	POISON	N78, T14	None	212	240	25 kg	100 kg	1,2	1,2	95
E	Phenol solutions (*RQ-1000/454*)	6.1	UN2821	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
	Phenolsulfonic acid, liquid	8	UN1803	II	CORROSIVE	B2, N16, N34, N41, T8.	154	202	242	1 L	30 L	1,2	1	
	Phenoxy pesticides, liquid, flammable, toxic n.o.s., *flash point less than 23 degrees C.*	3	UN2766	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Phenoxy pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2999	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	242	60 L	220 L	1,2	1,2	23, 34, 40
	Phenoxy pesticides, liquid, toxic, n.o.s.	6.1	UN3000	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Phenoxy pesticides, solid, toxic, n.o.s.	6.1	UN2765	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Phenylacetonitrile, liquid	6.1	UN2470	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	26, 34
	Phenylacetyl chloride	8	UN2577	II	CORROSIVE	B2, T8, T26.	154	202	242	1 L	30 L	1	1	40
	Phenylcarbylamine chloride	6.1	UN1672	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	5	40, 95
	Phenylchloroformate	6.1	UN2746	II	POISON, CORROSIVE.	T12	None	202	243	1 L	30 L	1,3	1,3	12, 13, 23, 25, 40, 95
D	Phenyldichloroarsine	6.1	NA1556	I	POISON	B3, B14, B30, 10.	None	226	244	Forbidden	Forbidden	1	5	
	m-Phenylene diaminediperchlorate (dry)	Forbidden												
	Phenylenediamines (*o-,m-,p-*)	6.1	UN1673	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Phenylhydrazine	6.1	UN2572	II	POISON		None	202	243	5 L	60 L	1,2	1,2	40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Phenyl isocyanate	6.1	UN2487	I	POISON	B14, B32, N1, N33, N34, 10.	None	227	244	Forbidden	Forbidden	1	1,3	21, 25, 40, 95
	Phenyl mercaptan	6.1	UN2337	I	POISON, FLAMMABLE LIQUID.	B14, B36, 10.	None	227	244	Forbidden	Forbidden	1	1,3	21, 40, 95
	Phenylmercuric acetate	6.1	UN1674	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Phenylmercuric compounds, n.o.s.	6.1	UN2026	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Phenylmercuric hydroxide	6.1	UN1894	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Phenylmercuric nitrate	6.1	UN1895	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Phenyl phosphorus dichloride	8	UN2798	II	CORROSIVE	B2, B15, T8, T26.	154	202	242	Forbidden	30 L	1,2	1	40
	Phenyl phosphorus thiodichloride	8	UN2799	II	CORROSIVE	B2, B15, T8, T26.	154	202	242	Forbidden	30 L	1,2	1	40
	Phenyltrichlorosilane	8	UN1804	I	CORROSIVE, POISON.	B6, B14, B32, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1	1	
	Phenyl urea pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2768	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Phenyl urea pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3001	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	242	60 L	220 L	1,2	1,2	23, 34, 40
	Phenyl urea pesticides, liquid, toxic, n.o.s.	6.1	UN3002	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Phenyl urea pesticides, solid, toxic, n.o.s.	6.1	UN2767	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
E	Phosgene (*RQ-5000/2270*)	2.3	UN1076	IA	POISON GAS, CORROSIVE.	B7, 10	None	192	245	Forbidden	Forbidden	1	5	40, 95

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	9-Phosphabicyclononanes (Cyclo-octadiene phosphines).	4.2	UN2940	II	SPONTANEOUSLY COMBUSTIBLE.	A19	None	212	241	15 kg	50 kg	1,3	1,3	
	Phosphine	2.3	UN2199	IA	POISON GAS, FLAMMABLE GAS.	B7, 10	None	192	245	Forbidden	Forbidden	1	5	40, 95
E	Phosphoric acid (*RQ-5000/2270*)	8	UN1805	III	CORROSIVE	N26, N34, T7.	154	203	241	5 L	60 L	1,2	1,2	
	Phosphoric acid triethyleneimine, see Tri-(1-aziridiyl) phosphine oxide, solution.													
	Phosphoric anhydride, see Phosphorus pentoxide.													
	Phosphorous acid, ortho	8	UN2834	III	CORROSIVE	T7	154	213	240	25 kg	100 kg	1,3	1,3	48
E	Phosphorus, amorphous (*RQ-1/0.454*)	4.1	UN1338	III	FLAMMABLE SOLID.	A1, A19, B12, B26.	None	213	243	25 kg	100 kg	1,3	1,3	
	Phosphorus bromide, see Phosphorus tribromide.													
	Phosphorus chloride, see Phosphorus trichloride.													
	Phosphorus heptasulfide, *free from yellow and white phosphorus.*	4.1	UN1339	II	FLAMMABLE SOLID.	A20, B10, N34.	None	212	240	15 kg	50 kg	1,3	1	74
	Phosphorus oxybromide	8	UN1939	II	CORROSIVE	B8, B10, N15, N34, N41.	None	212	240	Forbidden	50 kg	1	1	12, 40
	Phosphorus oxybromide, molten	8	UN2576	II	CORROSIVE	B2, B8, N15, N34, N41, T8, T27, T38.	None	202	242	Forbidden	Forbidden	1	1	40
E	Phosphorus oxychloride (*RQ-5000/2270*)	8	UN1810	I	CORROSIVE, POISON.	B8, B14, B25, B32, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1	1	80, 40
	Phosphorus pentabromide	8	UN2691	II	CORROSIVE	B10, N26, N34.	154	202	240	Forbidden	50 kg	1,3	1	12, 40
	Phosphorus pentachloride	8	UN1806	II	CORROSIVE	B10, N26, N34.	None	202	240	Forbidden	50 kg	1	1	40
	Phosphorus pentafluoride	2.3	UN2198	IA	POISON GAS	B13, 10	None	302	245	Forbidden	Forbidden	1	5	40, 95
E	Phosphorus pentasulfide, *free from yellow and white phosphorus* (*RQ-100/45.4*).	4.3	UN1340	II	DANGEROUS WHEN WET.	A20, B10, N34.	None	212	241	15 kg	50 kg	1,3	1,3	74
	Phosphorus pentoxide	8	UN1807	II	CORROSIVE	B10, N26, N34.	154	212	240	Forbidden	50 kg	1,2	1,2	9

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Phosphorus sesquisulfide, *free from yellow and white phosphorus.*	4.1	UN1341	II	FLAMMABLE SOLID.	A20, B10, N34.	None	212	240	15 kg	50 kg	1,3	1	74
	Phosphorus tribromide	8	UN1808	II	CORROSIVE	B2, B25, N1, N11, N26, N34, T8.	None	202	242	Forbidden	30 L	1	1	80, 40
E	Phosphorus trichloride (*RQ-5000/2270*)	8	UN1809	I	CORROSIVE, POISON.	B8, B14, B25, B32, N1, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1	1	80, 40
	Phosphorus trioxide	8	UN2578	III	CORROSIVE		154	213	241	25 kg	100 kg	1,3	1,3	12
	Phosphorus trisulfide, *free from yellow and white phosphorus.*	4.1	UN1343	II	FLAMMABLE SOLID.	A20, B10, N34.	None	212	240	15 kg	50 kg	1,3	1	74
	Phosphorus, white *or* yellow dry *or* under water *or* in solution (*RQ-1/0.454*).	4.2	UN1381	I	SPONTANEOUSLY COMBUSTIBLE, POISON.	A19, B12, B26, N1, N15, N34, T15, T26, T33.	None	211	243	Forbidden	Forbidden	1,3	5	
E	Phosphorus white, molten (*RQ-1/0.454*)	4.2	UN2447	I	SPONTANEOUSLY COMBUSTIBLE, POISON.	A19, B12, B26, N1, N15, N34, T15, T26, T29.	None	211	243	Forbidden	Forbidden	1	5	
	Phosphorus (white or red) and a chlorate, mixtures of.	Forbidden												
	Phosphoryl chloride, see Phosphorus oxychloride.													
	Photo-flash powder, *in units*	1.1G	UN0094											
	Photo-flash powder, *in units*	1.2G	UN0096											
	Photo-flash powder, *in units*	1.3G	UN0305											
	Phthalic anhydride	8	UN2214	III	CORROSIVE	T7, T38	154	213	240	25 kg	100 kg	1,2	1,2	34
	Phthalimide derivative pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2774	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Phthalimide derivative pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3007	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	242	60 L	220 L	1,2	1,2	23, 34, 40
	Phthalimide derivative pesticides, liquid, toxic, n.o.s..	6.1	UN3008	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Phthalimide derivative pesticides, solid, toxic, n.o.s..	6.1	UN2773	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Picolines	3	UN2313	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	40
	Picric acid, *see* Trinitrophenol, *etc.*													
D	Picric acid, wet, with not less than 10% water.	4.1	NA1344	I	FLAMMABLE SOLID.	A19, A20, N34, N41.	None	211	None	Forbidden	Forbidden	1	5	
	Picrite, *see* Nitroguanidine, *etc.*													
	Picryl chloride, *see* Trinitrochlorobenzene													
	Pinane hydroperoxide, *see* Pinanyl hydroperoxide, *technically pure.*													
	Pinanyl hydroperoxide *or* Pinane hydroperoxide, *technically pure.*	5.2	UN2162	I	ORGANIC PEROXIDE.	B19, T25	None	225	243	1 L	5 L	1	5	12, 40
	Pindone *liquid*	6.1	UN2472	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
							153	213	260L	100 kg	200 kg	1,2	1,2	
	Pindone *solid*	6.1	UN2472	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	alpha-Pinene	3	UN2368	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Pine oil	3	UN1272	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Piperazine	8	UN2579	III	CORROSIVE	T7	154	213	240	25 kg	100 kg	1,3	1,3	12
	Piperidine	3	UN2401	II	FLAMMABLE LIQUID.	T2	150	202	242	5 L	60 L	1,3	1	13
	Pivaloyl chloride, see Trimethyl acetyl chloride.													
	Plastics, nitrocellulose based, spontaneously combustible, n.o.s..	4.2	UN2006	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	None	Forbidden	Forbidden	1	1	
	Plastic solvent, n.o.s., see Flammable liquids, n.o.s..													

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Poisonous gases, n.o.s., see Compressed *or* liquefied gases, flammable *or* toxic, n.o.s..													
	Poisonous liquids, corrosive, n.o.s.	6.1	UN2927	I	POISON, CORROSIVE.	B38, T42	None	201	243	0.5 L	2.5 L	1,2	1	20, 40, 95
				II	POISON, CORROSIVE.		None	202	243	1 L	30 L	1,2	1	20, 40, 95
	Poisonous liquids, flammable, n.o.s.	6.1	UN2929	I	POISON, FLAMMABLE LIQUID.	B38, B40, T42.	None	201	243	1 L	30 L	1,2	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T15	None	202	243	5 L	60 L	1,2	1	21, 40, 95
	Poisonous liquids, n.o.s.	6.1	UN2810	I	POISON	B38, B40, T42.	None	201	243	1 L	30 L	1,2	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1	34, 40
	Poisonous solids, corrosive, n.o.s.	6.1	UN2928	I	POISON, CORROSIVE.		None	211	242	1 kg	25 kg	1,2	1	20, 40, 95
				II	POISON, CORROSIVE.		None	212	242	15 kg	50 kg	1,2	1	20, 40, 95
	Poisonous solids, flammable, n.o.s.	6.1	UN2930	I	POISON, FLAMMABLE SOLID.		None	211	242	1 kg	15 kg	1,2	1	24, 40, 95
				II	POISON, FLAMMABLE SOLID.		None	212	242	15 kg	50 kg	1,2	1	24, 40, 95
	Poisonous solids, n.o.s.	6.1	UN2811	I	POISON		None	211	242	5 kg	50 kg	1,2	1	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1	34
	Poisonous solids, oxidizing, n.o.s.	6.1	UN3086	I	POISON, OXIDIZER.		None	211	242	1 kg	15 kg	1,2	1	40, 89, 95
				II	POISON, OXIDIZER.		None	212	242	15 kg	50 kg	1,2	1	40, 89, 95
	Polyalkylamines, n.o.s., *see* Alkylamines, *etc.*.													
AEW	Polychlorinated biphenyls (*RQ-10/4.54*)	9	UN2315	II	None	B10	155	202	240	100 L	220 L	1,2	1,2	34
D	Polyester resin kits	5.2	NA2255	II	ORGANIC PEROXIDE.	66	None	225	246	5 kg	5 kg	1	5	
	Polystyrene beads, expandable, *impregnated with flammable liquid.*	9	UN2211	III	None		221	221	240	100 kg	200 kg	1,2	1,2	84
	Potassium	4.3	UN2257	II	DANGEROUS WHEN WET.	A19, A20, B27, N6, N34, T15, T26.	None	212	244	Forbidden	50 kg	1	5	
E	Potassium arsenate (*RQ-1000/454*)	6.1	UN1677	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Potassium arsenite (*RQ-10/4.54*)	6.1	UN1678	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Potassium bifluoride	8	UN1811	II	CORROSIVE, POISON.	N3, N34, T8.	154	212	242	15 kg	50 kg	1,3	1,3	25, 26, 40
	Potassium bifluoride solution, see Corrosive liquid, n.o.s..													
	Potassium bisulfite solution, *see* Bisulfites, inoganic, aqueous solutions, n.o.s..													
	Potassium borohydride	4.3	UN1870	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	
	Potassium bromate	5.1	UN1484	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Potassium carbonyl	Forbidden												
	Potassium chlorate	5.1	UN1485	II	OXIDIZER	B10, N13, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Potassium chlorate mixed with mineral oil, see Explosive, blasting, type C.													
	Potassium chlorate, solution	5.1	UN2427	II	OXIDIZER	A2, T8	152	202	241	1 L	5 L	1,2	1	46, 56
DE	Potassium chromate (*RQ-1000/454*)	ORM-E	NA9142	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Potassium cuprocyanide	6.1	UN1679	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	26, 95
E	Potassium cyanide (*RQ-10/4.54*)	6.1	UN1680	I	POISON	N74, N75, T8, T26.	None	211	242	5 kg	50 kg	1,2	1,2	26, 95
	Potassium dichloro isocyanurate. See Oxidizer, n.o.s..													
DE	Potassium dichromate (*RQ-1000/454*)	ORM-E	NA9143	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Potassium dithionite *or* Potassium hydrosulfite.	4.2	UN1929	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N2.	None	212	241	15 kg	50 kg	1,3	5	13
	Potassium fluoride	6.1	UN1812	III	KEEP AWAY FROM FOOD.	T8	153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Potassium fluoroacetate	6.1	UN2628	I	POISON		None	211	242	5 kg	50 kg	1,2	5	95
	Potassium fluorosilicate	6.1	UN2655	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Potassium hydrate, see Potassium hydroxide, solid.													
	Potassium hydrogen fluoride, see Potassium bifluoride.													
	Potassium hydrogen fluoride solution, see Corrosive liquid, n.o.s..													
	Potassium hydrogen sulfate	8	UN2509	II	CORROSIVE	N26, N34	154	212	240	15 kg	50 kg	1,2	1,2	27
	Potassium hydrosulfite, *see* Potassium dithionite.													
	Potassium hydroxide, liquid, see Potassium hydroxide solution.													
E	Potassium hydroxide, solid (*RQ-1000/454*)	8	UN1813	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
E	Potassium hydroxide, solution (*RQ-1000/454*).	8	UN1814	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
	Potassium hypochlorite, solution, see Hypochlorite solutions, *etc.*.													

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Potassium, metal alloys	4.3	UN1420	II	DANGEROUS WHEN WET.	A19, A20, B27, N16.	None	212	244	Forbidden	50 kg	1	5	
	Potassium metal, liquid alloy, see Alkali metal alloys, liquid.													
	Potassium metavanadate	6.1	UN2864	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Potassium monoxide	8	UN2033	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Potassium nitrate	5.1	UN1486	III	OXIDIZER	A1, A29	152	212	240	25 kg	100 kg	1,2	1,2	
E	Potassium nitrate and sodium nitrite mixtures (*RQ-100/45.4*).	5.1	UN1487	II	OXIDIZER	B10, B12	152	212	240	5 kg	25 kg	1,2	1,2	34, 56, 58
	Potassium nitrite	5.1	UN1488	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	34, 56, 58
	Potassium perchlorate	5.1	UN1489	II	OXIDIZER	B10, T8	152	212	240	5 kg	25 kg	1,2	1,2	46
E	Potassium permanganate (*RQ-100/45.4*)	5.1	UN1490	II	OXIDIZER	B10, B12	152	212	240	5 kg	25 kg	1,2	1,2	56, 69
	Potassium peroxide	5.1	UN1491	I	OXIDIZER	A20, N16, N34.	None	211	None	Forbidden	15 kg	1,2	1,2	13
	Potassium persulfate	5.1	UN1492	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Potassium phosphide	4.3	UN2012	I	DANGEROUS WHEN WET, POISON.	A19	None	211	None	Forbidden	15 kg	1,2	5	40, 85
	Potassium salts of aromatic nitro-derivatives, *explosive-*.	1.3C	UN0158											
	Potassium selenate, *see* Selenates *or* Selenites.													
	Potassium selenite, *see* Selenates *or* Selenites.													
E	Potassium sodium alloys (*RQ-1000/454*)	4.3	UN1422	I	DANGEROUS WHEN WET.	A19, B27, N34, T15, T26.	None	211	244	Forbidden	15 kg	1	5	
	Potassium sulfide, anhydrous *or* Potassium sulfide *with less than 30 per cent water of crystallization.*	4.2	UN1382	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, B16, N34.	None	212	241	15 kg	50 kg	1,3	1,3	52
	Potassium sulfide, hydrated *with not less than 30 per cent water of crystallization.*	8	UN1847	II	CORROSIVE	B10	154	212	240	15 kg	50 kg	1,2	1,2	26
	Potassium superoxide	5.1	UN2466	I	OXIDIZER	A20	None	211	None	Forbidden	15 kg	1,2	1	13, 31
	Powder cake (Powder paste) wetted *with not less than 35 per cent water, by weight.*	1.3C	UN0159											
	Powder cake, wetted *with not less than 17 per cent alcohol by weight.*	1.1C	UN0433											
	Powder paste, *see* Powder cake, *etc.*													
	Powder, smokeless	1.1C	UN0160											
	Powder, smokeless	1.3C	UN0161											
	Power device, explosive, see Cartridges, power device.													
	Primers, cap type	1.4S	UN0044											
	Primers, cap type	1.1B	UN0377											
	Primers, cap type	1.4B	UN0378											

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Primers, small arms, see Primers, cap type													
	Primers, tubular	1.3G	UN0319											
	Primers, tubular	1.4G	UN0320											
	Primers, tubular	1.4S	UN0376											
	Projectiles, illuminating, see Ammunition, illuminating, *etc.*.													
	Projectiles, *inert with tracer*	1.45	UN0345											
	Projectiles, *inert, with tracer*	1.3G	UN0424											
	Projectiles, *inert, with tracer*	1.4G	UN0425											
	Projectiles, *with burster or expelling charge*	1.2D	UN0346											
	Projectiles, *with burster or expelling charge*	1.4D	UN0347											
	Projectiles, *with burster or expelling charge*	1.2F	UN0426											
	Projectiles, *with burster or expelling charge*	1.4F	UN0427											
	Projectiles, *with burster or expelling charge*	1.2G	UN0434											
	Projectiles, *with burster or expelling charge*	1.4G	UN0435											
	Projectiles, *with bursting charge*	1.1F	UN0167											
	Projectiles, *with bursting charge*	1.1D	UN0168											
	Projectiles, *with bursting charge*	1.2D	UN0169											
	Projectiles, *with bursting charge*	1.2F	UN0324											
	Projectiles, *with bursting charge*	1.4D	UN0344											
	Propadiene	2.1	UN2200		FLAMMABLE GAS.	B13	None	304	244	Forbidden	150 kg	1	5	40
	Propadiene mixed with methyl acetylene, see Methyl acetylene and propadiene mixtures, stabilized.													
	Propane *see also* Petroleum gases, liquified.	2.1	UN1978		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Propanethiols	3	UN2402	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12, 13, 34, 35, 40
	Propanol *or* Propyl alcohol	3	UN1274	II	FLAMMABLE LIQUID.	B1, T1	150	202	242	5 L	60 L	1,3	1	
DE	Propargite (*RQ-10/4.54*)	ORM-E	NA2765	III	None		156	213	240	No limit	No limit	1,2	1,2	
D	Propargyl alcohol	3	NA1986	II	FLAMMABLE LIQUID, POISON.		None	202	243	Forbidden	1 L	1,3	1	
	Propionaldehyde	3	UN1275	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	1	12
E	Propionic acid (*RQ-5000/2270*)	8	UN1848	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,3	1,3	22, 76, 77
E	Propionic anhydride (*RQ-5000/2270*)	8	UN2496	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,2	1,2	8
	Propionitrile	3	UN2404	I	FLAMMABLE LIQUID, POISON.	B14	None	201	243	1 L	60 L	1,3	5	12, 40, 94
	Propionyl chloride	3	UN1815	II	FLAMMABLE LIQUID, CORROSIVE.	T8, T26	None	202	243	1 L	5 L	1,3	1	40
	Propionyl peroxide, *see* Dipropionyl peroxide, *etc.*.													

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	n-Propyl acetate	3	UN1276	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Propyl alcohol, *see* Propanol													
	Propylamine	3	UN1277	II	FLAMMABLE LIQUID.	N34, T14	None	202	242	Forbidden	60 L	1,3	5	12, 40
	Propyl benzene	3	UN2364	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Propyl chloride	3	UN1278	II	FLAMMABLE LIQUID.	N34, T14	None	202	242	Forbidden	60 L	1,3	5	12
	n-Propyl chloroformate	3	UN2740	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B6, B14, B32, N1, N11, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1,3	5	21, 40, 95
	Propylene chlorohydrin	6.1	UN2611	II	POISON	T9	None	202	243	5 L	60 L	1,3	1,3	12, 21, 25, 40, 95
	1,2-Propylenediamine	8	UN2258	II	CORROSIVE, FLAMMABLE LIQUID.	N1, N11, N34, T8.	None	202	243	1 L	30 L	1,3	1,3	40
E	Propylene dichloride (*RQ-5000/2270*)	3	UN1279	II	FLAMMABLE LIQUID.	N36, T1	150	202	242	5 L	60 L	1,3	1	
	Propyleneimine, inhibited	3	UN1921	I	FLAMMABLE LIQUID.	N1, N15, N34, T25.	None	201	243	Forbidden	30 L	1,3	5	40
E	Propylene oxide (*RQ-5000/2270*)	3	UN1280	I	FLAMMABLE LIQUID.	N1, N15, N34, T20, T29.	None	201	243	Forbidden	30 L	1,3	5	12
	Propylene *see also* Petroleum gases, liquified.	2.1	UN1077		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Propylene tetramer	3	UN2850	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Propyl formates	3	UN1281	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	n-Propyl isocyanate	3	UN2482	I	FLAMMABLE LIQUID, POISON.	N15, N26, T18, T26.	None	201	243	Forbidden	30 L	1	5	12, 40, 48
	Propyl mercaptan, see Propanethiols													
	n-Propyl nitrate	3	UN1865	II	FLAMMABLE LIQUID.	T25	150	202	None	5 L	60 L	1,3	1	
	Propyltrichlorosilane	8	UN1816	I	CORROSIVE, FLAMMABLE LIQUID.	B1, B6, N16, N26, N34, T8, T26.	None	201	243	Forbidden	Forbidden	1	1	21, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	II	CORROSIVE.....	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden....	30 L.....	1.....	1.....	13, 21, 78
	Prussic acid, see Hydrogen cyanide.....	.....	.....											
DE	Pyrethrins (*RQ-1000/454*).....	ORM-E	NA9184	III	None.....	.....	156	203	241	No limit.....	No limit.....	1,2.....	1,2.....	
	Pyridine.....	3	UN1282	II	FLAMMABLE LIQUID, POISON.	T8.....	None	202	243	1 L.....	60 L.....	1,3.....	1.....	40
	Pyridine perchlorate.....	Forbidden	.....											
	Pyrophoric *or* Pyroforic liquids, n.o.s.....	4.2	UN2845	I	SPONTANEOUSLY COMBUSTIBLE.	B11.....	None	181	244	Forbidden....	Forbidden....	1.....	5.....	18
	Pyrophoric *or* Pyroforic solids, n.o.s.	4.2	UN2846	I	SPONTANEOUSLY COMBUSTIBLE.	.....	None	187	242	Forbidden....	Forbidden....	1.....	1.....	
	.....	.....	.....	II	SPONTANEOUSLY COMBUSTIBLE.	.....	None	187	241	Forbidden....	Forbidde.....	1.....	1.....	
	.....	.....	.....	III	SPONTANEOUSLY COMBUSTIBLE.	.....	None	187	241	Forbidden....	Forbidden....	1.....	1.....	
	Pyrophoric metals, *solid*, n.o.s. *or* Pyrophoric alloys, *solid*, n.o.s..	4.2	UN1383	I	SPONTANEOUSLY COMBUSTIBLE.	B11.....	None	187	242	Forbidden....	Forbidden....	1.....	5.....	
	Pyrosulfuryl chloride.....	8	UN1817	II	CORROSIVE.....	B2, T9, T27.	154	202	242	1 L.....	30 L.....	1.....	1.....	80, 40
	Pyroxylin solution or solvent, see Nitrocellulose.	.....	.....											
	Pyrrolidine.....	3	UN1922	II	FLAMMABLE LIQUID.	T1.....	150	202	242	Forbidden....	60 L.....	1,3.....	1.....	40
	Quebrachitol pentanitrate.....	Forbidden	.....											
	Quicklime, see Calcium oxide.....	.....	.....											
E	Quinoline (*RQ-1000/454*).....	6.1	UN2656	III	KEEP AWAY FROM FOOD.	T8.....	153	203	241	60 L.....	220 L.....	1,3.....	1,3.....	12, 22, 25, 34
	R 12, see Dichlorodifluoromethane	.....	.....											
	R 12B1, see Chlorodifluorobromomethane....	.....	.....											
	R 13, see Chlorotrifluoromethane	.....	.....											
	R 13B1, see Bromotrifluoromethane	.....	.....											
	R 14, see Tetrafluoromethane.....	.....	.....											
	R 21, see Dichlorofluoromethane	.....	.....											
	R 22, see Chlorodifluoromethane	.....	.....											

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	R 114, see Dichlorotetrafluoroethane													
	R 115, see Chloropentafluoroethane													
	R 116, see Hexafluoroethane													
	R 124, see Chlorotetrafluoroethane													
	R 133a, see Chlorotrifluoroethane													
	R 152a, see Difluoroethane													
	R 500, see Dichlorodifluoromethane and difluorethane, *etc.*.													
	R 502, see Chlorodifluoromethane and chloropentafluoroethane mixture, *etc.*.													
	R 503, see Chlorotrifluoromethane and trifluoromethane, *etc.*.													
	Radioactive material, excepted package-articles manufactured from natural *or* depleted uranium *or* natural thorium.	7	UN2910		None		421-1, 424	421-1, 424	None			1,2	1,2	
	Radioactive material, excepted package-empty packaging.	7	UN2910		EMPTY		427	427	427			1,2	1,2	
	Radioactive material, excepted package-instruments *or* articles.	7	UN2910		None		421-1, 422	421-1, 422	None					
	Radioactive material, excepted package-limited quantity of material.	7	UN2910		None		421, 421-1	421, 421-1	None			1,2	1,2	
	Radioactive material, fissile, n.o.s., *Class I, II, or III.*	7	UN2918		RADIOACTIVE		453	417	None			1,2	1,2	
	Radioactive material, low specific activity *LSA*, n.o.s..	7	UN2912		RADIOACTIVE		421, 422, 424	425	425			1,2	1,2	
	Radioactive material, n.o.s.	7	UN2982		RADIOACTIVE		421, 422, 424	415, 416	None			1,2	1,2	
	Radioactive material, special form, n.o.s.	7	UN2974		RADIOACTIVE		421, 422	415, 416	None			1,2	1,2	
I	Rags, oily	4.2	UN1856	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	None	Forbidden	Forbidden	1,3	1,3	13
	Railway torpedo, see Signals, railway track, explosive.													
	Rare gases and nitrogen mixtures	2.2	UN1981		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	Rare gases and oxygen mixtures	2.2	UN1980		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	Rare gases, mixtures (*e.g. Argon; Helium; Krypton; Neon; Xenon*).	2.2	UN1979		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	RC 318, see Octafluorocyclobutane													
	RDX, see Cyclotrimethylene trinitramine, etc..													

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Receptacles, small with flammable compressed gas *without a dispersion device, not refillable.*	2.1	UN2037		FLAMMABLE GAS.		306	304	None	1 kg	15 kg	1	1	40
	Red phosphorus, see Phosphorus, amorphous.													
	Refrigerant gases, n.o.s. (*e.g. non-flammable halocarbons*).	2.2	UN1078		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
D	Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s..	2.1	NA1954		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1	1	40
D	Refrigerating machine	3	NA1993	III	FLAMMABLE LIQUID.		174	174	None	10 L	10 L	1,3	1	
	Refrigerating machines, *containing flammable, non-poisonous, liquefied gas.*	2.1	NA1954		FLAMMABLE GAS.		306	306	306	Forbidden	Forbidden	1	1	40
	Refrigerating machines, *containing non-flammable, non-poisonous, liquefied gas.*	2.2	UN2857		NONFLAMMABLE GAS.		306, 307	306	306, 307	Forbidden	Forbidden	1,3	1,3	85
	Release devices, explosive	1.4S	UN0173											
	Resin oil *or* Rosin oil	3	UN1286	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,2	1,2	
	Resin solution, *flammable*	3	UN1866	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1,3	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
I	Resin solution, poisonous	6.1	UN1896	I	POISON		None	201	243	1 L	30 L	1,2	1,2	23, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1,2	23, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	23, 34
E	Resorcinol (*RQ-1000/454*)	6.1	UN2876	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Rifle grenade, see Grenades, *hand or rifle, etc.*.													
	Rifle powder, see Powder, smokeless (*UN 0160*).													
	Rivets, explosive	1.4S	UN0174											
	Road asphalt or tar liquid, see Tars, liquid, *etc.*.													
	Rocket motors	1.3C	UN0186											
	Rocket motors	1.1C	UN0280											
	Rocket motors	1.2C	UN0281											
	Rocket motors, liquid fueled	1.2J	UN0395											
	Rocket motors, liquid fueled	1.3J	UN0396											
	Rocket motors *with hypergolic liquids, with or without an expelling charge.*	1.3L	UN0250											
	Rocket motors *with hypergolic liquids, with or without an expelling charge.*	1.2L	UN0322											
	Rockets, line-throwing	1.2G	UN0238											
	Rockets, line-throwing	1.3G	UN0240											
	Rockets, liquid fueled *with bursting charge*	1.2J	UN0398											
	Rockets, liquid-fueled *with bursting charge*	1.1J	UN0397											

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Rockets, *with bursting charge*	1.1F	UN0180											
	Rockets, *with bursting charge*	1.1E	UN0181											
	Rockets, *with bursting charge*	1.2E	UN0182											
	Rockets, *with bursting charge*	1.2F	UN0295											
	Rockets, *with expelling charge*	1.2C	UN0436											
	Rockets, *with expelling charge*	1.3C	UN0437											
	Rockets, *with expelling charge*	1.4C	UN0438											
	Rockets, *with inert head*	1.3C	UN0183											
	Rodenticides, n.o.s.(*liquid*)	6.1	UN1681	I	POISON		None	201	243	1 L	30 L	1	1	40, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34, 40
	Rodenticides, n.o.s. (*solid*)	6.1	UN1681	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
I	Rubber scrap *or* Rubber shoddy, *powdered or granulated.*	4.1	UN1345	II	FLAMMABLE SOLID.		151	212	240	15 kg	50 kg	1,3	1,3	
	Rubber solution	3	UN1287	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Rubidium	4.3	UN1423	I	DANGEROUS WHEN WET.	A19, N26, N34, N45, 22.	None	211	242	Forbidden	15 kg	1	5	
	Rubidium hydroxide	8	UN2678	II	CORROSIVE	T8	154	212	240	15 kg	50 kg	1,2	1,2	
	Rubidium hydroxide solution	8	UN2677	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
	Safety fuse, see Fuse, safety													
	Safety squibs, see Squibs, *etc.*													
	Samples, explosive, *other than initiating explosives.*		UN0190											
	Sand acid, see Fluorosilicic acid													
I	Seed cake *with more than 1.5 per cent oil and not more than 11 per cent moisture.*	4.2	UN1386	III	None		None	213	241	Forbidden	Forbidden	1,3	5	
I	Seed cake *with not more than 1.5 per cent oil and not more than 11 per cent moisture.*	4.2	UN2217	III	None		None	213	241	Forbidden	Forbidden	1,3	1,3	
	Selenates *or* Selenites	6.1	UN2630	I	POISON		None	211	242	5 kg	50 kg	1,2	5	95
	Selenic acid	8	UN1905	I	CORROSIVE	N34	None	211	240	Forbidden	25 kg	1,2	1,2	
	Selenites, *see* Selenates *or* Selenites													
	Selenium disulfide	6.1	UN2657	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Selenium hexafluoride	2.3	UN2194	IA	POISON GAS	10	None	302	245	Forbidden	Forbidden	1	5	40, 95
	Selenium nitride	Forbidden												
DE	Selenium oxide (*RQ-1000/454*)	6.1	NA2811	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Selenium oxychloride	8	UN2879	I	CORROSIVE, POISON.	N1, N11, N26, N34. T12, T27	None	201	243	0.5 L	2.5 L	1,2	5	40
	Selenium powder	6.1	UN2658	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Self-heating substances, solid, n.o.s.	4.2	UN3088	II	SPONTANEOUSLY COMBUSTIBLE.		None	212	241	Forbidden	Forbidden	1	5	
				III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1	5	
	Self-propelled vehicle, see Vehicles, self-propelled.													
	Self-reactive substances (*aliphatic azo-compounds, aromatic sulphoh ydrazides, N-nitroso compounds, diazonium salts*) Sample, n.o.s..	4.1	UN3031	I	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	
	Self-reactive substances (*aliphatic azo-compounds, aromatic sulphohydrazides, n-nitroso compounds, diazonium salts*), Trial quantities, n.o.s..	4.1	UN3032	I	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	
	Shale oil	3	UN1288	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,2	1,2	
	Shaped charges, commercial, see Charges, shaped, commercial.													
	Shaped charges (commercial) containing more than 8 ounces of explosives.	Forbidden												
	Signal devices, hand	1.4G	UN0191											
	Signal devices, hand	1.4S	UN0373											
	Signals, highway, see Signal devices, hand; Fireworks, type D.													
	Signals, railway track, explosive	1.1G	UN0192											
	Signals, railway track, explosive	1.4S	UN0193											
	Signals, ship distress (*other than water-activated contrivances*).	1.1G	UN0194											
	Signals, ship distress (*other than water-activated contrivances*).	1.3G	UN0195											
	Signals, ship distress, wateractivated, see Contrivances, water-activated, *etc.*.													
	Signals, smoke *with explosive sound unit*	1.1G	UN0196											
	Signals, smoke *with explosive sound unit*	1.2G	UN0313											
	Signals, smoke *without explosive sound unit.*	1.4G	UN0197											

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Silane	2.1	UN2203		FLAMMABLE GAS.	B13	None	302	244	Forbidden	Forbidden	1	5	25, 40, 74
	Silicofluoric acid, see Fluorosilicic acid													
	Silicon chloride, see Silicon tetrachloride													
	Silicon powder, amorphous	4.1	UN1346	III	FLAMMABLE SOLID.	A1	None	213	240	25 kg	100 kg	1,3	1,3	
	Silicon tetrachloride	8	UN1818	II	CORROSIVE	B2, B6, N1, N11, N34, N41, T18, T26, T29.	154	202	242	1 L	30 L	1	1	80, 40
	Silicon tetrafluoride	2.3	UN1859	III	POISON GAS, CORROSIVE.	B13, B14, B34, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 95
	Silver acetylide (dry)	Forbidden												
	Silver arsenite	6.1	UN1683	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Silver azide (dry)	Forbidden												
	Silver chlorite (dry)	Forbidden												
	Silver cyanide	6.1	UN1684	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	26, 40, 95
	Silver fulminate (dry)	Forbidden												
E	Silver nitrate (*RQ-1/0.454*)	5.1	UN1493	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	34
	Silver oxalate (dry)	Forbidden												
	Silver picrate (dry)	Forbidden												
	Silver picrate, wetted *with not less than 30 per cent water, by weight.*	4.1	UN1347	I	FLAMMABLE SOLID.		None	211	None	Forbidden	Forbidden	1	5	
	Sludge, acid	8	UN1906	II	CORROSIVE	B2, N1, N26, N34, T9, T14, T27.	None	202	242	Forbidden	30 L	1,2	1	14, 33
D	Small arms ammunition	ORM-D	None	III	None		None	230	None	65 lb gross	65 lb gross	1,2	1,2	
D	Smokeless powder for small arms (*100 pounds or less*).	4.1	NA1325	I	FLAMMABLE SOLID.		None	171	None	Forbidden	Forbidden			
	Soda lime *with more than 4 per cent sodium hydroxide.*	8	UN1907	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Sodium (*RQ-1000/454*)	4.3	UN1428	II	DANGEROUS WHEN WET.	A19, A20, B22, N2, N16, N26, N34, T15, T29.	None	212	243	Forbidden	50 kg	1	5	
AW	Sodium aluminate, solid	8	UN2812	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Sodium aluminate, solution	8	UN1819	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
	Sodium aluminum hydride	4.3	UN2835	II	DANGEROUS WHEN WET.	A19, A20, N2.	None	212	242	Forbidden	50 kg	1	5	
	Sodium ammonium vanadate	6.1	UN2863	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
	Sodium arsanilate	6.1	UN2473	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
E	Sodium arsenate (*RQ-1000/454*)	6.1	UN1685	II	POISON		None	212	240	25 kg	100 kg	1,2	1,2	95
E	Sodium arsenite, aqueous solutions (*RQ-1000/454*).	6.1	UN1686	II	POISON	T15	None	202	243	5 L	60 L	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.	T15	153	203	241	60 L	220 L	1,2	1,2	34
	Sodium arsenite, solid	6.1	UN2027	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Sodium azide	6.1	UN1687	II	POISON	B28	None	212	242	25 kg	100 kg	1,2	1,2	36, 52, 95
	Sodium bifluoride, see Sodium hydrogen fluoride.													
	Sodium bisulfate, solid or *solution, see* Sodium hydrogen sulfate, solid *or* solution.													
	Sodium bisulfite, solid or *solution, see* Sodium hydrogen sulfite, solid *or* solution.													
	Sodium borohydride	4.3	UN1426	I	DANGEROUS WHEN WET.		None	211	242	Forbidden	15 kg	1,3	5	
	Sodium bromate	5.1	UN1494	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Sodium cacodylate	6.1	UN1688	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	26, 95
	Sodium chlorate	5.1	UN1495	II	OXIDIZER	B10, N13, N34, T8.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Sodium chlorate mixed with dinitrotoluene, see Explosive blasting, type C.													
	Sodium chlorate, solution	5.1	UN2428	II	OXIDIZER	A2, B6, T8.	152	202	241	1 L	5 L	1,2	1	46, 56
	Sodium chlorite	5.1	UN1496	II	OXIDIZER	B10, N13, N34, T8.	None	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Sodium chlorite solution *with more than 5 per cent available chlorine.*	8	UN1908	II	CORROSIVE	B2, N1, N11, N25, N26, N34.	154	202	242	1 L	30 L	1,2	1	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Sodium chloroacetate	6.1	UN2659	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,3	1,3	12, 13, 34
DE	Sodium chromate (*RQ-1000/454*)	ORM-E	NA9145	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Sodium cuprocyanide, solid	6.1	UN2316	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	26, 40, 95
	Sodium cuprocyanide, solution	6.1	UN2317	I	POISON	T8, T26	None	201	243	1 L	30 L	1,2	1	40, 52, 95
E	Sodium cyanide (*RQ-10/4.54*)	6.1	UN1689	I	POISON	N74, N75, T18, T26.	None	211	242	5 kg	50 kg	1,2	1,2	26, 95
	Sodium 2-diazo-1-naphthol-4-sulphonate	4.1	UN3040	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	25
	Sodium 2-diazo-1-naphthol-5-sulphonate	4.1	UN3041	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	25
	Sodium dichloroisocyanurate or *Sodium dichloro-s-triazinetrione, see* Dichloroisocyanuric acid *etc.*.													
DE	Sodium dichromate (*RQ-1000/454*)	ORM-E	NA9144	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Sodium dinitro-o-cresolate, *dry or wetted with less than 15 per cent water, by weight.*	1.3C	UN0234											
	Sodium dinitro-o-cresolate, wetted *with not less than 15 per cent water, by weight.*	4.1	UN1348	I	FLAMMABLE SOLID, POISON.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1	5	36
	Sodium dithionite *or* Sodium hydrosulfite	4.2	UN1384	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20	None	212	241	15 kg	50 kg	1,3	1,3	13
DE	Sodium dodecylbenzenesulfonate (*RQ-1000/454*).	ORM-E	NA9146	III	None		156	213	240	No limit	No limit	1,2	1,2	
E	Sodium fluoride (*RQ-5000/2270*)	6.1	UN1690	III	KEEP AWAY FROM FOOD.	T8	153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Sodium Fluoride (*RQ-5000/2270*)	6.1	UN1690	III	KEEP AWAY FROM FOOD.	T8	153	213	241	60 L	220 L	1,2	1,2	26
	Sodium fluoroacetate	6.1	UN2629	I	POISON		None	211	242	5 kg	50 kg	1,2	5	40, 95
	Sodium fluorosilicate	6.1	UN2674	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Sodium hydrate, see Sodium hydroxide													
	Sodium hydride	4.3	UN1427	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1	5	
E	Sodium hydrogen fluoride (*RQ-5000/2270*)	8	UN2439	II	CORROSIVE	N3, N34	154	212	240	15 kg	50 kg	1,3	1,3	12, 25, 26, 40
AW	Sodium hydrogen sulfate, solid	8	UN1821	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Sodium hydrogen sulfate, solution	8	UN2837	II	CORROSIVE	B2, N26, N34, T8, T26.	154	202	242	1 L	30 L	1,2	1,2	
ADEW	Sodium hydrogen sulfite, solid (*RQ-5000/2270*).	8	NA2693	III	CORROSIVE		154	213	240	5 kg	50 kg	1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
ADEW	Sodium hydrogen sulfite, solution (*RQ-5000/2270*).	8	NA2693	III	CORROSIVE		154	203	241	5 L	60 L	1,2	1,2	
DE	Sodium hydrosulfide, solution (*RQ-5000/2270*).	8	NA2922	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
E	Sodium hydrosulfide, *with less than 25 per cent water of crystallization* (*RQ-5000/2270*).	4.2	UN2318	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N26.	None	212	241	15 kg	50 kg	1,3	1,3	
E	Sodium hydrosulfide *with not less than 25 per cent water of crystallization* (*RQ-5000/2270*).	8	UN2949	II	CORROSIVE	N26	154	212	240	15 kg	50 kg	1,2	1,2	26
	Sodium hydrosulfite, *see* Sodium dithionite													
E	Sodium hydroxide, solid (*RQ-1000/454*)	8	UN1823	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
E	Sodium hydroxide solution (*RQ-1000/454*)	8	UN1824	II	CORROSIVE	B2, N34, T8.	154	202	242	1 L	30 L	1,2	1,2	
	Sodium hypochlorite, solution, see Hypochlorite solutions.													
	Sodium metal, liquid alloy, see Alkali metal alloys, liquid.													
E	Sodium methylate (*RQ-1000/454*)	4.2	UN1431	II	SPONTANEOUSLY COMBUSTIBLE, CORROSIVE.	A19	None	211	242	Forbidden	15 kg	1,3	1	
E	Sodium methylate solutions *in alcohol* (*RQ-1000/454*).	3	UN1289	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	202	242	60 L	220 L	1,3	1,3	
	Sodium monoxide	8	UN1825	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Sodium nitrate	5.1	UN1498	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Sodium nitrate and potassium nitrate mixtures.	5.1	UN1499	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
E	Sodium nitrite (*RQ-100/45.4*)	5.1	UN1500	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	34, 56, 58
	Sodium pentachlorophenate	6.1	UN2567	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
	Sodium percarbonates	5.1	UN2467	III	OXIDIZER	A1, A29, 27.	152	213	240	25 kg	100 kg	1,2	1,2	13
	Sodium perchlorate	5.1	UN1502	II	OXIDIZER	B10, T8	152	212	240	5 kg	25 kg	1,2	1,2	46
	Sodium permanganate	5.1	UN1503	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	56, 69
	Sodium peroxide	5.1	UN1504	I	OXIDIZER	A20, N16, N34.	None	211	None	Forbidden	15 kg	1,2	1	13, 31, 45, 46
	Sodium persulfate	5.1	UN1505	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	
	Sodium phenolate, solid	8	UN2497	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
DE	Sodium phosphate, dibasic (*RQ-5000/2270*).	ORM-E	NA9147	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Sodium phosphate, tribasic (*RQ-5000/2270*).	ORM-E	NA9148	III	None		156	213	240	No limit	No limit	1,2	1,2	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Sodium phosphide	4.3	UN1432	I	DANGEROUS WHEN WET, SPONTANEOUSLY COMBUSTIBLE, POISON.	A19	None	211	None	Forbidden	15 kg	1,3	5	40, 85
	Sodium picramate, *dry or wetted with less than 20 per cent water, by weight.*	1.3C	UN0235											
	Sodium picramate, wetted *with not less than 20 per cent water, by weight.*	4.1	UN1349	I	FLAMMABLE SOLID.	A19, N2, N34, N41.	None	211	None	Forbidden	15 kg	1,3	5	36
	Sodium picryl peroxide	Forbidden												
	Sodium potassium alloys, see Potassium sodium alloys.													
	Sodium salts of aromatic nitro-derivatives, n.o.s., *explosive.*	1.3C	UN0203											
	Sodium selenate, *see* Selenates *or* Selenites.													
DE	Sodium selenite (*RQ-1000/454*)	6.1	NA2630	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	
	Sodium selenite, *see* Selenates *or* Selenites.													
	Sodium sulfide, anhydrous *or* Sodium sulfide *with less than 30 per cent water of crystallization.*	4.2	UN1385	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N34.	None	212	241	15 kg	50 kg	1,3	1,3	52
	Sodium sulfide, hydrated *with not less than 30 per cent water.*	8	UN1849	II	CORROSIVE	T8	154	212	240	15 kg	50 kg	1,2	1,2	26
	Sodium superoxide	5.1	UN2547	I	OXIDIZER	A20, N34 ..	None	211	None	Forbidden	15 kg	1,2	5	13, 31, 45, 46
	Sodium tetranitride	Forbidden												
	Sounding devices, explosive	1.2F	UN0204											
	Sounding devices, explosive	1.1F	UN0296											
	Sounding devices, explosive	1.1E	UN0374											
	Sounding devices, explosive	1.2E	UN0375											
	Spirits of salt, see Hydrochloric acid													
	Squibs	1.4B	UN0422											
	Squibs	1.4G	UN0423											
	Squibs, *including electric squibs and safety squibs.*	1.4S	UN0206											
	Stannic chloride, anhydrous	8	UN1827	II	CORROSIVE	B2, T8, T26.	154	202	242	1 L	30 L	1	1	8
	Stannic chloride, pentahydrate	8	UN2440	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Stannic phosphides	4.3	UN1433	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	85
	Steel swarf, *see* Ferrous metal borings, *etc.*.													

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Stibine	2.3	UN2676	IB	POISON GAS, FLAMMABLE GAS.	10	None	304	245	Forbidden	Forbidden	1	5	40
	Storage batteries, wet, see Batteries, *wet etc.*.													
	Strontium arsenite	6.1	UN1691	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Strontium chlorate	5.1	UN1506	II	OXIDIZER	A1, B10, N13, N34, T8.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
DE	Strontium chromate (*RQ-1000/454*)	ORM-E	NA9149	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Strontium nitrate	5.1	UN1507	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Strontium perchlorate	5.1	UN1508	II	OXIDIZER	B10, T8	152	212	240	5 kg	25 kg	1,2	1,2	46
	Strontium peroxide	5.1	UN1509	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	13
	Strontium phosphide	4.3	UN2013	I	DANGEROUS WHEN WET, POISON.	A19	None	211	None	Forbidden	15 kg	1,3	5	40, 85
E	Strychnine *or* Strychnine salts (*RQ-10/4.54*).	6.1	UN1692	I	POISON		None	211	242	Forbidden	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
	Styphnic acid, *see* Trinitroresorcinol, *etc.*													
E	Styrene monomer, inhibited (*RQ-1000/454*)	3	UN2055	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Substances, explosive, n.o.s.	1.1L	UN0357											
	Substances, explosive, n.o.s.	1.2L	UN0358											
	Substances, explosive, n.o.s.	1.3L	UN0359											
	Substances which in contact with water emit flammable gases, n.o.s. *liquid.*	4.3	UN2813	I	DANGEROUS WHEN WET.	A2, A19	None	201	244	Forbidden	1 L	1,3	5	40
				II	DANGEROUS WHEN WET.	A2, A19	None	203	243	1 L	5 L	1,3	5	40
				III	DANGEROUS WHEN WET.	A2, A19	None	203	241	5 L	60 L	1,3	1,3	40
I	Substances which in contact with water emit flammable gases, n.o.s. (solid).	4.3	UN2813	I	DANGEROUS WHEN WET.		None	211	242	Forbidden	15 kg	1,3	5	
	Substituted nitrophenol pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2780	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Substituted nitrophenol pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3013	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	242	60 L	220 L	1,2	1,2	21, 34, 40
	Substituted nitrophenol pesticides, liquid, toxic, n.o.s..	6.1	UN3014	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Substituted nitrophenol pesticides, solid, toxic, n.o.s..	6.1	UN2779	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
	.....	.....	.....	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
	.....	.....	.....	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Succinic acid peroxide, *see* Disuccinic acid peroxide.	.....	.....											
	Sucrose octanitrate (dry)	Forbidden	.....											
E	Sufuric acid (*RQ-1000/450*) *over 65.25% concentration.*	8	UN1830	II	CORROSIVE	B2, N1, N26, N34, T9, T27.	None	202	242	1 L	30 L	1,2	1	33, 38, 83
	Sulfamic acid	8	UN2967	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Sulfur	4.1	UN1350	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	19, 74
	Sulfur and chlorate, loose mixtures of	Forbidden	.....											
	Sulfur chloride (*mono*) *see* Sulfur chlorides	.....	.....											
E	Sulfur chlorides (*RQ-1000/454*)	8	UN1828	I	CORROSIVE	B4, B6, N1, N26, N35, T18, T27.	None	201	242	Forbidden	2.5 L	1	1	8
	Sulfur dichloride, see Sulfur chlorides	.....	.....											
	Sulfur dioxide, liquefied	2.3	UN1079	II	POISON GAS	B14, B33, 10.	None	304	314, 315	Forbidden	Forbidden	1,3	5	40, 85, 95
	Sulfur dioxide solution, see Sulfurous acid	.....	.....											
	Sulfuretted hydrogen, see Hydrogen sulfide, liquefied.	.....	.....											
	Sulfur hexafluoride	2.2	UN1080	.....	NONFLAMMABLE GAS.	B13	306	304	244	75 kg	150 kg	1,3	1,3	85
E	Sulfuric acid, fuming (*RQ-1000/454*)	8	UN1831	I	CORROSIVE, POISON.	N1, N11, N26, N34.	None	201	243	Forbidden	2.5 L	1,2	1	14, 33, 38, 40
E	Sulfuric acid, spent (*RQ-1000/454*) *over 65.25% concentration.*	8	UN1832	II	CORROSIVE	B2, N1, N26, N34, T9, T27.	None	202	242	Forbidden	30 L	1,2	1	
E	Sulfuric acid, spent *up to 65.25% concentration*(*RQ-1000/454*).	8	UN1832	II	CORROSIVE	B2, N1, N26, N34, T9, T27.	None	202	242	Forbidden	30 L	1,2	1	14, 33, 38

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Sulfuric acid *up to 65.25% concentration(RQ-1000/454)*.	8	UN1830	II	CORROSIVE	B2, B15, N1, N26, N34, T9, T27.	154	202	242	1 L	30 L	1,2	1	14, 33, 38
	Sulfuric and hydrofluoric acid mixtures, *see* Hydrofluoric and sulfuric acid mixtures.													
	Sulfuric anhydride, see Sulfur trioxide, inhibited.													
	Sulfur, molten	4.1	UN2448	III	FLAMMABLE SOLID.	T9, T38	None	213	241	Forbidden	Forbidden	1	1	74
	Sulfurous acid	8	UN1833	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1	40
	Sulfur tetrafluoride	2.3	UN2418	IA	POISON GAS	10	None	302	245	Forbidden	Forbidden	1	5	40, 95
	Sulfur trioxide, inhibited	8	UN1829	I	CORROSIVE	B4, B12, B29, N16, N26, N34, T18, T27.	None	201	242	Forbidden	25 kg	1,2	1,2	90, 38, 40
D	Sulfur trioxide, unihibited	8	NA1829	I	CORROSIVE	B4, B12, B14, B29, N16, N26, N34.	None	201	243	Forbidden	Forbidden	1,2	1,2	98, 13, 28
	Sulfuryl chloride	8	UN1834	I	CORROSIVE	B4, B6, N1, N11, N26, N34, T18, T27.	None	201	242	O.5 L	2.5 L	1	1	80, 40
	Sulfuryl fluoride	2.3	UN2191	III	POISON GAS	B34, 10	None	304	314, 315	Forbidden	Forbidden	1,3	5	40, 85, 95
DE	2,4,5-T. *See* 2,4,5-Trichlorophenoxyacetic acid..													
D	2,4,5-T amine, ester, *or* salt. *See* 2,4,5-Trichlorophenoxyacetic acid, amine, ester, *or* salt.													
	Tars, liquid *including road asphalt and oils, bitumen and cut backs.*	3	UN1999	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	T7, T30	150	203	242	60 L	220 L	1,3	1,3	
DE	TDE (*1,1-Dichloro-2,2-bis(p-chlorophenyl) ethane*) (*RQ-1/0.454*).	6.1	NA2761	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
	Tear gas candles	6.1	UN1700	II	POISON, FLAMMABLE SOLID.		None	340	None	Forbidden	35 kg	1	5	24, 40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Tear gas cartridges, see Ammunition, tear-producing, *etc.*.													
D	Tear gas devices *with more than 2 per cent tear gas substances, by mass.*	2.3	NA1693	II	POISON GAS	10	None	340	None	Forbidden	Forbidden	1	5	40, 95
	Tear gas devices, with not more than 2 per cent tear gas substances, by mass, see Aerosols, *etc.*.													
	Tear gas grenades, see Tear gas candles													
	Tear gas substances, n.o.s., liquid	6.1	UN1693	I	POISON		None	201	None	Forbidden	Forbidden	1	5	
				II	POISON		None	202	None	Forbidden	5 L	1	5	40, 95
	Tear gas substances, n.o.s., solid	6.1	UN1693	II	POISON		None	212	None	Forbidden	25 kg	1	5	95
	Tellurium hexafluoride	2.3	UN2195	II	POISON GAS	B14, B31, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 85, 95
	Terpene hydrocarbons, n.o.s.	3	UN2319	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Terpinolene	3	UN2541	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Tetraazido benzene quinone	Forbidden												
A	Tetrabromoethane	6.1	UN2504	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Tetrachloroethane	6.1	UN1702	II	POISON	N36	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Tetrachloroethylene	6.1	UN1897	III	KEEP AWAY FROM FOOD.	N36	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Tetraethylammonium perchlorate (dry)	Forbidden												
	Tetraethyl dithiopyrophosphate and gases in solution *or* Tetraethyl dithiopyrophosphate and gases mixtures *LC50 less than or equal to 200 ppm.*	2.3	UN1703	II	POISON GAS	10	None	334	245	Forbidden	Forbidden	1	5	40, 85, 95
	Tetraethyl dithiopyrophosphate and gases in solution *or* tetraethyl dithiopyrophphate and gas mixtures *LC50 over 200 up to 500 ppm.*	2.3	UN1703	II	POISON GAS	B14, B40, 10.	None	334	244	Forbidden	Forbidden	1	5	40
	Tetraethyl dithiopyrophosphate, dry	6.1	UN1704	I	POISON	49	None	211	242	Forbidden	50 kg	1	5	95
				II	POISON	49	None	212	242	Forbidden	100 kg	1	5	95
				III	KEEP AWAY FROM FOOD.	49	153	213	240	Forbidden	200 kg	1	5	34
	Tetraethyl dithiopyrophosphate, liquid	6.1	UN1704	I	POISON	N76	None	201	243	Forbidden	30 L	1	5	40, 95
				II	POISON	N76	None	202	243	Forbidden	60 L	1	5	40, 95
				III	KEEP AWAY FROM FOOD.	N76	None	203	241	Forbidden	220 L	1	5	34, 40
AW	Tetraethylenepentamine	8	UN2320	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,2	1,2	8
DE	Tetraethyl lead, liquid (*RQ-100/45.4*)	6.1	NA1649	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	5	40, 95
E	Tetraethyl pyrophosphate and compressed gas mixtures (*RQ-100/45.4*)*LC50 less than or equal to 200 ppm.*	2.3	UN1705	II	POISON GAS	10	None	334	245	Forbidden	Forbidden	1	5	40, 85, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Tetraethyl pyrophosphate and compressed gas mixtures (*RQ-100/45.4) LC50 over 200 ppm up to 5000 ppm.*	2.3	UN1705	II	POISON GAS	B14, B40, 10.	None	334	244	Forbidden	Forbidden	1	5	40
DE	Tetraethyl pyrophosphate, (*liquid*) (*RQ-100/45.4*).	6.1	NA2783	I	POISON		None	201	243	Forbidden	1 L	1,3	5	
DE	Tetraethyl pyrophosphate (*solid*) (*RQ-100/45.4*).	6.1	NA2783	I	POISON	N77	None	211	242	Forbidden	50 kg	1,3	5	
	Tetraethyl silicate	3	UN1292	III	FLAMMABLE LIQUID.	T1	150	203	241	5 L	60 L	1,3	1	
	Tetrafluoroethylene, inhibited	2.1	UN1081		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Tetrafluoromethane	2.2	UN1982		NONFLAMMABLE GAS.	B13	None	302	244	75 kg	150 kg	1,3	1,3	85
	1,2,3,6-Tetrahydrobenzaldehyde	3	UN2498	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Tetrahydrofuran	3	UN2056	II	FLAMMABLE LIQUID.	T8	None	202	242	Forbidden	60 L	1,3	5	12
	Tetrahydrofurfurylamine	3	UN2943	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Tetrahydronaphthyl hydroperoxide *or* Tetralin hydroperoxide, *pure.*	5.2	UN2136	I	ORGANIC PEROXIDE.		None	225	None	1 kg	5 kg	1	5	12, 40
	Tetrahydrophthalic anhydrides	8	UN2698	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	1,2,3,6-Tetrahydropyridine	3	UN2410	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	40
	Tetrahydrothiophene	3	UN2412	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Tetralin hydroperoxide, *see* Tetrahydronaphthyl hydroperoxide.													
	Tetramethylammonium hydroxide	8	UN1835	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
	1,1,3,3-Tetramethylbutyl hydroperoxide, *technically pure.*	5.2	UN2160	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	1,1,3,3-Tetramethylbutyl peroxy-2-ethylhexanoate, *technically pure.*	5.2	UN2161	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Tetramethylene diperoxide dicarbamide	Forbidden												
	Tetramethylsilane	3	UN2749	I	FLAMMABLE LIQUID.	T21, T26	None	201	243	Forbidden	30 L	1	5	12, 25
	Tetranitroaniline	1.1D	UN0207											
	Tetranitro diglycerin	Forbidden												
	Tetranitromethane	5.1	UN1510	I	OXIDIZER		None	201	None	Forbidden	Forbidden	1	5	40, 66, 92
	2,3,4,6-Tetranitrophenol	Forbidden												
	2,3,4,6-Tetranitrophenyl methyl nitramine	Forbidden												
	2,3,4,6-Tetranitrophenylnitramine	Forbidden												
	Tetranitroresorcinol (dry)	Forbidden												

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	2,3,5,6-Tetranitroso-1,4-dinitrobenzene	Forbidden												
	2,3,5,6-Tetranitroso nitrobenzene (dry)	Forbidden												
	Tetrapropylorthotitanate	3	UN2413	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	
	Tetrazene, *see* Guanyl nitrosaminoguanyltetrazene.													
	Tetrazine (dry)	Forbidden												
	Tetrazol-1-acetic acid	1.4C	UN0407											
	Tetrazolyl azide (dry)	Forbidden												
	Tetryl, *see* Trinitrophenylmethyl nitramine													
I	Textile waste, wet, n.o.s.	4.2	UN1857	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	
	Thallium chlorate	5.1	UN2573	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	46, 56, 95
	Thallium compounds, n.o.s.	6.1	UN1707	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Thallium nitrate	6.1	UN2727	II	POISON		None	212	242	5 kg	25 kg	1,2	1,2	89, 95
DE	Thallium sulfate, solid (*RQ-1000/454*)	6.1	NA1707	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	
	Thia-4-pentanal	6.1	UN2785	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	1,3	40, 95
	Thioacetic acid	3	UN2436	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Thiocarbonylchloride, see Thiophosgene													
	Thioglycol	6.1	UN2966	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	95
	Thioglycolic acid	8	UN1940	II	CORROSIVE	B2, N26, N34.	154	202	242	1 L	30 L	1,2	1,2	9
	Thiolactic acid	6.1	UN2936	II	POISON	T8	None	212	242	25 kg	100 kg	1,2	1,2	95
	Thionyl chloride	8	UN1836	I	CORROSIVE	B4, N1, N11, N34, N35.	None	201	242	Forbidden	2.5 L	1	1	80, 40
	Thiophene	3	UN2414	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Thiophosgene	6.1	UN2474	I	POISON	B14, B32, N26, N33, N34, 10.	None	227	244	Forbidden	Forbidden	1,2	1	26, 40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Thiophosphoryl chloride	8	UN1837	II	CORROSIVE	B2, B8, B25, N1, N26, N34, T12.	None	202	242	Forbidden	30 L	1	1	80, 40
	Thorium metal, pyrophoric	7	UN2975		RADIOACTIVE, SPONTANEOUSLY COMBUSTIBLE.		None	418	None	Forbidden	Forbidden	1,2	1,2	
	Thorium nitrate, solid	7	UN2976		RADIOACTIVE, OXIDIZER.		None	419	None	Forbidden	15 kg	1,2	1,2	
	Tin chloride, fuming, see Stannic chloride, anhydrous.													
	Tinctures, medicinal	3	UN1293	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	241	60 L	220 L	1,3	1,3	
	Tinning flux, see Zinc chloride													
	Tin perchloride or Tin tetrachloride, see Stannic chloride, anhydrous.													
	Titanium hydride	4.1	UN1871	II	FLAMMABLE SOLID.	A19, A20, N34.	None	212	241	15 kg	50 kg	1,3	5	
	Titanium powder, dry (*a*) *mechanically produced, particle size between 3 and 53 microns;* (*b*) *chemically produced, particle size between 10 and 840 microns.*	4.2	UN2546	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N5, N34.	None	212	241	5 kg	50 kg	1	5	
	Titanium powder, wetted *with not less than 25 per cent water (a visible excess of water must be present)* (*a*) *mechanically produced, particle size less than 53 microns;* (*b*) *chemically produced, particle size less than 840 microns.*	4.1	UN1352	II	FLAMMABLE SOLID.	A19, A20, B10, N34.	None	212	240	15 kg	50 kg	1,3	5	
	Titanium sponge granules *or* Titanium sponge powders.	4.1	UN2878	III	FLAMMABLE SOLID.	A1	None	213	240	25 kg	100 kg	1	5	
D	Titanium sulfate solution	8	NA1760	II	CORROSIVE	B2, B15	None	213	242	1 L	30 L	1,2	1,2	
	Titanium tetrachloride	8	UN1838	I	CORROSIVE, POISON.	B14, B32, B41, N1, N11, N34, N41, 10.	None	227	244	Forbidden	Forbidden	1	1	80, 40
	Titanium trichloride mixtures	8	UN2869	II	CORROSIVE	N26, N34	154	212	240	15 kg	50 kg	1,2	1,2	40
	Titanium trichloride, pyrophoric *or* Titanium trichloride mixtures, pyrophoric.	4.2	UN2441	II	SPONTANEOUSLY COMBUSTIBLE, CORROSIVE.	A19, A20, N2, N26, N34.	None	212	244	15 kg	50 kg	1,3	1,3	

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	TNT, *see* Trinitrotoluene, *etc.*													
	TNT mixed with aluminum, see Tritonal													
	Toe puffs, *nitrocellulose base*	4.1	UN1353	III	FLAMMABLE SOLID.	A1	None	213	240	25 kg	100 kg	1	5	
E	Toluene (*RQ-1000/454*)	3	UN1294	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Toluene diisocyanate	6.1	UN2078	II	POISON	T14	None	202	243	Forbidden	60 L	1,2	1	22, 25, 40, 95
	Toluene sulfonic acid, *see* Alkyl, Aryl *or* Toluene sulfonic acid *etc.*.													
	Toluidines (*liquid*)	6.1	UN1708	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	26, 95
	Toluidines (*solid*)	6.1	UN1708	II	POISON		None	212	241	25 kg	100 kg	1,2	1,2	95
	2,4-Toluylenediamine	6.1	UN1709	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Torpedoes *with bursting charge*	1.1E	UN0329											
	Torpedoes *with bursting charge*	1.1F	UN0330											
DE	Toxaphene (*RQ-1/0.454*)	6.1	NA2761	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	
DE	2,4,5-TP. *See* 2,4,5-Trichlorophenoxypropionic acid *or* acid ester.													
DE	2,4,5-TP ester. *See* 2,4,5-Trichlorophenoxypropionic acid ester.													
	Tracers for ammunition	1.3G	UN0212											
	Tracers for ammunition	1.4G	UN0306											
	Tractors, see Vehicles, self propelled													
	Triallylamine	3	UN2610	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	40
	Triallyl borate	6.1	UN2609	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,3	1,3	12, 13, 22, 25, 34
	Triazine pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23deg C.*	3	UN2764	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Triazine pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23deg C.*	6.1	UN2997	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	242	60 L	220 L	1,2	1,2	21, 40, 34
	Triazine pesticides, liquid, toxic, n.o.s.	6.1	UN2998	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Triazine pesticides, solid, toxic, n.o.s.	6.1	UN2763	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	.....	.....	.....	III	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg.....	200 kg.....	1,2.....	1,2.....	34, 40
	Tri-(1-aziridinyl)phosphine oxide, solution	6.1	UN2501	II	POISON.....	T8	None	202	243	5 L.....	60 L.....	1,2.....	1,2.....	95
	Tributylamine.....	8	UN2542	III	CORROSIVE.....	T1	None	203	241	5 L.....	60 L.....	1,2.....	1,2.....	
DE	Trichlorfon (*RQ-1000/454*)	6.1	NA2783	III	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg.....	200 kg.....	1,2.....	1,2.....	
	Trichloroacetic acid.....	8	UN1839	II	CORROSIVE.....	N26, N34 ..	154	212	240	15 kg.....	50 kg.....	1,2.....	1,2.....	
	Trichloroacetic acid, solution	8	UN2564	II	CORROSIVE.....	B2, N1, N11, N26, N34, T8.	154	202	242	1 L.....	30 L.....	1,2.....	1.....	8
	Trichloroacetyl chloride	8	UN2442	II	CORROSIVE.....	B2, N1, N16, N17, N26, N34, T9, T26.	None	202	242	Forbidden	Forbidden	1.....	5.....	40
	Trichlorobenzenes, liquid.....	6.1	UN2321	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L.....	220 L.....	1,2.....	1,2.....	34
	Trichlorobutene.....	6.1	UN2322	II	POISON.....	T8	None	202	243	5 L.....	60 L.....	1,2.....	1,2.....	25, 40, 95
	1,1,1-Trichloroethane.....	6.1	UN2831	III	KEEP AWAY FROM FOOD.	N36, T7.....	153	203	241	60 L.....	220 L.....	1,2.....	1,2.....	34, 40
E	Trichloroethylene (*RQ-1000/454*)	6.1	UN1710	III	KEEP AWAY FROM FOOD.	N36, T1.....	153	203	241	60 L.....	220 L.....	1,2.....	1,2.....	34, 40
	Trichloroisocyanuric acid, dry	5.1	UN2468	II	OXIDIZER	B10.....	152	212	240	5 kg.....	25 kg.....	1,2.....	1,2.....	13, 25, 72
	Trichloromethyl perchlorate	Forbidden	.....											
DE	Trichlorophenol (*RQ-10/4.54*)	6.1	NA2020	III	KEEP AWAY FROM FOOD.	.....	153	213	240	100 kg.....	No limit.....	1,2.....	1,2.....	
DE	2,4,5-Trichlorophenoxyacetic acid, acid amine, acid ester, *or* acid salt(*RQ-100/45.4*).	ORM-E	NA2765	III	None.....	.....	156	213	240	No limit.....	No limit.....	1,2.....	1,2.....	
DE	2,4,5-Trichlorophenoxypropionic acid or acid ester (*RQ-100/45.4*).	ORM-E	NA2765	III	None.....	.....	156	213	240	No limit.....	No limit.....	1,2.....	1,2.....	
	Trichlorosilane	4.3	UN1295	I	DANGEROUS WHEN WET, FLAMMABLE LIQUID, CORROSIVE.	N16, N26, N34, T24, T26.	None	201	244	Forbidden	Forbidden	1.....	5.....	40
D	(mono-(Trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry (*containing over 39% available chlorine*).	5.1	NA2468	II	OXIDIZER	B10.....	152	212	240	5 kg.....	25 kg.....	1,3.....	1,3.....	
	Trichloro-s-triazinetrione dry, containing over 39% available chlorine, see Trichloroisocyanuric acid, dry.	.....	.....											

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Tricresyl phosphate *with more than 3 per cent ortho isomer.*	6.1	UN2574	II	POISON	N1, N16, N33, N34, T8.	None	202	243	5 L	60 L	1,2	1,2	95
DE	Triethanolamine dodycylbenzenesulfonate (*RQ-1000/454*).	ORM-E	NA9151	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Triethylamine	3	UN1296	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Triethylene tetramine	8	UN2259	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1	26, 40, 71
	Triethyl phosphite	3	UN2323	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	52
	Trifluoroacetic acid	8	UN2699	I	CORROSIVE	B4, N1, N3, N11, N26, N34, T18, T27.	None	201	242	0.5 L	2.5 L	1,3	1	12, 38, 40
	Trifluorochloroethylene, inhibited	2.1	UN1082		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Trifluoroethane, compressed	2.1	UN2035		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	1	40, 85
	Trifluoromethane	2.2	UN1984		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
D	Trifluoromethane and chlorotrifluoromethane mixture (*constant boiling mixture*) (*R-503*). *See* Refrigerant gas, n.o.s..													
	3-Trifluoromethylaniline	6.1	UN2948	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	40, 95
	2-Trifluoromethylaniline	6.1	UN2942	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Triformoxime trinitrate	Forbidden												
	Triisobutylene	3	UN2324	II	FLAMMABLE LIQUID.	T7, T30	150	203	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Triisocyanatoisocyanurate of isophoronediisocyanate, solution, *70 per cent, by weight.*	3	UN2906	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Triisopropyl borate	3	UN2616	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T8, T31.	150	202	242	60 L	220 L	1,3	1,3	
D	Trimethoxysilane	6.1	NA1992	I	POISON, FLAMMABLE LIQUID.	B3, B14, B32.	None	201	244	Forbidden	Forbidden	1,3	5	12

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Trimethyl acetyl chloride	8	UN2438	II	CORROSIVE, FLAMMABLE LIQUID.	B2, B6, N1, N11, N26, N34, T8, T26.	None	202	243	1 L	30 L	1	5	21, 25, 40
E	Trimethylamine, anhydrous (*RQ-1000/454*)	2.1	UN1083		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1	5	40, 85
E	Trimethylamine, aqueous solutions *not more than 50 per cent trimethylamine by weight* (*RQ-1000/454*).	3	UN1297	II	FLAMMABLE LIQUID.	T42	150	202	242	5 L	60 L	1,3	1	40, 41
				III	FLAMMABLE LIQUID.	B1, T14	150	203	242	60 L	220 L	1,3	1,3	40, 41
	1,3,5-Trimethylbenzene (mesitylene)	3	UN2325	I	FLAMMABLE LIQUID, POISON.	B14	None	201	243	60 L	220 L	1,3	1,3	
	Trimethyl borate	3	UN2416	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	1	
	Trimethylchlorosilane	3	UN1298	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B30, N1, N26, N34, 10.	None	226	244	Forbidden	Forbidden	1,3	5	
	Trimethylcyclohexylamine	8	UN2326	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,2	1,2	8
	Trimethylene glycol diperchlorate	Forbidden												
	Trimethylhexamethylenediamines	8	UN2327	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	8
	Trimethylhexamethylenediisocyanate	6.1	UN2328	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1	34
	Trimethylol nitromethane trinitrate	Forbidden												
	2,4,4-Trimethylpentyl-2-peroxy phenoxy acetate, *not more than 37 per cent in solution.*	5.2	UN2961	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Trimethyl phosphite	3	UN2329	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	1,3,5-Trimethyl-2,4,6-trinitrobenzene	Forbidden												
	Trinitroacetic acid	Forbidden												
	Trinitroacetonitrile	Forbidden												
	Trinitroamine cobalt	Forbidden												
	Trinitroaniline	1.1D	UN0153											
	Trinitroanisole	1.1D	UN0213											
	Trinitrobenzene, *dry or wetted with less than 30 per cent water, by weight.*	1.1D	UN0214											
	Trinitrobenzenesulfonic acid	1.1L	UN0386											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Trinitrobenzene, wetted *with not less than 30 per cent water, by weight.*	4.1	UN1354	I	FLAMMABLE SOLID.	A2, A19, N2, N34, N41.	None	211	None	0.5 kg	0.5 kg	1	5	36
	Trinitrobenzoic acid, *dry or wetted with less than 30 per cent water, by weight.*	1.1D	UN0215											
	Trinitrobenzoic acid, wetted *with not less than 30 per cent water, by weight.*	4.1	UN1355	I	FLAMMABLE SOLID.	A2, A19, N2, N34, N41.	None	211	None	0.5 kg	0.5 kg	1,3	5	36
	Trinitrochlorobenzene	1.1D	UN0155											
	Trinitro-m-cresol	1.1D	UN0216											
	2,4,6-Trinitro-1,3-diazobenzene	Forbidden												
	Trinitroethanol	Forbidden												
	Trinitroethylnitrate	Forbidden												
	Trinitrofluorenone	1.1D	UN0387											
	Trinitromethane	Forbidden												
	1,3,5-Trinitronaphthalene	Forbidden												
	Trinitronaphthalene	1.1D	UN0217											
	Trinitrophenetole	1.1D	UN0218											
	Trinitrophenol (Picric acid), *dry or wetted with less than 30 per cent water, by weight.*	1.1D	UN0154											
	Trinitrophenol, wetted *with not less than 30 per cent water, by weight.*	4.1	UN1344	I	FLAMMABLE SOLID.	A19, N2, N34, N41.	None	211	None	1 kg	15 kg	1	5	36
	2,4,6-Trinitrophenyl guanidine (dry)	Forbidden												
	Trinitrophenylmethylnitramine (Tetryl)	1.1D	UN0208											
	2,4,6-Trinitrophenyl nitramine	Forbidden												
	2,4,6-Trinitrophenyl trimethylol methyl nitramine trinitrate (dry).	Forbidden												
	Trinitroresorcinol (Styphnic acid), *dry or wetted with less than 20 per cent water, by weight, or mixture of alcohol and water.*	1.1D	UN0219											
	Trinitroresorcinol (Styphnic acid), wetted *with not less than 20 per cent water, by weight, or mixture of alcohol and water.*	1.1D	UN0394											
	2,4,6-Trinitroso-3-methyl nitraminoanisole	Forbidden												
	Trinitrotetramine cobalt nitrate	Forbidden												

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Trinitrotoluene (TNT) and Trinitrobenzene mixtures *or* Trinitrotoluene (TNT) and Hexanitrostilbene mixtures.	1.1D	UN0388											
	Trinitrotoluene (TNT), *dry or wetted with less than 30 per cent water, by weight.*	1.1D	UN0209											
	Trinitrotoluene (TNT) mixtures containing Trinitrobenzene and Hexanitrostilbene.	1.1D	UN0389											
	Trinitrotoluene (TNT), wetted *with not less than 30 per cent water, by weight.*	4.1	UN1356	I	FLAMMABLE SOLID.	A2, A19, N2, N34, N41.	None	211	None	0.5 kg	0.5 kg	1,3	5	36
	2,4,6-Trinitro-1,3,5-triazido benzene (dry)	Forbidden												
	Tri-(b-nitroxyethyl) ammonium nitrate	Forbidden												
	Tripropylamine	3	UN2260	II	FLAMMABLE LIQUID, CORROSIVE.	T8	None	202	243	1 L	5 L	1,3	1	40
	Tripropylene	3	UN2057	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.		150	203	242	60 L	220 L	1,3	1,3	
	Tris, bis-bifluoroamino diethoxy propane (TVOPA).	Forbidden												
	Tritonal	1.1D	UN0390											
	Tungsten hexafluoride	2.3	UN2196	IB	POISON GAS	B14, B31, 10.	None	338	244	Forbidden	Forbidden	1	5	40, 85, 95
	Turpentine	3	UN1299	III	FLAMMABLE LIQUID.	B1	150	203	242	60 L	220 L	1,3	1,3	
I	Turpentine substitute	3	UN1300	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Undecane	3	UN2330	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Uranium hexafluoride, fissile (*containing more than 1% U-235*).	7	UN2977		RADIOACTIVE, CORROSIVE.		453	417	None			1,2	1,2	
	Uranium hexafluoride, *fissile excepted or non-fissile.*	7	UN2978		RADIOACTIVE, CORROSIVE.		421	425	425					
	Uranium metal, pyrophoric	7	UN2979		RADIOACTIVE, SPONTANEOUSLY COMBUSTIBLE.		None	418	None	Forbidden	Forbidden	1,2	1,2	
DE	Uranyl acetate (*RQ-5000/2270*)	7	NA9180		RADIOACTIVE		421, 425	415, 416	None			1,2	1,2	
E	Uranyl nitrate hexahydrate solution (*RQ-5000/2270*).	7	UN2980		RADIOACTIVE, CORROSIVE.		421, 425	415, 416, 417	None			1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Uranyl nitrate, solid (*RQ-5000/2270*)	7	UN2981		RADIOACTIVE, OXIDIZER.		None	419	None	Forbidden		1,2	1,2	
	Urea hydrogen peroxide	5.1	UN1511	III	OXIDIZER	A1, A29, N26.	152	213	240	25 kg	100 kg	1,2	1,2	13, 25
	Urea nitrate, *dry or wetted with less than 20 per cent water, by weight.*	1.1D	UN0220											
	Urea nitrate, wetted *with not less than 20 per cent water, by weight.*	4.1	UN1357	I	FLAMMABLE SOLID.	A19, N2, N34, N41.	None	211	None	1 kg	15 kg	1,3	1,3	
	Urea peroxide, see Urea hydrogen peroxide.													
	Valeraldehyde	3	UN2058	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Valeric acid, see Corrosive liquids, n.o.s.													
	Valeryl chloride	8	UN2502	II	CORROSIVE	B2, N1, N11, N26, N34, T8.	154	202	242	1 L	30 L	1	1	40
	Vanadium oxytrichloride	8	UN2443	II	CORROSIVE	B2, B16, N1, N11, N16, N26, N34, T8, T26.	154	202	242	Forbidden	30 L	1	1	40
DE	Vanadium pentoxide *fused(RQ-1000/454)*	ORM-E	NA2862	III	None		156	213	240	No limit	No limit	1,2	1,2	
E	Vanadium pentoxide, *nonfused form (RQ-1000/454).*	6.1	UN2862	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Vanadium tetrachloride	8	UN2444	I	CORROSIVE	B4, N1, N11, N26, N34, T8, T26.	None	201	242	Forbidden	2.5 L	1	1	80, 40
AW	Vanadium trichloride	8	UN2475	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	40
	Vanadium trioxide, *nonfused form*	6.1	UN2860	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Vanadyl sulfate	6.1	UN2931	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
DE	Vanadyl sulfate (*RQ-1000/454*)	ORM-E	NA9152	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Vehicles, self-propelled *including internal combustion engines or other apparatus containing an internal combustion engine or electric storage battery(see also* Wheel chair, electric).	9	None	III	None		220	220	None	No limit	No limit	1,2	1,2	
	Very signal cartridge, see Cartridges, signal													
E	Vinyl acetate, inhibited (*RQ-1000/454*)	3	UN1301	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Vinyl bromide, inhibited	2.1	UN1085		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	1	40, 85
	Vinyl butyrate, inhibited	3	UN2838	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Vinyl chloride, inhibited	2.1	UN1086		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Vinyl chloroacetate	6.1	UN2589	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	21, 95
	Vinyl ethyl ether, inhibited	3	UN1302	I	FLAMMABLE LIQUID.	N1, N15, T14.	None	201	243	Forbidden	30 L	1,3	5	12
	Vinyl fluoride, inhibited	2.1	UN1860		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
E	Vinylidene chloride, inhibited (*RQ-5000/2270*).	3	UN1303	I	FLAMMABLE LIQUID.	T23, T29	150	201	243	1 L	30 L	1,3	5	12
	Vinyl isobutyl ether, inhibited	3	UN1304	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Vinyl methyl ether, inhibited	2.1	UN1087		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Vinyl nitrate polymer	Forbidden												
	Vinyl pyridenes, inhibited	6.1	UN3073	II	POISON, FLAMMABLE LIQUID.	T8	None	212	243	5 L	60 L	1,3	1,3	
				III	KEEP AWAY FROM FOOD.	T8	153	213	241	60 L	220 L	1,3	1,3	
	Vinyl toluene, inhibited *mixed isomers*	3	UN2618	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Vinyltrichlorosilane, inhibited	3	UN1305	I	FLAMMABLE LIQUID, CORROSIVE.	B6, N1, N26, N34, T14, T26.	None	201	243	Forbidden	2.5 L	1,3	1	40
	Warheads, rocket *with burster or expelling charge.*	1.4D	UN0370											
	Warheads, rocket *with burster or expelling charge.*	1.4F	UN0371											
	Warheads, rocket *with bursting charge*	1.1D	UN0286											
	Warheads, rocket *with bursting charge*	1.2D	UN0287											
	Warheads, rocket *with bursting charge*	1.1F	UN0369											
	Warheads, torpedo *with bursting charge*	1.1D	UN0221											
	Water reactive substances, n.o.s., see Substances which in contact with water, *etc.*.													
A	Wheel chair, electric (*spillable or non-spillable type batteries*).	9	None	III	None		222	222	None	No limit	No limit	1,2	1,2	
	White acid, see Hydrofluoric acid mixtures													
	Wood preservatives, liquid	3	UN1306	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	40
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	40
I	Wool waste, wet	4.2	UN1387	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	
	Xenon	2.2	UN2036		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Xenon, refrigerated liquid	2.2	UN2591		NONFLAMMABLE GAS.		320	316	318	50 kg	500 kg	1,3	1	85
E	Xylenes (*RQ-1000/454*)	3	UN1307	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
E	Xylenols (*RQ-1000/454*)	6.1	UN2261	II	POISON	T8	None	212	243	25 kg	100 kg	1,2	1,2	40, 95
	Xylidines	6.1	UN1711	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	26, 95
	Xylyl bromide	6.1	UN1701	I	POISON	B14, B30, N1, N11, N26, N33, 10.	None	226	244	Forbidden	Forbidden	1	5	40, 95
	p-Xylyl diazide	Forbidden												
	Yercury oleate	6.1	UN1640	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
DE	Zinc acetate (*RQ-1000/454*)	ORM-E	NA9153	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Zinc ammonium chloride (*RQ-5000/2270*)	ORM-E	NA9154	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Zinc ammonium nitrite	5.1	UN1512	II	OXIDIZER	B10	None	212	240	5 kg	25 kg	1,3	5	
	Zinc arsenate *or* Zinc arsenite *or* Zinc arsenate and Zinc arsenite mixtures..	6.1	UN1712	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Zinc ashes	4.3	UN1435	III	DANGEROUS WHEN WET.	A1, A19	None	213	241	25 kg	100 kg	1,3	1,3	
	Zinc bisulfite solution *see* Bisulfites, inorganic aqueous solutions, n.o.s..													
DE	Zinc borate (*RQ-1000/454*)	ORM-E	NA9155	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Zinc bromate	5.1	UN2469	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	46, 56
DE	Zinc bromide (*RQ-5000/2270*)	ORM-E	NA9156	III	None		156	213	240	No limit	No limit	1,2	1,2	
DE	Zinc carbonate (*RQ-1000/454*)	ORM-E	NA9157	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Zinc chlorate	5.1	UN1513	II	OXIDIZER	B10, N13, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
E	Zinc chloride, anhydrous (*RQ-5000/2270*)	8	UN2331	III	CORROSIVE		None	213	240	25 kg	100 kg	1,2	1,2	
E	Zinc chloride, solution (*RQ-5000/2270*)	8	UN1840	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	
E	Zinc cyanide (*RQ-10/4.54*)	6.1	UN1713	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	26, 95
E	Zinc dithionite *or* Zinc hydrosulfite (*RQ-1000/454*).	9	UN1931	III	None		155	204	240	100 kg	200 kg	1,2	1,2	13, 26
	Zinc ethyl, see Diethylzinc													
DE	Zinc fluoride (*RQ-1000/454*)	ORM-E	NA9158	III	None		156	213	240	No limit	No limit	1,2	1,2	
E	Zinc fluorosilicate (*RQ-5000/2270*)	6.1	UN2855	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
DE	Zinc formate (*RQ-1000/454*)	ORM-E	NA9159	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Zinc hydrosulfite, *see* Zinc dithionite													
	Zinc muriate solution, see Zinc chloride, solution.													
E	Zinc nitrate (*RQ-5000/2270*)	5.1	UN1514	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	
	Zinc permanganate	5.1	UN1515	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	56, 69
	Zinc peroxide	5.1	UN1516	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	13
DE	Zinc phenolsulfonate (*RQ-5000/2270*)	ORM-E	NA9160	III	None		156	213	240	No limit	No limit	1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Zinc phosphide (*RQ-1000/454*)	4.3	UN1714	I	DANGEROUS WHEN WET, POISON.	A19	None	211	None	Forbidden	15 kg	1,3	5	85
	Zinc powder *or* Zinc dust	4.3	UN1436	II	DANGEROUS WHEN WET, SPONTANEOUSLY COMBUSTIBLE.	A19	None	212	242	15 kg	50 kg	1,3	1,3	
	Zinc resinate	4.1	UN2714	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Zinc selenate, *see* Selenates *or* Selenites													
	Zinc selenite, *see* Selenates *or* Selenites													
	Zinc silicofluoride, see Zinc fluorosilicate													
DE	Zinc sulfate (*RQ-1000/454*)	ORM-E	NA9161	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Zirconium, dry, *coiled wire, finished metal sheets, strip (thinner than 254 microns but not thinner than 18 microns).*	4.1	UN2858	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Zirconium, dry, *finished sheets, strip or coiled wire.*	4.2	UN2009	III	SPONTANEOUSLY COMBUSTIBLE.	A1, A19	None	213	240	25 kg	100 kg	1	5	
	Zirconium hydride	4.1	UN1437	II	FLAMMABLE SOLID.	A19, A20, N34.	None	212	240	15 kg	50 kg	1,3	5	
E	Zirconium nitrate (*RQ-5000/2270*)	5.1	UN2728	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	25
	Zirconium picramate, *dry or wetted with less than 20 per cent water, by weight.*	1.3C	UN0236											
	Zirconium picramate, wetted *with not less than 20 per cent water, by weight.*	4.1	UN1517	I	FLAMMABLE SOLID.	N34, N41	None	211	None	Forbidden	15 kg	1	5	36
DE	Zirconium potassium fluoride (*RQ-5000/2270*).	ORM-E	NA9162	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Zirconium powder, dry (*a*) *mechanically produced, particle size between 3 and 53 microns; (b) chemically produced, particle size between 10 and 840 microns.*	4.2	UN2008	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N5, N34.	None	212	241	15 kg	50 kg	1	5	
	Zirconium powder, wetted *with not less than 25 per cent water (a visible excess of water must be present) (a) mechanically produced, particle size less than 53 microns; (b) chemically produced, particle size less than 840 microns.*	4.1	UN1358	II	FLAMMABLE SOLID.	A19, A20, N34.	None	212	241	15 kg	50 kg	1,3	5	
	Zirconium scrap	4.2	UN1932	III	SPONTANEOUSLY COMBUSTIBLE.	B10, N34	None	213	240	Forbidden	Forbidden	1	5	
DE	Zirconium sulfate (*RQ-5000/2270*)	8	NA9163	III	CORROSIVE	N34	None	213	240	50 kg	No limit	1,2	1,2	
	Zirconium suspended in a liquid	3	UN1308	II	FLAMMABLE LIQUID.		None	202	242	Forbidden	60 L	1	5	12

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
E	Zirconium tetrachloride (*RQ-5000/2270*)	8	UN2503	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	

§ 172.102 Special provisions.

(a) *General.* When Column 7 of the § 172.101 Table refers to a special provision for a hazardous material, the meaning and requirements of that provision are as set forth in this section. When a special provision specifies packagings or packaging requirements, they are in addition to the standard requirements for all packagings prescribed in § 173.24 of this subchapter and any other applicable packaging requirements in Subparts A and B of Part 173 of this subchapter.

(b) *Description of codes for special provisions.* Special provisions may contain packaging provisions, prohibitions, exceptions from requirements for particular quantities or forms of materials and requirements or prohibitions applicable to specific modes of transportation, as follows:

(1) A code consisting only of numbers (for example, "11") is multi-modal in application and may apply to bulk and non-bulk packagings.

(2) A code containing the letter "A" refers to a special provision which applies only to transportation by aircraft.

(3) A code containing the letter "B" refers to a special provision which applies only to bulk packaging requirements. Unless otherwise provided in this subchapter, these special provisions do not apply to IM portable tanks.

(4) A code containing the letter "H" refers to a special provision which applies only to transportation by highway.

(5) A code containing the letter "N" refers to a special provision which applies only to non-bulk packaging requirements.

(6) A code containing the letter "R" refers to a special provision which applies only to transportation by rail.

(7) A code containing the letter "T" refers to a special provision which applies only to transportation in IM portable tanks.

(8) A code containing the letter "W" refers to a special provision which applies only to transportation by water.

(c) *Tables of special provisions.* The following tables list, and set forth the requirements of, the special provisions referred to in Column 7 of the § 172.101 Table.

(1) *Numeric provisions.* These provisions are multi-modal and apply to bulk and non-bulk packagings:

Code	Special provisions
10	Packagings shall be marked "INHALATION HAZARD" in accordance with Subpart D of Part 172.
11	The hazardous material must be packaged as either a liquid or a solid, as appropriate, depending on its physical form at 55° C (131° F) at atmospheric pressure.
17	Aqueous solutions of hydrogen peroxide containing less than 8 percent hydrogen peroxide are not subject to the requirements of this subchapter.
22	If the hazardous material is in dispersion in organic liquid, the organic liquid must have a flash point above 50° C (122° F).
28	The dihydrated sodium salt of dichloroisocyanuric acid is not subject to the requirements of this subchapter.
31	Materials which have undergone sufficient heat treatment to render them nonhazardous are not subject to the requirements of this subchapter.
33	Ammonium nitrites and mixtures of an inorganic nitrite with an ammonium salt are prohibited.
42	Fish meal or fish scrap may not be offered for transportation if the temperature of the material exceeds 49° C (120.2° F).
66	The organic peroxide included in a Polyester resin kit must be specifically listed in the § 172.101 Table and be permitted for transportation.

(2) *"A" codes.* These provisions apply only to transportation by aircraft:

Code	Special provisions
A1	Single packagings are not permitted on passenger aircraft.
A2	Single packagings are not permitted on aircraft.
A4	Liquids having an inhalation toxicity of Packing Group I are not permitted on aircraft.
A5	Solids having an inhalation toxicity of Packing Group I are not permitted on passenger aircraft and may not exceed a maximum net quantity per package of 15 kg (33.1 pounds) on cargo aircraft.
A19	Combination packagings consisting of outer fiber drums or plywood drums, with inner plastic packagings, are not authorized for transportation by aircraft.
A20	Plastic bags as inner receptacles of combination packagings are not authorized for transportation by aircraft.
A29	Combination packagings consisting of outer expanded plastic boxes with inner plastic bags are not authorized for transportation by aircraft.
A33	Ammonium nitrites and mixtures of an inorganic nitrite with an ammonium salt are prohibited.

(3) *"B" codes.* These provisions apply only to bulk packagings:

Code	Special provisions
B1	If the material has a flash point at or above 100° F (37.8° C) and below 200° F (93.3° C), then the bulk packaging requirements of § 173.241 of this subchapter are applicable. If the material has a flash point of less than 100° F, then the bulk packaging requirements of § 173.242 of this subchapter are applicable.
B2	MC 306 cargo tanks, DOT 57 portable tanks, and riveted tank cars are not authorized.
B4	Riveted tank cars, AAR 206 tank cars, MC 306 cargo tanks, and DOT 57 portable tanks are not authorized.
B5	Lading temperature may not exceed 240° F (115.6° C). Only the following bulk packagings are authorized for ammonium nitrate solutions with 15 percent or more water: DOT 103 ALW, 111A60 ALW tank cars and MC 307 and MC 312 cargo tanks with at least 25 psig (172.4 kPa) design pressure. The packaging shall be designed for a working temperature of at least 250° F (121.1° C). Transportation by vessel is not authorized.
B6	Packagings shall be made of steel.
B7	Safety relief devices are not authorized. Openings for safety relief devices shall be plugged or blank flanged.
B8	Packagings shall be made of nickel, stainless steel, or steel with nickel, stainless steel, lead or other suitable corrosion resistant metallic lining.
B9	Bottom outlets are not authorized.
B10	Packagings must be leak tight.
B11	Tank cars must have a test pressure of at least 300 psi (2,068.5 kPa). Cargo and portable tanks must have a design pressure of at least 175 psig (1,206.6 kPa). Pressure relief devices on any tank must be set to function at 175 psig (1,206.6 kPa).
B12	Tank cars and tank car tanks shall be marked with the name of the lading in accordance with the requirements of § 172.330.
B13	For compressed gases, §§ 173.314 and 173.315 of this subchapter specify authorized packagings, package pressure ratings and filling requirements.
B14	Each tank shall be thermally insulated by completely covering it with at least 100 millimeters (3.94 inches) of cork or other suitable insulation material of sufficient thickness that the overall thermal conductance is not more than 0.080 Btu per hour per square foot per degree Fahrenheit differential.
B15	Packagings shall be protected with non-metallic linings impervious to the lading unless the tanks conform to the provisions of § 178.343-2(c) of this subchapter.
B16	The lading shall be completely covered with an inert gas.
B17	Packagings shall be made of aluminum.
B18	Open steel hoppers or bins are authorized.
B19	The hazardous material may not exceed 45% concentration in a non-volatile solvent.
B20	The hazardous material may not exceed 50% concentration in a non-volatile solvent.
B21	The hazardous material may not exceed 60% concentration in a non-volatile solvent.
B22	The hazardous material may not exceed 90% concentration in a non-volatile solvent.
B23	Tanks shall be made of steel that is rubber lined or unlined. Unlined tanks shall be passivated before being placed in service. If unlined tanks are washed out with water, they shall be repassivated prior to return to service. Lading in unlined tanks must be inhibited so that the corrosive effect on steel is not greater than that of hydrofluoric acid of 65% concentration.
B24	Molybdenum content of stainless steel may not exceed 0.5%.
B25	Packagings shall be made from monel or nickel or monel-lined or nickel-lined steel.
B26	Tanks shall be insulated. Insulation must be at least 4 inches (101.6 mm) thick except that 2 inches of insulation is authorized for tanks with exterior heating jackets. Interior heating coils are not authorized. The lading shall be immersed in water or blanketed with an inert gas and loaded at a temperature not exceeding 140° F (60° C). After unloading, the tank shall be filled to its entire capacity with an inert gas or with water having a temperature not exceeding 140° F (60° C). Before a tank car is offered for return movement, it shall be placarded with "FLAMMABLE SOLID-RESIDUE" placards as described in § 172.525. When lading is immersed in water, tanks may not have bottom outlets.
B27	Tanks must have a service pressure of 150 psig (1,034.3 kPa). Tank cars and tank car tanks must have a test pressure rating of 200 psi (1,379 kPa). Lading shall be blanketed at all times with a dry inert gas at a pressure not to exceed 15 psig (103.4 kPa).
B28	Packagings shall be made of stainless steel.
B29	When the lading is transported in a molten state, tanks may be equipped with heating coils except that interior heating coils are prohibited. Standpipe heaters for tank cars are permitted.
B30	MC 330 and MC 331 cargo tanks and DOT 51 portable tanks shall be made of stainless steel except that steel other than stainless steel may be used in accordance with the provisions of § 173.24b(c). Thickness of stainless steel for tank shell and heads for cargo tanks and portable tanks must be the greater of 0.300 inch (7.62 mm) or the thickness required for a tank with a design pressure at least equal to 1.5 times the vapor pressure of the lading at 115° F (46.1° C). Notwithstanding the provisions of § 173.244(a) of this subchapter, only DOT 105J500W tank cars and DOT Class 106 and 110 tank car tanks are authorized.

Code	Special provisions
B31	MC 330 and MC 331 cargo tanks and DOT 51 portable tanks shall be made of stainless steel except that steel other than stainless steel may be used in accordance with the provisions of § 173.24b(c). Thickness of stainless steel for tank shell and heads for cargo tanks and portable tanks must be the greater of 0.300 inch (7.62 mm) or the thickness required for a tank with a design pressure at least equal to 1.5 times the vapor pressure of the lading at 115° F (46.1° C). Notwithstanding the provisions of §§ 173.243(a) and 173.244(a) of this subchapter, only DOT 105J300W, 112J340W and 114J340W tank cars and DOT Class 106 and 110 tank car tanks are authorized.
B32	MC 330 and MC 331 cargo tanks and DOT 51 portable tanks shall be made of stainless steel except that steel other than stainless steel may be used in accordance with the provisions of § 173.24b(c). Thickness of stainless steel for tank shell and heads for cargo tanks and portable tanks must be the greater of 0.250 inch (6.35 mm) or the thickness required for a tank with a design pressure at least equal to 1.3 times the vapor pressure of the lading at 115° F (46.1° C). Notwithstanding the provisions of § 173.244(a) of this subchapter, only DOT 105J300W, 112J340W and 114J340W tank cars and DOT Class 106 and 110 tank car tanks are authorized.
B33	MC 330 or MC 331 cargo tanks and DOT 51 portable tanks shall be made of stainless steel except that steel other than stainless steel may be used in accordance with the provisions of § 173.24b(c). Thickness of stainless steel for tank shell and heads for cargo tanks and portable tanks must be the greater of 0.250 inch (6.35 mm) or the thickness required for a tank with a design pressure at least equal to 1.2 times the vapor pressure of the lading at 115° F (46.1° C). Notwithstanding the provisions of §§ 173.243(a) and 173.244(a) of this subchapter, only DOT 105J300W, 112J340W and 114J340W tank cars and DOT Class 106 and 110 tank car tanks are authorized.
B34	MC 330 or MC 331 cargo tanks and DOT 51 portable tanks shall be made of stainless steel with a design pressure at least equal to 1.1 times the vapor pressure of the lading at 115° F (46.1° C). Steel other than stainless steel may be used in accordance with the provisions of § 173.24b(c).
B35	If LC50 is more than 200 ppm but not more than 1000 ppm, Note B31 applies. If LC50 is more than 1000 ppm but not more than 3000 ppm, Note B33 applies. If LC50 is more than 3000 ppm but not more than 5000 ppm, Note B34 applies.
B36	Only DOT 105J500W tank cars or DOT Class 106 or 110 tank car tanks are authorized.
B37	The amount of nitric oxide charged into any tank car or tank car tank may not exceed 200 psig (1,379 kPa) at 70° F (21.1° C). The amount of nitric oxide charged into cargo or portable tanks may not exceed 200 psig (1,379 kPa) at 70° F (21.1° C) or 0.55 times tank design pressure (MAWP) whichever is less.
B38	If LC50 is more than 1000 ppm but not more than 3000 ppm, Note B31 applies. If LC50 is more than 3000 ppm but not more than 5000 ppm, Note B33 applies.
B39	Mixtures with flashpoints less than 23° C (73.4° F) must bear FLAMMABLE placards as prescribed in Subpart F of Part 172.
B40	For liquid materials which are toxic by inhalation (see § 173.133(a)(2) of this subchapter), if LC50 is 200 ppm or less, Note B30 applies; if LC50 is more than 200 ppm but not more than 1000 ppm, Note B32 applies.
B41	Notwithstanding the periodic retest intervals specified in Retest Table 1 of 173.31 of this subchapter, the retest interval for safety relief valves on each single-unit tank car tank is 2 years and the retest interval on the tank and interior heater systems, if any, is as follows: a. For a tank 10 years old or newer, 5 years; b. For a tank older than 10 years but not older than 22 years, 3 years; and c. For a tank older than 22 years, 1 year.

(4) *"H" codes.* These provisions apply only to transportation by highway: (Reserved.)

(5) *"N" codes.* These provisions apply only to non-bulk packagings:

Code	Special provisions
N1	For combination packagings, if glass inner packagings (including ampoules) are used, they must be packed with absorbent material in tightly closed metal receptacles before packing in outer packagings.
N2	For combination packagings, if glass inner packagings (including ampoules) are used, they must be packed with cushioning material in tightly closed metal receptacles before packing in outer packagings.
N3	Glass inner packagings are permitted in combination or composite packagings only if the hazardous material is free from hydrofluoric acid.
N4	For combination or composite packagings, glass inner packagings, other than ampoules, are not permitted.
N5	Glass materials of construction are not authorized for any part of a packaging which is normally in contact with the hazardous material.
N11	For combination packagings, if plastic inner packagings are used, they must be packed in tightly closed metal receptacles before packing in outer packagings.
N12	Plastic packagings are not authorized.
N13	For combination packagings, if plastic bags are used, they must be packed in tightly closed metal receptacles before packing in outer packagings.
N14	Only plastic bags are permitted as inner packagings for combination packagings.
N15	Plastic materials of construction are not authorized for any part of a packaging which is normally in contact with the hazardous material.
N16	Plastic single packagings are not authorized.
N17	Plastic composite packagings are not authorized.
N25	Steel single packagings are not authorized.
N26	Steel packagings must be corrosion-resistant or have protection against corrosion.
N32	Aluminum materials of construction are not authorized for single packagings.
N33	Aluminum drums are not authorized.
N34	Aluminum materials of construction are not authorized for any part of a packaging which is normally in contact with the hazardous material.
N35	When aluminum or aluminum alloy materials of construction are used, they must be resistant to corrosion.
N36	Aluminum or aluminum alloy materials of construction are permitted only for halogenated hydrocarbons that will not react with aluminum.
N40	For combination packagings, when metal inner packagings are permitted, only specification cylinders constructed of metals which are compatible with the hazardous material may be used.
N41	Metal (other than aluminum) materials of construction are not authorized for any part of a packaging which is normally in contact with the hazardous material.
N42	Metal (other than aluminum) materials of construction are not authorized for single packagings.
N43	Metal drums are permitted as single packagings only if constructed of nickel or monel.
N44	Only metal packagings are authorized.
N45	For combination packagings, only copper cartridges are permitted as inner packagings when the hazardous material is not in dispersion.
N55	For combination packagings, fiber drums (1G) only are permitted as outer packagings.
N65	Outage must be sufficient to prevent cylinders or spheres from becoming liquid full at 55° C (130° F). The vacant space (outage) may be charged with a nonflammable nonliquefied compressed gas if the pressure in the cylinder or sphere at 55° C (130° F) does not exceed 125% of the marked service pressure.
N70	For combination packagings, only plywood boxes (4D) and fiberboard boxes (4G) are permitted as outer packagings.
N71	Combination packagings consisting of inner glass packagings of not over 1.0 liter (1.06 quarts) capacity each or inner metal packagings of not over 5.0 liters (5.28 quarts) capacity each, placed in strong outer packagings, are authorized. Packagings are not subject to the requirements of Part 178 of this subchapter.
N72	Packagings must be examined by the Bureau of Explosives and approved by the Director, OHMT.
N73	Packagings consisting of outer wooden or fiberboard boxes with inner glass, metal or other strong containers; metal or fiber drums; kegs or barrels; or strong metal cans are authorized and need not conform to the requirements of Part 178 of this subchapter.
N74	Packages consisting of tightly closed inner containers of glass, earthenware, metal or polyethylene, capacity not over 0.5 kg (1.1 pounds) securely cushioned and packed in outer wooden barrels or wooden or fiberboard boxes, not over 15 kg (33.1 pounds) net weight, are authorized and need not conform to the requirements of Part 178 of this subchapter.
N75	Packages consisting of tightly closed inner packagings of glass, earthenware or metal, securely cushioned and packed in outer wooden barrels or wooden or fiberboard boxes, capacity not over 2.5 kg (5.51 pounds) net weight, are authorized and need not conform to the requirements of Part 178 of this subchapter.
N76	For materials of not more than 25 percent active ingredient by weight, packages consisting of inner metal packagings not greater than 250 mL (8.5 fluid ounces) capacity each, packed in strong outer packagings together with sufficient absorbent material to completely absorb the liquid contents are authorized and need not conform to the requirements of Part 178 of this subchapter.
N77	For materials of not more than two percent active ingredients by weight, packagings need not conform to the requirements of Part 178 of this subchapter, if liquid contents are absorbed in an inert material.
N78	Packages consisting of inner glass, earthenware, or polyethylene or other nonfragile plastic bottles or jars not over 0.5 kg (1.1 pounds) capacity each, or metal cans not over five pounds capacity each, packed in outer wooden boxes, barrels or kegs, or fiberboard boxes are authorized and need not conform to the requirements of Part 178 of this subchapter. Net weight of contents in fiberboard boxes may not exceed 65 pounds (29.5 kg). Net weight of contents in wooden boxes, barrels or kegs may not exceed 100 pounds (45.4 kg).
N79	Packages consisting of tightly closed metal inner packagings not over 0.5 kg (1.1 pounds) capacity each, packed in outer wooden or fiberboard boxes, or wooden barrels, are authorized and need not conform to the requirements of Part 178 of this subchapter. Net weight of contents may not exceed 15 kg (33.1 pounds).
N80	Packages consisting of one inner metal can, not over 2.5 kg (5.51 pounds) capacity, packed in an outer wooden or fiberboard box, or a wooden barrel, are authorized and need not conform to the requirements of Part 178 of this subchapter.

(6) *"R" codes.* These provisions apply only to transportation by rail: (Reserved.)

(7) *"T" codes.* These provisions apply only to transportation in IM portable tanks. They are divided into two groupings, one of which appears as the IM Tank Table in paragraph (c)(7)(i) of this section, and the second of which imposes specific requirements and appears in paragraph (a)(7)(ii) of this section.

(i) *IM Tank Table.* Column 1 lists the

code for the special provisions as specified in Column 7 of the § 172.101 Table. Column 2 specifies the IM tank type, either IM 101 (§§ 178.270 and 178.271 of this subchapter) or IM 102 (§§ 178.270 and 178.272 of this subchapter). Column 3 specifies the minimum test pressure, in bars (1 bar=14.5 psig), at which the periodic hydrostatic testing required by § 173.32b of this subchapter must be conducted. Column 4 specifies either the section referenced for requirements for bottom openings or "Prohibited", which means bottom openings are prohibited. Column 5 specifies the section reference for requirements applicable to pressure relief devices.

IM TANK TABLE

Code	IM tank type	Minimum test pressure (Bars)	Bottom outlets	Pressure relief devices
(1)	(2)	(3)	(4)	(5)
T1	102	1.5	§ 173.32c(g)(1)	§ 178.270–11(a)(1), (2).
T2	102	1.5	§ 173.32c(g)(2)	§ 178.270–11(a)(1), (2).
T7	101	2.65	§ 173.32c(g)(1)	§ 178.270–11(a)(1), (2).
T8	101	2.65	§ 173.32c(g)(2)	§ 178.270–11(a)(1), (2).
T9	101	2.65	Prohibited	§ 178.270–11(a)(1), (2).
T11	101	2.65	§ 173.32c(g)(2)	§ 178.270–11(a)(3).
T12	101	2.65	Prohibited	§ 178.270–11(a)(3).
T13	101	4	§ 173.32c(g)(1)	§ 178.270–11(a)(1), (2).
T14	101	4	§ 173.32c(g)(2)	§ 178.270–11(a)(1), (2).
T15	101	4	Prohibited	§ 178.270–11(a)(1), (2).
T16	101	4	§ 173.32c(g)(1)	§ 178.270–11(a)(3).
T17	101	4	§ 173.32c(g)(2)	§ 178.270–11(a)(3).
T18	101	4	Prohibited	§ 178.270–11(a)(3).
T20	101	6	§ 173.32c(g)(2)	§ 178.270–11(a)(1), (2).
T21	101	6	Prohibited	§ 178.270–11(a)(1), (2).
T23	101	6	§ 173.32c(g)(2)	§ 178.270–11(a)(3).
T24	101	6	Prohibited	§ 178.270–11(a)(3).
T28	101	10	Prohibited	§ 178.270–11(a)(1), (2).
T39	101	10	Prohibited	§ 178.270–11(a)(3).

(ii) *IM Tank special provisions. These provisions apply only to transportation in IM portable tanks:*

Code	Special provisions
T25	This hazardous material is not permitted for transport in IM portable tanks.
T26	Each tank with a diameter of greater than 1.8 meters (5.91 feet) must have a minimum shell thickness of 6.35mm (0.250 inch) mild steel.
T27	Each tank with a diameter of greater than 1.8 meters (5.91 feet) must have a minimum shell thickness of 8.0mm (0.315 inch) mild steel.
T29	The lading shall be completely covered with nitrogen or an inert gas.
T30	IM 102 portable tanks without bottom openings authorized for a hazardous material with a flash point of 32 °F (0 °C) or greater and a vapor pressure not greater than 9.5 psia (65.5 kPa) at 150 °F (65.6 °C).
T31	IM 102 portable tanks without bottom openings or with bottom openings conforming to § 173.32c(g)(2) of this subchapter are authorized for a hazardous material with a flash point of 32 °F (0 °C) or greater and a vapor pressure not greater than 9.5 psia (65.5 kpa) at 150 °F (65.6 °C).
T32	Each tank with a diameter of greater than 1.8 meters (5.91 feet) must have a minimum shell thickness of 10.0mm (0.394 inch) mild steel with at least 5.0mm (0.197 inch) lead lining.
T33	Dry phosphorus is not permitted. For transport in a molten state, the tank shall be insulated in accordance with Note T38. Air shall be eliminated from the interior of the tank. The tank may be heated, however, interior heating coils are prohibited.
T35	Each tank shall be equipped with reclosing (spring loaded) pressure relief valves set to discharge at pressures determined according to the pressure characteristics of the organic peroxide lading.
T36	Each tank shall be equipped with pressure relief devices with sufficient venting capacity to prevent the tank from bursting.
T37	Tert-butyl hydroperoxide may not exceed 65% concentration in water, unless otherwise approved by the Director, OHMT. Each tank shall be made of aluminum of at least 99.5% purity, stainless steel or carbon steel. The material of construction must be compatible with the lading. The tank shall be equipped with pressure relief devices impervious to the lading. Aluminum tanks and carbon steel tanks shall be insulated in accordance with Note T38.
T38	Each tank shall be thermally insulated by completely covering it with at least 100 millimeters (3.94 inches) of cork or other suitable insulation material of sufficient thickness that the overall thermal conductance is not more than 0.080 Btu per hour per square foot per degree Fahrenheit differential.
T40	Each tank with a diameter of greater than 1.8 meters (5.91 feet) must have a minimum shell thickness of 10.0mm (0.394 inch) mild steel.
T41	Each tank with a diameter of greater than 1.8 meters (5.91 feet) must have a minimum shell thickness of 12.0mm (0.472 inch) mild steel.
T42	Transport in IM portable tanks is permitted only under conditions approved by the Director, OHMT.

(8) *"W" codes.* These provisions apply only to transportation by water:

Code	Special provisions
W41	When offered for transportation by water, this material must be packaged in bales and be securely and tightly bound with rope, wire or similar means.

Subpart C—Shipping Papers

In § 172.200, paragraph (b) would be revised to read as follows:

§ 172.200 Applicability.

* * * * *

(b) This subpart does not apply to any material, other than a hazardous substance or waste, that is:

(1) Regulated only by air, water, or both (as indicated by the letters "A" or "W", or both, in Column 1 of the § 172.101 Table) when offered for transportation or transported in another mode of transport; or

(2) An ORM-D material, unless it is offered or intended for transportation, or transported, by aircraft.

§ 172.201 [Amended]

In § 172.201, in paragraph (a)(3), the word "subpart" would be changed to "subchapter" and paragraphs (a)(4)(i) and (a)(4)(ii) would be removed.

In § 172.202, paragraphs (a), (b), (c) and (d) would be revised, and paragraph (f) would be added to read as follows:

§ 172.202 Description of hazardous material on shipping papers.

(a) The shipping description of a hazardous material on the shipping paper must include:

(1) The proper shipping name prescribed for the material in Column 2 of the § 172.101 Table;

(2) The hazard class prescribed for the material as shown in Column 3 of the § 172.101 Table:

(i) For Class 3, the description "Combustible liquid" must appear in parentheses immediately following the hazard class if the material is classed, under § 173.120(b) of this subchapter, as a combustible liquid.

(ii) Class names, IMO class and division numbers or subsidiary hazard classes may be entered in parentheses following the numerical hazard class;

(3) The identification number prescribed for the material as shown in Column 4 of the § 172.101 Table;

(4) The packing group, if any, prescribed for the material in Column 5 of the § 172.101 Table preceded by the letters "PG"; and

(5) Except for empty packagings, the total quantity (by weight, volume or as otherwise appropriate) of the hazardous material covered by the description.

(b) Except as provided in this subpart, the basic description specified in paragraphs (a) (1), (2), (3) and (4) of this section must be shown in sequence with no additional information interspersed. For example: "Gasoline, 3, UN1203, PG II".

(c) The total quantity of the material covered by one description must appear before or after, or both before and after, the description required and authorized by this subpart. The type of packaging

and destination marks may be entered in any appropriate manner before or after the basic description. Abbreviations may be used to express units of measurement and types of packagings.

(d) Technical and chemical group names may be entered in parentheses between the proper shipping name and hazard class. An appropriate modifier, such as "contains" or "containing," may be used. For example: "Flammable liquids, n.o.s. (contains Xylene and Benzene), 3, UN1993, PG II".

* * * * *

(f) *Technical names.* If the material is described by an n.o.s. entry in the § 172.101 Table, the technical name of the material shall be entered in parentheses immediately following the proper shipping name. For example, "Corrosive liquids, n.o.s. (Caprylyl chloride), 8, UN1760, PG II". If the material is a mixture of two or more hazardous materials, the names of at least two components most predominately contributing to the hazard or hazards of the mixture shall be entered in parentheses. For example, "Flammable liquids, corrosive, n.o.s. (Methyl alcohol, Potassium hydroxide), 3, UN2924, PG II". The provisions of this paragraph do not apply:

(1) If the n.o.s. description for the material (other than a mixture of hazardous materials of different classes meeting the definitions of more than one hazard class) contains the name of the chemical element or group which is primarily responsible for the material being included in the hazard class indicated. For example: "Mercury compounds, solid, n.o.s., 6.1, UN2025, PG II".

(2) If the n.o.s. description for the material (which is a mixture of hazardous materials of different classes meeting the definition of more than one hazard class) contains the name of the chemical element or group responsible for the material meeting the definition of one of these classes. In such cases, only the technical name of the component that is not appropriately identified in the n.o.s description shall be entered in parentheses. For example: "Carbamate pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 °C* (contains Xylene), 3(6.1), UN2758, PG II".

In § 172.203, paragraphs (i)(3) and (l) would be removed, and paragraphs (c), (i)(2), (j) and (k)(4) would be revised to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(c) *Hazardous substances.* (1) If the proper shipping name for a material that is a hazardous substance does not identify the constituents making it a hazardous substance, the name or names of such hazardous substance constituents as shown in the § 172.101 Table shall be entered in association with the basic description.

(2) The letters "RQ" shall be entered on the shipping paper either before or after, or both before and after, the basic description required by § 172.202 for each hazardous substance (see definition in § 171.8). For example: "RQ, Allyl alcohol, 3, UN1098, PG I"; or "Benzonitrile, 6.1, UN2224, PG II, RQ".

* * * * *

(i) * * *

(2) The entry "skin corrosive only" must be included in association with the basic description to authorize "under deck" stowage for Corrosive liquids, n.o.s. and Corrosive solids, n.o.s. that meet only the corrosion to skin criteria of § 173.136(a) of this subchapter.

(j) *Dangerous when wet material.* The words "Dangerous when wet" shall be entered on the shipping paper in association with the basic description for a material which meets the definition of a dangerous when wet material in § 173.124(c) of this subchapter.

(k) * * *

(4) For Division 2.3 materials and for materials which meet the definition for Division 6.1, Packing Group I, and which are toxic by inhalation under the criteria specified in § 173.133(a)(2) of this subchapter, the words "Poison-Inhalation Hazard" shall be entered on the shipping paper in association with the shipping description. However, the word "Poison" need not be repeated if it otherwise appears in the shipping description.

Subpart D—Marking

Section 172.301 would be revised to read as follows:

§ 172.301 General marking requirements for non-bulk packagings.

(a) *Proper shipping name and identification number.* Except as otherwise provided by this subchapter, each person who offers for transportation a hazardous material in a non-bulk packaging shall mark the package with the proper shipping name and identification number (preceded by "UN" or "NA" as appropriate) for the material as shown in the § 172.101 Table. The proper shipping name for a hazardous waste (as defined in § 171.8 of this subchapter) is not required to include the word "waste" if the package bears the EPA marking prescribed by 40 CFR 262.32.

(b) *Technical names.* (1) In addition to the marking required by paragraph (a) of this section, a package containing a hazardous material, which is described by an n.o.s. entry in the § 172.101 Table, must be marked with the technical name of the material, in parentheses immediately following (or below) the proper shipping name. For example: "Corrosive liquids, n.o.s. (Caprylyl chloride), UN1760".

(2) If the material is a mixture of two or more hazardous materials, the names of at least two components most predominately contributing to the hazard or hazards of the mixture shall be entered in parentheses. For example: "Flammable liquids, corrosive, n.o.s. (Methanol, Potassium hydroxide), UN2924".

(3) The provisions of this paragraph do not apply:

(i) If the "n.o.s." description for the material (other than a mixture of hazardous materials of different classes meeting the definition of more than one hazard class) contains the name of the chemical element or group which is primarily responsible for the material being included in the hazard class indicated. For example: "Mercury compounds, solid, n.o.s., UN2025".

(ii) If the "n.o.s." description for the material (which is a mixture of hazardous materials of different classes meeting the definition of more than one hazard class) contains the name of the chemical element or group responsible for the material meeting the definition of one of these classes. In such cases, only the technical name of the component that is not appropriately identified in the "n.o.s." description is required to be entered in parentheses. For example: "Carbamate pesticides, liquid, flammable, toxic, n.o.s. (Xylene), UN2758".

(c) *Exemption packagings.* The outside of each package authorized by an exemption must be plainly and durably marked "DOT-E" followed by the exemption number assigned.

(d) *Previously marked packagings.* A package which has been previously marked as required for the material it contains and on which the marking remains legible, need not be remarked. (For empty packagings, see § 173.29 of this subchapter.)

(e) *Marking exceptions.* Identification numbers are not required on packages which contain only the following materials:

(1) Limited quantities as defined in § 171.8 of this subchapter;

(2) ORM-D materials.

Section 172.302 would be revised to read as follows:

§ 172.302 General marking requirements for bulk packagings.

(a) *Identification numbers.* Except as otherwise provided in this subpart, no person may offer for transportation or transport a hazardous material in a bulk packaging unless the packaging is marked as required by § 172.332 with the identification number specified for the material in the § 172.101 Table—

(1) On each side and each end, if the packaging has a capacity of 1000 gallons (3,785.4 liters) or more, or

(2) On two opposing sides, if the packaging has a capacity of less than 1000 gallons (3,785.4 liters).

(b) *Size of markings.* Except as otherwise provided, markings required by this subpart on bulk packagings must have a width of at least 6.0 mm (0.24 inches) and a height of—

(1) 100 mm (3.9 inches) for rail cars;

(2) 75 mm (3.0 inches) for cargo tanks, and

(3) 50 mm (2.0 inches) for other bulk packages.

(c) *Exemption packagings.* The outside of each bulk package used under the terms of an exemption must be plainly and durably marked "DOT-E" followed by the exemption number assigned.

(d) *Technical names.* Each bulk packaging marked with a proper shipping name which contains the term "n.o.s.", must be marked with the technical name of the hazardous material, in the manner prescribed in § 172.301(b).

(e) Each bulk packaging marked with a proper shipping name, common name or identification number as required by this subpart must remain marked when it is emptied unless it is—

(1) Sufficiently cleaned of residue and purged of vapors to remove any potential hazard; or

(2) Refilled, with a material requiring different markings or no markings, to such an extent that any residue remaining in the packaging is no longer hazardous.

(f) Specific requirements for marking portable tanks, cargo tanks, tank cars and multi-unit tank car tanks are prescribed in §§ 172.326, 172.328 and 172.330.

A new § 172.303 would be added to read as follows:

§ 172.303 Prohibited marking.

(a) No person may offer for transportation or transport a package which is marked with the proper shipping name or identification number of a hazardous material unless the package contains the identified hazardous material or its residue.

(b) This section does not apply to transportation of a package (or packaging) in a transport vehicle or freight container if the package (or packaging) is not visible during transportation and is loaded by the shipper and unloaded by the shipper or consignee.

Section 172.306 would be revised to read as follows:

§ 172.306 Consignee's or consignor's name and address.

Each person who offers for transportation a hazardous material in a non-bulk package shall mark that package with the name and address of the consignor or consignee except when the package is—

(a) Transported by highway only and will not be transferred from one motor carrier to another; or

(b) Part of a carload lot, truckload lot or freight container load, and the entire contents of the rail car, truck or freight container are shipped from one consignor to one consignee.

In § 172.308, paragraph (a)(3) would be added to read as follows:

§ 172.308 Authorized abbreviations.

(a) * * *

(3) Abbreviations which appear as authorized descriptions in Column 2 of the § 172.101 Table are authorized. For example, "PCB", "2, 4–D", etc.

Section 172.312 would be revised to read as follows:

§ 172.312 Liquid hazardous materials in non-bulk packagings.

(a) Except as provided in this section, each non-bulk package having inner packagings containing liquid hazardous materials must be:

(1) Packed with closures upward, and

(2) Legibly marked with package orientation markings as specified in ISO Standard R780–1968 on two opposite vertical sides of the package with the arrows pointing in the correct upright direction.

(b) Except as otherwise prescribed in Part 173 of this subchapter, cylinders of liquefied compressed gas are not required to be marked "THIS SIDE UP" or "THIS END UP."

(c) Arrows for purposes other than indicating proper package orientation may not be displayed on a package containing a liquid hazardous material.

(d) Except when offered or intended for transportation by aircraft, packages containing flammable liquids in inner packagings of one liter or less prepared in accordance with § 173.150 (b) or (c) of this subchapter are excepted from the requirements of paragraph (a) of this section.

(e) When offered or intended for transportation by aircraft, packages containing flammable liquids in inner packagings of one liter or less prepared in accordance with § 173.150 (b) or (c) of this subchapter are excepted from the requirements of paragraph (a) of this section when packed with sufficient absorption material between the inner and outer packagings to completely absorb the liquid contents.

A new § 172.313 would be added to read as follows:

§ 172.313 Poisonous hazardous materials.

(a) For Division 2.3 materials and for poisonous liquids subject to the "Poison-Inhalation Hazard" shipping paper description of § 172.203(k)(4), the package containing the material shall be marked "Inhalation Hazard" in association with the required label(s) or placard(s). (See § 172.302(b) for size of markings on bulk packages.) Bulk packagings must be marked on two opposing sides.

(b) Each non-bulk plastic packaging used as a single or composite packaging for materials meeting the definition of Division 6.1 (in § 173.132 of this subchapter) shall be permanently marked, by embossment or other durable means, with the word "POISON" in letters at least 6.3mm (0.25 inches) in height. Additional text or symbols related to hazard warning may be included in the marking. The marking shall be located within 150mm (5.9 inches) of the closure of the packaging.

In § 172.316, paragraph (a) and the beginning of the first sentence in paragraph (c) preceding the word "certification" are revised to read as follows:

§ 172.316 Packagings containing material classed as ORM–D or ORM–E.

(a) Each non-bulk packaging containing a material classed as ORM–D or ORM–E must be marked on at least one side or end with the appropriate ORM designation immediately following or below the proper shipping name of the material. The appropriate ORM designation must be placed within a rectangle that is approximately 6.3mm (0.25 inches) larger on each side than the designation. The appropriate designation for each ORM must be:

(1) ORM–D–AIR for an ORM–D that is prepared for air shipment and packaged in accordance with the provisions of § 173.27 of this subchapter.

(2) ORM–D for an ORM–D other than as described in subparagraph (a)(1) above.

(3) ORM–E for an ORM–E.

* * * * *

(c) The marking ORM–D or ORM–E is the * * *

Section 172.324 would be revised to read as follows:

§ 172.324 Hazardous substances in non-bulk packagings.

(a) If the proper shipping name for a material that is a hazardous substance does not identify the constituents making it a hazardous substance, the name or names of the hazardous substance constituents as shown in the § 172.101 Table shall be entered in association with the proper shipping name on each non-bulk packaging.

(b) The letters "RQ" shall be displayed in association with the proper shipping name on a non-bulk packaging that contains a hazardous substance.

Section 172.326 would be revised to read as follows:

§ 172.326 Portable tanks.

(a) *Shipping name.* No person may offer for transportation or transport a portable tank containing a hazardous material unless it is legibly marked on two opposing sides with the proper shipping name specified for the material in § 172.101.

(b) [Reserved]

(c) *Owner's name.* The name of the owner or of the lessee, if applicable, must be displayed on a portable tank that contains a hazardous material.

(d) If the identification number marking required by § 172.302(a) is not visible, a transport vehicle or freight container used to transport a portable tank must be marked on each side and each end as required by § 172.332 with the identification number specified for the material in the § 172.101 Table.

Section 172.328 would be revised to read as follows:

§ 172.328 Cargo tanks.

(a) *Providing and affixing identification numbers.* Unless a cargo tank is already marked with the identification numbers required by this subpart, the identification numbers must be provided or affixed as follows:

(1) A person who offers a motor carrier a hazardous material for transportation in a cargo tank shall provide the motor carrier the identification numbers on placards or shall affix orange panels containing the required identification numbers, prior to or at the time the material is offered for transportation.

(2) A person who offers a cargo tank containing a hazardous material for transportation shall affix the required identification numbers on panels or placards prior to or at the time the cargo tank is offered for transportation.

(b) [Reserved]

(c) *Required markings; Gases.* Except for certain nurse tanks which must be marked as specified in § 173.315(m) of this subchapter, each cargo tank transporting a Class 2 material subject to this subchapter must be marked, in lettering no less than 50mm (1.97 inches), on each side and each end with—

(1) The proper shipping name specified for the gas in the § 172.101 Table, or

(2) An appropriate common name for the material such as "Refrigerant Gas".

(d) *QT/NQT markings.* Each MC 330 and MC 331 cargo tank must be marked near the specification plate, in letters no less than 50mm (1.97 inches) in height, with—

(1) QT, if the cargo tank is constructed of quenched and tempered steel, or

(2) NQT, if the cargo tank is constructed of other than quenched and tempered steel.

In § 172.330, the phrase "or § 172.102 (when authorized)" would be removed from paragraphs (c)(2) and (e), the phrase "or § 172.102" would be removed from paragraph (c)(1), and paragraphs (a) and (b) would be revised to read as follows:

§ 172.330 Tank cars and multi-unit tank car tanks.

(a) *Shipping name.* No person may offer for transportation or transport a hazardous material—

(1) In a tank car unless the tank car is marked on each side, when required by § 172.102 or Part 173 of this subchapter, with the proper shipping name specified for the material in the § 172.101 Table or with a common name authorized in this subchapter for the material such as "Refrigerant Gas".

(2) In a multi-unit tank car tank unless the tank is marked on opposing sides with the proper shipping name specified for the material in the § 172.101 Table or with a common name authorized in this subchapter for the material.

(b) A motor vehicle or rail car used to transport a multi-unit tank car tank containing a hazardous material must be marked on each side and each end, as required by § 172.332, with the identification number specified for the material in the § 172.101 Table.

* * * * *

In § 172.332, paragraph (c)(3) would be revised to read as follows:

§ 172.332 Identification number markings.

* * * * *

(c) * * *

(3) An identification number may be displayed only on a placard corresponding to the primary hazard class of the hazardous material.

§ 172.334 [Amended]

* * * * *

In § 172.334 the phrase "POISON GAS", would be removed from paragraph (a), and the phrase "or § 172.102 (when authorized)" would be removed from paragraph (b).

Subpart E—Labeling

Section 172.400 would be revised to read as follows:

§ 172.400 General labeling requirements.

(a) Each person who offers for transportation or transports a hazardous material in any of the following packages or containment devices, shall label the package or containment device with labels specified for the material in the § 172.101 Table and in this subpart:

(1) A non-bulk package;

(2) A portable tank of less than 1000 gallons (3,785.4 liters) capacity;

(3) A DOT Specification 106 or 110 multi-unit tank car tank; and

(4) An overpack, freight container or unit load device, of no greater than 640 cubic feet (18.1 cubic meters) capacity, which contains a package for which labels are required.

(b) Labeling is required for a hazardous material which meets one or more hazard class definitions, in accordance with Column 6 of the § 172.101 Table and the following table:

Hazard class or division	Label name	Label design section reference (§)
1.1	EXPLOSIVE 1.1	172.411
1.2	EXPLOSIVE 1.2	172.411
1.3	EXPLOSIVE 1.3	172.411
1.4	EXPLOSIVE 1.4	172.411
1.5	EXPLOSIVE 1.5	172.411
2.1	FLAMMABLE GAS	172.417
2.2	NON-FLAMMABLE GAS.	172.415
2.3	POISON GAS	172.416
3 (flammable liquid)	FLAMMABLE LIQUID	172.419
3 (combustible liquid)	(None)	
4.1	FLAMMABLE SOLID	172.420
4.2	SPONTANEOUSLY COMBUSTIBLE.	172.422
4.3	DANGEROUS WHEN WET.	172.423
5.1	OXIDIZER	172.426
5.2	ORGANIC PEROXIDE	172.427
6.1 (Packing Groups I and II).	POISON	172.430
6.1 (Packing Group III)	KEEP AWAY FROM FOOD.	172.431
6.2 (international)	INFECTIOUS SUBSTANCE.	172.432
6.2 (domestic)	ETIOLOGIC AGENT	172.444

Hazard class or division	Label name	Label design section reference (§)
7 (see § 172.403)	RADIOACTIVE WHITE-I.	172.436
7	RADIOACTIVE YELLOW-II.	172.438
7	RADIOACTIVE YELLOW-III.	172.440
7 (empty packages, see § 173.427).	EMPTY	172.450
8	CORROSIVE	172.442
9	(None)	
ORM-D	(None)	
ORM-E	(None)	

A new § 172.400a would be added to read as follows:

§ 172.400a Exceptions from labeling.

(a) Notwithstanding the provisions of § 172.400, a label is not required on—

(1) A cylinder containing a compressed gas that is—

(i) Not poisonous;

(ii) Carried by a private or contract motor carrier;

(iii) Not overpacked; and

(iv) Durably and legibly marked in accordance with CGA Pamphlet C-7, Appendix A.

(2) A package or unit of military explosives (including ammunition) shipped by or on behalf of the DOD when in—

(i) Freight containerload, carload or truckload shipments, if loaded and unloaded by the shipper or DOD; or

(ii) Unitized or palletized break-bulk shipments by cargo vessel under charter to DOD if at least one required label is displayed on each unitized or palletized load.

(3) A package containing a hazardous material other than ammunition that is—

(i) Loaded and unloaded under the supervision of DOD personnel, and

(ii) Escorted by DOD personnel in a separate vehicle.

(4) A compressed gas cylinder permanently mounted in or on a transport vehicle.

(5) A freight container, an aircraft unit load device or a portable tank, which—

(i) Is placarded in accordance with Subpart F of this part, or

(ii) Conforms to paragraph(a)(3) or (b)(3) of § 172.512.

(6) An overpack or unit load device in or on which each different required label on packages of hazardous materials is visible.

(7) A package of low specific activity radioactive material, when transported under § 173.425(b) of this subchapter.

(b) Notwithstanding the provisions of § 172.402 of this subpart, a subsidiary hazard label corresponding to Class 3, Packing Group III or Class 8, Packing Group III (that is, a FLAMMABLE or CORROSIVE label, respectively) is not required to be displayed on a package containing a multiple hazard material, unless the package is offered or intended for transportation by aircraft or vessel.

(c) Certain exceptions to labeling requirements are provided for small quantities and limited quantities in applicable sections in Part 173 of this subchapter.

§ 172.401 [Amended]

In § 172.401, paragraph (d) would be removed.

Section 172.402 would be revised to read as follows:

§ 172.402 Additional labeling requirements.

(a) *Subsidiary hazard labels.* Each package containing a material meeting the definition of more than one hazard class also shall be labeled as follows:

(1) A material classed as Class (or Division) 1.1, 1.2, 2.3, or 7, shall be labeled for each subsidiary hazard class.

(2) A material classed as Division 6.1, Packing Group I or II, which meets the definition of a flammable liquid, shall be labeled with the FLAMMABLE LIQUID label.

(3) A material classed as Class (or Division) 3, 4.1, 4.2, 4.3, 5.1 or 8, which meets the definition of a Division 6.1, Packing Group I or II material, shall be labeled with the POISON label.

(4) A material classed as Class (or Division) 3, 4.1, 4.2, 4.3, 5.1, or 6.1 (Packing Group I or II) which meets the definition of Class 8, shall be labeled with the CORROSIVE label.

(5) Irrespective of hazard class, a poisonous material subject to the "Poison-Inhalation Hazard" shipping paper description of § 172.203 (k)(4), shall be labeled with the POISON or POISON GAS label, as appropriate.

(6) A material which has a subsidiary hazard of being dangerous when wet, as defined in § 173.124, shall be labeled with the DANGEROUS WHEN WET label.

(b) *CARGO AIRCRAFT ONLY label.* Each person who offers for transportation or transports by aircraft a package containing a hazardous material which is authorized on cargo aircraft only shall label the package with a CARGO AIRCRAFT ONLY label specified in § 172.448.

Section 172.405 would be revised to read as follows:

§ 172.405 Authorized label modifications.

(a) For Classes 2, 3, 4, 5, 6, or 8, text indicating a hazard (for example FLAMMABLE LIQUID) is not required on a label when—

(1) The label otherwise conforms to the provisions of this subpart, and

(2) The hazard class or division number is displayed in the lower corner of a label corresponding to the primary hazard class of the material.

(b) Except as provided in paragraph (a) of this section, class and division numbers are not required on labels for Classes 2, 3, 4, 5, 6, 7, or 8. Class and division numbers should not be displayed on subsidiary hazard labels.

Section 172.406 would be revised to read as follows:

§ 172.406 Placement of labels.

(a) *General.* (1) Except as provided in paragraphs (b) and (e) of this section, each label required by this subpart must—

(i) Be printed on or affixed to a surface (other than the bottom) of the package or containment device containing the hazardous material; and

(ii) Be located on the same surface of the package as the proper shipping name marking, if the package dimensions are adequate.

(2) Except as provided in paragraph (e) of this section, duplicate labeling is not required on a package or containment device (such as to satisfy redundant labeling requirements).

(b) *Exceptions.* A label may be printed on or placed on a securely affixed tag, or may be affixed by other suitable means to:

(1) A package that contains no radioactive material and which has dimensions less than those of the required label;

(2) A compressed gas cylinder; and

(3) A package which has such an irregular surface that a label cannot be satisfactorily affixed.

(c) *Placement of multiple labels.* When primary and subsidiary hazard labels are required, they must be displayed next to each other. Placement conforms to this requirement if labels are within 150 mm (5.9 inches) of one another.

(d) Each label must be printed on or affixed to a background of contrasting color, or must have a dotted or solid line outer border.

(e) *Duplicate labeling.* When labeling is required, duplicate labels must be displayed on at least two sides or two ends (other than the bottom) of—

(1) Each non-bulk package or overpack having a volume of 64 cubic feet (1.8 cubic meters) or more;

(2) Each non-bulk package containing a radioactive material;

(3) Each DOT 106 or 110 multi-unit tank car tank. Labels must be displayed on each end;

(4) Each portable tank of less than 1000 gallons (3,785.4 liters) capacity; and

(5) Each freight container or aircraft unit load device having a volume of 64 cubic feet (1.8 cubic meters) or more, but less than 640 cubic feet (18.1 cubic meters). One of each required label must be displayed on or near the closure.

(f) *Obscured labels.* A label must be clearly visible and may not be obscured by markings or attachments.

Section 172.407 would be revised to read as follows:

§ 172.407 Label specifications.

(a) *Durability.* Each label, whether printed on or affixed to a package, must be durable and weather resistant. A label on a package must be able to withstand, without deterioration or a substantial change in color, a 30-day exposure to conditions incident to transportation that reasonably could be expected to be encountered by the labeled package.

(b) *Design.* (1) Except for size and color, the printing, inner border, and symbol on each label must be as shown in §§ 172.411 through 172.448, as appropriate.

(2) The dotted line border shown on each label is not part of the label specification, except when used as an alternative for the solid line outer border to meet the requirements of § 172.406(d).

(c) *Size.* (1) Each diamond (square-on-point) label prescribed in this subpart must be at least 100 mm (3.9 inches) on each side with each side having a solid line inner border 5.0 to 6.3 mm (0.20 to 0.25 inches) from the edge.

(2) The CARGO AIRCRAFT ONLY label must be a rectangle measuring at least 110 mm (4.3 inches) in height by 120 mm (4.7 inches) in width. The word "DANGER" must be shown in letters measuring at least 12.7mm (0.5 inches) in height.

(3) Except as otherwise provided in this subpart, the hazard class number, or division number, as appropriate, must be at least 6.3mm (0.25 inches) and not greater than 12.7 mm (0.5 inches).

(4) When text indicating a hazard is displayed on a label, the label name must be shown in letters measuring at least 7.6mm (0.30 inches) in height except that—

(i) For a SPONTANEOUSLY COMBUSTIBLE or DANGEROUS WHEN WET label, respectively, the words "Spontaneously" and "When Wet" must be shown in letters measuring at least 5.1mm (0.2 inches) in height.

(ii) For a KEEP AWAY FROM FOOD label, the word "HARMFUL" must be shown in letters measuring at least 7.6mm (0.3 inches) in height.

(5) The symbol on each label must be proportionate in size to that shown in the appropriate section of this subpart.

(d) *Color.* (1) The background color on each label must be as prescribed in §§ 172.411 through 172.448, as appropriate.

(2) The symbol, text, numbers, and border must be shown in black on a label except that—

(i) White may be used on a label with a one color background of green, red or blue; and

(ii) White must be used for the text and class number for the CORROSIVE label.

(3) Black and any color on a label must be able to withstand, without substantial change, a 72-hour fadeometer test (for a description of equipment designed for this purpose, see ASTM G 23–69 (1975) or G 26–70).

(4) A color on a label, upon visual examination, must fall within the color tolerances displayed on the appropriate Label and Placard Color Tolerance Chart.

(i) A set of six charts, dated January 1973, for comparison with labels and placards surfaced with paint, lacquer, enamel, plastic or other opaque coatings, or ink, may be purchased from the Office of Hazardous Materials Transportation, U.S. Department of Transportation, Washington, DC 20590, for $5.50.

(ii) A set of six charts, dated January 1974, for comparison with labels and placards surfaced with ink, may be similarly purchased for $12.50.

(iii) Both sets of charts may be inspected in Room 8426, Nassif Building, 400 7th Street, SW. Washington, DC 20590, or any of the offices of the Federal Highway Administration listed at 49 CFR 390.40.

(iv) The technical specifications for each chart are set forth in Appendix A to this part.

(5) The specified label color must extend to the edge of the label in the area designated on each label except the CORROSIVE, RADIOACTIVE YELLOW-II AND RADIOACTIVE YELLOW-III labels on which the color must extend only to the inner border.

(e) *Form identification.* A label may contain form identification information, including the name of its maker, provided that information is printed outside the solid line inner border in no larger than 10-point type.

(f) *Exceptions.* A label conforming to specifications in the UN Recommendations may be used in place of a corresponding label which conforms to the requirements of this subpart.

Section 172.411 would be revised to read as follows:

§ 172.411 EXPLOSIVE 1.1, 1.2, 1.3, 1.4 and 1.5 labels.

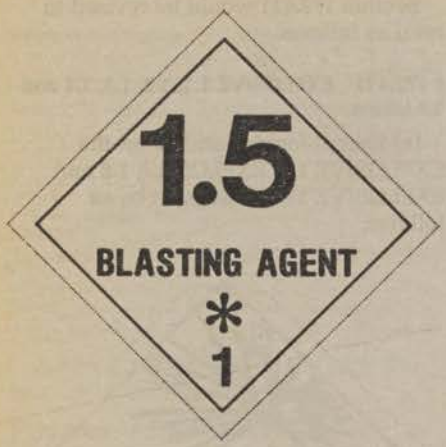
(a) Except for size and color, the EXPLOSIVE 1.1, EXPLOSIVE 1.2 and EXPLOSIVE 1.3 labels must be as follows:

(b) In addition to complying with § 172.407, the background color on the EXPLOSIVE 1.1, EXPLOSIVE 1.2 and EXPLOSIVE 1.3 labels must be orange. The "**" shall be replaced with the appropriate division number and compatibility group. The compatibility group letter must be the same size as the division number and must be shown as a capitalized Roman letter.

(c) Except for size and color, the EXPLOSIVE 1.4 and EXPLOSIVE 1.5 labels must be as follows:

EXPLOSIVE 1.4:

EXPLOSIVE 1.5:



(d) In addition to complying with § 172.407, the background color on the EXPLOSIVE 1.4 and EXPLOSIVE 1.5 labels must be orange. The "*" shall be replaced with the appropriate compatibility group. The compatibility group letter must be shown as a capitalized Roman letter measuring at least 12.7mm (0.5 inches) in height. Division numerals must measure at least 30mm (1.2 inches) in height and at least 5mm (0.2 inches) in width.

Section 172.415 would be revised to read as follows:

§ 172.415 NON-FLAMMABLE GAS label.

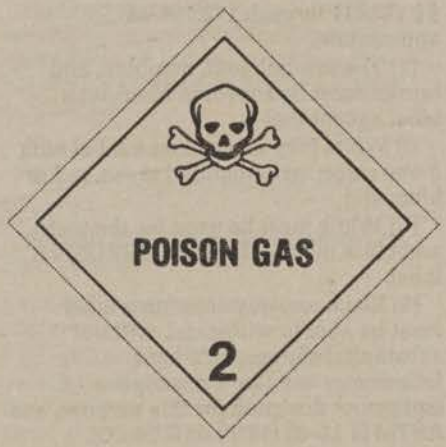
(a) Except for size and color, the NON-FLAMMABLE GAS label must be as follows:

(b) In addition to complying with § 172.407, the background color on the NON–FLAMMABLE GAS label must be green.

Section 172.416 is revised to read as follows:

§ 172.416 POISON GAS label.

(a) Except for size and color, the POISON GAS label must be as follows:



(b) In addition to complying with § 172.407, the background on the POISON GAS label must be white.

Section 172.417 would be revised to read as follows:

§ 172.417 FLAMMABLE GAS label.

(a) Except for size and color, the FLAMMABLE GAS label must be as follows:

(b) In addition to complying with § 172.407, the background color on the FLAMMABLE GAS label must be red.

Section 172.419 would be revised as follows:

§ 172.419 FLAMMABLE LIQUID label.

(a) Except for size and color the FLAMMABLE LIQUID label must be as follows:

(b) In addition to complying with § 172.407, the background color on the FLAMMABLE LIQUID label must be red.

Section 172.420 would be revised to read as follows:

§ 172.420 FLAMMABLE SOLID label.

(a) Except for size and color, the FLAMMABLE SOLID label must be as follows:

(b) In addition to complying with § 172.407, the background on the FLAMMABLE SOLID label must be white with vertical red stripes equally spaced on each side of a red stripe placed in the center of the label. The red vertical stripes must be spaced so that, visually, they appear equal in width to the white spaces between them. The symbol (flame) and text (when used) must be overprinted. The text "FLAMMABLE SOLID" may be placed in a white rectangle.

Section 172.422 would be revised to read as follows:

§ 172.422 SPONTANEOUSLY COMBUSTIBLE label.

(a) Except for size and color, the SPONTANEOUSLY COMBUSTIBLE label must be as follows:

(b) In addition to complying with § 172.407, the background color on the lower half of the SPONTANEOUSLY COMBUSTIBLE label must be red and the upper half must be white.

Section 172.423 would be revised to read as follows:

§ 172.423 DANGEROUS WHEN WET label.

(a) Except for size and color, the DANGEROUS WHEN WET label must be as follows:

(b) In addition to complying with § 172.407, the background color on the DANGEROUS WHEN WET label must be blue.

Section 172.426 would be revised as follows:

§ 172.426 OXIDIZER label.

(a) Except for size and color, the OXIDIZER label must be as follows:

(b) In addition to complying with § 172.407, the background color on the OXIDIZER label must be yellow.

Section 172.427 would be revised to read as follows:

§ 172.427 ORGANIC PEROXIDE label.

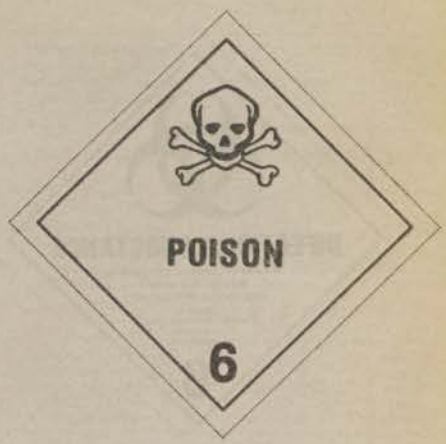
(a) Except for size and color, the ORGANIC PEROXIDE label must be as follows:

(b) In addition to complying with § 172.407, the background color on the ORGANIC PEROXIDE label must be yellow.

Section 172.430 would be revised as follows:

§ 172.430 POISON label.

(a) Except for size and color, the POISON label must be as follows:



(b) In addition to complying with § 172.407, the background on the POISON label must be white.

A new § 172.431 would be added to read as follows:

§ 172.431 KEEP AWAY FROM FOOD label.

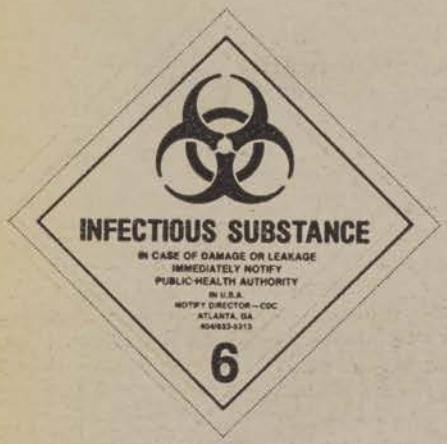
(a) Except for size and color, the KEEP AWAY FROM FOOD label must be as follows:

(b) In addition to complying with § 172.407, the background on the KEEP AWAY FROM FOOD label must be white.

Section 172.432 would be revised to read as follows:

§ 172.432 INFECTIOUS SUBSTANCE label.

(a) Except for size and color, the INFECTIOUS SUBSTANCE label must be as follows:



(b) In addition to complying with § 172.407, the background on the INFECTIOUS SUBSTANCE label must be white.

Section 172.436 would be revised to read as follows:

§ 172.436 RADIOACTIVE WHITE–I label.

(a) Except for size and color, the RADIOACTIVE WHITE–I label must be as follows:

(b) In addition to complying with § 172.407, the background on the RADIOACTIVE WHITE–I label must be white. The printing and symbol must be black, except for the "I" which must be red.

Section 172.438 would be revised to read as follows:

§ 172.438 RADIOACTIVE YELLOW–II label.

(a) Except for size and color, the RADIOACTIVE YELLOW–II must be as follows:

(b) In addition to complying with § 172.407, the background color on the RADIOACTIVE YELLOW–II label must be yellow in the top half and white in the lower half. The printing and symbol must be black, except for the "II" which must be red.

Section 172.440 would be revised to read as follows:

§ 172.440 RADIOACTIVE YELLOW–III label.

(a) Except for size and color, the RADIOACTIVE YELLOW–III label must be as follows:

(b) In addition to complying with § 172.407, the background color on the RADIOACTIVE YELLOW–III label must be yellow in the top half and white in the lower half. The printing and symbol must be black, except for the "III" which must be red.

Section 172.442 would be revised to read as follows:

§ 172.442 CORROSIVE label.

(a) Except for size and color, the CORROSIVE label must be as follows:

(b) In addition to complying with § 172.407, the background on the CORROSIVE label must be white in the top half and black in the lower half.

§ 172.444 [Amended]

In § 172.444, paragraphs (b) and (c) would be removed.

Section 172.448 would be revised to read as follows:

§ 172.448 CARGO AIRCRAFT ONLY label.

(a) Except for size and color, the CARGO AIRCRAFT ONLY label must be as follows:

(b) The CARGO AIRCRAFT ONLY label must be black on an orange background.

Subpart F—Placarding

Section 172.500 would be revised to read as follows:

§ 172.500 Applicability of placarding requirements.

(a) Each person who offers for transportation or transports any hazardous material subject to this subchapter shall comply with the applicable placarding requirements of this subpart.

(b) This subpart does not apply to—

(1) Infectious substances;

(2) Hazardous materials classed as ORM–D or E or Class 9;

(3) Hazardous materials authorized by this subchapter to be offered for transportation as Limited Quantities when identified as such on shipping papers in accordance with § 172.203(b);

(4) Hazardous materials which are packaged as small quantities under the provisions of § 173.4 of this subchapter; and

(5) Combustible liquids in non-bulk packagings.

Section 172.502 would be revised to read as follows:

§ 172.502 Prohibited and permissive placarding.

(a) *Prohibited placarding.* Except as provided in paragraph (c) of this section, no person may affix or display on a bulk packaging, freight container, unit load device, motor vehicle or rail car any placard described in this subpart unless—

(1) The material being offered or transported is a hazardous material, and

(2) The placard represents a hazard of the hazardous material being offered or transported.

(b) No person may affix or display any sign or other device on a bulk packaging, freight container, unit load device, motor vehicle or rail car, that by its color, design, shape or content could be confused with any placard prescribed in this subpart.

(c) *Exceptions.* The restrictions in paragraphs (a) and (b) of this section do not apply to a bulk packaging, freight container, unit load device, motor vehicle or rail car which is placarded in conformance with the TDG Regulations, the IMDG Code or the UN Recommendations.

(d) The restrictions of paragraph (b) of this section do not apply to the display of an identification number on a white square-on-point configuration in accordance with § 172.336(b).

(e) *Permissive placarding.* Placards may be displayed for a hazardous material in accordance with this subpart even when not required if—

(1) The material and placards conform to the requirements of paragraph (a) of this section, and

(2) Neither an identification number, hazard class nor division number is displayed on a placard corresponding to a subsidiary hazard of the hazardous material.

Section 172.504 would be revised to read as follows:

§ 172.504 General placarding requirements.

(a) *General.* Except as otherwise provided in this subchapter, each bulk packaging, freight container, unit load device, motor vehicle or rail car containing any quantity of a hazardous material must be placarded on each side and each end with the type of placards specified in Tables 1 and 2 of this section and in accordance with other placarding requirements of this subpart, including the specifications for the placards named in the tables and described in detail in §§ 172.519 through 172.558.

(b) *DANGEROUS placard.* A freight container, unit load device, motor vehicle or rail car which contains non-bulk packagings with two or more categories of hazardous materials that require different placards specified in Table 2 may be placarded with DANGEROUS placards instead of the separate placarding specified for each of the materials in Table 2. However, when 5,000 pounds (2,267.9 Kg) or more of one category of material is loaded therein at one loading facility, the placard specified in Table 2 for that category must be applied.

(c) *Exception for less than 1,000 pounds.* For non-bulk packagings, when the gross weight of all hazardous materials covered by Table 2 is less than 1,000 pounds (453.6 Kg), no placard is required on a freight container, unit load device, motor vehicle, or rail car for the Table 2 materials. This paragraph does not apply to transportation by aircraft or vessel, or to transport vehicles, freight containers and unit load devices subject to § 172.505.

(d) *Exception for empty non-bulk packages.* A non-bulk packaging that contains only the residue of a hazardous material covered by Table 2 of paragraph (e) of this section need not be included in determining placarding requirements.

(e) *Placarding tables.* Placards are specified for hazardous materials in accordance with the following tables:

TABLE 1

Category of material (Hazard class or division number and additional description, as appropriate)	Placard name	Placard design section reference (§)
1.1	EXPLOSIVES 1.1	172.522
1.2	EXPLOSIVES 1.2	172.522
2.3 (poisonous gas)	POISON GAS	172.540
4.3	DANGEROUS WHEN WET.	172.548
6.1 (PG I inhalation hazard only).	POISON	172.554
7 (Radioactive Yellow III label only).	RADIOACTIVE	172.556

TABLE 2

Category of material (Hazard class or division number and additional description, as appropriate)	Placard name	Placard design section reference (§)
1.3	EXPLOSIVES 1.3	172.522
1.4	EXPLOSIVES 1.4	172.523
1.5	EXPLOSIVES 1.5	172.524
2.1 (flammable gas)	FLAMMABLE GAS	172.532
2.2 (nonflammable gas)	NON-FLAMMABLE GAS.	172.528
3 (flammable liquid)	FLAMMABLE	172.542
3 (combustible liquid)	COMBUSTIBLE	172.544
4.1	FLAMMABLE SOLID	172.546
4.2	SPONTANEOUSLY COMBUSTIBLE.	172.547
5.1	OXIDIZER	172.550
5.2	ORGANIC PEROXIDE	172.552
6.1 (PG I or II, other than PG I inhalation hazard).	POISON	172.554
6.1 (PG III)	KEEP AWAY FROM FOOD.	172.553
6.2	(none)	
7 (Radioactive White-I or Yellow-II label).	(none)	
7 (Radioactive Yellow-III label).	RADIOACTIVE	172.556
8	CORROSIVE	172.558
9	(none)	
ORM-D	(none)	
ORM-E	(none)	

(f) *Additional placarding exceptions.*

(1) An EXPLOSIVES 1.2 placard is not required for Division 1.2 explosives on a motor vehicle, rail car, freight container or unit load device which contains Division 1.1 explosives, and is placarded with EXPLOSIVES 1.1 placards, as required.

(2) A FLAMMABLE placard may be used in place of a COMBUSTIBLE placard on a cargo tank, a portable tank or a compartmented tank car which contains both flammable and combustible liquids.

(3) A NON-FLAMMABLE GAS placard is not required on a motor vehicle which contains non-flammable gas if the motor vehicle also contains flammable gas and it is placarded with FLAMMABLE GAS placards, as required.

(4) An EXPLOSIVES 1.4, 1.5 or OXIDIZER placard is not required for Division 1.4, 1.5 or 5.1 materials on a freight container, unit load device, motor vehicle or rail car which also contains Division 1.1 or 1.2 explosives and is placarded with EXPLOSIVES 1.1 or 1.2 placards, as required.

(5) For transportation by motor vehicle or rail car only, an OXIDIZER placard is not required for Division 5.1 materials on a motor vehicle, rail car or freight container which also contains Division 1.5 explosives and is placarded with EXPLOSIVES 1.5 placards, as required.

Section 172.505 would be revised to read as follows:

§ 172.505 Multiple placarding.

(a) Each transport vehicle, portable tank, freight container or unit load device that contains a poisonous material subject to the "Poison-Inhalation Hazard" shipping description of § 172.203(k)(4) shall be placarded with POISON or POISON GAS placards, as appropriate, on each side and each end, in addition to the placards required by § 172.504. This requirement does not apply to non-bulk packages having primary receptacles of one liter (1.06 quarts) or less. Duplication of the POISON or POISON GAS placard is not required.

(b) Each transport vehicle, portable tank or freight container that contains 1000 pounds (453.6 kg) or more gross weight of fissile or low specific activity uranium hexafluoride shall be placarded with RADIOACTIVE and CORROSIVE placards on each side and each end.

(c) Each transport vehicle, portable tank, freight container or unit load device that contains a material which has a subsidiary hazard of being dangerous when wet, as defined in § 173.124, shall be placarded with DANGEROUS WHEN WET placards, on each side and each end, in addition to the placards required by § 172.504.

§ 172.508 [Amended]

In paragraph (a) of § 172.508, the phrase "§§ 172.502 and 172.504 as these sections pertain to placarding the rail car" would be revised to read "this subpart."

In § 172.510 paragraph (b) would be removed and reserved, and paragraph (a) would be revised to read as follows:

§ 172.510 Special placarding provisions: Rail.

(a) *Square background required.* Each EXPLOSIVES 1.1, EXPLOSIVES 1.2, POISON GAS and POISON GAS—RESIDUE placard affixed to a rail car must be placed on a square background as described in § 172.527.

(b) [Reserved]

* * * * *

§ 172.512 [Amended]

In § 172.512 the following changes would be made:

1. In paragraph (a)(1), the section reference "§ 172.504(c)(1)" would be revised to read "§ 172.504(c)".

2. In paragraph (a)(2), the phrase "paragraphs (c)(1) and (c)(2)" would be revised to read "paragraph (c)".

3. In paragraphs (b)(1) and (b)(2), the section references "§ 172.406(e)(3)" and "§ 172.406(e)", respectively, would be revised to read "Subpart E of this part, including § 172.406(e)."

Section 172.514 would be revised to read as follows:

§ 172.514 Bulk packagings other than tank cars.

(a) Each person who offers for transportation a bulk packaging, other than a tank car, which contains a hazardous material shall affix the placards specified for the material in §§ 172.504 and 172.505. However, a portable tank having a capacity of less than 1,000 gallons (3,785.4 liters)—

(1) May be placarded on only two opposite sides; or

(2) May be labeled instead of placarded, in accordance with Subpart E of this part.

(b) Each bulk packaging, other than a tank car, that is required to be placarded when it contains a hazardous material, must remain placarded when it is emptied, unless it is—

(1) Sufficiently cleaned of residue and purged of vapors to remove any potential hazard; or

(2) Refilled, with a material requiring different placards or no placards, to such an extent that any residue remaining in the packaging is no longer hazardous.

In § 172.516, the introductory text of paragraph (c) would be revised and paragraph (c)(7) would be added to read as follows:

§ 172.516 Visibility and display of placards.

* * * * *

(c) Each placard on a transport vehicle, bulk packaging, freight container or aircraft unit load device must—

* * * * *

(7) Be affixed to a background of contrasting color, or must have a dotted or solid line outer border which contrasts with the background color.

* * * * *

Section 172.519 would be revised to read as follows:

§ 172.519 General specifications for placards.

(a) *Strength and durability.* Placards must conform to the following:

(1) A placard may be made of any plastic, metal or other material capable of withstanding, without deterioration or a substantial reduction in effectiveness, a 30-day exposure to open weather conditions.

(2) Each placard must be able to pass a 60 p.s.i. Mullen test.

(3) A placard made of tagboard must be at least equal to that designated commercially as white tagboard. Tagboard must have a weight of at least 200 pounds (90.7 kg) per ream of 24 by 36-inch (61.0 by 91.4 cm) sheets.

(4) Reflective or retroreflective materials may be used on a placard if the prescribed colors, strength and durability are maintained.

(b) *Design.* (1) Except as provided in § 172.332, each placard must be as described in this subpart, and except for size and color, the printing, inner border and symbol must be as shown in §§ 172.521 through 172.558, as appropriate.

(2) The dotted line border shown on each placard is not part of the placard specification. However, a dotted or solid line outer border may be used when needed to indicate the full size of a placard that is part of a larger format or is on a background of a non-contrasting color.

(3) For Classes 2, 3, 4, 5, 6 or 8, text indicating a hazard (for example, "FLAMMABLE") is not required.

(4) For a placard corresponding to the primary hazard class of a material, the hazard class or division number must be displayed in the lower corner of the placard. However, no hazard class or division number may be displayed on a placard corresponding to a subsidiary hazard of the material.

(c) *Size.* (1) Each placard prescribed in this subpart must measure 273mm (10.75 inches) on each side and must have a solid line inner border 12.7mm (0.5 inches) from each edge.

(2) Except as otherwise provided in this subpart, the hazard class or division number, as appropriate, must be shown in numerals measuring at least 41.0mm (1.62 inches) in height.

(3) Except as otherwise provided in this subpart, when text indicating a hazard is displayed on a placard, the printing must be in letters measuring at least 45.0mm (1.77 inches) in height.

(d) *Color.* (1) The background color, symbol, text, numerals and inner border on a placard must be as specified in §§ 172.521 through 172.558, as appropriate.

(2) Black and any color on a placard must be able to withstand, without substantial change—

(i) A 72-hour fadeometer test (for a description of equipment designed for this purpose, see ASTM G 23–69 (1975) or ASTM G 26–70); and

(ii) A 30-day exposure to open weather.

(3) Upon visual examination, a color on a placard must fall within the color tolerances displayed on the appropriate Office of Hazardous Materials Label and Placard Color Tolerance Chart (see § 172.407(d)(4)).

(4) The placard color must extend to the inner border and may extend to the edge of the placard in the area designated on each placard except the color on the CORROSIVE and RADIOACTIVE placards (black and yellow, respectively) must extend only to the inner border.

(e) *Form identification.* A placard may contain form identification information, including the name of its maker, provided that information is printed outside of the solid line inner border in no larger than 10-point type.

(f) *Exceptions.* A placard conforming to specifications in the UN Recommendations or the TDG Regulations may be used in place of a corresponding placard which conforms to the requirements of this subpart.

Section 172.522 would be revised to read as follows:

§ 172.522 EXPLOSIVES 1.1, EXPLOSIVES 1.2 and EXPLOSIVES 1.3 placards.

(a) Except for size and color, the EXPLOSIVES 1.1, EXPLOSIVES 1.2 and EXPLOSIVES 1.3 placards must be as follows:

(b) In addition to complying with § 172.519, the background color on the EXPLOSIVES 1.1, EXPLOSIVES 1.2 and EXPLOSIVES 1.3 placards must be orange. The "*" shall be replaced with the appropriate division number. The symbol, text, numerals and inner border must be black.

Section 172.523 would be revised to read as follows:

§ 172.523 EXPLOSIVES 1.4 placard.

(a) Except for size and color, the EXPLOSIVES 1.4 placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the EXPLOSIVES 1.4 placard must be orange. The division numeral, 1.4, must measure at least 63.5mm (2.5 inches) in height. The text, numerals and inner border must be black.

Section 172.524 would be revised to read as follows:

§ 172.524 EXPLOSIVES 1.5 placard.

(a) Except for size and color, the EXPLOSIVES 1.5 placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the EXPLOSIVES 1.5 placard must be orange. The division numeral, 1.5, must measure at least 63.5mm (2.5 inches) in height. The text, numerals and inner border must be black.

Section 172.528 would be revised to read as follows:

§ 172.528 NON-FLAMMABLE GAS placard.

(a) Except for size and color, the NON-FLAMMABLE GAS placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the NON–FLAMMABLE GAS placard must be green. The letters in both words must be at least 38.1mm (1.5 inches) high. The symbol, text, class number and inner border must be white.

§ 172.530 [Removed]

Section 172.530 would be removed.

Section 172.532 would be revised to read as follows:

§ 172.532 FLAMMABLE GAS placard.

(a) Except for size and color, the FLAMMABLE GAS placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the FLAMMABLE GAS placard must be red. The symbol, text, class number and inner border must be white.

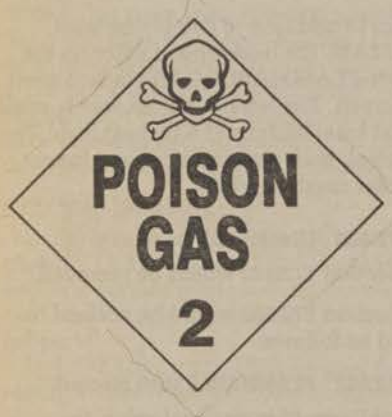
§ 172.536 [Removed]

Section 172.536 would be removed.

Section 172.540 would be revised to read as follows:

§ 172.540 POISON GAS placard.

(a) Except for size and color, the POISON GAS placard must be as follows:



(b) In addition to complying with § 172.519, the background color on the POISON GAS placard must be white. The symbol, text, class number and inner border must be black.

Section 172.542 would be revised to read as follows:

§ 172.542 FLAMMABLE placard.

(a) Except for size and color, the FLAMMABLE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the FLAMMABLE placard must be red. The symbol, text, class number and inner border must be white.

(c) The word "GASOLINE" may be used in place of the word "FLAMMABLE" on a placard that is displayed on a cargo tank or a portable tank being used to transport gasoline by highway. The word "GASOLINE" must be shown in white.

Section 172.544 would be revised to read as follows:

§ 172.544 COMBUSTIBLE placard.

(a) Except for size and color, the COMBUSTIBLE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the COMBUSTIBLE placard must be red. The symbol, text, class number and inner border must be white. On a COMBUSTIBLE placard with a white bottom as prescribed by § 172.332(c)(4), the class number must be red or black.

(c) The words "FUEL OIL" may be used in place of the word "COMBUSTIBLE" on a placard that is displayed on a cargo tank or portable tank being used to transport by highway fuel oil that is not classed as a flammable liquid. The words "FUEL OIL" must be shown in white.

Section 172.546 would be revised to read as follows:

§ 172.546 FLAMMABLE SOLID placard.

(a) Except for size and color, the FLAMMABLE SOLID placard must be as follows:

(b) In addition to complying with § 172.519, the background on the FLAMMABLE SOLID placard must be white with seven vertical red stripes. The stripes must be equally spaced, with one red stripe placed in the center of the label. Each red stripe and each white space between two red stripes must be 25.4mm (1.0 inches) wide. The letters in the word "SOLID" must be at least 38.1mm (1.5 inches) high. The symbol, text, class number and inner border must be black.

A new § 172.547 would be added to read as follows:

§ 172.547 SPONTANEOUSLY COMBUSTIBLE placard.

(a) Except for size and color, the SPONTANEOUSLY COMBUSTIBLE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the SPONTANEOUSLY COMBUSTIBLE placard must be red in the lower half and white in upper half. The letters in the word "SPONTANEOUSLY" must be at least 33mm (1.3 inches) high. The symbol, text, class number and inner border must be black.

Section 172.548 would be revised to read as follows:

§ 172.548 DANGEROUS WHEN WET placard.

(a) Except for size and color, the DANGEROUS WHEN WET placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the DANGEROUS WHEN WET placard must be blue. The letters in the words "WHEN WET" must be at least 25.4mm (1.0 inches) high. The symbol, text, class number and inner border must be white.

Section 172.550 would be revised to read as follows:

§ 172.550 OXIDIZER placard.

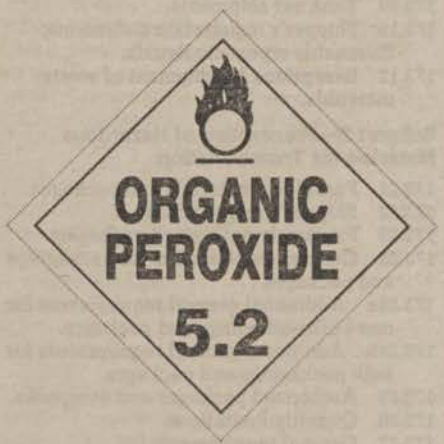
(a) Except for size and color, the OXIDIZER placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the OXIDIZER placard must be yellow. The symbol, text, division number and inner border must be black.

Section 172.552 would be revised to read as follows:

§ 172.552 ORGANIC PEROXIDE placard.

(a) Except for size and color, the ORGANIC PEROXIDE placard must be as follows:



(b) In addition to complying with § 172.519, the background color on the ORGANIC PEROXIDE placard must be yellow. The symbol, text, division number and inner border must be black.

A new § 172.553 would be added to read as follows:

§ 172.553 KEEP AWAY FROM FOOD placard.

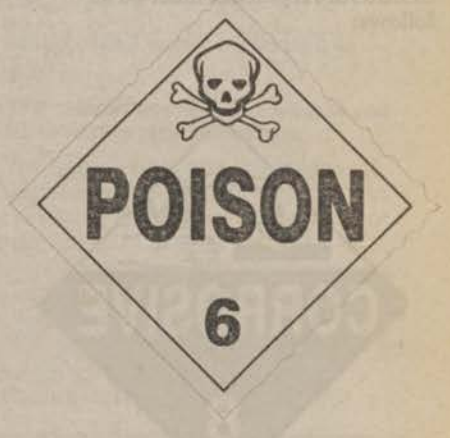
(a) Except for size and color, the KEEP AWAY FROM FOOD placard must be as follows:

(b) In addition to complying with § 172.519, the background on the KEEP AWAY FROM FOOD placard must be white. The size of the lettering below the word "HARMFUL" must be proportional to that shown. The symbol, text, class number and inner border must be black.

Section 172.554 would be revised to read as follows:

§ 172.554 POISON placard.

(a) Except for size and color, the POISON placard must be as follows:



(b) In addition to complying with § 172.519, the background on the POISON placard must be white. The symbol, text, class number and inner border must be black.

Section 172.556 would be revised to read as follows:

§ 172.556 RADIOACTIVE placard.

(a) Except for size and color, the RADIOACTIVE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the RADIOACTIVE placard must be white in the lower portion with a yellow triangle in the upper portion. The base of the yellow triangle must be 28.6mm ±5mm (1.13 inches ±0.20 inches) above the placard horizontal center line. The symbol, text, class number and inner border must be black.

Section 172.558 would be revised to read as follows:

§ 172.558 CORROSIVE placard.

(a) Except for size and color, the CORROSIVE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the CORROSIVE placard must be black in the lower portion with a white triangle in the upper portion. The base of the white triangle must be 38.1 mm±5 mm (1.5 inches) above the placard horizontal center line. The text and class number must be white. The symbol and inner border must be black.

Appendix B—[Reserved]

Appendix B to Part 172 would be removed and reserved.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

The authority citation for Part 173 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

With the exception of Subparts C and I, the table of contents for Part 173 would be revised as follows:

Subpart A—General

Sec.

173.1 Purpose and scope.
173.2 Hazardous materials classes and index to hazard class definitions.
173.2a Classification of a material having more than one hazard.
173.3 Packaging and exceptions.
173.3a Poisonous liquids which are toxic by inhalation.
173.4 Exceptions for small quantities.
173.5 Agricultural operations.
173.7 U.S. Government material.
173.9 Cars, truck bodies or trailers containing lading which has been fumigated or treated with Class 3 Divisions 2.1 or 2.3, or Division 6.1 materials.
173.10 Tank car shipments.
173.11 Shipper's registration statements; flammable cryogenic liquids.
173.12 Exceptions for shipment of waste materials.

Subpart B—Preparation of Hazardous Materials for Transportation

173.21 Forbidden materials and packages.
173.22 Shipper's responsibility.
173.23 Previously authorized packaging.
173.24 General requirements for packagings and packages.
173.24a Additional general requirements for non-bulk packagings and packages.
173.24b Additional general requirements for bulk packagings and packages.
173.25 Authorized packages and overpacks.
173.26 Quantity limitations.
173.27 General requirements for transportation by aircraft.
173.28 Reuse, reconditioning and remanufacture of packagings.
173.29 Empty packagings.
173.30 Loading and unloading of transport vehicles.
173.31 Qualification, maintenance, and use of tank cars.
173.32 Qualification, maintenance and use of portable tanks.
173.32a Approval of Specification IM portable tanks.
173.32b Periodic testing and inspection of Specification IM portable tanks.
173.32c Use of Specification IM portable tanks.
173.33 Qualification, maintenance and use of cargo tanks.
173.34 Qualification, maintenance and use of cylinders.
173.40 General packaging requirements for poisonous materials required to be packaged in cylinders.

* * * * *

Subpart D—Definitions, Classification, Packing Group Assignments and Exceptions for Hazardous Materials Other Than Class I and Class 7

173.115 Class 2, Divisions 2.1, 2.2, and 2.3—Definitions.
173.116 Class 2—Assignment of Packing Group.
173.120 Class 3—Definitions.
173.121 Class 3—Assignment of Packing Group.
173.124 Class 4, Divisions 4.1, 4.2 and 4.3—Definitions.
173.125 Class 4—Assignment of Packing Group.
173.128 Class 5, Divisions 5.1 and 5.2—Definitions.
173.129 Class 5—Assignment of Packing Group.
173.132 Class 6, Division 6.1—Definitions.
173.133 Division 6.1—Assignment of Packing Group.
173.134 Class 6, Division 6,2—Definition.
173.136 Class 8—Definitions.
173.137 Class 8—Assignment of Packing Group.
173.140 Class 9—Definitions.
173.141 Class 9—Assignment of Packing Group.
173.144 Other Regulated Materials (ORM)—Definitions.
173.145 Other Regulated Materials—Assignment of Packing Group.
173.150 Exceptions for Class 3 (flammable and combustible liquids).
173.151 Exceptions for Division 4.1 (flammable solids).
173.152 Exceptions for Division 5.1 (oxidizers) and Division 5.2 (organic peroxides).
173.153 Exceptions for Division 6.1 (poisonous materials).
173.154 Exceptions for Class 8 (corrosive materials).
173.155 Exceptions for Class 9 (miscellaneous hazardous materials).
173.156 Exceptions for ORM materials.

Subpart E—Non-bulk Packaging for Hazardous Materials Other Than Class 1 and Class 7

173.158 Nitric acid.
173.159 Batteries, wet.
173.160 Bombs, smoke, non-explosive (corrosive).
173.161 Chemical kits.
173.162 Gallium.
173.163 Hydrogen fluoride.
173.164 Mercury (metallic and articles containing mercury).
173.171 Smokeless powder for small arms.
173.172 Aircraft hydraulic power unit fuel tank.
173.173 Paint, paint-related material, adhesives and ink.
173.174 Refrigerating machines.
173.180 Aircraft thrust devices.
173.181 Pyrophoric materials (liquids).

173.182 Barium azide—50 percent or more water wet.
173.183 Nitrocellulose base film.
173.184 Highway or rail fusee.
173.185 Lithium batteries and cells.
173.186 Matches.
173.187 Pyrophoric solids, metals or alloys, n.o.s.
173.188 White or yellow phosphorus.
173.192 Packaging for certain Packing Group I poisonous materials.
173.193 Bromoacetone, methyl bromide, chloropicrin and methyl bromide or methyl chloride mixtures, etc.
173.194 Gas identification sets.
173.195 Hydrocyanic acid, liquid (prussic acid) and hydrocyanic acid liquefied.
173.196 Infectious substances (etiologic agents).
173.198 Nickel carbonyl.
173.201 Non-bulk packagings for liquid hazardous materials in Packing Group I.
173.202 Non-bulk packagings for liquid hazardous materials in Packing Group II.
173.203 Non-bulk packagings for liquid hazardous materials in Packing Group III.
173.204 Non-bulk, non-specification packagings for certain hazardous materials.
173.205 Specification cylinders for liquid hazardous materials.
173.211 Non-bulk packagings for solid hazardous materials in Packing Group I.
173.212 Non-bulk packagings for solid hazardous materials in Packing Group II.
173.213 Non-bulk packagings for solid hazardous materials in Packing Group III.
173.214 Packagings which require approval by the Director, OHMT.
173.216 Asbestos, blue or white.
173.217 Carbon dioxide, solid (dry ice).
173.218 Fish meal or fish scrap.
173.219 Life rafts, aircraft survival kits, etc.
173.220 Internal combustion engines, self-propelled vehicles, and mechanical equipment containing internal combustion engines or wet batteries.
173.221 Polystyrene beads, expandable.
173.222 Wheelchairs equipped with wet electric storage batteries.
173.225 Packagings for organic peroxides.
173.226 Liquids toxic by inhalation, Division 6.1, Packing Group I, Zone A.
173.227 Liquids toxic by inhalation, Division 6.1, Packing Group I, Zone B.
173.228 Bromine pentafluoride or bromine trifluoride.
173.229 Chloric acid solution or chlorine dioxide hydrate, frozen.
173.230 Non-bulk packagings for ORM–D materials.

Subpart F—Bulk Packaging for Hazardous Materials Other Than Classes 1 and 7

173.240 Bulk packaging for certain flammable solids (Division 4.1), solid oxidizers (Division 5.1), corrosive solids (Class 8) and other similar low hazard materials.
173.241 Bulk packaging for certain combustible liquids (Class 3), flammable solids (Divisions 4.2 and 4.3), and other similar hazardous materials.
173.242 Bulk packaging for certain medium hazard liquids and solids, including solids with dual hazards.
173.243 Bulk packaging for certain high hazard liquids and dual hazard liquids which pose a moderate hazard.
173.244 Bulk packaging for certain pyrophoric liquids (Division 4.2), poisonous liquids with inhalation hazards (Division 6.1) and gases (Class 2).
173.245 Bulk packaging for extremely hazardous materials such as poisonous gases (Division 2.3).
173.248 Ethylene oxide.
173.249 Bromine.

Subpart G—Gases; Preparation and Packaging

173.300a Approval of independent inspection agency.
173.300b Approval of non-domestic chemical analyses and tests.
173.300c Termination of approval.
173.301 General requirements for shipment of compressed gases in cylinders.
173.302 Charging of cylinders with non-liquefied compressed gases.
173.303 Charging of cylinders with compressed gas in solution (acetylene).
173.304 Charging of cylinders with liquefied compressed gas.
173.305 Charging of cylinders with a mixture of compressed gas and other material.
173.306 Limited quantities of compressed gases.
173.307 Exceptions for compressed gases.
173.308 Cigarette lighter or other similar device charged with fuel.
173.314 Requirements for compressed gases in tank cars.
173.315 Compressed gases in cargo tanks and portable tanks.
173.316 Cryogenic liquids in cylinders.
173.318 Cryogenic liquids in cargo tanks.
173.319 Cryogenic liquids in tank cars.
173.320 Cryogenic liquids; exceptions.
173.321 Ethylamine.
173.322 Ethyl chloride.
173.323 Ethylene oxide.
173.324 Ethyl methyl ether.
173.334 Organic phosphates mixed with compressed gas.
173.335 Gas generator assemblies.
173.336 Nitrogen dioxide, liquid; nitrogen peroxide liquid, and nitrogen tetroxide, liquid.
173.337 Nitric oxide.
173.338 Tungsten hexafluoride.
173.340 Tear gas devices.

Subpart H—[Reserved]

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Subparts J, K, L, M, N, O—[Reserved]

Appendix A—Method of testing Corrosion to Skin

Appendix B—Procedure for Testing Chemical Compatibility and Rate of Permeation in Polyethylene Packagings and Receptacles

Appendix C—Procedure for Base Level Vibration Testing

Subpart A—General

In § 173.1, paragraph (d) would be added as follows:

§ 173.1 Purpose and scope.

* * * * *

(d) In general, the Hazardous Materials Regulations (HMR) contained in this subchapter are based on the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods and are consistent with international regulations issued by the International Civil Aviation Organization and the International Maritime Organization. However, the HMR are not consistent in all respects with the UN Recommendations, the ICAO Technical Instructions or the IMDG Code, and compliance with the HMR will not guarantee acceptance by regulatory bodies outside of the United States.

Section 173.2 would be revised as follows:

§ 173.2 Hazardous materials classes and index to hazard class definitions.

The hazard class of a hazardous material is indicated either by its class (or division) number, its class name, or by the letters "ORM–D" or "ORM–E". The following table lists class numbers, division numbers, class or division names and those sections of this subchapter which contain definitions for classifying hazardous materials, including forbidden materials.

Class No.	Division No. (if any)	Name of class or division	49 CFR reference for definitions
None		Forbidden materials	173.21
None		Forbidden explosives	173.53
1	1.1	Explosives (with a mass explosion hazard)	173.50
1	1.2	Explosives (with a projection hazard)	173.50
1	1.3	Explosives (with predominately a fire hazard)	173.50
1	1.4	Explosives (with no significant blast hazard)	173.50
1	1.5	Very Insensitive explosives; blasting agents	173.50
2	2.1	Flammable gas	173.115
2	2.2	Non-flammable compressed gas	173.115
2	2.3	Poisonous gas	173.115
3		Flammable and combustible liquids	173.120
4	4.1	Flammable solids	173.124
4	4.2	Spontaneously combustible materials	173.124
4	4.3	Dangerous when wet materials	173.124
5	5.1	Oxidizers	173.128
5	5.2	Organic peroxides	173.128
6	6.1	Poisonous materials	173.132
6	6.1	Irritating materials	173.381

Class No.	Division No. (if any)	Name of class or division	49 CFR reference for definitions
6	6.2	Etiologic or infectious substances	173.134
7		Radioactive materials	173.403
8		Corrosive materials	173.136
9		Miscellaneous hazardous materials	173.140
None		Other regulated materials: ORM-D and ORM-E	173.144

Section 173.2a would be added to read as follows:

§ 173.2a Classification of a material having more than one hazard.

(a) *Materials not subject to precedence of hazard ranking.* (1) A material with more than one hazard which is specifically identified and classed in the § 172.101 Table is not subject to the precedence of hazard ranking of this section, (unless that material does not pose the hazard of the class assigned in the § 172.101 Table, and is not preceded, in Column 1 of the Table, with a "+" symbol.)

(2) *Class 1.* An explosive shall be classed and approved in accordance with Subpart C of this part.

(3) *Division 5.2.* A material meeting the definition in § 173.128 for organic peroxide shall be classed in Division 5.2.

(4) *Division 6.2.* A material meeting the definition in § 173.134 for etiologic agent shall be classed in Division 6.2.

(5) *Class 7-limited quantities.* A limited quantity radioactive material that meets the definitions for more than one hazard class shall be classed in accordance with § 173.421–2.

(b) *Precedence of hazard.* Except as otherwise provided in this section, a material meeting the definitions for more than one hazard class as defined in this part shall be classed according to the highest applicable hazard class of the following hazard classes, which are listed in descending order of hazard:

(1) Class 7 (radioactive materials, except limited quantities).

(2) Division 2.3 (poisonous gases).

(3) Division 2.1 (flammable gases).

(4) Division 2.2 (nonflammable gases).

(5) Class 3 (flammable liquids and combustible liquids) or 8 (corrosive materials) or Division 4.1 (flammable solids), 4.2 (spontaneously combustible materials), 4.3 (dangerous when wet materials), 5.1 (oxidizers) or 6.1 (poisonous liquids or solids). Materials meeting more than one of these hazards shall be assigned a hazard class in accordance with paragraph (c) of this section.

(6) Class 9 (miscellaneous hazardous materials).

(7) ORM–E (hazardous wastes and hazardous substances).

(c) *Precedence of hazard table.* A material meeting the definitions for more than one hazard class for Classes 3 and 8 and Divisions 4.1, 4.2, 4.3, 5.1 and 6.1 shall be assigned a hazard class based on the following table:

PRECEDENCE OF HAZARD TABLE

[Hazard class and packing group]

Hazard Class and packing group	4.2*	4.3*	5.1* I	5.1* II	5.1* III	6.1 I(i)	6.1 I(d)	6.1 I(o)	6.1 II	6.1 III	8 I(l)	8 I(s)	8 II(l)	8 II(s)	8 III(l)	8 III (s)
3 I			3	3	3	6.1	3	3	3	3	8	(1)	3	(1)	3	(1)
3 II			3	3	3	6.1	3	3	3	3	8	(1)	3	(1)	3	(1)
3 III			3	3	3	6.1	6.1	6.1	6.1	3	8	(1)	8	(1)	3	(1)
4.1 I*	4.2	4.3	4.1	4.1	4.1	6.1	6.1	4.1	4.1	4.1	(1)	4.1	(1)	4.1	(1)	4.1
4.1 II*	4.2	4.3	4.1	4.1	4.1	6.1	6.1	6.1	4.1	4.1	(1)	4.1	(1)	4.1	(1)	4.1
4.1 III*	4.2	4.3	4.1	4.1	4.1	6.1	6.1	6.1	6.1	4.1	(1)	8	(1)	8	(1)	4.1
4.2 I*		4.2	4.2	4.2	4.2	6.1	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2
4.2 II*		4.2	4.2	4.2	4.2	6.1	6.1	4.2	4.2	4.2	4.2	8	4.2	4.2	4.2	4.2
4.2 III*		4.3	5.1	5.1	4.2	6.1	6.1	6.1	6.1	4.2	8	8	8	8	4.2	4.2
4.3 I*			5.1	4.3	4.3	6.1	6.1	4.3	4.3	4.3	4.3	4.3	4.3	4.3	4.3	4.3
4.3 II*			5.1	4.3	4.3	6.1	6.1	4.3	4.3	4.3	8	8	4.3	4.3	4.3	4.3
4.3 III*			5.1	5.1	4.3	6.1	6.1	6.1	6.1	4.3	8	8	8	8	4.3	4.3
5.1 I*						6.1	6.1	5.1	5.1	5.1	5.1	5.1	5.1	5.1	5.1	5.1
5.1 II*						6.1	6.1	5.1	5.1	5.1	8	8	5.1	5.1	5.1	5.1
5.1 III*						6.1	6.1	6.1	6.1	5.1	8	8	8	8	5.1	5.1
6.1 I(i)											6.1	6.1	6.1	6.1	6.1	6.1
6.1 I(d)											8	6.1	6.1	6.1	6.1	6.1
6.1 I(o)											8	6.1	6.1	6.1	6.1	6.1
6.1 II(i)											8	6.1	6.1	6.1	6.1	6.1
6.1 II(d)											8	6.1	8	6.1	6.1	6.1
6.1 II(o)											8	8	8	6.1	6.1	6.1
6.1 III											8	8	8	8	8	8

(i) Inhalation Toxicity.
(d) Dermal Toxicity.
(o) Oral Toxicity.
(l) Liquid.
(s) Solid.

*There are no established criteria for determining packing groups within Divisions 4.1, 4.2, 4.3 and 5.1. Degree of hazard for these materials should be assessed by analogy with similar materials identified in the § 172.101 Table, allocating the materials to Packing Group I (high hazard), Packing Group II (medium hazard) or Packing Group III (low hazard).

[1] An impossible combination.

Section 173.3 would be revised to read as follows:

§ 173.3 Packaging and exceptions.

(a) The packaging of hazardous materials for transportation by air, highway, rail, or water must be as specified in this part. Methods of manufacture, packing, and storage of hazardous materials, that affect safety in transportation, must be open to inspection by a duly authorized representative of the initial carrier or of the Department. Methods of manufacture and related functions necessary for completion of a DOT specification or UN standard packaging must be open to inspection by a representative of the Department.

(b) The regulations setting forth packaging requirements for a specific material apply to all modes of transportation unless otherwise stated, or unless exceptions from packaging requirements are authorized.

(c) *Salvage drums.* Packages of hazardous materials that are damaged or found leaking and hazardous materials that have spilled or leaked may be placed in a metal or plastic removable head salvage drum that is compatible with the lading and shipped for repackaging or disposal under the following conditions:

(1) The drum must be a UN 1A2, 1B2, 1N2 or 1H2 drum marked for the performance standard commensurate with the packing group of the material it is to contain. Maximum capacity of the drum may not exceed 450 liters (118.88 gallons).

(2) Each drum shall be provided when necessary with sufficient cushioning and absorption material to prevent excessive movement of the damaged package and to absorb all free liquid. All cushioning and absorbent material used in the drum must be compatible with the hazardous material.

(3) Each drum shall be marked with the proper shipping name of the material inside the defective packaging and the name and address of the consignee. In addition, the drum shall be marked "Salvage Drum".

(4) Each drum shall be labeled as prescribed for the respective material.

(5) The shipper shall prepare shipping papers in accordance with Subpart C of Part 172 of this subchapter.

(6) The overpack requirement of § 173.25 does not apply to drums used in accordance with this paragraph.

Section 173.3a would be revised to read as follows:

§ 173.3a Poisonous liquids which are toxic by inhalation.

Notwithstanding the requirements of Part 172 and Part 173 of this subchapter, any hazardous material that meets the definition of Class 6, Division 6.1, Packing Group I, for inhalation toxicity (See §§ 173.132 and 173.133) shall be packaged in non-bulk packagings in accordance with § 173.226 or § 173.227, as appropriate, or in bulk packagings in accordance with § 173.244 and shall be described on shipping papers, marked, labeled, and placarded in accordance with §§ 172.203(k)(4), 172.313(a), 172.402(a)(5) and 172.505(a), of this subchapter respectively.

Section 173.4 would be revised to read as follows:

§ 173.4 Exceptions for small quantities.

(a) Small quantities of Class 3, Division 4.1, Division 5.1, Division 5.2, Class 8, and Division 6.1 materials, and Class 7 materials that also meet the definition of one or more of these hazard classes, are not subject to any other requirements of this subchapter if:

(1) The maximum quantity of material per inner receptacle is limited to:

(i) Thirty (30) milliliters for authorized liquids, other than Division 6.1, Packing Group I, materials;

(ii) Thirty (30) grams for authorized solids, other than Division 6.1, Packing Group I, materials;

(iii) One (1) gram for authorized materials classed as Division 6.1, Packing Group I; and

(iv) An activity level not exceeding that specified in §§ 173.421, 173.422 or 173.424, as appropriate, for a package containing a Class 7 material.

(2) With the exception of temperature sensing devices, each inner receptacle:

(i) Is not liquid-full at 55 °C (131 °F), and

(ii) Is constructed of plastic having a minimum thickness of no less than 0.008-inch (0.2 millimeters), or earthenware, glass, or metal;

(3) Each inner receptacle with a removable closure has its closure held securely in place with wire, tape, or other positive means;

(4) Unless equivalent cushioning and absorbent material surrounds the inside packaging, each inner receptacle is securely packed in an inside packaging with cushioning and absorbent material that:

(i) Will not react chemically with the material, and

(ii) Is capable of absorbing the entire contents (if a liquid) of the receptacle;

(5) The inside packaging is securely packed in a strong outside packaging;

(6) The completed package, as demonstrated by prototype testing, is capable of sustaining—

(i) Each of the following free drops made from a height of 1.8 meters (5.91 feet) directly onto a solid unyielding surface without breakage or leakage from any inner receptacle and without a substantial reduction in the effectiveness of the package:

(A) One drop flat on bottom;

(B) One drop flat on top;

(C) One drop flat on the long side;

(D) One drop flat on the short side; and

(E) One drop on a corner at the junction of three intersecting edges; and

(ii) A compressive load in pounds, determined by multiplying by two the maximum horizontal cross section of the package (in square inches) in the position in which it would normally be transported, without a substantial reduction in effectiveness; the load shall be applied continuously during a period of 24 hours, uniformly against the top and bottom of the package which is in the position in which it is intended to be normally transported.

Note.—Each of the above tests may be performed on a different, but identical, package; i.e., all tests need not be performed on the same package.

(7) Placement of the material in the package or packing different materials in the package does not result in a violation of § 173.21;

(8) The gross weight of the completed package does not exceed 65 pounds (29.5 kg);

(9) The shipper certifies conformance with this section by marking the outside of the package with the statement: "This package conforms to conditions and limitations specified in 49 CFR 173.4";

(10) The package is not opened or otherwise altered until it is no longer in commerce; and

(11) The package, unless specifically approved by the Director, OHMT, does not contain a material assigned any of the following identification numbers associated with the hazardous materials description in the § 172.101 Table:

1092, 1131, 1259, 1380, 1397, 1419, 1422, 1432, 1433, 1491, 1504, 1749, 1798, 1831, 1873, 2031, 2032, 2495, 2626, 2813, 2845, 2924, 2925, 9191, 9193

(b) A package containing a Class 7 material also must conform with the requirements of § 173.421 (a) through (e), or § 173.422 (a) through (f), as appropriate. After May 2, 1987, a package containing a Class 7 material may not be offered for transportation

aboard a passenger-carrying aircraft unless that material is intended for use in, or incident to, research, medical diagnosis or treatment.

§ 173.5 [Amended]

In § 173.5, quantity references would be revised as follows:

a. In paragraph (a)(2), the reference to "1 gallon" would be changed to "4 liters (4.2 quarts)" and the reference to "25 pounds" would be changed to "15 kg (33.1 pounds)".

b. In paragraph (a)(3) the reference to "100 pounds" would be changed to "50 kg (110.2 pounds)."

c. In paragraph (b) the reference to "55 gallons" would be changed to "220 L (58.1 gallons)".

§ 173.6 [Removed]

Section 173.6 would be removed.

§ 173.7 [Amended]

In § 173.7, in paragraphs (b) and (d), the word "radioactive" would be changed to "Class 7".

Section 173.9 would be revised as follows:

§ 173.9 Cars, truck bodies or trailers containing lading which has been fumigated or treated with Class 3, Divisions 2.1, 2.3, or 6.1 materials.

(a) Delivery for transportation by rail carrier of any rail car, freight container, truck body, or trailer containing lading which has been fumigated or treated with Class 3 or Division 2.1 materials is prohibited until 48 hours have elapsed after such fumigation or treatment, or until the rail car, freight container, truck body or trailer has been ventilated so as to remove any danger of fire or explosion due to the presence of flammable vapors.

(b) Any rail car, freight container, truck body or trailer containing lading which has been fumigated or treated with Division 6.1 or Division 2.3 materials, such as carbolic acid, liquid or solid, chlorpicrin, hydrocyanic acid, methyl bromide, etc., must be placarded on each door or near thereto with the FUMIGANT placard prescribed in paragraph (c) of this section.

(c) *FUMIGANT placard.* The FUMIGANT placard must consist of red letters on a white background which is at least 25 cm (9.8 inches) wide and 20 cm (7.9 inches) high. It must contain the name of the fumigant and other text as follows:

DANGER

The lading of this car has been FUMIGATED or TREATED with

(Name of poisonous liquid, solid, or gas)

BEFORE UNLOADING, open both doors and DO NOT ENTER until car is free of gas. REMOVE ALL POISONOUS MATERIAL before release of empty car.

(d) See § 174.615 of this subchapter for requirements for cleaning fumigated cars.

§ 173.10 [Amended]

In § 173.10, terms would be revised as follows:

1. In paragraph (a) the term "flammable gas" would be changed to "Division 2.1 material" and the term "flammable liquid" would be changed to "Class 3 material".

2. In paragraph (b) the term "compressed gas" would be changed to "Class 2 material".

3. In paragraph (e), the phrase "Flammable liquids and flammable gases" would be changed to "Class 3 and Division 2.1 materials."

Section 173.12 would be revised to read as follows:

§ 173.12 Exceptions for shipment of waste materials.

(a) *Open head drums.* If a hazardous material that is a hazardous waste is required by this subchapter to be shipped in a closed head drum (i.e., a drum with a 7.0 cm (2.75 inches) or less bung opening) and the hazardous waste contains solids or semisolids that make its placement in a closed head drum impracticable, an equivalent (except for closure) open head drum maybe used for the hazardous waste.

(b) *"Lab packs".* Waste materials classed as Class or Division 3, 4.1, 4.2, 4.3, 5.1, 6.1, 8, 9 or ORM–E are excepted from the specification packaging requirements of this subchapter if packaged in combination packagings in accordance with this paragraph and transported for disposal or recovery by private or contract motor carrier by highway only. In addition, a generic description from the § 172.101 Table may be used in place of specific chemical names, when two or more chemically compatible waste materials in the same hazard class are packaged in the same outside packaging. Additional packaging requirements are as follows:

(1) The outer packaging must be a 1A2 or 1B2 metal drum, a 1D plywood drum, a 1G fiber drum or a 1H2 plastic drum;

(2) The inner packagings must be either glass not exceeding 4 liters (4.2 quarts) rated capacity or metal or plastic not exceeding 20 liters (21.1 quarts) rated capacity;

(3) Each outer packaging may contain only one class of hazardous material;

(4) Inner packagings containing liquid must be surrounded by a chemically compatible absorbent material in sufficient quantity to absorb the total liquid contents;

(5) Gross weight of the complete package may not exceed 205 kg (451.9 lbs); and

(6) Materials meeting the definition of Division 6.1, Packing Group I, or Division 4.2, Packing Group I, may not be packaged or described under the provisions of this paragraph.

(c) *Nonreusable packagings.* A packaging which is nonreusable according to the specification requirements of Part 178 of this subchapter or to § 173.28 of this part may be reused for the shipment of hazardous waste to designated facilities subject to the following conditions:

(1) Except as authorized by this paragraph, the waste must be packaged in accordance with this part and offered for transportation in accordance with the requirements of this subchapter.

(2) Transportation is performed by highway only.

(3) A package is not offered for transportation less than 24 hours after it is finally closed for transportation, and each package is inspected for leakage and is found to be free from leaks immediately prior to being offered for transportation.

(4) Each package is loaded by the shipper and unloaded by the consignee, unless the motor carrier is a private or contract carrier.

(5) The packaging may be used only once under this paragraph and may not be used again for shipment of hazardous materials except in accordance with § 173.28.

Subpart B—Preparation of Hazardous Materials for Transportation

Section 173.21 would be revised as follows:

§ 173.21 Forbidden materials and packages.

Unless otherwise provided in this subchapter, the offering for transportation or transportation of the following is forbidden:

(a) Materials that are designated "Forbidden" in Column 3 of the § 172.101 Table.

(b) Forbidden explosives as defined in § 173.51 of this part.

(c) Electrical devices which are likely to create sparks or generate a dangerous quantity of heat, unless packaged in a manner which precludes such an occurrence.

(d) For carriage by aircraft, any package which has a magnetic field of more than 0.00525 gauss measured at 15 feet (4.6 meters) from any surface of the package.

(e) A material in the same packaging, freight container, or overpack with another material, the mixing of which is likely to cause a dangerous evolution of heat, flammable or poisonous gases or vapors, or to produce corrosive materials.

(f) A package containing a material which is likely to decompose or polymerize at a temperature of 130 °F (54.4 °C) or less with an evolution of a dangerous quantity of heat or gas unless stabilized or inhibited in a manner that will preclude such evolution, subject to the following:

(1) For organic peroxides, the decomposition temperature of 130 °F (54.4 °C) does not apply if the controlled temperature requirements specified in Chapter 11 of the UN Recommendations are applied to determine when refrigeration is required, and refrigeration is approved as required by paragraph (f)(3) of this section.

(2) The determination of whether a material is forbidden under this paragraph may be made by using the Self Accelerating Decomposition Temperature (SADT) Test published by the Organic Peroxide Producers Safety Division (OPPSD).

(3) Refrigeration may be used as a means of stabilization only when approved by the Director, OHMT. For status of approvals previously issued by the Bureau of Explosives, see § 171.19 of this subchapter.

(g) Packages which give off a flammable gas or vapor, released from a material not otherwise subject to this subchapter, likely to create a flammable mixture with air in a transport vehicle.

(h) Packages containing materials (other than those classed as explosive) which will detonate in a fire.

(1) For purposes of this paragraph, "detonate" means an explosion in which the shock wave travels through the material at a speed greater than the speed of sound.

(2) When tests are required to evaluate the performance of a package under the provisions of this paragraph, the testing must be done or approved by one of the agencies specified in § 173.86.

(i) Except as noted in paragraph (i)(1) of this section, a package containing a cigarette lighter, or other similar device, equipped with an ignition element and containing fuel.

(1) A cigarette lighter or similar device subject to this paragraph may be shipped if the design of the device and its packaging has been examined by the Bureau of Explosives and specifically approved by the Director, OHMT. The examination of cigarette lighters and similar devices containing gaseous fuel will include scrutiny for compliance with § 173.308 of this part. For the status of approvals previously issued by the Bureau of Explosives, see § 171.19 of this subchapter.

In § 173.23, paragraph (a) would be revised as follows:

§ 173.23 Previously authorized packaging.

(a) When the regulations specify a packaging with a specification marking prefix of "DOT," a packaging marked prior to January 1, 1970, with the prefix of "ICC" may be used in its place if the packaging otherwise conforms to applicable specification requirements.

* * * * *

Section 173.24 would be revised as follows:

§ 173.24 General requirements for packagings and packages.

(a) *Applicability.* Except as otherwise provided in this subchapter, the provisions of this section apply to—

(1) Bulk and non-bulk packagings;

(2) New packagings and packagings which are reused; and

(3) Specification and non-specification packagings.

(b) Each package used for the shipment of hazardous materials under this subchapter shall be designed, constructed, maintained, filled, its contents so limited, and closed, so that under conditions normally incident to transportation—

(1) There will be no release of hazardous materials to the environment;

(2) The effectiveness of the packaging will not be significantly reduced; and

(3) There will be no mixture of gases or vapors in the package which could, through any credible spontaneous increase of heat or pressure, significantly reduce the effectiveness of the packaging.

(c) *Authorized packagings.* A packaging is authorized for a hazardous material only if—

(1) The packaging is prescribed or permitted for the hazardous material in a packaging section specified for that material in Column 8 of the § 172.101 Table and conforms to applicable requirements in the special provisions of Column 7 of the § 172.101 Table and, for specification packagings (including UN standard packagings), the specification requirements in Parts 178 and 179 of this subchapter; or

(2) The packaging is permitted under and conforms to provisions contained in §§ 171.11, 171.12, 171.12a, 173.3, 173.4, 173.5, 173.6, 173.7, or 176.11 of this subchapter.

(d) *DOT specification and UN standard packagings.* For DOT specification packagings (including UN standard packagings), conformance to the applicable specifications in Parts 178 and 179 of this subchapter is required in all details. For performance-oriented packagings covered by Subpart L of Part 178 of this subchapter, each packaging must be capable of meeting the performance test requirements specified in Subpart M of Part 178 of this subchapter for the applicable packing group shown in Column 5 of the § 172.101 Table.

(e) *Compatibility.* (1) Even though certain packagings are specified in this Part, it is, nevertheless, the responsibility of the person offering a hazardous material for transportation to ensure that such packagings are compatible with their lading. This particularly applies to corrosivity, permeability, softening, premature aging and embrittlement.

(2) Packaging materials and contents must be such that there will be no significant chemical or galvanic reaction between the materials and contents of the package.

(3) *Plastic packagings and receptacles.* (i) Plastic used in packagings and receptacles must be of a type compatible with the lading and may not be permeable to an extent that a hazardous condition is likely to occur during transportation, handling or refilling.

(ii) Each plastic packaging or receptacle which is used for liquid hazardous material must be capable of withstanding without failure the procedure specified in Appendix B of this Part ("Procedure for Testing Chemical Compatibility and Rate of Permeation in Plastic Packagings and Receptacles"). The maximum rate of permeation of hazardous lading through or into the plastic packaging or receptacles may not exceed 0.5 percent for materials meeting the definition of a Division 6.1 material according to § 173.132 and 2.0 percent for other hazardous materials, when subjected to a temperature no lower than—

(A) 18 °C (64 °F) for 180 days in accordance with Test Method 1;

(B) 50 °C (122 °F) for 28 days in accordance with Test Method 2; or

(C) 60 °C (140 °F) for 14 days in accordance with Test Method 3.

(iii) Alternative procedures or rates of permeation are permitted if they yield a level of safety equivalent to or greater than that provided by paragraph (e)(3)(ii) of this section and are specifically approved by the Director, OHMT.

(4) *Mixed contents.* (i) Hazardous materials may not be packed or mixed together in the same outer packaging with other hazardous or nonhazardous materials if such materials are capable of reacting dangerously with each other and causing—

(A) Combustion or dangerous evolution of heat;

(B) Evolution of flammable, poisonous or asphyxiant gases;

(C) Formation of corrosive materials; or

(D) Formation of unstable materials.

(f) *Closures.* (1) Closures on packagings shall be so designed and closed that under conditions (including the effects of temperature and vibration) normally incident to transportation—

(i) Except as provided in paragraph (g) of this section, there is no release of hazardous materials to the environment from the opening to which the closure is applied; and

(ii) The closure is secure and leakproof.

(2) Except as otherwise provided in this subchapter, a closure (including gaskets or other closure components, if any) used on a specification packaging must conform to all applicable requirements of the specification.

(g) *Venting.* Venting of packagings, to reduce internal pressure which may develop by the evolution of gas from the contents, is permitted only when—

(1) Transportation by aircraft is not involved;

(2) Except as otherwise provided in this subchapter, the evolved gases are not toxic, flammable or asphyxiant gases;

(3) The packaging is designed so as to preclude a significant release of hazardous materials from the receptacle; and

(4) For shipments in bulk packagings, venting is authorized for the specific hazardous material by a special provision in the § 172.101 Table or by the applicable bulk packaging specification in Part 178 of this subchapter.

(h) *Outage and filling limits.* (1) *General.* When filling packagings and receptacles for liquids, sufficient ullage (outage) must be left to ensure that neither leakage nor permanent distortion of the packaging or receptacle will occur as a result of an expansion of the liquid caused by temperatures likely to be encountered during transportation. Liquids must not completely fill a receptacle at a temperature of 55 °C (131 °F) or less.

(2) *Compressed gases and cryogenic liquids.* Filling limits for compressed gases and cryogenic liquids are specified in §§ 173.301 through 173.306 for cylinders and §§ 173.314 through 173.319 for bulk packagings.

(i) *Air transportation.* Packages offered or intended for transportation by aircraft must conform to the general requirements for transportation by aircraft in § 173.27.

Section 173.24a would be added, as follows:

§ 173.24a Additional general requirements for non-bulk packagings and packages.

(a) *Packaging design.* (1) *Closures.* A closure device must be so designed that it is unlikely that it can be incorrectly or incompletely closed, and must be such that it may be checked easily to determine that it is completely closed. Except as provided in § 172.312 of this subchapter, a combination packaging containing liquid hazardous materials must be packed so that closures on inner receptacles are upright.

(2) *Friction.* The nature and thickness of the outer packaging must be such that friction during transportation is not likely to generate an amount of heat sufficient to alter dangerously the chemical stability of the contents.

(3) *Securing and cushioning.* Inner packagings of combination packagings must be so packed, secured and cushioned to prevent their breakage or leakage and to control their movement within the outer packaging under conditions normally incident to transportation. Cushioning material must not be capable of reacting dangerously with the contents of the inner packagings.

(4) *Metallic devices.* Nails, staples and other metallic devices shall not protrude into the interior of the outer packaging in such a manner as to be likely to damage inner packagings or receptacles.

(5) *Vibration.* Each non-bulk package must be capable of withstanding, without rupture or leakage, the vibration test procedure specified in Appendix C of this Part ("Procedure for Base Level Vibration Testing").

(b) *Non-bulk packaging filling limits.* (1) A single or composite non-bulk packaging may be filled with a liquid hazardous material only when the specific gravity of the material does not exceed that marked on the packaging, or a specific gravity of 1.2 if not marked.

(2) A single or composite non-bulk packaging may not be filled with a solid hazardous material to a gross mass greater than the maximum gross mass marked on the packaging.

(3) Packagings tested as prescribed in § 178.605 of this subchapter and marked with the hydrostatic test pressure as prescribed in § 178.503(a)(5) of this subchapter may be used for liquids only when the vapor pressure of the liquid conforms to one of the following:

(i) The vapor pressure must be such that the total pressure in the packaging (i.e., the vapor pressure of the liquid plus the partial pressure of air or other inert gases, less 100 kPa (14.5 psi)) at 55 °C (131 °F), determined on the basis of a maximum degree of filling in accordance with subparagraph (1) of this paragraph and a filling temperature of 15 °C (59 °F), will not exceed two-thirds of the marked test pressure;

(ii) The vapor pressure at 50 °C (122 °F) must be less than four-sevenths of the sum of the marked test pressure plus 100 kPa (14.5 psi); or

(iii) The vapor pressure at 55 °C (131 °F) must be less than two-thirds of the sum of the marked test pressure plus 100 kPa (14.5 psi).

(c) *Mixed contents.* (1) An outer non-bulk packaging may contain more than one hazardous material only when—

(i) The inner and outer packaging used for each hazardous material conforms to the relevant packaging sections of this Part applicable to each of the hazardous materials;

(ii) The package as prepared for shipment meets the performance tests prescribed in Part 178 for the packing group indicating the highest order of hazard for the hazardous materials contained in the package;

(iii) Corrosive materials in bottles are further packed in securely closed inner receptables before packing in outer packagings; and

(iv) For transportation by aircraft, the total net quantity does not exceed the lowest permitted maximum net quantity per package as shown in Column 9a or 9b, as appropriate, of the § 172.101 Table. The permitted maximum net quantity must be calculated in kilograms if a package contains both a liquid and a solid.

(2) A packaging containing inner packagings of Division 6.2 materials may not contain other hazardous materials, except dry ice.

Section 173.24b would be added, as follows:

§ 173.24b Additional general requirements for bulk packagings and packages.

(a) *Pressure relief devices on bulk packagings.* Except when installed in series with a pressure relief valve, a non-reclosing pressure relief device may not be used on a bulk packaging containing a hazardous material that is flammable or poisonous or both.

(b) *Outage and filling limits.*—(1) *Tank car and multi-unit tank car tank filling limits.* (i) Hazardous materials may not be loaded into the dome of a tank car.

(ii) If the dome of the tank car does not provide sufficient outage, then vacant space must be left in the shell to make up the required outage.

(iii) Liquids other than flammable liquids must be so loaded in tank cars and multi-unit tank car tanks that the outage is at least one percent of the total capacity of the tank and dome at the reference temperature of 115 °F (46.1 °C) for uninsulated tanks and 105 °F (40.6 °C) for insulated tanks. Tanks must not be liquid full at 131 °F (55 °C).

(iv) Flammable liquids must be so loaded in tank cars and multiunit tank car tanks that the outage is at least two percent of the total capacity of the tank and dome at the reference temperature of 115 °F (46.1 °C) for uninsulated tanks and 105 °F (40.6 °C) for insulated tanks. Tanks must not be liquid full at 131 °F (55 °C).

(2) *Cargo tank and portable tank filling limits.* The outage in a cargo tank, portable tank, or compartment thereof must be at least one percent of the total capacity of the tank or compartment at the reference temperature of 115 °F (46.1 °C) for uninsulated tanks and 105 °F (40.6 °C) for insulated tanks. Tanks must not be liquid full at 131 °F (55 °C).

(3) *Bulk packagings for liquids toxic by inhalation.* For a liquid which is toxic by inhalation under the criteria in § 173.133(a)(2), the outage in a bulk packaging must be at least five percent of the total capacity of the tank or compartment at the reference temperature of 115 °F (46 °C) for uninsulated tanks and 105 °F (40.6 °C) for insulated tanks.

(c) *Equivalent steel.* Where the regulations permit steel other than stainless steel to be used in place of a specified stainless steel (for example, as in § 172.102 of this subchapter, special provision B30), the minimum thickness for the steel must be obtained from one of the following formulas, as appropriate:

Formula for metric units:

$$e_1 = (10e_o/Rm_1A_1)^{2/3}$$

Formula for non-metric units:

$$e_1 = (112.3e_o/Rm_1A_1)^{2/3}$$

where:

e_o = Required thickness of the reference stainless steel in millimeters or inches, for metric units or non-metric units, respectively;

e_1 = Equivalent thickness of the non-stainless steel in millimeters or inches, for metric units or non-metric units, respectively;

Rm_1 = Specified minimum tensile strength of the non-stainless steel (from the appropriate specification in Part 178 of this subchapter) in deka-newtons per square millimeter or pounds per square inch, for metric units or non-metric units, respectively;

A_1 = Specified minimum percentage elongation of the non-stainless steel (from the appropriate specification in Part 178 of this subchapter) multiplied by 100 (for example, 20% times 100 equals 20).

In § 173.25, paragraph (b) would be removed, paragraph (a)(3) would be revised, and paragraph (a)(5) would be added as follows:

§ 173.25 Authorized packages and overpacks.

(a) * * *

(3) Each package subject to the orientation marking requirements of § 172.312 of this subchapter is packed in the overpack with its filling holes up and the overpack is marked with package orientation marking arrows on two opposite vertical sides of the overpack with the arrows pointing in the correct direction of orientation.

* * * * *

(5) Packages containing corrosive or oxidizing materials in Packing Group I may not be overpacked with any other materials.

Section 173.26 would be revised as follows:

§ 173.26 Quantity limitations.

When quantity limitations do not appear in the packaging requirements of this subchapter, the permitted gross weight or capacity authorized for a packaging is as shown in the packaging specification or standard in Part 178 or 179, as applicable, of this subchapter.

Section 173.27 would be revised as follows:

§ 173.27 General requirements for transportation by aircraft.

(a) The requirements of this section are in addition to the requirements in § 173.24 and apply to packages offered or intended for transportation by aircraft. Notwithstanding any Packing Group III performance level specified in Column 5 of the § 172.101 Table, the required performance level for such packages when offered or intended for transportation by aircraft is at the Packing Group II performance level, unless otherwise excepted from performance requirements in Subpart E of this part.

(b) Packages authorized on board aircraft. (1) When Column 9a of the § 172.101 Table indicates that a material is "Forbidden", that material may not be offered for transportation or transported by passenger-carrying aircraft.

(2) When Column 9b of the § 172.101 Table indicates that a material is "Forbidden", that material may not be offered for transportation or transported by aircraft.

(3) The maximum quantity of hazardous material in a package that may be offered for transportation or transported by passenger-carrying aircraft or cargo aircraft may not exceed that quantity prescribed for the material in Column 9a or 9b, respectively, of the § 172.101 Table.

(4) A package containing a hazardous material which is authorized on cargo aircraft but not on passenger aircraft must be labeled with the CARGO AIRCRAFT ONLY label required by § 172.402(b) of this subchapter and may not be offered for transportation or transported on passenger-carrying aircraft.

(c) *Pressure requirements.* (1) Packagings must be designed and constructed to prevent leakage that may be caused by changes in altitude and temperature during transportation by aircraft.

(2) Packagings for which retention of liquid is a basic function must be capable of withstanding without leakage the greater of—

(i) An internal pressure which produces a pressure of not less than 75 kPa (10.88 psi) for liquids in Packing Group III of Class 3 or Division 6.1, or 95 kPa (13.8 psi) for other liquids; or

(ii) A pressure related to the vapor pressure of the liquid to be conveyed, determined by one of the following:

(A) The total pressure measured in the receptacle (i.e., the vapor pressure of the material and the partial pressure of air or other inert gases, less 100 kPa (14.5 psi)) at 55 °C (131 °F), multiplied by a safety factor of 1.5; determined on the basis of a filling temperature of 15 °C (59 °F) and a degree of filling such that the receptacle is not completely liquid full at a temperature of 55 °C (131 °F) or less;

(B) 1.75 times the vapor pressure at 50 °C (122 °F) less 100 kPa (14.5 psi); or

(C) 1.5 times the vapor pressure at 55 °C (131°) less 100 kPa (14.5 psi).

(3) Notwithstanding the provisions of subparagraph (2) of this paragraph—

(i) Hazardous materials may be contained in an inner packaging which does not itself meet the pressure requirement provided that the inner

packaging is packed within a supplementary packaging which does meet the pressure requirement and other applicable packaging requirements of this subchapter.

(ii) Packagings which are subject to the hydrostatic pressure test and marking requirements of §§ 178.605 and 178.504(a)(5), respectively, of this subchapter must have a marked test pressure of not less than 250 kPa (36.3 psi) for liquids in Packing Group I, 80 kPa (11.6 psi) for liquids in Packing Group III of Class 3 or Division 6.1, and 100 kPa (14.5 psi) for other liquids.

(d) *Closures.* Stoppers, corks or other such friction-type closures must be held securely, tightly and effectively in place by positive means.

(e) *Absorbent materials.* Except as otherwise provided in this subchapter, liquids in Packing Group I or II of Class 3, 4, 5, 6, or 8, when in glass or earthenware inner packagings, must be packaged using material capable of absorbing and not likely to react dangerously with the liquid. Absorbent material is not required if the inner packagings are so protected that breakage of them and leakage of their contents from the outer packaging is not likely to occur under normal conditions of transportation and is not required for packagings containing liquids in Packing Group III for transport on cargo aircraft only. Where absorbent material is required and an outer packaging is not liquid-tight, a means of containing the liquid in the event of leakage must be used in the form of a leakproof liner, plastic bag or other equally efficient means of containment. Where absorbent material is required, the quantity and disposition of it in each outer packaging must be as follows:

(1) For packagings containing liquids in Packing Group I for transport on passenger-carrying aircraft, each packaging must contain sufficient absorbent material to absorb the contents of all inner packagings containing such liquids;

(2) For packagings containing liquids in Packing Group I for transport on cargo aircraft only and packagings containing liquids in Packing Group II for transport on passenger aircraft, each package must contain sufficient absorbent material to absorb the contents of any one of the inner packagings containing such liquids and, where they are of different sizes and quantities, sufficient absorbent material to absorb the contents of the inner packaging containing the greatest quantity of liquid.

(f) *Combination packagings.* Unless otherwise specified in this Part, or in § 171.11 of this subchapter, when combination packagings are offered for transportation by aircraft, inner packagings must conform to the quantity limitations set forth in Table 1 for transport on passenger-carrying aircraft and Table 2 for transport on cargo aircraft only, as follows:

TABLE 1—MAXIMUM NET CAPACITY OF INNER PACKAGINGS FOR TRANSPORTATION ON PASSENGER-CARRYING AIRCRAFT

Maximum net quantity per package column 9a of the § 172.101 table	Maximum authorized net capacity of inner packagings	
	Glass, earthenware or fiber inner packagings	Metal or plastic inner packagings
Liquids:		
Not greater than 0.5L	0.5L	0.5L
Greater than 0.5L, not greater than 1L	0.5L	1L
Greater than 1L, not greater than 5L	1L	5L
Greater than 5L, not greater than 60L	2.5L	10L
Greater than 60L, not greater than 220L	5L	25L
Greater than 220L	No limit	No Limit
Solids:		
Not greater than 5 kg	0.5 kg	1 kg
Greater than 5 kg, not greater than 25 kg	1 kg	2.5 kg
Greater than 25 kg, not greater than 200 kg	5 kg	10 kg
Greater than 200 kg	No limit	No Limit

TABLE 2.—MAXIMUM NET CAPACITY OF INNER PACKAGINGS FOR TRANSPORTATION ON CARGO AIRCRAFT ONLY

Maximum net quantity per package from column 9b of the § 172.101 table	Maximum authorized net capacity of inner packagings	
	Glass, earthenware or fiber inner packagings	Metal or plastic inner packagings
Liquids:		
Not greater than 2.5L	1L	1L
Greater than 2.5L, not greater than 30L	2.5L	2.5L
Greater than 30L, not greater than 60L	5L	10L
Greater than 60L, not greater than 220L	5L	25L
Greater than 220L	No limit	No limit
Solids:		
Not greater than 15 kg	1 kg	2.5 kg
Greater than 15 kg, not greater than 50 kg	2.5 kg	5 g
Greater than 50 kg, not greater than 200 kg	5 kg	10 kg
Greater than 200 kg	No limit	No limit

(g) *Cylinders.* For any cylinder containing hazardous materials and incorporating valves, sufficient protection must be provided to prevent operation of and damage to, the valves during transportation, by one of the following methods:

(1) By equipping each cylinder with securely attached valve caps or protective headrings; or

(2) By boxing or crating the cylinder.

(h) *Tank cars and cargo tanks.* Tank cars and cargo tanks containing hazardous materials may not be transported aboard aircraft.

Section 173.28 would be revised as follows:

§ 173.28 Reuse, reconditioning and remanufacture of packagings.

(a) *Reuse.* Packagings and receptacles used more than once must be in such condition, including closure devices and cushioning materials, that they conform in all respects to the prescribed requirements of this subchapter, including the following provisions and limitations:

(1) Before reuse, each packaging must be inspected and must not be reused unless free from rupture, corrosion, other damage or incompatible residue;

(2) Before reuse, packaging subject to the leakproofness test with air prescribed in § 178.604 shall be leakproofness tested and marked as required by paragraph (b) of this section and § 178.503(c) of this subchapter;

(3) Packagings made of paper, plastic film, textile or fiberboard are not authorized for reuse; and

(4) Metal and plastic drums, jerricans and the metal or plastic outer packagings of composite packagings are authorized for reuse only when they are marked in millimeters with the minimum thickness of the packaging material and conform to the following minimum construction criteria:

Marked, or rated, capacity (net mass) not over	Minimum thickness of packaging material	
	Metal drum or jerrican	Plastic drum or jerrican
20L (20 kg)	0.6 mm (0.024 in.)	1.2 mm (0.047 in.)
40L (40 kg)	0.7 mm (0.028 in.)	1.8 mm (0.071 in.)
120L (120 kg)	0.9 mm (0.035 in.)	2.2 mm (0.087 in.)
220L (220 kg)	1.0 mm (0.039 in.)	2.2 mm (0.087 in.)
450L (400 kg)	1.8 mm (0.071 in.)	5.0 mm (0.197 in.)

(5) Plastic inner packagings of composite packagings must have a minimum thickness of 1.5mm (0.059 inch).

(b) *Reconditioning.* For the purpose of this subchapter, reconditioning is the repair, replacement of non-integral packaging components (such as removable gaskets, closure devices, cushioning material, etc.) or leakproofness testing of non-bulk packagings, other than cylinders. A person who reconditions a packaging manufactured under the provisions of Subpart L of Part 178 of this subchapter, shall mark that packaging as required by

§ 178.503(c) of this subchapter. The marking is the certification of the reconditioner that the packaging conforms to the standard for which it is marked and that all functions performed by the reconditioner which are prescribed by this subchapter have been performed in compliance with this subchapter.

(c) *Remanufacture.* For the purpose of this subchapter, remanufacture is the conversion of a non-specification, non-bulk packaging to a DOT specification or UN standard, the conversion of a packaging meeting one specification or standard to another specification or standard (for example, conversion of 1A1 non-removable head drums to 1A2 removable head drums) or the replacement of integral structural packaging components (such as non-removable heads on drums). A person who remanufactures a non-bulk packaging to conform to a specification or standard in Part 178 of this subchapter is subject to the requirements of Part 178 as a manufacturer.

Section 173.29 would be revised as follows:

§ 173.29 Empty packagings.

(a) Except as otherwise provided in this section, an empty packaging containing only the residue of a hazardous material shall be offered for transportation and transported in the same manner as when it previously contained a greater quantity of that hazardous material.

(b) Notwithstanding the requirements of paragraph (a) of this section, an empty packaging is not subject to any other requirements of this subchapter if it conforms to the following provisions:

(1) Any hazardous material shipping name and identification number markings, and any hazard warning labels or placards are removed or obliterated. This provision does not apply to transportation in a transport vehicle or a freight container if the packaging is not visible during transportation and the packaging is loaded by the shipper and unloaded by the shipper or consignee;

(2) The packaging—

(i) Is unused; or

(ii) Is sufficiently cleaned of residue and purged of vapors to remove any potential hazard; or

(iii) Is refilled with a material which is not hazardous to such an extent that any residue remaining in the packaging no longer poses a hazard; or

(iv) Contains only the residue of—

(A) A Class 9 or ORM–D material; or

(B) An ORM–E material which no longer meets the definition in § 171.8 of this subchapter for either a hazardous substance or a hazardous waste; or

(C) A nonflammable gas with no subsidiary hazard at a pressure less than 40 psia (275.8 kPa) at 70° F (21° C); and

(3) Any material contained in the packaging does not meet the definitions in § 171.8 of this subchapter for either a hazardous substance or a hazardous waste.

(c) A non-bulk packaging containing only the residue of a hazardous material covered by Table 2 of § 172.504 of this subchapter—

(1) Does not have to be included in determining the applicability of the placarding requirements of Subpart F of Part 172 of this subchapter; and

(2) Is not subject to the shipping paper requirements of this subchapter when collected and transported by a contract or private carrier for reconditioning, remanufacture or reuse.

(d) Notwithstanding the stowage requirements in Columns 10a and 10b of the § 172.101 Table for transportation by vessel, an empty drum or cylinder may be stowed on deck or under deck.

(e) Specific provisions for describing an empty packaging on a shipping paper appear in § 172.203(e) of this subchapter.

(f) An empty tank car must conform to the placarding requirements specified in § 172.510(c) of this subchapter.

In § 173.31, in paragraph (a)(1) the words "dangerous articles" would be revised to read "hazardous materials", paragraphs (a)(5), (a)(6) and (a)(7) would be revised, and paragraphs (a)(8) through (a)(12) would be added, as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

(a) * * *

(5) Each DOT specification tank car shall be equipped with a coupler vertical restraint system in accordance with § 179.14 of this subchapter.

(6) After December 31, 1987, each non-specification tank car shall be equipped with a coupler vertical restraint system in accordance with § 179.14 of this subchapter.

(7) Pressure relief devices on tank car tanks must be of a type and design approved by the AAR Committee on Tank Cars and be made of metal not subject to deterioration by the lading.

(8) A Specification DOT–106A or 110A multi-unit tank car tank may be offered for transportation aboard a passenger vessel only as authorized in § 173.32(a)(4).

(9) Lading temperature must be within the tank design temperature range.

(10) Tank test pressure must be equal to or greater than the greatest of the following:

(i) 160 percent of the sum of lading vapor pressure at the reference temperature of 46.1° C (115° F) for uninsulated tanks or 40.6° C (105° F) for insulated tanks plus static head plus gas padding pressure in the ullage space or dome of tank;

(ii) 133 percent of the maximum loading or unloading pressure, whichever is greater; or

(iii) The minimum pressure prescribed by the specification in Part 179 of this subchapter or for the specific hazardous material in the applicable packaging section in Subpart F or G of this Part.

(11) Air pressure may not be used to load or unload any lading which may create an enriched mixture within the flammability range of the lading in the vapor space of the tank.

(12) Tank car tanks in service for Class 3, 4 or Division 6.1 liquids must be equipped with reclosing pressure relief devices having adequately sized venting capacity.

* * * * *

In § 173.32 paragraph (a)(6), and paragraphs (q) through (u) would be added as follows:

§ 173.32 Qualification, maintenance and use of portable tanks.

(a) * * *

(6) A DOT 51 portable tank may be used where DOT 56 or DOT 57 type portable tanks or DOT 60 portable tanks are authorized. A DOT 60 portable tank may be used where DOT 56 or DOT 57 type portable tanks are authorized. A higher integrity tank used instead of a specified portable tank must meet the same design profile; e.g., a DOT 51 portable tank must be lined, if used instead of a lined DOT 60 portable tank.

* * * * *

(q) *Loading requirements.* A portable tank may not be loaded with a hazardous material that—

(1) Has a lading density exceeding the tank's design maximum density, or

(2) Is warmer or colder than the tank's design temperature range.

(r) Tank design pressure must be equal to or greater than the greatest of the following:

(1) 120 percent of the sum of lading vapor pressure plus static head plus gas padding pressure in the ullage space or dome of tank;

(2) The maximum loading or unloading pressure, whichever is greater; or

(3) The pressure prescribed for the specific hazardous material in Subpart F

or G of this part, or in Part 172, as applicable.

(s) Where a DOT 60 or marine portable tank is authorized, minimum tank design pressure is 25 psi (172.4 Kpa) for any liquid lading that meets more than one hazard class definition, unless otherwise specified.

(t) Air pressure may not be used to load or unload any lading which may create an enriched mixture within the flammability range of the lading in the vapor space of the tank.

(u) A portable tank in service for a Class 3 or 4 material, or Division 6.1 liquid, must be equipped with a reclosing pressure relief valve having adequately-sized venting capacity.

In § 173.32c, paragraphs (a), (b), (g)(2) and (o) would be revised to read as follows:

§ 173.32c Use of Specification IM portable tanks.

(a) No person may offer a hazardous material for transportation in an IM portable tank except as authorized by this subchapter.

(b) Except as otherwise provided in this subpart, an IM portable tank may not be used for the transportation of a hazardous material unless it meets the requirements of this subchapter.

* * * * *

(g) * * *

(2) When this subparagraph is specified for a hazardous material by the IM Tank Table in § 172.102 of this subchapter, each filling or discharge connection located below the normal liquid level of the tank, or compartment thereof, has three serially-mounted closures consisting of an internal discharge valve capable of being closed from a location remote from the valve itself, an external valve, and a bolted blank flange or other suitable, liquid-tight closure on the outlet side of the external valve.

* * * * *

(o) An IM 101 tank may be used whenever an IM 102 tank is authorized provided it meets the requirements for pressure relief devices, bottom outlets and any other special provisions specified for the IM 102 tank in § 172.102 of this subchapter.

§ 173.32d [Removed]

Section 173.32d would be removed.

In 173.33, paragraphs (l) through (q) would be added, as follows:

§ 173.33 Qualification, maintenance and use of cargo tanks.

* * * * *

(l) A cargo tank may not be loaded with a hazardous material that:

(1) Has a density exceeding the tank's design maximum density; or

(2) Is warmer or colder than the tank design temperature range.

(m) Tank design pressure must be equal to or greater than the greatest of the following:

(1) 120 percent of the sum of lading vapor pressure plus static head plus gas padding pressure in the ullage space or dome of tank;

(2) The maximum loading or unloading pressure, whichever is greater; or

(3) The pressure prescribed in Subpart F or G of this part, for the specific hazardous material as applicable, including—

(i) For compressed gases and certain refrigerated liquids, the pressure prescribed in § 173.315; and

(ii) For cryogenic liquids, the pressure prescribed in § 173.318.

(n) An MC 331 type cargo tank may be used where MC 306, MC 307 or MC 312 type cargo tanks are authorized. An MC 307 or MC 312 type cargo tank may be used where MC 306 type cargo tanks are authorized. A higher integrity tank used in lieu of a specified tank must meet the same design profile (for example, an MC 331 cargo tank must be lined if used in place of a lined MC 312 cargo tank.)

(o) Unless otherwise specified, where MC 307 and MC 312 cargo tanks are authorized, minimum tank design pressure is 25 psi (172.4 kPa) for any liquid lading that meets more than one hazard class definition.

(p) Air pressure may not be used to load or unload any lading which may create an enriched mixture within the flammability range of the lading in the vapor space of the tank. (See § 173.33(b)(3).)

(q) A cargo tank in service for a Class 3 or 4 material or Division 6.1 liquid must be equipped with a reclosing pressure relief valve having adequately-sized venting capacity. (See § 173.33(d)(1) and (2).)

A new § 173.40 would be added to read as follows:

§ 173.40 General packaging requirements for poisonous materials required to be packaged in cylinders.

When this section is referenced in the packaging section for a hazardous material elsewhere in this Part, the following requirements are applicable to cylinders used for that material:

(a) *Authorized cylinders.* A cylinder must conform to one of the specifications for cylinders in Subpart C of Part 178 of this subchapter, except that Specification 8, 8AL and 39 cylinders are not authorized.

(b) *Outage and pressure requirements.* The pressure of the hazardous material at 55° C (131° F) must not exceed the service pressure of the cylinder. Sufficient outage shall be provided so that the cylinder will not be liquid full at 55° C (131° F).

(c) *Closures.* Each cylinder must be closed with a plug or valve conforming to the following:

(1) Each plug or valve must have a taper-threaded connection directly to the cylinder and be capable of withstanding the test pressure of the cylinder;

(2) Each valve must be of the packless type with non-perforated diaphram, except that for corrosive materials, a valve may be of the packed type provided the assembly is made gas-tight by means of a seal cap with gasketed joint attached to the valve body or the cylinder to prevent loss of material through or past the packing;

(3) Each valve outlet must be sealed by a threaded cap or threaded solid plug, and

(4) Cylinder, valves, plugs, outlet caps, luting and gaskets must be compatible with each other and with the lading.

(d) *Additional protection.* Additional protection requirements for thin-walled cylinders and for cylinders equipped with valves are as follows:

(1) Each cylinder which has a wall thickness at any point of less than 2.03 mm (0.080 inch) and each cylinder which does not have fitted valve protection must be overpacked in a 4C1, 4D, 4F, 4G, 4H1 or 4H2 box. The box must conform to overpack provisions in § 173.25. Box and valve protection must be of sufficient strength to protect all parts of the cylinder and valve, if any, from deformation and breakage resulting from a drop of 2.0 meters (6.56 ft) or more onto a concrete floor, impacting at an orientation most likely to cause damage.

(2) Each cylinder equipped with a valve, if not overpacked in a box in accordance with paragraph (d)(1) of this section, must be equipped with a protective cap or other means of valve protection sufficient to protect the valve from deformation and breakage resulting from a drop of 2.0 meters (6.56 ft) or more onto a concrete floor, impacting at an orientation most likely to cause damage.

(e) *Interconnection.* Cylinders may not be interconnected.

In Part 173, Subparts D, E and F would be revised as follows:

Subpart D—Definitions, Classification, Packing Group Assignments and Exceptions for Hazardous Materials other than Class 1 and Class 7

§ 173.115 Class 2, Divisions 2.1, 2.2, and 2.3—Definitions.

(a) *Division 2.1 (Flammable gas).* (1) For the purpose of this subchapter, a "flammable gas" (Division 2.1) means any material which is a gas at 20° C (68° F) or less and 1 atmosphere (atm) of pressure (a material which has a boiling point of 20° C (68° F) or less at 1 atm) which—

(i) Is ignitable at 1 atm when in a mixture of 13% or less by volume with air; or

(ii) Has a flammable range at 1 atm with air of at least 12% regardless of the lower limit.

(2) The limits specified in paragraph (a)(1) of this section shall be determined at 1 atmosphere of pressure and a temperature of 20° C (68° F) in accordance with ASTM E681–79 Standard Test Method for Limits of Flammability of Chemicals.

(b) *Division 2.2 (non-flammable compressed gas—including compressed gas, liquefied gas, pressurized cryogenic gas and compressed gas in solution).* For the purpose of this subchapter, a "non-flammable compressed gas" (Division 2.2) means any material (or mixture) which—

(1) Exerts in the packaging a pressure of 40 psia (275.8 kPa) at 21.1° C (70° F) or, regardless of the pressure at 21.1° C (70° F), exerts in the container a pressure of 104 psia (717.1 kPa) at 54.4° C (130° F); and

(2) Does not meet the definition of Division 2.1 or 2.3.

(c) *Division 2.3 (Poisonous gas).* For the purpose of this subchapter, "poisonous gas" (Division 2.3) means a material which is a gas at 20° C (68° F) or less and one atmosphere of pressure (a material which has a boiling point of 20° C (68° F) or less at 1 atmosphere and which—

(1) Is known to be so toxic to humans as to pose a hazard to health during transportation, or

(2) In the absence of adequate data on human toxicity, is presumed to be toxic to humans because when tested on laboratory animals it has an LC50 less than 5000 ppm.

(d) *Non-liquefied compressed gas.* A "non-liquefied compressed gas" means a gas, other than in solution, which in a packaging under the charged pressure is entirely gaseous at a temperature of 20° C (68° F).

(e) *Liquefied compressed gas.* A "liquefied compressed gas" means a gas which in a packaging under the charged pressure, is partially liquid at a temperature of 20° C (68° F).

(f) *Compressed gas in solution.* A "compressed gas in solution" is a non-liquefied compressed gas which is dissolved in a solvent.

(g) *Cryogenic liquid.* A "cryogenic liquid" means a refrigerated liquefied gas having a boiling point colder than −130° F (−90° C) at one atmosphere, absolute. A material meeting this definition is subject to requirements of this subchapter without regard to whether it meets the definition of a non-flammable compressed gas in paragraph (b) of this section. Each cryogenic liquid is partially described as "(* * *, refrigerated liquid (cryogenic liquid))" in the § 172.101 Table.

(h) *Flammable range.* The term "flammable range" means the difference between the minimum and maximum volume percentages of the material in air that forms a flammable mixture.

(i) *Service pressure.* The term "service pressure" means the authorized pressure marking on the packaging. For example, for a cylinder marked "DOT 3A1800", the service pressure is 1800 psig.

(j) *Refrigerant gas or Dispersant gas.* The terms "Refrigerant gas" or "Dispersant gas" apply to all nonpoisonous refrigerant gases, dispersant gases (fluorocarbons) listed in §§ 172.101, 173.304(a)(2), 173.314(c), 173.315(a)(1) and 173.315(h), and mixtures thereof, or any other compressed gas meeting one of the following:

(1) A nonflammable mixture containing not less than 50% fluorocarbon content, having a vapor pressure not exceeding 260 psig (1792.7 kPa) at 130° F (54.4° C).

(2) A flammable mixture containing not less than 50% fluorocarbon content, not over 40% by weight of a flammable component, having a vapor pressure not exeeding 260 psig (1792 kPa) at 130° F (54.4° C).

§ 173.116 Class 2 Assignment of packing group.

(a) The packing group of a Class 2, Division 2.3 material is assigned in Column 5 of the § 172.101 Table. There are no packing groups for Divisions 2.1 and 2.2. When the § 172.101 Table provides more than one packing group for a Division 2.3 material, or indicates that the packing group be determined on the basis of the grouping criteria for Division 2.3, the packing group shall be determined by applying the following criteria:

Packing group	Inhalation toxicity
IA	LC50 less than or equal to 200 ppm.
IB	LC50 greater than 200 ppm and less than or equal to 1000 ppm.
II	LC50 greater than 1000 ppm and less than or equal to 3000 ppm.
III	LC50 greater than 3000 ppm or less than or equal to 5000 ppm.

(b) The criteria specified in paragraph (a) of this section are represented graphically in § 173.133, Figure 1.

§ 173.120 Class 3—Definitions.

(a) *Flammable liquid.* (1) For the purpose of this subchapter, a "flammable liquid" (Class 3) means any liquid having a flash point of not more than 60.5° C (141° F) with the following exceptions:

(i) Any liquid meeting one of the definitions specified in § 173.300 of this part.

(ii) Any mixture having one or more components with a flash point greater than 60.5° C (141° F) or higher, that makes up at least 99 percent of the total volume of the mixture.

(2) For the purposes of this subchapter, a distilled spirit of 140 proof or lower is considered to have a flash point no lower than 23° C (73° F).

(b) *Combustible liquid.* (1) For the purpose of this subchapter, a "combustible liquid" (Class 3) means—

(i) Any liquid that does not meet the definition of any other hazard class specified in this subchapter and has a flash point above 60.5° C (141° F) and below 93.3° C (200° F); or

(ii) Any material that does not meet the definition of any other hazard class specified in this subchapter, has a flash point of 93.3° C (200° F) or greater and is offered for transportation or transported as a liquid at a temperature at or above its flash point.

(2) If a material has a flash point at or above 93.3° C (200° F) and does not meet the definition of a combustible liquid or any other hazard class, then it is not subject to the requirements of this subchapter.

(3) Except when offered or intended for transportation by vessel or aircraft, a flammable liquid with a flash point at or above 38° C (100° F) that does not meet the definition of any other hazard class may be reclassed as a combustible liquid.

(c) *Flash point.* (1) "Flash point" means the minimum temperature at which a liquid gives off vapor within a test vessel in sufficient concentration to form an ignitable mixture with air near the surface of the liquid. It shall be determined as follows:

(i) For a homogeneous, single-phase, liquid having a viscosity less than 45 S.U.S. at 38° C (100° F) that does not form a surface film while under test, one of the following test procedures shall be used:

(A) Standard Method of Test for Flash Point by Tag Closed Tester (ASTM D56–79); or

(B) Standard Methods of Test for Flash Point of Liquids by Setaflash Closed Tester (ASTM D3278–78).

(ii) For a liquid other than one meeting all of the criteria of paragraph (c)(1)(i) of this section, one of the following test procedures shall be used:

(A) Standard Method of Test for Flash Point by Pensky-Martens Closed Tester (ASTM D93–80). For cutback asphalt, use Method B of ASTM 93–80 or alternate tests authorized in this standard; or

(B) Standard Methods of Test for Flash Point of Liquids by Setaflash Closed Tester (ASTM D3278–78).

(2) For a liquid that is a mixture of compounds that have different volatility and flash points, its flash point shall be determined as specified in paragraph (c)(1) of this section, on the material in the form in which it is to be shipped. If it is determined by this test that the flash point is higher than 20° F (−6.7° C) a second test shall be made as follows: A portion of the mixture shall be placed in an open beaker (or similar container) of such dimensions that the height of the liquid can be adjusted so that the ratio of the volume of the liquid to the exposed surface area is 6 to one. The liquid shall be allowed to evaporate under ambient pressure and temperature (20 to 25° C) for a period of 4 hours or until 10 percent by volume has evaporated, whichever comes first. A flash point is then run on a portion of the liquid remaining in the evaporation container and the lower of the two flash points shall be the flash point of the material.

(3) For flash point determinations by Setaflash closed tester, the glass syringe specified need not be used as the method of measurement of the test sample if a minimum quantity of 2 milliliters is assured in the test cup.

(d) If experience or other data indicate that the hazard of a material is greater or less than indicated by the criteria specified in paragraphs (a) and (b) of this section, the Director, OHMT, may revise the classification or make the material subject or not subject to the requirements of Parts 170–189 of this subchapter.

§ 173.121 Class 3—Assignment of Packing Group.

(a) The packing group of a Class 3 material is as assigned in Column 5 of the § 172.101 Table. When the § 172.101 Table provides more than one packing group for a hazardous material, or indicates that the packing group is to be determined on the basis of the grouping criteria for Class 3, the packing group shall be determined by applying the following criteria:

Packing group	Flash point (closed-cup)	Initial boiling point
I		≤35° C (95° F)
II	<23° C (73° F)	>35° C (95° F)
III	≥23° C, ≤60.5° C (141° F)	>35° C (95° F)

(b) *Criteria for inclusion of viscous Class 3 materials in Packing Group III.*

(1) Viscous Class 3 materials in Packing Group II with a flash point of less than 23° C (73° F) may be grouped in Packing Group III provided that—

(i) Less than 3 percent of the clear solvent layer separates in the solvent separation test;

(ii) The mixture contains not more than 5 percent of substances in Packing Group I or II of Division 6.1 or Class 8, or not more than 5 percent of substances in Packing Group I of Class 3 requiring a POISON or CORROSIVE subsidiary label;

(iii) The capacity of the packaging is not more than 30 L (7.9 gallons); and

(iv) The viscosity and flash point are in accordance with the following table:

Flowtime in seconds		Flash point in degrees C
4 mm Cup	8 mm Cup	
Over 20		Over 17.
Over 60		Over 10.
Over 100		Over −5.
Over 160		Over −1.
Over 220	Over 17	Over −5.
	Over 40	No lower limit.

(2) The methods by which the tests referred to in paragraph (b)(1) shall be performed are as follows:

(i) *Viscosity Test.* The flowtime in seconds is determined at 23 °C (73 °F) using the ISO Standard cup with a 4.0 millimeters (0.16 inches) jet (ISO–2431–72). Where the flowtime exceeds 200 seconds, a second test is carried out using the ISO standard cup but modified to take a jet of 8 millimeters (0.31 inches) diameter.

(ii) *Solvent Separation Test.* This test is carried out at 23 °C (73 °F) using a 100.0 milliliters (3.38 ounces) measuring cylinder of the stoppered type of approximately 25.0 centimeters (9.84 inches) total height and of a uniform internal diameter of approximately 30 millimeters (1.18 inches) over the calibrated section. The sample should be stirred to obtain a uniform consistency, and poured in up to the 100 milliliter mark. The stopper should be inserted and the cylinder left standing undisturbed for 24 hours. After 24 hours, the height of the upper separated layer should be measured and the percentage of this layer as compared with the total height of the sample calculated.

§ 173.124 Class 4, Divisions 4.1, 4.2 and 4.3—Definitions.

(a) *Division 4.1 (Flammable solid).* For the purpose of this subchapter, "flammable solid" (Division 4.1) means any solid material, other than one classed as an explosive, which, under the conditions normally incident to transportation is likely to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious transportation hazard.

(b) *Division 4.2 (Spontaneously combustible material).* For the purpose of this subchapter, "spontaneously combustible material" (Division 4.2) means a material which is likely to heat spontaneously under conditions normally incident to transportation, or to heat up in contact with air and being then likely to catch fire. This class includes pyrophoric liquids. A "pyrophoric liquid" means a liquid that ignites spontaneously in dry or moist air at or below 54.5 °C (130.1 °F).

(c) *Division 4.3 (Dangerous when wet materials).* For the purpose of this subchapter, "dangerous when wet material" (Division 4.3) means a material that, by interaction with water, is liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.

§ 173.125 Class 4—Assignment of Packing Group.

The packing group of a Class 4 material shall be as assigned in Column 5 of the § 172.101 Table.

§ 173.128 Class 5, Divisions 5.1 and 5.2—Definitions.

(a) *Division 5.1 (Oxidizer).* For the purpose of this subchapter, "oxidizer" (Division 5.1) means a material such as a chlorate, permanganate, inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter.

(b) *Division 5.2 (Organic peroxide).* For the purpose of this subchapter "organic peroxide" (Division 5.2) means an organic compound containing the bivalent -0-0- structure and which may be considered a derivative of hydrogen

peroxide where one or more of the hydrogen atoms have been replaced by organic radicals unless:

(1) The material meets the definition of an explosive as prescribed in Subpart C of this part, in which case it must be classed as an explosive,

(2) The material is forbidden to be offered for transportation according to § 172.101 or § 173.21 of this subchapter,

(3) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide, or

(4) The Director, OHMT, has determined that the material does not present a hazard in transportation.

§ 173.129 Class 5—Assignment of Packing Group.

The packing group of a Class 5 material shall be as assigned in Column 5 of the § 172.101 Table.

§ 173.132 Class 6, Division 6.1—Definitions.

(a) For the purpose of this subchapter, "poisonous materials" (Division 6.1) means a material, other than a gas, which is known to be so toxic to humans as to afford a hazard to health during transportation, or which, in the absence of adequate data on human toxicity, is presumed to be toxic to humans because it falls within any one of the following categories when tested on laboratory animals:

(1) *Oral Toxicity.* A liquid with an LD_{50} for acute oral toxicity of not more than 500 mg/kg or a solid with an LD_{50} for acute oral toxicity of not more than 200 mg/kg.

(2) *Dermal Toxicity.* A material with an LD_{50} for acute dermal toxicity of not more than 1000 mg/kg.

(3) *Inhalation Toxicity.* (i) A dust or mist with an LC_{50} for acute toxicity on inhalation of not more than 10 mg/L; or

(ii) A material with a saturated vapor concentration in air at 20 °C (68 °F) of not more than one-fifth of the LC_{50} for acute toxicity on inhalation of vapors and with an LC_{50} for acute toxicity on inhalation of vapors of not more than 5000 ml/m³.

(b) For the purposes of this subchapter—

(1) LD_{50} for acute toxicity means that dose of the material administered which is most likely to cause death within 14 days in half of both male and female young adult albino rats. The number of animals tested must be sufficient to give a statistically significant result and be in conformity with good pharmacological practices. The result is expressed in mg/kg body mass.

(2) LD_{50} for acute dermal toxicity means that dose of the material which, administered by continuous contact for 24 hours with the bare skin of an albino rabbit, is most likely to cause death within 14 days in half of the animals tested. The number of animals tested must be sufficient to give a statistically significant result and be in conformity with good pharmacological practices. The result is expressed in mg/kg body mass.

(3) LC_{50} for acute toxicity on inhalation means that concentration of vapor, mist, or dust which, administered by continuous inhalation for one hour to both male and female young adult albino rats, is most likely to cause death within 14 days in half of the animals tested. If the material is administered to the animals as a dust or mist, more than 90 percent of the particles available for inhalation in the test must have a diameter of 10 microns or less if it is reasonably foreseeable that such concentrations could be encountered by a human during transport. The result is expressed in mg/L of air for dusts and mists or in mL/m³ of air (parts per million) for vapors.

(i) When provisions of this subchapter require the use of the LC_{50} for acute toxicity on inhalation of dusts and mists based on a one-hour exposure and such data is not available, the LC_{50} for acute toxicity on inhalation based on a four-hour exposure may be multiplied by four and the product substituted for the one-hour LC_{50} for acute toxicity on inhalation.

(ii) When the provisions of this subchapter require the use of the LC_{50} for acute toxicity on inhalation of vapors based on a one-hour exposure and such data is not available, the LC_{50} for acute toxicity on inhalation based on a four-hour exposure may be multiplied by two and the product substituted for the one-hour LC_{50} for acute toxicity on inhalation.

(c) The foregoing categories shall not apply if the Director, OHMT has determined that the physical characteristics of the material or its probable hazards to humans as shown by documented experience indicate that the material will not cause serious sickness or death.

§ 173.133 Division 6.1—Assignment of Packing Group.

(a) The packing group of Division 6.1 materials shall be as assigned in Column 5 of the § 172.101 Table. When the § 172.101 Table provides more than one packing group for a hazardous material, the packing group shall be determined by applying the following criteria:

(1) The packing group assignment for routes of administration other than inhalation of vapors shall be in accordance with the following table:

Packing group	Oral toxicity LD_{50} (mg/kg)	Dermal toxicity LD_{50} (mg/kg)	Inhalation toxicity by dusts and mists LC_{50} (mg/L)
I	≤5	≤40	≤0.5
II	>5, ≤50	>40, ≤200	>0.5, ≤2
III	solids: >50, ≤200 liquids: >50, ≤500	>200, ≤1000	>2, ≤10

(2) The packing group assignment based on inhalation of vapors shall be in accordance with the following table:

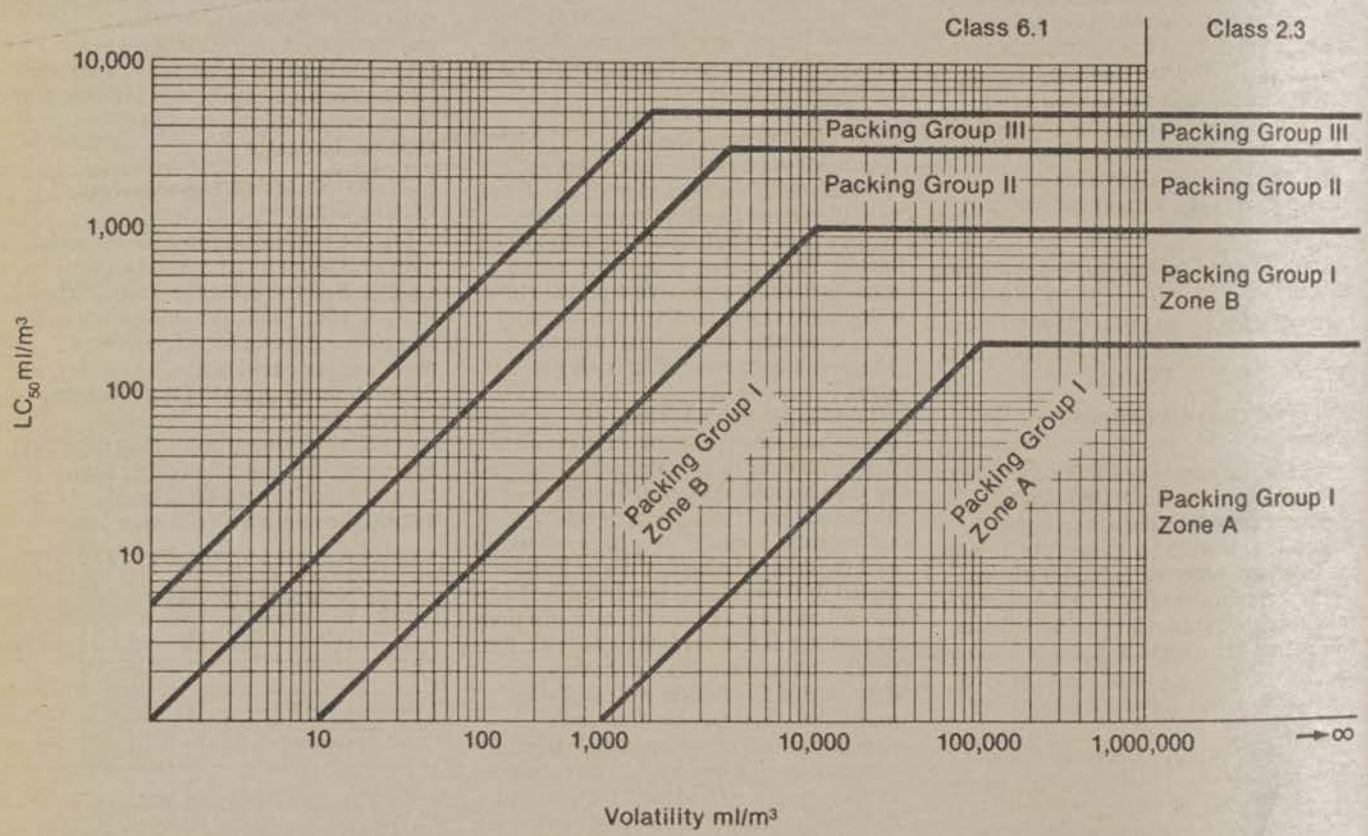
Packing group	Vapor concentration and toxicity
I, Zone A	V≥500 LC_{50} and LC_{50}≤200 mL/M³.
I, Zone B	V≥10 LC_{50}; LC_{50}≤1000 mL/m³; and the criteria for Packing Group I, Zone A are not met.
II	V≥LC_{50}; LC_{50}≤3000 mL/m³; and the criteria for Packing Group I are not met.
III	V≥.2 LC_{50}; LC_{50}≤5000 mL/m³; and the criteria for Packing Groups I and II are not met.

Note: V is the saturated vapor concentration in air of the material in mL/m³ at 20 °C and standard atmospheric pressure.

These criteria are represented graphically in Figure 1:

Figure 1

Inhalation Toxicity: Packing Group Borderlines



(3) When the packing group determined by applying these criteria is different for two or more (oral, dermal or inhalation) routes of administration, the packing group assigned to the material shall be that indicated for the highest degree of toxicity for any of the routes of administration.

(4) Notwithstanding the provisions of this paragraph, the packing group of a tear gas substance is as assigned in Column 5 of the § 172.101 Table.

§ 173.134 Class 6, Division 6.2—Definition.

(a) For the purpose of this subchapter—

(1) An "infectious substance" (Division 6.2) means a viable microorganism, or its toxin, which causes or may cause human disease, and is limited to those agents listed in 42 CFR 72.3 of the regulations of the Department of Health and Human Services. The terms "infectious substance" and "etiologic agent" are synonymous.

(2) A "diagnostic specimen" means any human or animal material including, but not limited to, excreta, secreta, blood, and its components, tissue, and tissue fluids, being shipped for purposes of diagnosis.

(3) A "biological product" means a material prepared and manufactured in accordance with the provisions of 9 CFR Part 102 (Licensed veterinary biological products), 21 CFR Part 601 (Licensing), 21 CFR 312.1 (Conditions for exemption of new drugs for investigational use), 9 CFR Part 103 (Biological products for experimental treatment of animals), or 21 CFR 312.9 (New drugs for investigational use in laboratory research animals or in vitro tests), and which in accordance with these provisions, may be shipped in interstate commerce.

(b) The requirements of this subpart supplement the requirements of the Department of Health and Human Services contained in 42 CFR Part 72.

(c) Packing groups are not assigned to Division 6.2 materials.

§ 173.136 Class 8—Definitions.

(a) For the purpose of this subchapter, "corrosive material" (Class 8) means a liquid or solid that causes visible destruction or irreversible alterations in human skin tissue at the site of contact, or a liquid that has a severe corrosion rate on steel or aluminum, in accordance with the following criteria:

(1) A material is considered to be destructive or to cause irreversible alteration in human skin tissue if, when

tested on the intact skin of an albino rabbit by the technique described in Appendix A to this part, the structure of the tissue at the site of contact is destroyed or changed irreversibly after an exposure period of 4 hours or less.

(2) A liquid is considered to have a severe corrosion rate if its corrosion rate exceeds 6.25 mm (0.246 inches) a year on steel (SAE 1020) or aluminum (nonclad 7075–T6) at a test temperature of 55 °C (131 °F). An acceptable test is described in NACE Standard TM–01–69.

(b) If human experience or other data indicate that the hazard of a material is greater or less than indicated by the results of the tests specified in paragraph (a) of this section, the Department may revise its classification or make the material subject to the requirements of this subchapter.

§ 173.137 Class 8—Assignment of packing group.

(a) The packing group of Class 8 material is as indicated in Column 5 of the § 172.101 Table. When the § 172.101 Table provides more than one packing group for a hazardous material, the packing group shall be determined by applying the following criteria:

(i) *Packing Group I.* Substances that cause visible necrosis of the skin tissue at the site of contact when tested on the intact skin of an animal for a period of not more than 3 minutes.

(ii) *Packing Group II.* Substances that cause visible necrosis of the skin tissue at the site of contact when tested on the intact skin of an animal for a period of more than 3 minutes but not more than 60 minutes.

(iii) *Packing Group III.* (1) Substances that cause visible necrosis of the skin tissue at the site of contact when tested on the intact skin of an animal for a period of not more than 4 hours.

(2) Substances with a corrosion rate on steel or aluminum surfaces exceeding 6.25 mm (0.246 inches) a year at a test temperature of 55 °C (131 °F).

§ 173.140 Class 9—Definitions.

(a) For the purpose of this subchapter, "miscellaneous hazardous material" (Class 9) means a material which presents a hazard during transport, but which is not included in any other hazard class. Included in this class is any material which has an anesthetic, noxious or other similar property which could cause extreme annoyance or discomfort to a flight crew member so as to prevent the correct performance of assigned duties.

§ 173.141 Class 9—Assignment of packing group.

The packing group of a Class 9 material is as indicated in Column 5 of the § 172.101 Table.

§ 173.144 Other Regulated Materials (ORM)—Definitions.

(a) For the purpose of this subchapter, "ORM–D material" means a material such as a consumer commodity which, though otherwise subject to the regulations of this subchapter, presents a limited hazard during transportation due to its form, quantity and packaging. It must be a material for which exceptions are provided in the § 172.101 Table. Each ORM–D material or category of ORM–D material is listed in the § 172.101 Table.

(b) For the purpose of this subchapter, "ORM–E material" means a material that is not included in any other hazard class, but is subject to the requirements of this subchapter because it meets the definition in § 171.8 of this subchapter for a hazardous substance or a hazardous waste.

§ 173.145 Other Regulated Materials—Assignment of packing group.

(a) The packing group of an ORM–E material is as indicated in Column 5 of the § 172.101 Table.

(b) Packing groups are not assigned to ORM–D materials.

§ 173.150 Exceptions for Class 3 (flammable and combustible liquids).

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter and the material does not meet the definition of another hazard class.

(b) *Limited quantities.* Limited quantities of flammable liquids (Class 8) are excepted from labeling, unless offered or intended for transportation by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of limited quantities are not subject to Subpart F (Placarding) of Part 172 of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For flammable liquids in Packing Group I, inner packagings not over 0.5 liters (0.53 quarts) net capacity each, packed in strong outer packagings;

(2) For flammable liquids in Packing Group II, inner packagings not over 1.0 liters (1.06 quarts) net capacity each, packed in strong outer packaging; and

(3) For flammable liquids in Packing Group III, inner packagings not over 4.0 liters (1.06 gallons) net capacity each, packed in strong outer packagings.

(c) *Consumer commodities.* A limited quantity which conforms to the provisions of paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed as ORM–D material. In addition to the exceptions provided by paragraph (b), shipments of ORM–D materials are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft, and are eligible for the exceptions provided in § 173.156.

(d) *Alcoholic beverages.* Alcoholic beverages (wine and distilled spirits as defined in 27 CFR 4.10 and 5.11) in packagings of four liters or less are not subject to the requirements of this subchapter.

(e) *Aqueous solutions of alcohol.* An aqueous solution containing 24 percent or less alcohol by volume may be considered to have a flash point no less than 38 °C (100 °F).

(f) *Combustible liquids.*

(1) Except for transportation by vessel or aircraft, a flammable liquid with a flash point at or above 38 °C (100 °F) may be reclassed as a combustible liquid.

(2) Unless otherwise stated for a specific material, the requirements in this subchapter do not apply to a material classed as a combustible liquid in a non-bulk packaging unless the combustible liquid is a hazardous substance or a hazardous waste.

(3) A combustible liquid that is a hazardous substance or a hazardous waste, in a non-bulk packaging, and a combustible liquid in a bulk packaging is not subject to the requirements of this subchapter except those pertaining to:

(i) Shipping papers, waybills, switching orders, and hazardous waste manifests;

(ii) Marking of packages;

(iii) Display of identification numbers on bulk packages;

(iv) Placarding of bulk packagings;

(v) Carriage aboard aircraft and vessels (for packaging requirements for transport by vessel see § 176.340 of this subchapter);

(vi) Reporting incidents as prescribed by §§ 171.15, 171.16 and 171.17 of this subchapter;

(vii) Packaging requirements of Subpart B of this part; and

(viii) The requirements of §§ 173.1, 173.24, 173.24a, 173.24b, 174.1, 177.804, 177.817, and 177.834 of this subchapter.

(4) A combustible liquid that is not a hazardous substance or a hazardous waste is not subject to the requirements of this subchapter if it is a mixture of one or more components that

(i) Have a flash point at or above 93.30 °C (200 °F),

(ii) Comprise at least 99 percent of the volume of the mixture, and

(iii) Is not offered for transportation or transported as a liquid at a temperature at or above its flash point.

§ 173.151 Exceptions for Division 4.1 (flammable solids).

(a) *General.* Exceptions for hazardous material shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) *Limited quantities of Division 4.1 flammable solids.* Limited quantities of flammable solids (Division 4.1) in Packing Groups II and III are excepted from labeling, unless offered or intended for transportation by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of limited quantities are not subject to Subpart F (Placarding) of Part 172 of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For flammable solids in Packing Group II, inner packagings not over 1.0 kilograms (2.20 pounds) net capacity each, packed in strong outer packagings; and

(2) For flammable solids in Packing Group III, inner packagings not over 5.0 kilograms (11.02 pounds) net capacity each, packed in strong outer packagings.

(c) *Consumer commodities.* A limited quantity which conforms to the provisions of paragraph (b) of this section, and charcoal briquettes in packagings not exceeding 30 kilograms (66.1 pounds) gross weight, may be renamed "Consumer commodity" and reclassed as ORM–D material, if the material is a "consumer commodity" as defined in § 171.8 of this subchapter. In addition to the exceptions provided by paragraph (b), shipments are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft, and are eligible for the exceptions provided in § 173.156.

§ 173.152 Exceptions for Division 5.1 (oxidizers) and Division 5.2 (organic peroxides).

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) *Limited quantities.* Limited quantities of oxidizers (Division 5.1) and organic peroxides (Division 5.2) in Packing Groups II and III are excepted from labeling, unless offered or intended for transportation by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of these limited quantities are not subject to Subpart F of Part 172 (Placarding) of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For oxidizers in Packing Group II, inner packagings not over 1.0 liters (1.06 quarts) net capacity each for liquids or not over 1.0 kilograms (2.20 pounds) net capacity each for solids, packed in strong outer packagings.

(2) For oxidizers in Packing Group III, inner packagings not over 4.0 L (1.06 gallons) net capacity each for liquids or not over 5.0 kilograms (11.02 pounds) net capacity each for solids, packed in strong outer packagings.

(3) For organic peroxides in Packing Groups II and III, inner packagings not over 30 milliliter (1.0 ounce) net capacity for liquids or 30 grams (1.1 ounces) net capacity for solids, packed in strong outer packagings.

(c) *Consumer commodities.* A limited quantity which conforms to the provisions of paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed as ORM–D material. In addition to the exceptions provided by paragraph (b) of this section, shipments are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft, and are eligible for the exceptions provided in § 173.156.

§ 173.153 Exceptions for Division 6.1 (poisonous materials).

(a) *General.* Exceptions for hazardous material shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) *Limited quantities of Division 6.1 materials.* Limited quantities of poisonous materials (Division 6.1) in Packing Group III are excepted from the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of these limited quantities are not subject to Subpart F of Part 172 (Placarding) of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For poisonous liquids, inner packagings not over 4.0 liters (1.06 gallons) net capacity each, packed in strong outer packagings; and

(2) For poisonous solids, inner packagings not over 5.0 kilograms (11.02 pounds) net capacity each, packed in strong outer packagings.

(c) *Consumer commodities.* The following provisions apply to consumer commodities:

(1) A limited quantity which conforms to the provisions of paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed as ORM–D material.

(2) A poisonous material which is a drug or medicine and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed as ORM–D material if packaged in a combination packaging not exceeding 30 kilograms (66.1 pounds) with inner packagings not over 250 milliliters (8.5 ounces) net capacity for liquids or 250 grams (8.8 ounces) net capacity for solids packed in strong outer packagings. Each package must conform to the packaging requirements of Subpart B of this part.

(3) Packages of ORM–D material are excepted from the specification packaging requirements of this subchapter and from the labeling requirements of Subpart E of Part 172. Shipments of ORM–D material are eligible for the exceptions provided in § 173.156 and in paragraph (b) of this section and are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft.

§ 173.154 Exceptions for Class 8 (corrosive materials).

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific

hazardous material in the § 172.101 Table of this subchapter.

(b) *Limited quantities.* Limited quantities of corrosive materials (Class 8) in Packing Groups II and III are excepted from labeling, unless offered or intended for transportation by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of these limited quantities are not subject to Subpart F (Placarding) of Part 172 of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For corrosive materials in Packing Group II, in inner packagings not over 1.0 liters (1.06 quarts) net capacity each for liquids or not over 1.0 kilograms (2.2 pounds) net capacity each for solids, packed in strong outer packagings.

(2) For corrosive materials in Packing Group III, in inner packagings not over 4.0 liters (1.06 gallons) net capacity each for liquids or not over 5.0 kilograms (11.02 pounds) net capacity each for solids, packed in strong outer packagings.

(c) *Consumer commodities.* A limited quantity which conforms to the provisions of paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter may be renamed "Consumer commodity" and reclassed as ORM–D material. In addition to the exceptions provided by paragraph (b) of this section, shipments of ORM–D materials are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft, and are eligible for the exceptions provided in § 173.156.

(d) *Materials corrosive to aluminum.* Except for a hazardous substance or a hazardous waste, a material classed as a Class 8, Packing Group III, material solely because of its corrosive effect on aluminum is not subject to the provisions of this subchapter when transported by motor vehicle or rail car.

§ 173.155 Exceptions for Class 9 (miscellaneous hazardous materials).

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) *Limited quantities.* Limited quantities of miscellaneous hazardous materials (Class 9) are excepted from the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of these limited quantities are not subject to Subpart F (Placarding) of Part 172 of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For liquids, inner packagings not over 4.0 liters (1.06 gallons) net capacity each, packed in strong outer packagings.

(2) For solids, inner packagings not over 5.0 kilograms (11.02 pounds) net capacity each, packed in strong outer packagings.

(c) *Consumer commodities.* A limited quantity which conforms to the provisions of paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed as ORM–D material. In addition to the exceptions provided by paragraph (b) of this section, shipments of ORM–D materials are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft, and are eligible for the exceptions provided in § 173.156.

§ 173.156 Exceptions for ORM materials.

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table or in a packaging section in this part.

(b) *ORM–D.* Packagings for ORM–D materials are specified according to hazard class in §§ 173.150 through 173.155 and in § 173.306. In addition to other exceptions specified for ORM–D materials in this part, strong outer packagings as specified in this part and the marking requirements specified in § 172.316 of this subchapter are not required for materials classed as ORM–D when unitized in cages, carts or similar overpacks and when transported by a private or contract motor carrier from a distribution center to a retail outlet.

(c) *ORM–E.* Limited quantities of ORM–E materials are excepted from the specification packaging requirements of this subchapter when packaged according to this paragraph. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For liquids, inner packagings not over 4.0 liters (1.06 gallons) net capacity each, packed in strong outer packagings; and

(2) For solids, inner packagings not over 5.0 kilograms (11.02 pounds) net capacity each, packed in strong outer packagings.

Subpart E—Non-bulk Packaging for Hazardous Materials Other Than Class 1 and Class 7

§ 173.158 Nitric Acid.

(a) Nitric acid exceeding 40 percent concentration may not be packaged with any other material.

(b) Nitric acid in any concentration which does not contain sulfuric acid or hydrochloric acid as impurities, when offered for transportation by rail, highway, or water shall be packaged in specification containers as follows:

(1) 1A1 stainless steel drums are authorized, subject to the following limitations:

(i) Stainless steel used in drums must conform to the following thicknesses:

Nominal (marked) capacity (in liters) of 1A1 Drum	Minimum thickness (in millimeters) of stainless steel
55	0.9
115	1.2
210	1.5
450	2.0

(ii) Drums weighing less than 85 percent of their original tare weight may not be used.

(iii) Type 304 or other grades of equivalent corrosion-resistant steels in the as-welded condition are permissible for nitric acid concentrations up to and including 78 percent.

(iv) For all concentrations of nitric acid, the following are permissible:

(A) Type 304 heat-treated (quenched in water at 1900 °F), or

(B) Stabilized Type 347 in the as-welded condition, or

(C) Stabilized Type 347 stress-relieved (1550–1650 °F), or

(D) Stabilized Type 347 heat-treated (quenched in water at 1900 °F), or

(E) Other grades of equivalent corrosion resistance.

(v) All parts of drum exposed to lading must be capable of withstanding the corrosive effect of nitric acid to the extent that 65 percent boiling nitric acid does not penetrate the metal more than 0.0381 mm (0.0015 inches) per month. (ASTM A 262 may be used for a suitable corrosion test procedure.)

(vi) In addition to marking required by § 178.503 of this subchapter, the following marks, in lettering of at least

½ inch (12.7 mm) height, must be placed on drums used to transport nitric acid:

(A) The type of steel used in body and head sheets as identified by American Iron and Steel Institute type number, and, in addition, the letters HT following the steel designation on containers subject to stress relieving or heat treatment during manufacture.

(B) The thickness in millimeters of metal in thinnest part. When the thickness of metal in the body differs from that in the head, both must be indicated with slanting line between and with the gauge of the body indicated first.

(C) Original tare weight in kilograms, preceded by the letters "TW."

An example of the markings required by paragraphs (b)(1)(vi) (A), (B), and (C) of this section is "304HT/1.9/2.7/TW55."

(2) 4H1 expanded plastics outer packagings with glass inner receptacles of not greater than 2.5 liters (2.64 quarts) capacity each. No more than four 2.5 liter inner receptacles may be packed in one outer packaging.

(c) Nitric acid of 80 percent or greater concentration which does not contain sulfuric acid or hydrochloric acid as impurities, when offered for transportation by rail, highway, or water may be packaged in 1B1 aluminum drums.

(d) Nitric acid of 90 percent or greater concentration, when offered for transportation by rail, highway, or water may be packaged in 4CI, 4C2, 4D or 4F wooden boxes with inner packagings consisting of glass bottles further individually overpacked in tightly closed metal packagings. Glass bottles must be of 2.5 liters (2.64 quarts) or less capacity and cushioned within the metal packagings.

(e) Nitric acid of less than 90 percent concentration, when offered for transportation by rail, highway, or water may be packaged in 4CI, 4C2, 4D or 4F wooden boxes with inside glass packagings of not over 2.5 liters (2.64 quarts) capacity each.

(f) Nitric acid of 70 percent or less concentration, when offered for transportation by rail, highway, or water, may be packaged as follows:

(1) In composite packagings 6PA1, 6PA2, 6PB1, 6PB2, 6PC, 6PD1, 6PH1, or 6PH2.

(2) In 4H1 expanded plastic boxes with inner glass packagings of not over 2.5 liters (2.64 quarts) each. 1(g) Nitric acid of more than 70 percent concentration, when offered for transportation by cargo aircraft only, must be packaged in combination packagings with 1A2, 1B2, 1D, 1G, 1H2, 3H2, 4C1, 4C2, 4D, 4F or 4G outer packagings with glass or earthenware inner packagings of not over one liter (2.11 pints) or glass ampoules of not over 0.5 liter (1.06 pints).

(h) Nitric acid of less than 70 percent concentration, when offered for transportation in cargo aircraft only must be packaged in combination packagings with 1A2, 1B2, 1D, 1G, 1H2, 3H2, 4CI, 4C2, 4D, 4F or 4G outer packagings with inner packagings of—

(1) Glass or earthenware not over 2.5 liter (2.64 quarts) capacity;

(2) Plastic not over 2.5 liter (2.64 quarts) capacity; or

(3) Glass ampoule not over 0.5 liter (1.06 pints) capacity.

§ 173.159 Batteries, wet.

(a) Electric storage batteries, containing electrolyte acid or alkaline corrosive battery fluid, must be completely protected so that short circuits will be prevented; they may not be packed with other materials except as provided in §§ 173.220 and 173.222 of this part and paragraphs (h) and (i) of this section.

(b) The following specification packagings are authorized for batteries packed without other materials:

(1) 4C1, 4C2, 4D, or 4F wooden boxes.

(2) 4G fiberboard boxes.

(c) The following non-specification packagings are authorized for batteries packed without other articles:

(1) Electric storage batteries protected against short circuits and firmly secured to skids or pallets capable of withstanding the shocks normally incident to transportation, are authorized for transportation by rail, highway, or water. The height of the completed unit must not exceed 1½ times the width of the skid or pallet. The unit must be capable of withstanding, without damage, a superimposed weight equal to two times the weight of the unit or, if the weight of the unit exceeds 2000 pounds (907.2 kg), a superimposed weight of 4000 pounds (1814.4 kg). Battery terminals must not be relied upon to support any part of the superimposed weight.

(2) Electric storage batteries weighing 500 pounds (226.8 kg) or more, consisting of carriers' equipment, may be shipped by rail when mounted on suitable skids and protected against short circuits. Such shipments must not be offered in interchange service.

(3) One to three batteries not over 25 pounds (11.3 kg) each packed in outer boxes. The maximum authorized gross weight is 75 pounds (34.0 kg).

(4) Not more than four batteries not over 15 pounds (6.8 kg) each, packed in strong outer fiberboard or wooden boxes. Batteries must be securely cushioned and packed to prevent short circuits. The maximum authorized gross weight is 65 pounds (29.5 kg).

(5) Not more than five batteries not over 10 pounds (4.5 kg) each, packed in strong outer fiberboard or wooden boxes. Batteries must be securely cushioned and packed to prevent short circuits. The maximum authorized gross weight is 65 pounds (29.5 kg).

(6) Single batteries not exceeding 75 pounds (34.0 kg) each, packed in 5-sided slip covers or in completely closed fiberboard boxes. Slip covers and boxes must be of solid or double-faced corrugated fiberboard of at least 200 pounds (9.07 kg) Mullen test strength. The slip cover or fiberboard box must fit snugly and provide inside top clearance of at least ½ inch (1.27 cm) above battery terminals and filler caps with reinforcement in place. Assembled for shipment, the bottom edges of the slipcover must come to within one inch (2.54 cm) of the bottom of the battery. The completed package (battery and box or slip cover) must be capable of withstanding a top-to-bottom compression test of at least 500 pounds (226.8 kg) without damage to battery terminals, cell covers or filler caps.

(d) Nonspillable wet electric storage batteries capable of withstanding the following two tests without leakage of battery fluid are excepted from all other requirements of this subchapter when protected against short circuits and securely packaged:

(1) *Vibration test.* The battery must be rigidly clamped to the platform of a vibration machine and a simple harmonic motion having an amplitude of 0.8 mm (0.03 inches), with a 1.6 mm (0.06 mm) maximum total excursion must be applied. The frequency must be varied at the rate of 1 Hz/min between the limits of 10 Hz to 55 Hz. The entire range of frequencies and return must be traversed in 95±5 minutes for each mounting position (direction of vibrator) of the battery. The battery must be tested in three mutually perpendicular positions (to include testing with fill openings and vents, if any, in an inverted position) for equal time periods.

(2) *Pressure differential test.* Following the vibration test, the battery must be stored for six hours at 24 °C+4 °C (75.2 °F+7.2 °F) while subjected to a pressure differential of at least 88 kPa (12.8 psi). The battery must be tested in three mutually perpendicular positions (to include testing with fill openings and vents, if any, in an inverted position) for at least six hours in each position.

(e) Electric storage batteries containing electrolyte or corrosive battery fluid are not subject to the requirements of this subchapter for

carriage by highway or rail if all of the following requirements are met:

(1) No other hazardous materials may be transported in the same vehicle,

(2) The batteries must be loaded or braced so as to prevent damage and short circuits in transit,

(3) Any other material loaded in the same vehicle must be blocked, braced, or otherwise secured to prevent contact with or damage to the batteries, and

(4) The transport vehicle may not carry material shipped by any person other than the shipper of the batteries.

(f) Electric storage batteries, containing electrolyte or corrosive battery fluid in a coil from which it is injected into the battery cells by a gas generator and initiator assembled with the battery, and which are nonspillable under the criteria of paragraph (d) of this section, are excepted from other requirements of this subchapter when examined by the Bureau of Explosives and approved by the Director, OHMT.

(g) Electrolyte, acid, or alkaline corrosive battery fluid, packed with storage batteries wet or dry, must be packed in one of the following specification packagings:

(1) In 4C1, 4C2, 4D, or 4F wooden boxes with inner receptacles of glass, not over 4.0 liters (1.06 gallons) each nor over 8.0 liters (2.11 gallons) total in each outside container. Inside containers must be well-cushioned and separated from batteries by a strong solid wooden partition. The completed package must conform to Packing Group III requirements.

(2) Electrolyte, acid, or alkaline corrosive battery fluid included with storage batteries and filling kits may be packed in strong plywood or wooden boxes when shipments are made by, for, or to the Departments of the Army, Navy, or Air Force of the United States. Packagings must conform to military specifications. The electrolyte, acid, or alkaline corrosive battery fluid must be packed in polyethylene bottles of not over 1.0 liter (1.06 quarts) capacity each. Not more than 24 bottles, securely separated from storage batteries and kits, may be shipped in each package.

(3) In 4G fiberboard boxes with not more than 12 inside packagings of polyethylene or other material resistant to the lading, each not over 2.0 liters (2.11 quarts) capacity each. Completed packages must conform to Packing Group III requirements. Inner packagings must be adequately separated from the storage battery. The maximum authorized gross weight is 65 pounds (29.5 kg). These packages are not authorized for transportation by aircraft.

(h) Dry storage batteries or battery charger devices may be packaged in 4G fiberboard boxes with inner receptacles containing battery fluid. Completed packagings must conform to Packing Group III requirements. Not more than 12 inner receptacles may be packed in one outer box. The maximum authorized gross weight is 75 pounds (34.0 kg).

§ 173.160 Bombs, smoke, non-explosive (corrosive).

Bombs, smoke, non-explosive, may be shipped provided they are without ignition elements, bursting charges, detonating fuses or other explosive components. They must be packaged in wooden (4C1, 4C2), plywood (4D) or reconstituted wood (4F) boxes, or plywood drums (ID), which meet Packing Group II requirements.

§ 173.161 Chemical kits.

(a) Except as otherwise provided, chemical kits must be packed, marked, and labeled as prescribed by this subchapter for the specific corrosive materials contained therein.

(b) Chemical kits containing limited quantities of corrosive liquids in inner receptacles of not over 6 fluid ounces (177.4 mL) capacity each are excepted from labeling (except when offered for transportation by air) and the specification packaging requirements of this subchapter if all of the following requirements are met:

(1) The kit may contain only corrosive liquids for which packaging exceptions are provided in the § 172.101 Table.

(2) The kit must be a strong wooden or metal outer packaging, or must be packed in a strong wooden or metal packaging.

(3) The corrosive liquids must be cushioned with sufficient absorbent material to completely absorb the contents of the individual containers, and must be protected from damage by other materials in the kit.

(4) The contents of the kit must be of a nature and packed so there will be no possibility of the mixture of contents causing dangerous evolution of heat or gas.

In addition, these shipments are not subject to Subpart F of Part 172 of this subchapter (Placarding), to Part 174 (Carriage by rail) of this subchapter except § 174.24 (Shipping papers) and to Part 177 (Carriage by highway) of this subchapter except § 177.817 (Shipping papers).

(c) Except as provided in paragraph (b) of this section, chemical kits must be packed in 4G fiberboard boxes with inner glass receptacles of not over one liter (1.06 quart) capacity each, securely cushioned and separated from other inside containers. The contents of the kit must be of such a nature and so packed that there will be no possibility of the mixture of contents causing dangerous evolution of heat or gas.

§ 173.162 Gallium.

Gallium metal must be packaged in packagings intended to contain liquids consisting of semi-rigid plastic inner packagings of not more than 2.5 kg (5.51 pounds) net capacity each, individually enclosed in a sealed leak-tight bag of strong puncture-resistant material. The sealed bags must be packed in wooden (4C1, 4C2), plywood (4D), reconstituted wood (4F), fiberboard (4G) or plastic (4H1, 4H2) boxes or in fiber (1G) or steel (1A2) drums, which are lined with leak-tight, puncture-resistant material. Bags and liner material must be chemically resistant to gallium. If it is desired to maintain the gallium in a completely solid state, the above packaging may be overpacked in a strong, water-resistant outer packaging which contains dry ice or other means of refrigeration. If a refrigerant is used, all of the above materials used in the packaging of gallium must be chemically and physically resistant to the refrigerant and must have impact resistance at the low temperatures of the refrigerant employed. If dry ice is used, the outer packaging must permit the release of carbon dioxide gas. Completed packaging must meet Packing Group I requirements for transportation by aircraft and Packing Group III requirements for transportation by vessel.

§ 173.163 Hydrogen fluoride.

Hydrogen fluoride (hydrofluoric acid, anhydrous) must be shipped in Specification 3, 3A, 3AA, 3B, 3C, 3E, 4, 4A, 25, or 38 cylinders; or Specification 4B, 4BA, 4BW or 4C cylinders, if they are not brazed. Filling density must not exceed 85 percent of the water weight capacity of the cylinder. Cylinders used exclusively in this service may, in lieu of the periodic hydrostatic retest required by § 173.34(e), be given a complete external visual inspection as described in CGA Pamphlet C–6, at the time such periodic retest becomes due. Such inspections shall be made on cylinders cleaned to bare metal. The results shall be recorded on a data sheet, completed copies of which shall be kept as prescribed in § 173.34(e)(5). Items which must be checked and recorded on these data sheets are: Date of inspection (month and year); DOT specification number; cylinder identification (registered symbol and serial number, date of manufacture, and if needed for adequate identification, ownership symbol); tare weight; physical condition

(record specifically any leakage, corrosion, gouges, dents or digs in shell or heads, broken or damaged footring or protective ring or fire damage); disposition of cylinders (returned to service, to cylinder manufacturer for repairs, or scrapped). A cylinder which passes the inspection prescribed shall have the data recorded in the manner presently prescribed for the recording of the retest date except that an "E" is to follow the date (month and year) indicating requalification by the external inspection method. Cylinders removed from this service for any reason must be rendered unfit for any other regulated service.

§ 173.164 Mercury (metallic and articles containing mercury).

(a) Metallic mercury must be packaged as follows:

(1) In earthenware or glass or suitable plastic inner packagings of not more than 250 mL (8.5 ounces) capacity each, packed in steel drums (1A2), steel jerricans (3A2), wooden (4C1, 4C2), plywood (4D), fiberboard (4G) or reconstituted wood (4F) boxes, plywood drums (1D) or fiber drums (1G) with sufficient cushioning material to prevent breakage. Either the inner packagings or the outer packagings must have inner linings or bags of strong leakproof and puncture-resistant material impervious to mercury, completely surrounding the contents, which will prevent the escape of mercury from the package irrespective of its position.

(2) Iron or steel "quicksilver flasks" packaged in steel drums (1A2), steel jerricans (3A2), wooden (4C1, 4C2), plywood (4D), fiberboard (4G) or reconstituted wood (4F) boxes, plywood drums (1D) or fiber drums (1G) with leakproof linings as in subparagraph (1) of this paragraph.

(3) In welded steel bottles with inner vaulted bottoms as single packagings. The closure must be a bolt with a conical thread, and the opening must not exceed 20 mm (0.8 inch). The maximum net mass must not exceed 35 Kg (77.2 pounds).

(b) Manufactured articles or apparatuses containing mercury are excepted from the specification packaging requirements of this subchapter, when packaged as follows:

(1) Manufactured articles or apparatuses of which metallic mercury is a component part, such as manometers, pumps, thermometers, switches, etc. (for electron tubes, mercury vapor tubes and similar tubes, see paragraph (b)(2) of this section), must be in strong outer packagings, having sealed inner liners or bags of strong leakproof and puncture-resistant material impervious to mercury, which will prevent the escape of mercury from the package irrespective of its position. Mercury switches and relays are excepted from these requirements, if they are of the totally enclosed leakproof type in sealed metal or plastic units. Thermometers, switches and relays, each containing a total quantity of not more than 15 g (0.5 ounce) of mercury, are also excepted if installed as an integral part of a machine or apparatus and so fitted that shock of impact damage, leading to leakage of mercury, is unlikely to occur under conditions normally incident to transport;

(2) Electron tubes, mercury vapor tubes and similar tubes must be packaged as follows:

(i) Tubes which are packed in strong outer packagings with all seams and joints sealed with self-adhesive, pressure-sensitive tape which will prevent the escape of mercury from the package, are authorized up to a total net quantity of 450 g (15.9 ounces) of mercury per package;

(ii) Tubes with more than 450 g (15.9 ounces) of mercury are authorized only when packed in strong outer packagings, having sealed inner liners or bags of strong leakproof and puncture-resistant material impervious to mercury which will prevent escape of mercury from the package irrespective of its position;

(iii) Tubes which do not contain more than 5 g (0.2 ounce) of mercury each and which are packed in the manufacturer's original packagings, are authorized up to a total net quantity of 30 g (1.1 ounces) of mercury per package;

(iv) Tubes which are completely jacketed in sealed leakproof metal cases are authorized in the manufacturer's original packagings;

(3) For electron tubes, mercury vapor tubes, and similar tubes, the shipper must indicate the quantity of mercury on the shipping paper.

(4) Mercurial barometers conforming to subparagraph (1) of this paragraph, which are loaded and unloaded from an aircraft under the supervision of, and accompanied in flight by, a National Weather Service official or similar United States agency official, are excepted from any other requirements of this subchapter.

§ 173.171 Smokeless powder for small arms.

Smokeless powder for small arms may be classed as a flammable solid, for transportation by highway and rail only, subject to the following conditions:

(a) The smokeless powder must be examined for this classification by the Bureau of Explosives and approved by the Director, OHMT;

(b) The total quantity of smokeless powder in one railcar or motor vehicle may not exceed 100 pounds (45.4 kg) net mass; and

(c) Only combination packagings with inner packagings not exceeding 8 pounds (3.6 kg) net mass are authorized. Inner packagings must be arranged and protected so as to prevent simultaneous ignition of the contents. The complete package must be a type examined by the Bureau of Explosives and approved by the Director, OHMT.

§ 173.172 Aircraft hydraulic power unit fuel tank.

(a) Aircraft hydraullc power unit fuel tanks containing a mixture of anhydrous hydrazine and monomethyl hydrazine (M86 fuel) and designed for installation as complete units in aircraft are excepted from the specification packaging requirements of this subchapter when they conform to either of the following conditions:

(1) The unit must consist of an aluminum pressure vessel made from tubing and having welded heads. Primary containment of the fuel within this vessel must consist of a welded aluminum bladder having a maximum internal volume of 46L (12.2 gallons). The outer vessel must have a minimum design gauge pressure of 1,275 kPa (184.9 psi) and a minimum burst gauge pressure of 2,755 kPa (399.48 psi). Each vessel must be leak-checked during manufacture and before shipment and must be found leakproof. The complete inner unit must be securely packed in non-combustible cushioning material, such as vermiculite, in a strong outer tightly closed metal packaging which will adequately protect all fittings. Maximum quantity of fuel per unit and package is 42L (11.1 gallons); or

(2) The unit must consist of an aluminum pressure vessel. Primary containment of the fuel within this vessel must consist of a welded hermetically sealed fuel compartment with an elastomeric bladder having a maximum internal volume of 46L (12.2 gallons). The pressure vessel must have a minimum design gauge pressure of 5,170 kPa (749.8 psi). Each vessel must be leak-checked during manufacture and before shipment and must be securely packed in non-combustible cushioning material, such as vermiculite, in a strong outer tightly closed metal packaging which will adequately protect all fittings. Maximum quantity of fuel per unit and package is 42L (11.1 gallons).

§ 173.173 Paint, paint-related material, adhesives and ink.

(a) Except as otherwise provided in this part, the description "Paint" is the proper shipping name for paint, lacquer, enamel, stain, shellac, varnish, liquid aluminum, liquid bronze, liquid gold, liquid wood filler, and liquid lacquer base. The description "Paint-related material" is the proper shipping name for a paint thinning, reducing or removing compound. However, if a more specific description is listed in the § 172.101 Table of this subchapter, that description must be used.

(b) Paint, paint-related material, adhesives and ink must be packaged as follows:

(1) As prescribed in § 173.202 of this Part if it is a Packing Group II material or § 173.203 of this Part if it is a Packing Group III material.

(2) In inner glass packagings of not over one liter capacity each or inner metal packagings of not over 5 liters each, packed in a strong outer packaging. Packages must conform to the packaging requirements of Subpart B of this part but need not conform to the requirements of Part 178 of this subchapter.

§ 173.174 Refrigerating machines.

A refrigerating machine assembled for shipment and containing 15 pounds (6.8 kg) or less of a flammable liquid for its operation in a strong, tight receptacle is excepted from labeling (except when offered for transportation by air) and the specification packaging requirements of this subchapter. In addition, shipments are not subject to Subpart F of Part 172 of this subchapter (Placarding), to Part 174 of this subchapter (Carriage by rail) except § 174.24 (Shipping papers) and to Part 177 (Carriage by highway) of this subchapter except § 177.817 (Shipping papers).

§ 173.180 Aircraft thrust devices.

(a) Aircraft thrust devices for assisted take-off and their igniters must be of a type examined by the Bureau of Explosives and approved by the Director, OHMT. They must be properly marked and must be shipped in an inoperable condition, and must be packaged as authorized in paragraph (b) of this section.

(b) Devices must be packed in outer wooden (4C1, 4C2), plywood (4D) or reconstituted wood (4F) boxes with one of the following inner packaging provisions:

(1) Aircraft thrust devices only;

(2) Igniters for aircraft thrust devices only packed in sealed metal inner packagings; or,

(3) Aircraft thrust devices together with igniters in same outer packaging provided igniters are packed separately. Igniters must be packed in strong inner packagings and then in separate sealed metal packagings.

§ 173.181 Pyrophoric materials (liquids).

When the § 172.101 Table specifies that a hazardous material be packaged under this section, only the following non-bulk packagings are authorized:

(a) Specification steel or nickel cylinders prescribed for any compressed gas except acetylene having a minimum design pressure of 175 psi (1206.6 kPa). Cylinders with valves must be:

(1) Equipped with steel valve protection caps or collars, unless overpacked; or

(2) Overpacked in a wooden box (4C1, 4C2, 4D or 4F); fiberboard box (4G), or plastic box (4H1 or 4H2). Cylinders must be secured to prevent movement in the box and, when shipped, must be so loaded that pressure relief devices remain in the vapor space of the cylinder. (See §§ 173.34(d)(7), 174.300(d) and 177.837(d) of this subchapter.)

(b) Wooden boxes (4C1, 4C2, 4D or 4F) or fiberboard boxes (4G) enclosing not more than four strong, tight metal cans with inner receptacles of glass or metal, not over one liter (1.06 quarts) capacity each, having positive screwcap closures adequately gasketed. Inner packagings must be cushioned on all sides with dry, absorbent, incombustible material in a quantity sufficient to absorb the entire contents. The strong, tight metal cans must be closed by positive means, not by friction.

(c) Steel drums (1A2) not exceeding 220 liters (58.1 gallons) capacity each with inner metal cans not over 4.0 liters (1.06 gallons) capacity each, constructed of not less than 28 gauge (0.0149 inch (0.3785 mm) nominal thickness) electro-coated tin plate closed by positive means, not friction.

(1) Inner packagings must have no opening exceeding 26 mm (1.0 inch) diameter and must be surrounded with incombustible cushioning material.

(2) Net quantity of pyrophoric liquids may not exceed two-thirds of the rated capacity of the outer drum. For example, a 220-liter (58.1 gallons) outer drum may contain no more than 147 liters (38.8 gallons) of pyrophoric liquids.

(3) Each layer of inner containers must be separated by a tin plate separator in addition to cushioning material.

§ 173.182 Barium azide—50 percent or more water wet.

Barium azide—50 percent or more water wet, must be packed in wooden boxes (4C1, 4C2, 4D, or 4F) or fiber drums (1G) with inner glass packagings not over 0.5 kg (1.1 pounds) capacity each. Packagings must have rubber stoppers wire tied for securement. If shipment is to take place at a time freezing weather is anticipated, a suitable antifreeze solution must be used to prevent freezing. Each packaging must conform to the requirements of Part 178 of this subchapter at the Packing Group I performance level.

§ 173.183 Nitrocellulose base film.

Films, nitrocellulose base, must be packaged in packagings conforming to the requirements of Part 178 of this subchapter at the Packing Group III performance level, as follows:

(a) In steel drums (1A2), aluminum drums (1B2), steel jerricans (3A2), wooden (4C1, 4C2), plywood (4D) or reconstituted wood (4F) boxes or plywood drums (ID) with each reel in a tightly closed metal can or strong cardboard or fiberboard inner packaging with cover held in place by adhesive tape or paper; or

(b) In fiberboard (4G) boxes or fiber drums (1G) with a single tightly closed metal can or strong cardboard or fiberboard inner packaging with cover held in place by adhesive tape or paper; authorized only for not over 600 m (1968.5 ft.) of film.

§ 173.184 Highway or rail fusee.

(a) A fusee is a device designed to burn at a controlled rate and to produce visual effects for signaling purposes. The composition of the fusee must be such that the fusee will not ignite spontaneously or undergo marked decomposition when subjected to a temperature of 75° C (167° F) for 48 consecutive hours.

(b) Fusees (highway and railway) must be packaged in steel drums (1A2), steel jerricans (3A2), wooden (4C1, 4C2), plywood (4D) or reconstituted wood (4F) boxes or in fiberboard boxes (4G), plywood (ID) or fiber (IG) drums. If the fusees are equipped with spikes, packagings must have reinforced ends to prevent penetration of spikes through the outer packagings; packages must be capable of passing drop test requirements (§ 178.603 of this subchapter), including at least one drop with spike in a downward position, and other requirements of Part 178 of this subchapter, at the Packing Group II performance level.

§ 173.185 Lithium batteries and cells.

(a) Except as provided in paragraphs (i) and (j) of this section, lithium cells and batteries, containing only metallic

lithium and vanadium pentoxide, manganese dioxide, monofluorographite, sulfur dioxide, lithium bromide salts, acetonitrile, propylene carbonate, thionyl chloride, sulphuryl chloride, chlorine poly-carbon monofluoride, lithium tetrachloroaluminate, lithium perchlorate, or lithium tetrafluoroborate, are authorized for transportation when packaged in accordance with paragraphs (b) through (g) of this section and tested in accordance with paragraph (h) of this section. Other types of lithium cells, batteries, and devices containing lithium batteries, must be transported by methods approved by the Director, OHMT.

(b) No cell may contain more than 12 grams (0.42 ounce) of lithium or lithium alloy.

(c) Each cell and battery must be equipped with an effective means of preventing external short circuits.

(d) Each cell and battery must incorporate a safety venting device or be designed in a manner that will preclude a violent rupture when subject to an incident in transportation, such as a dead short.

(e) Batteries containing cells or series of cells connected in parallel must be equipped with diodes to prevent reverse current flow.

(f) Except as provided in paragraph (j) of this section, cells or batteries may not be offered for transportation or transported if any cell has been discharged to the extent that the open circuit voltage is less than two volts or is less than ⅔ of the voltage of the fully charged cell whichever is less.

(g) Lithium cells and batteries must be packaged in packagings conforming to the requirements of Part 178 of this subchapter at the Packing Group II performance level, as follows:

(1) In strong inner fiberboard packagings containing not more than 500 grams (1.10 pounds) of lithium per inner packaging.

(2) For shipment by water, rail or highway, inner packagings must be packed within a wooden box (4C1, 4C2, 4D, or 4F), fiberboard box (4G), fiber drum (1G), or metal drum (1A2 or 1B2).

(3) For shipment by cargo-only aircraft, the inner packaging must be packed in a steel drum (1A2) with a gas tight gasket. The maximum gross weight of the package must not exceed 35 kg (77.18 pounds).

(4) When the outer packaging is a metal drum, inner packagings must be separated from each other and from the outer packaging by at least 25 mm (one inch) of non-combustible cushioning material.

(h) Lithium batteries and cells must be tested as follows:

(1) The cell or battery must be subjected to a thermal stability test at 75° C (167.0° F) for 48 hours and must show no evidence of distortion, leakage or internal heating. This test must be performed on at least 10 cells and 1 battery of each type taken from each week's production, or as otherwise approved by the Director, OHMT.

(2) Under application of a direct short, the cell or battery must be rendered inert, preferably without venting (through the use of internal fusing devices). If venting does occur, an open flame must be applied to the venting fumes to prove that an explosive condition does not exist. This test must be performed on at least 3 cells and 1 battery of each type taken from each week's production, or as otherwise approved by the Director, OHMT.

(3) Cells containing no more than 12 grams of lithium metal and also containing lithium molybdenum disulfide and lithium hexafluoroarsenate or vanadium pentoxide, polycarbonmonofluoride, manganese dioxide, titanium disulfide, thionyl chloride and lithium tetrachloroaluminate, lithium tetrafluorobonate or acetonitrile and sulfur dioxide, or thionyl chloride/bromine complex or sulfuryl chloride and chlorine which are hermetically sealed, and batteries constructed of such cells, are excepted from the tests in paragraphs (h)(1) and (h)(2) of this section and the requirement to use a 1A2 steel drum for transportation by cargo aircraft only as an outer packaging provided that:

(i) The outer packaging conforms to paragraph (g)(2) of this section; and

(ii) Prior to the first shipment, 10 cells or 4 batteries of each type to be offered for transportation, or as otherwise approved by the Director, OHMT, must be tested as follows, without showing any evidence of out-gassing, leakage, loss of weight or distortion:

(A) The cells or batteries must be stored for 6 hours at an absolute pressure of 11.6 kPa (1.68 psi) and a temperature of 24° C±4° C; (75.2° F±7.2° F).

(B) The cells or batteries must then be subjected to the thermal stability test at 75°C (167°F) for 48 hours as required in paragraph (h)(1) of this section;

(C) The cells or batteries must be rigidly clamped to the platform of a vibration machine. A simple harmonic motion having an amplitude of 0.8 mm (1.6 mm maximum total excursion) must be applied. The frequency must be varied at the rate of 1 Hz/min between the limits of 10 Hz to 55 Hz. The entire range of frequencies and return must be traversed in 95 ±5 minutes for each of three mutually perpendicular mounting positions of the battery and two perpendicular positions of the cells. One of the directions of vibration must be perpendicular to the terminal face of the battery or cell. Open circuit voltage must be observed for 30 seconds during the last quarter of each vibration period. Periodic retesting is not required;

(D) The battery must be secured to a shock testing machine by means of a rigid mount which will support all mounting surfaces of the battery. Each battery must be subjected to a total of three shocks of equal magnitude. The shocks must be applied in each of three mutually perpendicular directions. Each shock must be applied in a direction normal to a face of the battery. For each shock, the battery must be accelerated in such a manner that during the first 3 milliseconds the minimum average acceleration is 75 g (where g is the local acceleration due to gravity). The peak acceleration must be between 125 g and 175 g.

(i) Lithium batteries comprised of one or more cells are not subject to the requirements of this subchapter, if they meet the following requirements:

(1) Each cell may contain no more than 0.5 gram of lithium or lithium alloy.

(2) Each battery may contain an aggregate quantity of no more than 1 gram of lithium or lithium alloy.

(3) Each cell must be hermetically sealed.

(4) Cells must be separated so as to prevent short circuits.

(5) Batteries must be packed in strong outer packagers except when installed in electronic devices.

(6) If a battery contains more than 0.5 gram of lithium or lithium alloy, it may not contain a liquid or gas that is a hazardous material according to this subchapter unless the liquid or gas, if free, would be completely absorbed or neutralized by other materials in the battery.

(j) Lithium batteries, for disposal, comprised of one or more cells, may be offered for transportation to a permitted storage facility and disposal site by motor vehicle only, if the battery—

(1) When new, contained not more than 12.0 grams (0.42 ounce) of lithium per cell;

(2) Is equipped with an effective means of preventing external short circuits; and

(3) Is packed in a strong outer packaging conforming to the requirements of §§ 173.24 and 173.24a. The packaging need not conform to Part 178 performance requirements.

§ 173.186 Matches.

(a) Matches must be of a type which will not ignite spontaneously or undergo marked decomposition when subjected for 8 consecutive hours to a temperature of 93.3 °C (200 °F).

(b) *Definitions.* (1) "Fusee matches" are matches the heads of which are prepared with a friction sensitive igniter composition and a pyrotechnic composition which burns with little or no flame, but with intense heat.

(2) "Safety matches" are matches combined with or attached to the box, book or card that can be ignited by friction only on a prepared surface.

(3) "Strike anywhere" matches are matches that can be ignited by friction on a solid surface.

(4) "Wax 'Vesta' matches" are matches that can be ignited by friction either on a prepared surface or on a solid surface.

(c) Safety matches and wax "Vesta" matches must be tightly packed in securely closed inner packagings to prevent accidental ignition under conditions normally incident to transportation, and further packed in outer fiberboard, wooden, or other equivalent-type packagings. These matches in outer packagings not exceeding 50 pounds (22.7 kg) gross weight are not subject to any other requirement (except marking) of this subchapter. These matches may be packed in the same outer packaging with matdrials not subject to this subchapter.

(d) Strike anywhere matches may not be packed in the same outer packaging with any material other than safety matches or wax "Vesta" matches, which must be packed in separate inner packagings.

(e) *Packagings.* Strike anywhere matches must be tightly packed in securely closed chipboard, fiberboard, wooden, or metal inner packag ings to prevent accidental ignition under conditions normally incident to transportation. Each inner packaging may contain no more than 700 strike anywere matches and must be packed in outer steel drums (1A2), aluminum drums (1B2), steel jerricans (3A2), wooden (4C1, 4C2), plywood (4D), reconstituted wood (4F) or fiberboard (4G) boxes, plywood (1D) or fiber (1G) drums. Gross weight of fiberboard boxes (4G) must not exceed 60 pounds (27.2 kg). Gross weight of other outer packagings must not exceed 100 pounds (45.4 kg).

§ 173.187 Pyrophoric solids, metals or alloys, n.o.s.

Packings for pyrophoric solids, metals, or alloys, n.o.s. must conform to the requirements of Part 178 of this subchapter at the packing group performance level specified in the § 172.101 Table. These materials must be packaged as follows:

(a) In wooden boxes (4C1, 4C2, 4D, or 4F) with inner metal receptacles which have a positive (not friction) means of closure and contain not more than 15 kilograms (33.1 pounds) each.

(b) In steel drums (1A1 or 1A2) with a gross mass not exceeding 150 kg (330.7 pounds) per drum.

(c) In fiberboard boxes (4G) with inner metal receptacles which have a positive. (not friction) means of closure and contain not more than 7.5 kilograms (16.53 pounds) each.

(d) In fiber drums (1G) with inner metal receptacles which have a positive (not friction) means of closure and contain not more than 15 kilograms (33.1 pounds) each.

(e) In plywood drums (1D) with inner metal receptacles which have a positive (not friction) means of closure and contain not more than 15 kilograms (33.1 pounds) each.

§ 173.188 White or yellow phosphorus.

Phosphorus, white or yellow, when offered for transportation by rail, highway, or water, must be packaged in water or dry in packagings conforming to the requirements of Part 178 of this subchapter at the Packing Group I performance level, as follows:

(a) When placed in water, it must be packaged in specification packagings as follows:

(1) Wooden boxes (4C1, 4C2, 4D, or 4F) with:

(i) inner hermetically sealed (soldered) metal cans, enclosed in other hermetically sealed (soldered) metal cans, or

(ii) inner water-tight metal cans containing not over 0.5 kg (1.0 pounds) of phosphorus with screw-top closures.

(2) Metal drums (1A1 or 1A2), not over 115 liters (30.4 gallons) capacity each.

(b) When dry, it must be cast solid and shipped in packagings as follows:

(1) Metal drums (1A2) not over 115 liters (30.4 gallons) capacity each.

(2) In projectiles or bombs when shipped by, for, or to the Departments of the Army, Navy, or Air Force of the United States Government, without bursting elements.

§ 173.192 Packaging for certain Packing Group I poisonous materials.

When § 172.101 of this subchapter specifies that a poisonous material be packaged under this section, only specification cylinders are authorized, as follows:

(a) Specification 3A1800, 3AA1800, 3AL1800, or 3E1800 cylinders.

(i) Specification 3A, 3AA and 3AL cylinders must not exceed 125 pounds (56.7 kg) water capacity (nominal).

(ii) Specification 3AL cylinders containing arsine or phosphine may only be transported by highway and rail.

(b) Packagings must conform to the requirements of § 173.40 of this part.

(c) For cylinders used for phosgene, the filling density may not exceed 125 percent and a cylinder may not contain more than 150 pounds (68.0 kg) of phosgene.

§ 173.193 Bromoacetone, methyl bromide, chloropicrin and methyl bromide or methyl chloride mixtures, etc.

(a) Bromoacetone must be packaged as follows in wooden boxes (4C1, 4C2, 4D or 4F) with inner glass receptacles or tubes in hermetically sealed metal receptacles in corrugated fiberboard cartons. Bottles must not contain over 500 grams (1.1 pounds) of liquid each and be cushioned in cans with at least ½ inch (12.7 mm) of absorbent material. Total amount of liquid in outer box must not exceed 11 kg (24.3 pounds). Packagings must conform to the requirements of Part 178 of this subchapter at the Packing Group I performance level.

(b) Bromoacetone, methyl bromide, chloropicrin and methyl bromide mixtures, chloropicrin and methyl chloride mixtures, and chloropicrin mixtures charged with non-flammable, non-liquefied compressed gas must be packed in Specification 3A, 3AA, 3B, 3C 3E, 4A, 4B, 4BA, 4BW, or 4C cylinders having not over 250 pounds (113.4 kg) water capacity (nominal).

(c) Cylinders must conform to § 173.40.

§ 173.194 Gas identification sets.

Gas identification sets containing poisonous material must be packaged in packaging conforming to the requirements of Part 178 of this subchapter at the Packing Group I performance level, as follows:

(a) In glass inner receptacles, hermetically sealed, of not over 40 milliliters (1.35 fluid ounces) each. Each glass inner receptacle must in turn be placed in a sealed fiberboard receptacle, cushioned with absorbent material. Not more than 12 fiberboard receptacles must in turn be placed in a fiberboard box (4G). No more than four boxes, well-cushioned, must in turn be placed in a steel cylinder. The cylinder must have a wall thickness of at least 3.7 mm (0.146 inch) and must have a hermetically sealed steel closure.

(b) When the poisonous material is adsorbed in a medium such as activated charcoal or silical gel, gas identification sets may be shipped as follows:

(1) If the poisonous material does not exceed 5 milliliters (0.17 fluid ounce) if a liquid or 5 grams (0.18 ounce) if a solid, it may be packed in glass inner receptacles of not over 120 milliliters (4.1 fluid ounces) each. Each glass receptacle, cushioned with absorbent material must be packed in a hermetically sealed metal can of not less than 0.30 mm (0.0120 inch) wall thickness. Metal cans, surrounded on all sides by at least 25 mm (1 inch) of dry sawdust, must be packed in 4C1, 4C2, 4D or 4F wooden boxes. Not more than 100 milliliters (3.38 fluid ounces) or 100 grams (3.53 ounces) of poisonous materials may be packed in one outer wooden box.

(2) If the poisonous material does not exceed 5 milliliters (0.17 fluid ounce) if a liquid or 20 grams (0.7 ounce) if a solid, it may be packed in glass inner receptacles with screw-top closures of not less than 60 milliliters (2.02 fluid ounces), hermetically sealed. Twelve bottles containing poisonous material, not to exceed 100 milliliters, or grams, or both, may be placed in a plastic carrying case, each glass receptacle surrounded by absorbent cushioning and each separated from the other by sponge rubber partitions. The plastic carrying case must be placed in a tightly fitting fiberboard box which in turn must be placed in a tightly fitting 4C1, 4C2, 4D or 4F wooden box.

§ 173.195 Hydrocyanic acid, liquid (prussic acid) and hydrocyanic acid liquefied.

(a) Hydrocyanic acid, liquid (prussic acid) and hydrocyanic acid liquefied, must be packed in specification cylinders as follows:

(1) As prescribed in § 173.192, or

(2) Specification 3A480, 3AA480, or 3AL1800 metal cylinders of not over 126.08 kg (278 pounds) water capacity (nominal). Shipments in 3AL cylinders are authorized only when transported by highway and rail.

(b) Cylinders may not be charged with more than 0.27 kg (0.6 pound) of liquid per 0.45 kg (1 pound) water capacity of cylinder. Each filled cylinder must be tested for leakage before shipment and must show absolutely no leakage; this test must consist in passing a piece of Guignard's sodium picrate paper over the closure of the cylinder, without the protection cap attached, to detect any escape of hydrocyanic acid from the cylinder. Other equally efficient test methods may be used if approved by the Director, OHMT.

(c) Packagings for hydrocyanic acid must conform to § 173.40.

§ 173.196 Infectious substances (etiologic agents).

(a) Authorized packagings and components are as follows:

(1) Inner packagings comprising:

(i) A watertight primary receptacle;

(ii) A watertight secondary packaging; and

(iii) An absorbent material must be placed between the primary receptacle and the secondary packaging. If multiple-primary receptacles are placed in a single secondary packaging they must be wrapped individually to ensure that contact between them is prevented. The absorbent material, such as cotton wool, must be sufficient to absorb the entire contents of all primary receptacles.

(2) An outer packaging which is capable of withstanding the specification performance tests found in § 173.465 or § 173.466. Packages consigned as freight must be at least 100 mm (3.94 inches) in the smallest over all external dimension.

(b) For all packages containing infectious substances, an itemized list of contents must be enclosed between the secondary packaging and the outer packaging.

(c) Although exceptional cases, such as whole organs, may require special packaging, the great majority of infectious substances can and must be packaged according to the following guidelines.

(1) *Lypholized substances.* Primary receptacles include flame-sealed glass ampoules or rubber-stopped glass vials fitted with metal seals.

(2) *Liquid or solid substances.* (i) *Substances shipped at ambient temperatures or higher.* Primary receptacles include those of glass, metal or plastic. Positive means of ensuring a leakproof, seal, such as heat seal, skirted stopper or metal crimp seal must be provided. If screw caps are used, they must be reinforced with adhesive tape.

(ii) *Substances shipped refrigerated or frozen (ice, pre-frozen packs, dry ice).* Primary receptacles closed by screw caps must not be used. Ice or dry ice must be placed outside the secondary packagings(s). Interior supports must be provided to secure the secondary packagings(s) in the original position after the ice or dry ice has dissipated. If ice is used, the packaging must be leakproof. If dry ice is used, the outer packaging must permit the release of carbon dioxide gas.

(iii) *Substances shipped in liquid nitrogen.* Primary receptacles must be heat-sealed. Plastic capable of withstanding very low temperatures must be used instead of glass receptacles. Secondary packaging must also withstand very low temperatures and in most cases will need to be fitted over individual primary receptacles. Requirements for shipment of liquid nitrogen must also be observed.

(d) Whatever the intended temperature of shipment, the primary receptacle and secondary packaging used for infectious substances must be capable of withstanding, without leakage, an internal pressure which produces a pressure differential of not less than 95 kPa (13.8 psi) and temperatures in the range of −40 °C to +55 °C (−40 °F to +131 °F).

(e) The requirements of this section supplement the requirements of the Department of Health and Human Services contained in 42 CFR Part 72.

(f) *Exceptions.* The following substances are not subject to any requirements of this subchapter if the items as packaged do not contain any material otherwise subject to the requirements of this subchapter.

(1) Diagnostic specimens.

(2) Biological products.

(3) Cultures of etiologic agents of 50 milliliters (1.67 fluid ounces) or less total quantity in one outside package.

§ 173.198 Nickel carbonyl.

(a) Nickel carbonyl must be packed in specification steel or nickel cylinders as prescribed for any compressed gas except acetylene. A cylinder used exclusively for nickel carbonyl may be given a complete external visual inspection in lieu of the interior hydrostatic pressure test required by § 173.34(e). Visual inspection must be in accordance with CGA Pamphlet C–6.

(b) Packagings for nickel carbonyl must conform to § 173.40.

§ 173.201 Non-bulk packagings for liquid hazardous materials in Packing Group I.

(a) When § 172.101 of this subchapter specifies that a liquid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each packaging must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I performance level, and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer packagings:
Steel drum: 1A2

Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted. wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H1
Solid plastic box: 4H2
Inner packagings:
Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) Except for transportation by passenger aircraft, the following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Metal drum other than steel or aluminum: 1N1 or 1N2
Plastic drum: 1H1 or 1H2
Steel jerrican: 3AI or 3A2
Plastic jerrican: 3H1 or 3H2
Plastic receptacle in steel, aluminum, fiber or plastic drum: 6HA1, 6HB1, 6HG1, 6HH
Plastic receptacle in steel, aluminum, wooden, plywood or fiberboard box: 6HA2, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum or fiber drum: 6PA1, 6PB1 or 6PG1
Glass, porcelain or stoneware in steel, aluminum, wooden or fiberboard box: 6PA2, 6PB2, 6PC or 6PG2
Glass, porcelain or stoneware in solid or expanded plastic packaging: 6PH1 or 6PH2
Cylinders, specification, as prescribed for any compressed gas, except for Specifications 8 and 3HT

§ 173.202 Non-bulk packagings for liquid hazardous materials in Packing Group II.

(a) When § 172.101 of this subchapter specifies that a liquid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each packaging must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I or II performance level (unless otherwise excepted), and to the particular requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer packagings:
Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H1
Solid plastic box: 4H2

Inner packagings:
Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) Except for transportation by passenger aircraft, the following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Metal drum other than steel or aluminum: 1N1 or 1N2
Plastic drum: 1H1 or 1H2
Wooden barrel: 2C1
Steel jerrican: 3A1 or 3A2
Plastic jerrican: 3H1 or 3H2
Plastic receptacle in steel, aluminum, fiber or plastic drum: 6HA1, 6HB1, 6HG1 or 6HH
Plastic receptacle in steel, aluminum, wooden, plywood or fiberboard box: 6HA2, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum or fiber drum: 6PAI, 6PBI or 6PGI
Glass, porcelain or stoneware in steel, aluminum, wooden or fiberboard box: 6PA2, 6PB2, 6PC or 6PG2
Glass, porcelain or stoneware in solid or expanded plastic packaging: 6PH1 or 6PH2
Plastic receptacle in plywood drum: 6HD1
Glass, porcelain or stoneware in plywood drum or wickerwork hamper: 6PD1 or 6PD2
Cylinders, specification, as prescribed for any compressed gas, except for Specifications 8 and 3HT

§ 173.203 Non-bulk packagings for liquid hazardous materials in Packing Group III.

(a) When § 172.101 of this subchapter specifies that a liquid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each packaging must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I, II or III performance level, and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer packagings:
Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H1
Solid plastic box: 4H2

Inner packagings:
Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) The following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Metal drum other than steel or aluminum: 1N1
Plastic drum: 1H1 or 1H2
Wooden barrel: 2C1
Steel jerrican: 3A1 or 3A2
Plastic jerrican: 3H1 or 3H2
Plastic receptacle in steel, aluminum, fiber or plastic drum: 6HA1, 6HB1, 6HG1 or 6HH
Plastic receptacle in steel, aluminum, wooden, plywood or fiberboard box: 6HA2, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum or fiber drum: 6PA1, 6PB1 or 6PG1
Glass, porcelain or stoneware in steel, aluminum, wooden or fiberboard box: 6PA2, 6PB2, 6PC or 6PG2
Glass, porcelain or stoneware in solid or expanded plastic packaging: 6PH1 or 6PH2
Plastic receptacle in plywood drum: 6HD1
Glass, porcelain or stoneware in plywood drum or wickerwork hamper: 6PD1 or 6PD2
Cylinders, as prescribed for any compressed gas, except for Specifications 8 and 3HT

§ 173.204 Non-bulk non-specification packagings for certain hazardous materials.

When § 172.101 of this subchapter specifies that a liquid or solid hazardous material be packaged under this section, any appropriate non-bulk packaging which conforms to the general packaging requirements of Subpart B of Part 173 may be used for its transportation. Packagings need not conform to the requirements of Part 178 of this subchapter.

§ 173.205 Specification cylinders for liquid hazardous materials.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, any specification cylinder, except those specified for acetylene, is authorized. Cylinders used for poisonous materials (Division 6.1 or 2.3) must conform to the requirements of § 173.40.

§ 173.211 Non-bulk packagings for solid hazardous materials in Packing Group I.

(a) When § 172.101 of this subchapter specifies that a solid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its

transportation. Each package must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I performance level, and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer packagings:
Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Solid plastic box: 4H2
Inner packagings:
Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) Except for transportation by passenger aircraft, the following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Metal drum other than steel or aluminum: 1N1 or 1N2
Plastic drum: 1H1 or 1H2
Steel jerrican: 3A1 or 3A2
Plastic jerrican: 3H1 or 3H2
Steel box with liner: 4A2
Aluminum box with liner: 4B2
Natural wood box, sift proof: 4C2
Plastic receptacle in steel, aluminum, plywood, fiber or plastic drum: 6HA2, 6HB1, 6HD1, 6HG1 or 6HH
Plastic receptacle in steel, aluminum, wooden, plywood or fiberboard box: 6HA1, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum, plywood or fiber drum: 6PA1, 6PB1, 6PD1 or 6PG1
Glass, porcelain or stoneware in steel, aluminum, wooden or fiberboard box: 6PA2, 6PB2, 6PC, or 6PG2
Glass, porcelain or stoneware in expanded or solid plastic packaging: 6PH1 or 6PH2

§ 173.212 Non-bulk packagings for solid hazardous materials in Packing Group II.

(a) When § 172.101 of this subchapter specifies that a solid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each package must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I or II performance level, and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer packagings:
Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Solid plastic box: 4H2
Inner packagings:
Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) Except for transportation by passenger aircraft, the following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Plywood drum: 1D
Plastic drum: 1H1 or 1H2
Fiber drum: 1G
Metal drum other than steel or aluminum: 1N1 or 1N2
Wooden barrel: 2C1 or 2C2
Steel jerrican: 3A1 or 3A2
Plastic jerrican: 3H1 or 3H2
Steel box: 4A1
Steel box with liner: 4A2
Aluminum box: 4B1
Aluminum box with liner: 4B2
Natural wood box: 4C1
Natural wood box, sift proof: 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H1
Solid plastic box: 4H2
Bag, woven plastic: 5H1, 5H2 or 5H3
Bag, textile: 5L1, 5L2 or 5L3
Bag, paper, multiwall, water resistant: 5M2
Plastic receptacle in steel, aluminum, plywood, fiber or plastic drum: 6HA1, 6HB1, 6HD1, 6HG1 or 6HH
Plastic receptacle in steel aluminum, wood, plywood or fiberboard box: 6HA2, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum, plywood or fiber drum: 6PA1, 6PB1, 6PD1 or 6PG1
Glass, porcelain or stoneware in steel, aluminum, wooden of fiberboard box: 6PA2, 6PB2, 6PC or 6PG2
Glass, porcelain or stoneware in expanded or solid plastic packaging: 6PH1 or 6PH2

§ 173.213 Non-bulk packagings for solid hazardous materials in Packing Group III.

(a) When § 172.101 of this subchapter specifies that a solid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each package must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I, II or III performance level, and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer packagings:
Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3112
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Solid plastic box: 4H2
Inner packagings:
Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) The following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H1 or 1H2
Metal drum other than steel or aluminum: 1N1 or 1N2
Wooden barrel: 2C1 or 2C2
Steel jerrican: 3A1 or 3A2
Plastic jerrican: 3H1 or 3H2
Steel box with liner: 4A2
Steel box: 4B1
Aluminum box with liner: 4B2
Natural wood box: 4C1
Natural wood box, sift proof: 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H2
Solid plastic box: 4H2
Bag, woven plastic: 5H1, 5H2 or 5H3
Bag, textile: 5L1, 5L2 or 5L3
Bag, paper, multiwall, water resistant: 5M2
Plastic receptacle in steel, aluminum, plywood, fiber or plastic drum: 6HA1, 6HB1, 6HD1, 6HG1 or 6HH
Plastic receptacle in steel, aluminum, wooden, plywood or fiberboard box: 6HA2, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum, plywood or fiber drum: 6PA1, 6PB1, 6PD1 or 6PG1
Glass, porcelain or stoneware in steel, aluminum, wooden or fiberboard box: 6PA2, 6PB2, 6PC or 6PG2
Glass, porcelain or stoneware in expanded or solid plastic packaging: 6PH1 or 6PH2

§ 173.214 Packagings which require approval by the Director, OHMT.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, packagings and method of shipment must be approved by the Director, OHMT, prior to the first shipment.

§ 173.216 Asbestos, blue or white.

(a) Asbestos, blue or white, includes each of the following hydrated mineral silicates: Chrysolite, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, actinolite asbestos, and every product containing any of these materials.

(b) Commercial asbestos is any material or product containing asbestos that has commercial value because of its asbestos content.

(c) Asbestos which is immersed or fixed in a natural or artificial binder material (such as cement, plastic, asphalt, resins or mineral ore), waste asbestos, and manufactured products containing asbestos or any materials or products whose commercial value is not dependent on their asbestos content, are not subject to the requirements of this subchapter.

(d) Packagings for commercial asbestos must conform to the general packaging requirements of Subpart B of this part but need not conform to the requirements of Part 178 of this subchapter. Commercial asbestos must be offered for transportation and transported in—

(1) Rigid, leaktight packagings, such as metal or fiber drums, portable tanks, hopper-type rail cars, or hopper-type motor vehicles;

(2) Bags or other non-rigid packagings in closed freight containers, motor vehicles, or rail cars that are loaded by and for the exclusive use of the cosignor and unloaded by the consignee;

(3) Bags or other non-rigid packagings which are dust and sift-proof. When transported by other than private carrier by highway, such packagings containing asbestos must be palletized and unitized by methods such as shrink-wrapping in plastic film or wrapping in fiberboard secured by strapping. Pallets need not be used during transportation by vessel for loads with slings that are unitized by methods such as shrink-wrapping, if the slings adequately and evenly support the loads and the unitizing method prevents shifting of the bags or other non-rigid packagings during conditions normally incident to transportation; or

(4) Bags or other non-rigid packagings which are dust and sift-proof in strong outside fiberboard or wooden boxes.

§ 173.217 Carbon dioxide, solid (dry ice).

(a) Carbon dioxide, solid (dry ice), when offered for transportation by aircraft or water, must be packed in packagings designed and constructed to permit the release of carbon dioxide gas to prevent a buildup of pressure that could rupture the packagings. Packagings must conform to the general packaging requirements of Subpart B of this part but need not conform to the requirements of Part 178 of this subchapter. For each shipment by air exceeding five pounds per package, advance arrangements between the shipper and each carrier must be made.

(b) Railroad cars and motor vehicles containing solid carbon dioxide, when accepted for transportation on board ocean vessels, must be conspicuously marked on two sides "WARNING CO_2 SOLID (DRY ICE)."

(c) Other packagings, when accepted for transportation on board ocean vessels, must be marked "CARBON DIOXIDE, SOLID—DO NOT STOW BELOW DECKS."

(d) Not more than 200 kg (440.9 lbs) of solid carbon dioxide may be transported in any one cargo compartment or bin on any aircraft except by specific and special arrangement between the shipper and the aircraft operator.

(e) Carbon dioxide, solid (dry ice) is excepted from the shipping paper and certification requirements of this subchapter if the requirements of paragraphs (a) and (d) of this section are complied with and the package is marked "Carbon dioxide, solid" or "Dry ice" and marked with an indication that the material being refrigerated is used for diagnostic or treatment purposes (e.g., frozen medical specimens).

§ 173.218 Fish meal or fish scrap.

(a) Except as provided in paragraph (b) of this section, fish meal or fish scrap, containing at least 6 percent but not more than 12 percent water, is authorized for transportation by water only when packaged as follows:

(1) Burlap (jute) bag;

(2) Multi-wall paper bag;

(3) Polyethylene-lined burlap or paper bag;

(4) Cargo tank;

(5) Portable tank;

(6) Rail car; or

(7) Freight container.

(b) Fish meal or fish scrap may not be offered for transportation if the temperature of the material exceeds 49° C (120.2 °F).

(c) When fish scrap or fish meal is offered for transportation by vessel in bulk in freight containers, the fish meal must contain at least 100 PPM of anti-oxident (ethoxyquin) at the time of shipment.

§ 173.219 Life rafts, aircraft survival kits, etc.

(a) A life raft or aircraft survival kit or aircraft evacuation slide containing small quantities of hazardous materials which are required as part of the life-saving appliance must conform to the requirements of this section. Packagings are excepted from the specification packaging requirements of this subchapter.

(b) Hazardous materials must be packaged as follows:

(1) Non-flammable compressed gases must be packaged in cylinders in accordance with the requirements of this subchapter;

(2) Smoke and illumination signal flares must be in plastic or fiberboard receptacles;

(3) Strike-anywhere matches must be cushioned to prevent movement or friction in a cylindrical metal or composition receptacle with a screw-type closure;

(4) Flammable liquids must be in strong inner packagings in a repair kit; and

(5) Limited quantities of other hazardous materials are permitted if packaged in accordance with the requirements of this subchapter.

(c) Materials not subject to the requirements of this subchapter which are an integral part of the life-saving appliance must be packaged in a strong fiberglass kit case which is overpacked in a waterproof fiberboard packaging, or be packaged in other strong outer packagings.

§ 173.220 Internal combustion engines, self-propelled vehicles, and mechanical equipment containing internal combustion engines or wet batteries.

(a) *Applicability.* An internal combustion engine, self-propelled vehicle, or mechanized equipment is subject to the requirements of this subchapter when transported as cargo on a transport vehicle if—

(1) The engine or fuel tank contains a flammable liquid or gaseous fuel;

(2) It is equipped with a wet electric storage battery other than a non-spillable. battery; or

(3) It contains other hazardous materials subject to the requirements of this subchapter.

(b) *Flammable liquid fuel.* Except as provided in this paragraph, flammable liquid fuel tanks must be completely drained and securely closed. Up to 500 milliliters (16.9 ounces) of fuel may be left in engine components and fuel lines provided the lines are securely closed to

prevent leakage of fuel. Fuel may remain in engines and tanks installed in self-propelled vehicles and mechanical equipment under the following conditions:

(1) For transportation by motor vehicle or rail car, the fuel tanks must be securely closed.

(2) For transportation by vessel, the shipment must conform to § 176.905 of this subchapter; and

(3) For transportation by aircraft, the shipment must conform to § 175.305 of this subchapter.

(c) *Wet batteries.* Wet batteries must either be installed, securely fastened in an upright position, and protected against short circuits and leakage or be removed and packaged separately under § 173.159. In addition—

(1) For transportation by vessel, the shipment must conform to § 176.905 of this subchapter; and

(2) For transportation by passenger-carrying aircraft, a wheelchair equipped with a wet battery must conform to § 173.222.

(d) *Truck bodies or trailers on flat cars.* Truck bodies or trailers with automatic heating or refrigerating equipment of the flammable liquid type may be shipped with fuel tanks filled and equipment operating or inoperative, when used for the transportation of other freight and loaded on flat cars as part of a joint rail and highway movement, provided the equipment and fuel supply conform to the requirements of § 177.834(1) and are of a type examined by the Bureau of Explosives and approved by the Director, OHMT.

(e) *Gases.* Compressed gas tanks and cylinders, containing gases, which are component parts of vehicles or mechanical equipment must conform to § 173.306.

(f) *Other hazardous materials.* Other hazardous materials must be packaged and transported in accordance with the requirements of this subchapter.

(g) *Exceptions.* Except as provided in paragraph (f) of this section, shipments made under the provisions of this section—

(1) Are not subject to any other requirements of this subchapter, for transportation by motor vehicle or rail car; and

(2) Are not subject to the requirements of Subparts D, E, and F (marking, labeling, and placarding, respectively) of Part 172 of this subchapter, for transportation by vessel or aircraft.

§ 173.221 Polystyrene beads, expandable.

Polystyrene beads or granules, expandable, impregnated with flammable gas or liquid as a blowing agent and plastic moulding materials in dough, sheet or extruded rope form must be packed in wooden (4C1 or 4C2), plywood (4D), fiberboard (4G) or reconstituted wood (4F) boxes with sealed inner plastic liners, plywood drums (1D), fiber drums (1G) with sealed inner plastic liner or in metal (1A1, 1A2, 1B1 or 1B2) packagings.

§ 173.222 Wheelchairs equipped with wet electric storage batteries.

(a) For transportation by highway, rail, water, or cargo aircraft only, wheelchairs equipped with wet electric storage batteries must conform to the provisions in § 173.220(c) of this part.

(b) For transportation by passenger-carrying aircraft, wheelchairs equipped with wet electric storage batteries are not subject to requirements of this subchapter other than the following:

(1) Wheelchairs equipped with non-spillable batteries as defined in § 173.159(d) of this subchapter may be shipped as checked luggage provided the battery is disconnected, the battery terminals are insulated to prevent accidental short circuits, and the battery is securely attached to the wheelchair.

(2) Wheelchairs equipped with spillable batteries may be shipped as checked baggage, provided that the wheelchair can be loaded, stowed, secured, and unloaded while always in an upright position. The battery must be disconnected, the terminals insulated to prevent accidental short circuits, and the battery securely attached to the wheelchair. The pilot-in-command must be advised, either orally or in writing, prior to departure, of the location of the wheelchair aboard the aircraft. If the wheelchair cannot be loaded, stowed, secured and unloaded always in an upright position, the battery must be removed and the wheelchair may then be carried without restriction. The removed battery must be carried in strong, rigid, outside packagings as follows:

(i) Outside packagings must be leaktight, impervious to battery fluid, loaded aboard the aircraft in accordance with the required orientation markings and be protected against upset by being secured to pallets or by being secured in cargo compartments using appropriate means (other than by bracing with freight or baggage) such as by use of restraining straps, brackets or holders;

(ii) Batteries must be protected against short circuits, secured upright in their outside packagings, and surrounded by compatible absorbent material sufficient to absorb their total liquid contents; and

(iii) Outside packagings must be marked to indicate proper orientation, and with the words "Battery, wet, with wheelchair", and be labeled with a CORROSIVE label.

§ 173.225 Packagings for organic peroxides.

(a) When the 172.101 Table specifies that an organic peroxide be packaged under this section, only non-bulk packagings which conform to the provisions of this section may be used for its transportation. Organic peroxides which require temperature control for stabilization are subject to the provisions of § 173.21(f) of this part.

(b) *Organic peroxides table.*

(1) The first column of the table gives the identification numbers for organic peroxides as specified in Column 4 of the § 172.101 Table.

(2) The second column gives the packing group as specified in Column 5 of the § 172.101 Table. Each packaging used for an organic peroxide must be capable of meeting the test requirements of Subpart M of Part 178 at the specified level of performance.

(3) The third column specifies the packaging method or methods which must be used to pack an organic peroxide. The table of packaging methods in paragraph (c) of this section defines the packaging methods.

(4) The fourth column indicates, by the letters "TC", that an organic peroxide may require temperature control for stabilization. See § 173.21(f) of this part for provisions applicable to such materials.

ORGANIC PEROXIDES TABLE

Identification number (UN or NA)	Packing group	Packaging methods	Temperature control
(1)	(2)	(3)	(4)
2080	II	P1a, P8	
2081	II	P1a, P8	
2082	I	P1f, P13b	TC
2083	II	P1b, P2d, P8	TC
2084	I	P1b, P8	
2085	I	P1g, P1h, P13a, P14.	
2087	II	P1a, P2c, P3b, P6a, P16, P20a, P20b, P30.	
2088	I	P1d, P13b	
2089	II	P1a, P3b, P6a, P20b, P20d.	
2090	II	P1b, P2f, P6b	
2091	II	P1a, P2c, P8, P10, P22a, P25b.	
2092	I	P1a, P8, P10, P22a, P24.	

ORGANIC PEROXIDES TABLE—Continued

Identification number (UN or NA)	Packing group	Packaging methods	Temperature control
(1)	(2)	(3)	(4)
2093	I	P1a, P8, P10, P22a, P24.	
2094	I	P1a, P8, P10, P22a.	
2095	II	P1c, P8	
2096	II	P1a, P2d, P8	
2097	II	P1e, P8, P13b, P18.	
2098	II	P1a, P2c, P8, P10, P22a, P25b.	
2099	II	P15	
2100	II	P1a, P8	
2101	II	P1a, P2a, P3b, P6a, P8, P16, P20c, P20d, P22a, P25b, P30.	
2102	II	P1a, P2c, P8, P22b, P25b.	
2103	II	P1e, P13b	
2104	II	P1a, P2d, P8	
2105	II	P1f, P3b, P6a, P20c, P20d, P21.	
2106	II	P1a, P8	
2107	II	P1a, P2c, P8, P22a, P25b,.	
2108	II	P1a, P2c, P3b, P6a, P16, P20c, P20d, P22a, P25b.	
2110	II	P1b, P8	TC
2111	II	P1a, P2d, P8	
2112	II	P1a, P3b, P6a, P20c, P20d, P24.	
2113	II	P1b, P2f, P6b	
2114	II	P1a, P2c, P3b, P6a, P16, P20c, P20d.	
2115	II	P1b, P2d, P8	
2116	I	P1a, P2c, P8, P22b, P25b.	
2117	I	P1c, P12, P13b	
2118	I	P1a, P2c, P3b, P6a, P8, P16, P20b, P20d, P22a, P25b.	
2119	I	P1b, P2d, P8	
2120	II	P1a, P2c, P3b, P6a, P17, P20b, P24, P25a.	TC
2121	II	P1a, P2a, P24	
2122	II	P1b	TC
2123	II	P1b, P2d, P8	TC
2124	II	P1a, P3b, P6a, P13a, P14, P20b.	
2125	I	P1a, P2c, P8, P22b, P25c.	
2126	I	P1a, P2d, P8	

ORGANIC PEROXIDES TABLE—Continued

Identification number (UN or NA)	Packing group	Packaging methods	Temperature control
(1)	(2)	(3)	(4)
2127	I	P1a, P8	
2128	II	P1b, P2d, P8, P18, P24, P25a.	TC
2129	II	P1a, P2c, P3b, P6a, P24, P25a.	TC
2130	II	P1a, P2c, P3b, P6a.	TC
2131	I	P1c, P3a	
2132	II	P1b, P2d, P8, P24, P25a.	TC
2133	II	P1h, P7, P9, P13b.	
2134	II	P1b, P2d, P8	
2135	II	P1d, P13b, P14, P15.	
2136	II	P1a, P2c, P22a, P25b.	
2137	II	P1b, P6b	
2138	II	P1a, P2c, P3b, P6a, P16, P20b, P20d, P30.	
2139	II	P1b, P2d, P8	
2140	II	P1e, P8, P18	
2141	II	P16	
2142	II	P1e, P18	TC
2143	II	P1b, P8, P18	TC
2144	II	P1e	
2145	II	P1e, P18	
2146	II	P1a, P8	
2147	II	P1a	
2148	II	P1a, P3b, P6a, P14, P20c, P20d.	
2149	I	P1f, P14, P20d	TC
2150	I	P1d	TC
2151	II	P1b	TC
2152	I	P1d, P14, P20d	TC
2153	I	P1b	TC
2154	II	P1a, P3b, P6a, P20c, P20d.	TC
2155	II	P1a, P8, P18	
2156	II	P1a	
2157	II	P1b, P18	
2158	II	P1a, P18	
2159	II	P1a	
2160	II	P1e	
2161	I	P1e, P18	
2162	I	P1a, P2c, P8, P22b, P24, P25c.	
2163	I	P1b	TC
2164	II	P1a, P2c	TC
2165	I	P1d	
2166	II	P1d	
2167	II	P1a, P8	
2168	II	P1a	
2169	II	P1b	TC
2170	II	P1b, P8, P24, P25a.	

ORGANIC PEROXIDES TABLE—Continued

Identification number (UN or NA)	Packing group	Packaging methods	Temperature control
(1)	(2)	(3)	(4)
2171	I	P1a, P2c, P8, P22b, P25c.	
2172	II	P1d, P3b, P6a, P20c, P20d, P21.	
2173	II	P1d, P3b, P6a, P20c, P20d, P21.	
2174	I	P1d, P12	
2175	II	P1b	TC
2176	I	P1d	TC
2177	II	P1e	
2178	II	P20d	
2179	II	P1e	
2180	II	P1e	
2182	II	P1f	TC
2183	II	P2d, P8, P9	
2184	II	P1e, P8	
2185	II	P1e, P8	
2255	I	P1i	
2550	I	P1a, P8	
2551	II	P1b, P2d, P8	
2562	II	P1e, P18	
2592	II	P1a	
2593	I	P1b	TC
2594	II	P1e	
2595	II	P1a	TC
2596	II	P1a	
2597	II	P1e	TC
2598	II	P1a	
2755	II	P28	
2756	I	P1a, P30	
2883	II	P1a	
2884	II	P1a	
2885	II	P1a	
2886	II	P1a	
2887	II	P1a	
2888	II	P1a	TC
2889	II	P1e	
2890	II	P1b, P2f, P6b	
2891	II	P1e	TC
2892	II	P1a, P20a, P24	TC
2893	II	P1a, P20a, P24	TC
2894	II	P1a, P20a, P24	TC
2895	II	P1a, P20a, P24	TC
2896	II	P1a, P2c, P3b, P6a, P16, P22a, P25b, P30.	
2897	II	P1a	
2898	II	P1e	TC
2899	I	P1a, P30	
2957	II	P1e	TC
2958	II	P1a	
2959	II	P1e	
2960	II	P1a	TC
2961	II	P1a	TC
2962	I	P1a, P13b, P14, P15.	TC
2963	II	P1b, P3b	TC
2964	II	P1e	TC
3044	II	P1a	
3045	I	P1a, P2a, P24	

ORGANIC PEROXIDES TABLE—Continued

Identification number (UN or NA) (1)	Packing group (2)	Packaging methods (3)	Temperature control (4)
3046	I	P1a	
3047	II	P1b, P2d, P8	TC

(e) *Table of packaging methods.*

(1) The first column lists in alphanumeric sequence, the packaging methods for organic peroxides.

(2) The second column specifies the maximum net contents permitted in each inner packaging or receptacle. If no combination packagings are authorized, this column is blank.

(3) The third column specifies the maximum net contents permitted in an outer packaging, including a single, combination or composite packaging.

(4) The fourth column specifies inner packagings which are permitted for use, when applicable. If no combination packagings are authorized, this column is blank.

(5) The fifth column specifies outer packagings which are permitted for use. If inner packagings are specified in the fourth column, then the packaging specified in the fifth column must be used as the outer packaging of a combination packaging; otherwise, it may be used as a single packaging.

(6) The sixth column specifies composite packagings which are permitted for use, when applicable. If no composite packagings are authorized, this column is blank.

(7) The *Table of Packaging Methods* is as follows:

Packaging method	Maximum net contents of each inner packaging or receptacle	Maximum net contents of outer packaging	Description of packagings		
			Inner packagings	Outer packagings	Composite packagings
(1)	(2)	(3)	(4)	(5)	(6)
P1a	50 kg	50 kg		Fiberboard box (4G); or	
P1b	25 kg	50 kg	Plastic bottles, jars, bags or boxes		
P1c	10 kg	50 kg			6HC; or
P1d	5 kg	50 kg		fiber drum (1G); or	6HD1; or
P1e	25 kg	25 kg			6HG1; or,
P1f	6 kg	25 kg		plywood drum (1D); or	6HG2
P1g	5 kg	5 kg			
P1h	1 kg	10 kg		wooden box (4C1)	
P1i	500 g	1 kg			
P2a	100 kg	100 kg	Plastic bottles, jars, bags or boxes	Steel drum, removable head (1A2); or	6HA1; or
P2c	50 kg	50 kg		aluminum drum, removable head (1B2); or.	6HA2 (steel box only); or
P2d	25 kg	50 kg		steel box (4A1); or	6HB1; or
P2f	10 kg	50 kg		aluminum box (4B1)	6HB2 (aluminum box only)
P3a		60 kg			
P3b		30 kg			6HA2, (steel crate only); or 6HB2 (aluminum crate only); or 6HD1 or 6HG1.
P6a	10 kg	90 kg	Metal Cans, or glass bottles in metal cans, or plastic bags in metal cans, or	Fiberboard box (4G); or fiber drum (1G); or plywood drum (1D); or	
P6b	10 kg	50 kg	plastic bottles in metal cans	wooden box (4C1)	
P7	3 kg	12 kg	Fiberboard box (4G); or Aluminum bottles or jars with plastic closures.	fiber drum (1G); or plywood drum (1D); or wooden box (4C11)	
Fiberboard box (4G); or P8	2 L	50 L	Glass bottles	fiber drum (1G); or plywood drum (1D); or	6PC; or 6PD1; or;
P9	7.5 L	7.5 L	Glass or earthenware bottles; or metal cans.	wooden box (4C1)	6PG1; or 6PG2.
				Steel drum, removable head (1A2); or	

Packaging method	Maximum net contents of each inner packaging or receptacle	Maximum net contents of outer packaging	Description of packagings		
			Inner packagings	Outer packagings	Composite packagings
(1)	(2)	(3)	(4)	(5)	(6)
P10	0.5 L	50 L	Glass bottles	aluminum drum, removable head (1B2); or steel box (4A1); or aluminum box: 4B1	
P12	1 kg	50 kg	Waxed fiberboard boxes	Fiberboard box (4G); or fiber drum (1G); or plywood drum (1D); or wooden box (4C1)	
P13a	500 g	25 kg			
P13b	500 g	14 kg	plastic boxes or bottles	wooden box (4C1), compartmented	
P14	500 g	25 kg	Paper bags with inner ply of plastic	Fiberboard box (4G), with fire-retardant liner and partitions of fire-retardant corrugated fiberboard.	
P15	500 g	500 g	Paper bag with inner ply of plastic, packed singly.	Fiberboard box (4G)	
P16	250 g	50 kg	Metal or plastic flexible tubes	Fiberboard box (4G), compartmented; or plywood box (4D), compartmented	
P17	500 g	500 g	Fiber jar with sealed cap closure, packed singly.	Wooden box (4C1)	
P18	500 ml	500 ml	Plastic bottle, packed singly	Fiberboard box (4G)	
P20a		200 kg		Fiber drum (1G), with plastic liner or internal coating of polyethylene.	6HG1
P20b		100 kg			
P20c		50 kg			
P20d		30 kg			
P21		50 kg		Plywood drum (1D), with plastic liner	6HD1
P22a		50 kg		Steel drum, (1A1) or (1A2)	
P22b		220 L			
P24		220 L		Steel drum, nonremovable head (1A1), with plastic liner; or. steel drum, removable head: 1A2 with plastic liner	6HA1
P25a		200 kg		Aluminum drum, (1B1) or (1B2)	
P25b		50 kg			
P25c		220 L			
P28	500 g	2 kg	Plastic bag individually packed in round cardboard carton of 2 litres capacity. Four cartons per package.	Fiberboard box (4G), or fiber drum (1G)	
P30		25 kg		Plastic drum (1H1) or (1H2)	

§ 173.226 Liquids toxic by inhalation, Division 6.1, Packing Group I, Zone A.

Division 6.1, Packing Group I, materials that are toxic by inhalation and that fall within the boundaries of Zone A in the graph found in § 173.133 shall be packed in non-bulk packagings in accordance with the following paragraphs:

(a) In specification cylinders, as authorized in § 173.40.

(b) In 1A1, 1B1 or 1N1 drums further packed in a 1A2 or 1H2 drum. Both inner and outer drums must conform to the performance test requirements of Subpart M of Part 178 of this subchapter at the Packing Group I performance level. The outer drum must have a minimum thickness of 1.50 mm (0.059 inch) for a 1A2 outer drum or 6.30 mm (0.248 inch) for a 1H2 outer drum. Capacity of the inner drum may not exceed 220 L(58.1 gallons). In addition, the inner drum must—

(1) Be capable of satisfactorily withstanding the hydrostatic pressure test in § 178.605 of this subchapter at a test pressure of 550 kPa (79.8 psig);

(2) Satisfactorily withstand the leakproofness test in § 178.604 of this subchapter using an internal air pressure of at least twice the vapor pressure at 55 °C (131 °F) of the material to be packaged;

(3) Have screw closures that are—

(i) Closed and tightened to a torque prescribed by the closure manufacturer, using a device that is capable of measuring torque;

(ii) Physically held in place by any means capable of preventing back-off or loosening of the closure by impact or vibration during transportation; and

(iii) Provided with a cap seal that is properly applied in accordance with the cap seal manufacturer's recommendations and is capable of withstanding an internal pressure of at least 100 kPa (14.5 psig).

(4) Have a minimum thickness as follows:

(i) If the capacity of the inner drum is less than or equal to 120 L (31.7 gallons), the minimum thickness of the inner drum is—

(A) For a 1A1 or 1N1 drum, 1.3 mm (0.051 inch); and

(B) For a 1B1 drum, 3.9 mm (0.154 inch).

(ii) If the capacity of the inner drum is greater than 120 L (31.7 gallons), the thickness of the inner drum is—

(A) For a 1A1 or 1N1 drum, 1.7 mm (0.067 inch); and

(B) For a 1B1 drum, 4.7 mm (0.185 inch); and

(5) Be isolated from the outer drum by a shock-mitigating, nonreactive material. There must be a minimum of 5.0 cm (1.97 inches of cushioning material around the body of the inner drum, and at least 7.6 cm (2.99 inches) on the top and bottom, between the inner and outer drum.

(c) In combination packagings, consisting of an inner packaging system and an outer packaging, as follows:

(1) *Outer packagings:*
Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H2
Solid plastic box: 4H2

(2) *Inner packaging system.* The inner packaging system consists of two packagings: an impact resistant receptacle of glass, earthenware, plastic or metal securely cushioned with a non-reactive, absorbent material and packed within a leak-tight packaging of metal or plastic. This combination packaging in turn is packed within the outer packaging. Capacity of each inner receptacle may not exceed 4 L (1.06 gallons). An inner receptacle that has a closure must have a screw type closure which is physically held in place by any means capable of preventing back-off of loosening of the closure by impact or vibration during transportation. Both the inner packaging system and the outer packaging must conform to the performance test requirements of Subpart M of Part 178 of this subchapter, at the Packaging Group I performance level. The inner packaging system must meet these tests *without the benefit of the outer packaging.* The total amount of liquid contained in the outer packaging may not exceed 16 L (4.24 gallons).

§ 173.227 Liquids toxic by inhalation, Division 6.1, Packing Group I, Zone B.

Division 6.1, Packing Group I, materials that are toxic by inhalation and that fall within the boundaries of Zone B in the graph found in § 173.133 shall be packed in non-bulk packagings which conform to the performance test requirements of Subpart M of Part 178 of this subchapter, at the Packing Group I performance level. The following packagings are authorized:

(a) In packagings as authorized in § 173.226; or

(b) In 1A1, 1B1, or 1N1 drums further packed in a 1A2 or 1H2 drum. Both the inner and outer drums must conform to the performance test requirements of Subpart M of Part 178 of this subchapter at the Packing Group I performance level. The outer drum must have a minimum thickness of 1.50 mm (0.059 inch) for a 1A2 outer drum or 6.30 mm (0.248 inch) for a 1H2 outer drum. In addition, the inner drum must—

(1) Satisfactorily withstand the leakproofness test in § 178.604 of this subchapter using an internal air pressure of at least two times the vapor pressure at 55 °C (131 °F) of the material to be packaged;

(2) Have screw closures that are—

(i) Closed and tightened to a torque prescribed by the closure manufacturer, using a device that is capable of measuring torque;

(ii) Physically held in place by any means capable of preventing back-off or loosening of the closure by impact or vibration during transportation; and

(iii) Provided with a cap seal that is properly applied in accordance with the cap seal manufacturer's recommendations and is capable of withstanding an internal pressure of at least 100 kPa (14.5 psig).

(3) Have a minimum thickness as follows:

(i) If the capacity of the inner drum is less than or equal to 120 L (31.7 gallons), the minimum thickness of the inner drum is—

(A) For a 1A1 drum, 1.3 mm (0.051 inch); and

(B) For a 1B1 drum, 3.9 mm (0.154 inch).

(ii) If the capacity of the inner drum is greater than 120 L (31.7 gallons), the thickness of the inner drum is

(A) For a 1A1 or 1N1 drum, 1.7 mm (0.067 inch); and

(B) For a 1B1 drum, 4.7 mm (0.185 inch); and

(4) Be isolated from the outer drum by a shock-mitigating, nonreactive material. There must be a minimum of 5.0 cm (1.97 inches of cushioning material around the body of the inner drum, and at least 7.6 cm (2.99 inches) on the top and bottom, between the inner and outer drum; and

(5) Have a capacity not greater than 220L (58.1 gallons).

(c) 1A1, 1B1 or 1N1 drums described in paragraph (b) of this section may be used without being further packed in a 1A2 or 1H2 drum if the shipper loads the material, blocks and braces the drums within the transport vehicle and seals the transport vehicle used. Drums may not be stacked (double decked) within the transport vehicle. Shipments must be from one origin to one destination only without any intermediate pickup or delivery.

§ 173.228 Bromine pentafluoride or bromine trifluoride.

(a) When the § 172:101 Table specifies that a hazardous material be packaged under this section, only non-bulk packagings prescribed in paragraph (b) of this section are authorized for its transportation. Each packaging must conform to the general packaging requirements of Subpart B of this part, to the specification requirements of Part 178 and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) Specification 3A150, 3AA150, 3B240, 3BN150, 4B240, 4BA240, 4BW240 and 3E1800 cylinders are authorized. Each valve outlet must be sealed by a threaded cap or threaded plug. Cylinder valves must be protected as specified for corrosive gases in § 173.301(g). No cylinder may be equipped with any pressure relief device. Specification 3E1800 cylinders must be packaged in accordance with the requirements of § 173.301(k).

§ 173.229 Chloric acid solution or chlorine dioxide hydrate, frozen.

(a) When the § 172.101 Table specifies that a hazardous material be packaged in accordance with this section, only 4G fiberboard boxes, with inner packagings of polyethylene or other suitable material, are authorized. Fiberboard boxes must be reinforced and insulated and sufficient dry ice must be used to maintain the hydrate or acid in a frozen state during transportation. Each packaging must conform to the general packaging requirements of Subpart B of Part 173, and to the requirements of Part 178 at the Packing Group I performance level. Shipments are authorized by private or contract carrier by motor vehicle only.

§ 173.230 Non-bulk packagings for ORM–D materials.

(a) *General.* Exceptions in the following paragraphs are permitted only if this section, or § 473.306 of this part, is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) *Small arms ammunition.* (1) Small arms ammunition which has been classed as a Class C explosive may be reclassed and offered for transportation as ORM–D material when packaged in accordance with paragraph (b)(2) of this section. Shipments are excepted from the requirements of Subparts E (Labeling) and F (Placarding) of Part 172 of this subchapter. Small arms ammunition that may be shipped as ORM–D material is limited to:

(i) Ammunition for rifle, pistol or shotgun;

(ii) Ammunition with inert projectiles or blank ammunition;

(iii) Ammunition having no tear gas, incendiary, or detonating explosive projectiles; and

(iv) Ammunition not exceeding 50 caliber (½ inch) for rifle or pistol cartridges or 8 gauge for shotshells.

(2) Packaging for small arms ammunition as ORM–D material must be as follows:

(i) Ammunition must be packed in inside boxes, or in partitions which fit snugly in the outside packaging, or in metal clips;

(ii) Primers must be protected from accidental initiation;

(iii) Inside boxes, partitions or metal clips must be packed in securely closed strong outside packagings; and

(iv) Maximum gross weight is limited to 65 (29.5 kg) pounds per package.

(c) *Compressed gases.* A compressed gas which conforms to the provisions of paragraph (a)(1), (a)(3) except (a)(3)(vi), or (b) except (b)(1)(iii) of § 173.306 of this subchapter and is a "Consumer commodity" as defined in § 171.8 of this subchapter may be renamed "Consumer commodity" and reclassed as ORM–D material. Each completed package must conform to the requirements of Subpart B of this part and may not exceed 65 pounds (29.5 kg) gross weight. Shipments are excepted from the requirements of Subparts E (Labeling) and F (Placarding).

(d) Other consumer commodity exceptions are provided for Class (or Division) 3, 4.1, 5.1, 5.2, 6.2, 8 or 9 materials, if the § 172.101 Table entry for the specific material refers to, and the material meets the provisions in §§ 173.150, 173.151, 173.152, 173.153, 173.154 or 173.155, as appropriate.

Subpart F—Bulk Packaging for Hazardous Materials Other Than Classes 1 and 7

§ 173.240 Bulk packaging for certain flammable solids (Division 4.1), solid oxidizers (Division 5.1), corrosive solids (Class 8) and other similar low hazard materials.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) *Rail cars:* DOT Class 103, 104, 105, 107A, 109, 111, 112, 113, 114 and 115 tank cars; Class 106 and 110 tank car tanks; AAR Class 203W, 206W and 211W tank cars; and metal non-DOT specification, sift proof tank cars and sift proof closed cars.

(b) *Motor vehicles:* Specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, MC 312, MC 330, MC 331 and MC 338 cargo tank motor vehicles; metal non-DOT specification, sift proof cargo tank motor vehicles; and sift proof closed vehicles.

(c) *Portable tanks and bins:* DOT 51, 52, 53, 56, 57 and 60 portable tanks; marine portable tanks conforming to 46 CFR 64; non-DOT specification sift proof portable tanks and closed bins.

§ 173.241 Bulk packaging for certain combustible liquids (Class 3), flammable solids (Divisions 4.2 and 4.3), and other similar hazardous materials.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) *Rail cars:* DOT Class 103, 104, 105, 107A, 109, 111, 112, 113, 114 and 115 tank cars; Class 106 and 110 tank car tanks; AAR Class 203W, 206W and 211W tank cars.

(b) *Cargo tanks:* DOT specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, MC 312, MC 330, MC 331 and MC 338 cargo tank motor vehicles; and metal non-DOT specification cargo tank motor vehicles suitable for transport of liquids.

(c) *Portable tanks:* DOT 51, 52, 53, 56, 57 and 60 portable tanks; marine portable tanks conforming to 46 CFR 64; and metal non-DOT specification portable tanks suitable for transport of liquids.

§ 173.242 Bulk packaging for certain medium hazard liquids and solids, including solids with dual hazards.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) *Rail cars:* DOT Class 103, 104, 105, 107A, 109, 111, 112, 113, 114 or 115 tank cars; Class 106 or 110 tank car tanks; AAR Class 203W, 206W or 211W tank cars.

(b) *Cargo tanks:* Specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, MC 312, MC 330, MC 331 and MC 338 cargo tank motor vehicles.

(c) *Portable tanks:* DOT 51, 52, 53, 56, 57 and 60 portable tanks; and marine portable tanks conforming to 46 CFR Part 64.

§ 173.243 Bulk packaging for certain high hazard liquids and dual hazard liquids which pose a moderate hazard.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) *Rail cars:* DOT Class 103, 104, 105, 107A, 109, 111, 112, 113, 114 and 115 tank cars; and Class 106 and 110 tank car tanks. Gauging devices are required on DOT 103, 104 and 111 tank cars. Riveted tank cars are not authorized.

(b) *Cargo tanks:* Specification MC 304, MC 307, MC 330, MC 331 and MC 338 cargo tank motor vehicles; and MC 310, MC 311 or MC 312 cargo tank motor vehicles with tank design pressure of at least 25 psig (172.4 kPa).

(c) *Portable tanks:* DOT 51 portable tanks; and DOT 60 and marine portable tanks conforming to 46 CFR Part 64 with design pressure of at least 25 psig (172.4 kPa).

§ 173.244 Bulk packaging for certain pyrophoric liquids (Division 4.2), poisonous liquids with inhalation hazards, (Division 6.1) and gases (Class 2).

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements

of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) DOT Classes 105, 107A, 109, 112, 113, and 114 tank cars; and Class 106 and 110 tank car tanks. Riveted tank cars are not authorized.

(b) Specification MC 330, MC 331 and MC 338 cargo tank motor vehicles.

(c) DOT 51 portable tanks.

§ 173.245 Bulk packaging for extremely hazardous materials such as poisonous gases (Division 2.3).

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) DOT Class 105S500W and 112S500W tank cars lagged with at least 4 inches of cork or equivalent; Class 106 or 110 tank car tanks; and Classes 105J500W and 112J500W tank cars. Bottom outlets are prohibited.

(b) Cargo tank motor vehicles and portable tanks, when approved by the Director, OHMT.

§ 173.248 Ethylene oxide.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) DOT Class 105A100W and 111A100W tank cars conforming with paragraphs (c) thru (h) of this section; and Class 105J100W tank cars conforming with paragraphs (c) thru (g) of this section.

(b) Specification MC 330 and MC 331 cargo tank motor vehicles and DOT 51 portable tanks conforming with paragraphs (c) thru (h) of this section.

(c) The pressure relief devices must be set to function at 75 psig (517.1 Kpa). Portable tanks fitted with non-reclosing devices made and in use prior to December 31, 1987, may continue to be used in ethylene oxide service.

(d) Outage must be sufficient to prevent the tank from becoming liquid full at 105 °F (40.6 °C). Consideration must be given to the lading temperature and solubility of inert gas padding in ethylene oxide as well as the partial pressure exerted by the gas padding.

(e) Each tank, loaded or empty, must be padded with dry nitrogen or other suitable inert gas of sufficient quantity to render the vapor pressure of the tank nonflammable up to 105 °F (40.6 °C). The gas used for padding must be free of impurities which may cause the ethylene oxide to polymerize, decompose or undergo other violent chemical reaction.

(f) Copper, silver, mercury, magnesium or their alloys may not be used in any part of the tank or appurtenances that are normally in contact with the lading.

(g) Neoprene, natural rubber and asbestos gaskets are prohibited. All packing and gaskets must be made of materials which do not react with or lower the autoignition temperature of the lading.

(h) Each tank must be insulated with cork (at least 4 inches (10.2cm) thick), or mineral wool, fiberglass or other suitable insulation material of sufficient thickness so that the thermal conductance at 60 °F (15.6 °C) is not more than 0.075 Btu per hour per square foot per degree F. temperature differential. Portable tanks made and in use prior to December 31, 1987 equipped with fusible plugs instead of a safety relief valve or frangible disc, must have sufficient insulation so that the tank as filled for shipment will not rupture in a fire. The insulation on portable tanks or cargo tank motor vehicles must be protected with a steel jacket at least 0.100 (2.54mm) inch thick, or as required by the specification.

§ 173.249 Bromine.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) DOT Class 105A300W or 105A500W tank cars. Class 105A500W tank cars may be equipped with manway cover plates, pressure relief valves, vent valves, and loading/unloading valves that are required on Class 105A–300W tank cars. Tank cars must conform with paragraphs (d) thru (f) of this section.

(b) Specification MC 310, MC 311, MC 312 cargo tank motor vehicles conforming with paragraphs (d) thru (f) of this section.

(c) Specification IM 101 intermodal portable tanks conforming with paragraphs (d) thru (f) of this section.

(d) The tank must be made from nickel-clad or lead-lined steel plate. Nickel cladding or lead lining must be on the inside of the tank. Nickel cladding must comprise at least 20 percent of the required minimum total thickness. Nickel cladding must conform to ASTM Specification B 162–69. Lead lining must be at least 0.1875 inch (4.7625mm) thick. All tank equipment and appurtenances in contact with the lading must be lined or made from metal not subject to deterioration by contact with lading.

(e) Maximum filling density is 300 percent of the tank's water capacity. Minimum filling density is 287 percent of the tank's water capacity. Maximum water capacity is 9,262 kilograms (20,400 pounds) for DOT 105A300W tank cars. Maximum quantity of lading in DOT 105A300W tank cars is 27,240 kilograms (60,000 pounds). Maximum water capactiy is 16,980 kilograms (37,400 pounds) for DOT 105A500W tank cars and DOT 105A500W tank cars equipped as described in paragraph (a) of this section. Maximum quantity of lading in DOT 105A500W tank cars is 49,940 kilograms (110,000 pounds).

(f) Tank shell and head thickness for cargo tank motor vehicles and portable tanks must be at least 0.375 inch (9.525mm) excluding lead lining.

The title to Subpart G would be revised to read as follows:

Subpart G—Gases; Preparation and Packaging

§ 173.300 [Removed]

Section 173.300 would be removed.

In § 173.306, the phrase "Subpart N of this part" would be revised to read "paragraph (h) of this section" in the last sentence of paragraph (a)(1), the introductory text of paragraph (a)(3) and the last sentence of the introductory text of paragraph (b), and paragraph (h) would be added to read as follows:

§ 173.306 Limited quantities of compressed gases.

* * * * *

(h) A limited quantity which conforms to the provisions of paragraph (a)(1) or (a)(3) or paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "consumer commodity" and reclassed as ORM–D material. In addition to the exceptions provided by paragraphs (a) and (b) of this section—

(1) Outside packagings are not required to be marked "INSIDE CONTAINERS COMIPLY WITH PRESCRIBED REGULATIONS";

(2) Shipments of ORM–D materials are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft; and

(3) Strong outer packagings as specified in this section and the, marking requirements specified in § 172.312 are not required for ORM–D materials when unitized in cages, carts or similar overpacks and when shipped by a private or contract motor carrier from a distribution center to a retail outlet.

§ 173.308 [Amended]

In paragraph (a) of § 173.308, the section reference "§ 173.21(e)" would be changed to "§ 173.21(i)".

In § 173.314, paragraph (a) and the introductory text of paragraph (f)(1) would be revised, and in paragraph (f) entries in the "MAXIMUM PERMITTED FILLING DENSITY" table would be revised for specific gravities of 0.609 and greater, as follows:

§ 173.314 Requirements for compressed gases in tank cars.

(a) *Definitions.* For definitions of compressed gases, see § 173.115.

* * * * *

(f) *Special requirements for liquefied petroleum gas and butadiene tank cars.*

(1) *Single unit tanks cars.* Maximum filling density for the following single unit tank cars is as shown in the "Insulated cars" column of the table following paragraph (f)(2) of this paragraph:

(i) DOT Class 105 tank cars;

(ii) DOT Class 112 and 114 tank cars equipped with insulation in accordance with § 179.100–4 of this subchapter and stencilled in accordance with footnote 13 of § 179.101–1 of this subchapter; and

(iii) DOT Class 111 tank cars equipped with insulation in accordance with § 179.200–4 of this subchapter and stencilled in accordance with footnote 3 of § 179.201–1 of this subchapter.

(2) Maximum filling density for other single unit tank cars is as shown in the "Uninsulated cars" column of the following table.

MAXIMUM PERMITTED FILLING DENSITY

Specific gravity at 60 °F.	Insulated cars		Uninsulated cars	
	April through October	November through March (see note 1)	April through October	November through March (see note 1)
* *	*	*	*	
Revise:				
0.609	57.710	58.88	57.64	58.88
0.610	57.800	59.00	57.76	59.00
0.611	57.890	59.10	57.87	59.10
0.612	57.980	59.20	57.98	59.20
0.613	58.09	59.30	58.09	59.30
0.614	58.21	59.40	58.21	59.40
0.615	58.32	59.50	58.32	59.50
0.616	58.43	59.63	58.43	59.63
0.617	58.55	59.75	58.55	59.75
0.618	58.66	59.88	58.66	59.88
0.619	58.77	59.97	58.77	59.97

MAXIMUM PERMITTED FILLING DENSITY—Continued

Specific gravity at 60 °F.	Insulated cars		Uninsulated cars	
	April through October	November through March (see note 1)	April through October	November through March (see note 1)
0.620	58.89	60.07	58.89	60.07
0.621	59.00	60.18	59.00	60.18
0.622	59.12	60.28	59.12	60.28
0.623	59.23	60.38	59.23	60.38
0.624	59.34	60.49	59.34	60.49
0.625	59.46	60.59	59.46	60.59
0.626	59.57	60.70	59.57	60.70
0.627	59.68	60.80	59.68	60.80
0.628	59.80	60.90	59.80	60.90
0.629	59.91	61.01	59.91	61.01
0.630	60.02	61.11	60.02	61.11
0.631	60.13	61.18	60.13	61.18
0.632	60.23	61.28	60.23	61.28
0.633	60.34	61.38	60.34	61.38
0.634	60.44	61.47	60.44	61.47
0.635	60.55	61.57	60.55	61.57

* * * * *

In § 173.315, paragraph (a)(2) would be added to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tanks.

(a) * * *

(2) Other gases not listed by name in the above table shall be shipped in portable tanks or cargo tanks subject to the following conditions:

(i) Minimum packaging design pressure must not be less than—

(A) For a non-flammable and non-toxic gas lading, (Division 2.2), the vapor pressure at the reference temperature of the lading.

(B) For a gas which is toxic or flammable, (Division 2.1 or 2.3), or both, the vapor pressure at the reference temperature of the lading plus one percent or 25 psig (172.4 kPa), whichever is less, for each additional hazard.

(ii) Maximum permitted filling density may not exceed that specified in paragraph (c) of this section.

* * * * *

In Subpart G, §§ 173.321, 173.322, 173.323, 173.324, 173.335, 173.338, and 173.340 would be added and §§ 173.334, 173.336, and 173.337 would be revised to read as follows:

§ 173.321 Ethylamine.

Ethylamine must be packaged as follows:

(a) In 1A1 drums which meet Packing Group I performance level requirements.

(b) In specification cylinders as prescribed for any compressed gas except acetylene.

§ 173.322 Ethyl chloride.

Ethyl chloride must be packaged in single or combination non-bulk packagings which meet Packing Group I performance level requirements, as follows:

(a) In 4C1, 4C2, 4D or 4F wooden boxes with glass, earthenware, or metal inner receptacles not over 500 grams (1.1 pounds) capacity each.

(b) In 4G fiberboard boxes with glass, earthenware, or metal inner receptacles not over 500 grams (1.1 pounds) capacity each. Outer packagings may not exceed 30 kilograms (66.2 pounds) gross weight.

(c) In 1A1 drums of not over 100 liters (37.9 gallons) capacity each.

§ 173.323 Ethylene oxide.

(a) For packaging ethylene oxide in non-bulk packagings, copper, silver mercury and their alloys shall not be used in any part of a packaging, valve, or other packaging appurtenance if that part is normally in contact with ethylene oxide liquid or vapor. All packaging and gaskets must be constructed of materials which do not react spontaneously with or lower the autoignition temperature of ethylene oxide.

(b) Ethylene oxide must be packaged as follows:

(1) In 4G fiberboard boxes with one inner glass ampoule or vial of no more than 100 grams (3.5 ounces) capacity cushioned with incombustible material. The completed package must be capable of passing Packing Group I performance tests.

(2) In 4G fiberboard boxes constructed with top and bottom pads and perimeter liner. Inner packagings must be aluminum receptacles of no more than 135 grams (4.8 ounces) capacity cushioned with incombustible material. No more than 12 receptacles allowed in one box and no more than 10 boxes may be overpacked under the provisions of § 173.25 of this Part. Each completed package must be capable of passing Packing Group I performance tests.

(3) In 4C1, 4C2, 4D or 4F wooden boxes or 4G fiberboard boxes with inner metal receptacles of no more than 340 grams (12 ounces) capacity. The metal receptacle must be capable of withstanding no less than a 180 psig (1241.1 kPa) burst pressure. No more than 12 receptacles may be packed in one box and each receptacle may not be liquid full below 180 °F (82.2 °C). Each inner receptacle must be insulated and equipped with a relief device of the fusible plug type with yield temperature of 157 °F to 170 °F (69.4 °C to 76.7 °C). The capacity of relief device and insulation must be such that the charged receptacle will not explode when tested by CGA Pamphlet C–14 method or other equivalent method. Each completed package must be capable of passing Packing Group I performance tests.

(4) In specification cylinders, as authorized for any compressed gas except acetylene. Cylinders must be seamless or welded steel (not brazed) with a nominal capacity of no more than 30 gallons (113.6 L) and may not be liquid full below 180 °F (82.2 °C). Cylinders over 3.79 liters (1 gallon) capacity must be equipped with eductor tubes and be insulated. Before each refilling, each cylinder must be tested for leakage at no less than 15 psig (103.4 kPa) pressure. In addition, each cylinder must be equipped with a fusible type relief device with yield temperature of 157 °F to 170 °F (69.4 °C to 76.7 °C). The capacity of the relief device and the effectiveness of the insulation must be such that the charged cylinder will not explode when tested by CGA Pamphlet C–14 method or other equivalent method.

(5) In 1A1 steel drums of no more than 61 gallons (230.9 L) and meeting Packing Group I performance standards. The drum must be lagged, of all welded construction with the inner shell having a minimum thickness of 2.0 mm (0.0787 inch) and the outer shell having a minimum thickness of 2.6 mm (0.1024 inch). Drums must be capable of withstanding a hydrostatic test pressure of 100 psig (689.5 kPa). Lagging must be of sufficient thickness so that the drum will not rupture when exposed to fire when filled with ethylene oxide and equipped with the required pressure relief device. The drum may not be liquid full below 185 °F (85 °C), and must be marked "THIS END UP" on the top head. Before each refilling, each drum must be tested for leakage at no less than 15 psig (103.4 kPa) pressure. Each drum must be equipped with a fusible type relief device with yield temperature of 157 °F to 170 °F (69.4 °C to 76.7 °C), and the capacity of the relief device must be such that the filled drum will not explode when tested by the method described in CGA Pamphlet C–14 or other equivalent method.

§ 173.324 Ethyl methyl ether.

Ethyl methyl ether must be packed as follows:

(a) In specification cylinders, as authorized for any compressed gas except acetylene; or

(b) In packagings as specified in § 173.201 which meet Packing Group I performance level requirements.

§ 173.334 Organic phosphates mixed with compressed gas.

Hexaethyl tetraphosphate, parathion, tetraethyl dithio pyrophosphate, tetraethyl pyrophosphate, or other Division 6.1 organic phosphates (including a compound or mixture), may be mixed with a compressed gas which must be nonflammable. This mixture must not contain more than 20 percent by weight of organic phosphate and must be packaged in specification 3A240, 3AA240, 3B240, 4A240, 4B240, 4BA240, or 4BW240 cylinders meeting the following requirements.

(a) Each cylinder may be charged with not more than 5 kg (11.0 pounds) of the mixture, to a maximum filling density of not more than 80 percent of the water capacity;

(b) Each cylinder must be charged in compliance with § 173.301 (e) and (f);

(c) No cylinder may be equipped with an eduction tube or a fusible plug;

(d) No cylinder may be equipped with any valve unless the valve is a type approved by the Director, OHMT;

(e) Cylinders must be overpacked in a box so arranged to protect each valve or other closing device from damage. Except as provided in paragraph (f) of this section, no more than four cylinders may be packed in a box. Each box with its closing device protection must be sufficiently strong to protect all parts of each inside cylinder from deformation or breakage if the completed package were dropped 1.8 meters (5.91 feet) onto solid concrete, impacting at the weakest point.

(f) Cylinders may be packed in strong wooden boxes with valves or other closing devices protected from injury, with not more than twelve cylinders in one outside wooden box. An outer fiberboard box may be used when not more than four such cylinders are to be shipped in one packaging. Valves must be adequately protected. Box and valve protection must be of strength sufficient to protect all parts of inner packagings and valves from deformation or breakage resulting from a drop of at least 1.8 meters (5.91 feet) onto a concrete floor, impacting at the weakest point.

§ 173.335 Gas generator assemblies.

Gas generator assemblies (aircraft) containing liquefied nonflammable, nontoxic gas and a solid propellant cartridge shall be packaged as follows:

(a) The gas shall be packaged in specification steel cylinders authorized for any compressed gas except acetylene not exceeding 10.5 L (2.77 gallons) internal volume and having a minimum design burst pressure of 19,700 kPa (2,857 psi);

(b) Fittings must be protected against damage under conditions normally incident to transport, any trigger shall be fitted with a safety locking pin, and a non-propulsive plug shall be installed on the discharge tube; and

(c) Each complete unit must be individually and tightly packed to prevent movement in wooden boxes (4C1 or 4C2), plywood boxes (4D), reconstituted wood boxes (4F), fiberboard boxes (4G), or plastic boxes, (4HI and 4H2) of Packing Group II performance level, or in the original manufacturer's transit box.

§ 173.336 Nitrogen dioxide, liquid; nitrogen peroxide, liquid; and nitrogen tetroxide, liquid.

Nitrogen dioxide, liquid, nitrogen peroxide, liquid, and nitrogen tetroxide, liquid must be packed in specification cylinders as follows:

(a) As prescribed in § 173.192.

(b) Specification 3A480, 3AA480, 3AL1800, or 3E1800 metal cylinders, with valves removed, are authorized. Each valve opening must be closed by means of a solid metal plug with tapered thread properly luted to prevent leakages; valve protection cap must be used and be at least 4.76 mm (0.187 inches) thick gas-tight, with 4.76 mm (0.187 inches) faced seat for gasket and with United States standard form thread. Shipments in 3AL cylinders are authorized only when transported by highway or rail. Each cylinder must be cleaned in compliance with the requirements of Federal Specification RR–C–901b, paragraphs 3.7.2 and 3.8.2. Cleaning agents equivalent to those specified in RR–C–901b may be used; however, any cleaning agent must not be capable of reacting with oxygen. One cylinder selected at random from a group of 200 or less cleaned at the same time must be tested for oil contamination in accordance with Specification RR–C901b paragraph 4.4.2.3 and meet the standard of cleanliness specified.

§ 173.337 Nitric oxide.

Nitric oxide must be packed in Specification 3A1800, 3AA1800, 3E1800, or 3AL1800 cylinders charged to a pressure of not more than 5,170 kPa (749.7 psi) at 21.1 °C (70 °F). Cylinders must be equipped with a valve of stainless steel and valve seat of material which will not be deteriorated by contact with nitric oxide or nitrogen dioxide. Cylinders or valves may not be equipped with pressure relief devices of any type. Valve outlets must be sealed by a solid threaded cap or plug and an inert gasketing material. In addition—

(a) Specification 3E1800 cylinders must be overpacked in strong wooden boxes of such design as to protect valves from injury or accidental functioning under conditions incident to transportation. Each overpack must conform to § 173.25.

(b) Specification 3A, 3AA, and 3AL cylinders must have their valves protected by metal caps or other equally protective guards securely attached to the cylinders and be of sufficient strength to protect the valves from injury during transit, or by overpacking in strong wooden boxes of such design as to protect valves from injury or accidental functioning under conditions incident to transportation. Each overpack must conform to § 173.25. Shipments in 3AL cylinders are authorized only when transported by highway or rail.

(c) Each cylinder must be cleaned in compliance with the requirements of Federal Specification RR–C–901b, paragraphs 3.7.2 and 3.8.2. Cleaning agents equivalent to those specified in RR–C–901b may be used; however, any cleaning agent must not be capable of reacting with oxygen. One cylinder selected at random from a group of 200 or less cleaned at the same time must be tested for oil contamination in accordance with Specification RR–C–901b paragraph 4.4.2.3 and meet the standard of cleanliness specified.

§ 173.338 Tungsten hexafluoride.

Tungsten hexafluoride must be packed in specification 3A, 3AA, 3BN, or 3E (§§ 178.36, 178.37, 178.39, 178.42 of this subchapter) cylinders. Cylinders shall be equipped with a valve protection cap or be packed in a strong outside container complying with the provisions of § 173.40. Outlets of any valves must be capped or plugged. As an alternative, the cylinder opening may be closed by the use of a metal plug. Specification 3E cylinders must be shipped in an overpack that complies with the provisions of § 173.40.

§ 173.340 Tear gas devices.

(a) Packagings for tear gas devices must be approved prior to first shipment by the Director, OHMT.

(b) Tear gas devices may not be assembled with or packed in the same packaging with mechanically or manually operated firing, igniting, bursting, or other functioning elements unless of a type and design approved by the Director, OHMT.

(c) Tear gas grenades, tear gas candles, and similar devices must be packaged in packagings conforming to the requirements of Part 178 of this subchapter at the Packing Group II performance level, as follows:

(1) In UN 4CI, 4C2, 4D, or 4F metal-strapped wooden boxes. Functioning elements not assembled in grenades or devices must be in a separate compartment of these boxes, or in inner or separate outer boxes, UN 4CI 4C2, 4D, or 4F, and must be so packed and cushioned that they may not come in contact with each other or with the walls of the box during transportation. Not more than 50 tear gas devices and 50 functioning elements shall be packed in one box and the gross weight of the outer box may not exceed 35 kilograms (77.2 pounds).

(2) In a UN 1A2 metal drum. Functioning elements must be packed in a separate inner packaging or compartment. Not more than 24 tear gas devices and 24 functioning elements shall be packed in one outer drum and the gross weight of the drum may not exceed 35 kg. (77.2 pounds).

(3) In a UN 4G fiberboard box with inside tear gas devices meeting Specifications 2P or 2Q. Each inside packaging must be placed in fiberboard tubes fitted with metal ends or a fiber box with suitable padding. Not more than 30 inner packagings shall be packed in one outer box and the gross weight of the outer box may not exceed 16 kg (35.3 pounds).

(4) In other packagings of a type or design which is approved by the Director, OHMT.

(d) Tear gas devices may be shipped completely assembled when offered by or consigned to the U.S. Department of Defense, provided the functioning elements are so packed that they cannot accidently function. Outer packagings must be UN 4CI, 4C2, 4D, or 4F metal-strapped wooden boxes.

Subpart H—[Removed and reserved]

Subpart H would be removed and reserved.

Subpart I—Radioactive Materials

§ 173.416 [Amended]

In § 173.416, the reference "§ 178.34" would be revised to read "§ 178.360" in paragraphs (e) and (g), the reference "§ 178.104" would be revised to read "§ 178.354" in paragraph (d), the reference "§ 178.194" would be revised to read "§ 178.362" in paragraphs (e) and (f), and the reference "§ 178.195" would be revised to read "§ 178.364" in paragraph (g).

In § 173.417, the reference "§ 178.34" would be revised to read "§ 178.360" in paragraphs (b)(1) and (b)(2); the reference "§ 178.103" or "§ 178.103–5(a)", as appropriate, would be revised to read "§ 178.352" in paragraphs (a)(1), (a)(6)(iii) and (b)(1); the reference "§ 178.104" would be revised to read "§ 178.354" in paragraphs (a)(2) and (b)(2); the references "§ 178.120" and "§ 178.121" would be revised to read "§ 178.356" and "§ 178.358", respectively, in paragraphs (a)(8) and (b)(5); and the introductory text of paragraph (a)(6) would be revised to read as follows:

§ 173.417 Authorized packaging—fissile materials.

(a) * * *

(6) A 55-gallon 1A2 steel drum, subject to the following conditions:

* * * * *

Subparts J through O—[Removed]

Subparts J, K, L, M, N, and O would be removed.

Appendix B—[Amended]

In Appendix B:

1. The title would be amended by changing the word "POLYETHYLENE" to "PLASTIC".

2. In the first and second paragraphs, the word "polyethylene" would be revised to read "plastic" wherever it appears.

3. In the second sentence of the first paragraph, the section reference "§ 173.24(d)(3)" would be revised to read "§ 173.24(e)(3)(iii)".

4. In paragraph (6), the phrase "a height of 1.2 meters (3.94 feet) on to solid concrete" would be revised to read "a height determined in accordance with § 178.603(d) of this subchapter onto a rigid nonresilient, flat and horizontal surface."

Appendix C would be added as follows:

Appendix C—Procedure for Base Level Vibration Testing

Base level vibration testing shall be conducted as follows:

1. Three sample packagings, selected at random, shall be filled and closed as for shipment. A non-hazardous material may be used in place of the hazardous material if it has essentially the same physical characteristics.

2. The three packages shall be placed on a vibrating platform that has a vertical double-amplitude (peak-to-peak displacement) of one inch. The packages should be constrained horizontally to prevent them from falling off the platform, but shall be left free to move vertically, bounce and rotate.

3. The test shall be performed for one hour at a frequency that causes the package to be raised from the vibrating platform to such a degree that a piece of material of approximately 1/16-inch (1.6 mm) thickness (such as steel strapping or paperboard) can be passed between the bottom of any package and the platform.

4. Immediately following the period of vibration, each package shall be removed from the platform, turned on its side and observed for any evidence of leakage.

5. Rupture or leakage from any of the packages constitutes failure of the test.

PART 176—CARRIAGE BY VESSEL

The authority citation for Part 176 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806(b), 1808; 49 CFR Part 1, unless otherwise noted.

Paragraph (d) of § 176.5 would be revised as follows:

§ 176.5 Application to vessels.

* * * * *

(d) Except for transportation in bulk packagings (as defined in § 171.8 of this subchapter), the bulk carriage of hazardous materials by water is governed by 46 CFR Subchapters D, I, O and N.

* * * * *

In § 176.83, paragraph (c)(6) would be added as follows:

§ 176.83 Segregation requirements for cargo vessels and passenger vessels.

* * * * *

(c) * * *

(6) *Clear of living quarters.* "Clear of living quarters" means that the hazardous material must be located so that in the event of release of the material, leakage or vapors will not penetrate accommodations, machinery spaces or other work areas by means of entrances or other openings in bulkheads or ventilation ducts.

* * * * *

Section 176.84 would be added as follows:

§ 176.84 Other requirements for stowage and segregation for cargo vessels and passenger vessels.

(a) *General.* When Column 10c of the § 172.101 Table refers to a numbered stowage provision for water shipments, the meaning and requirements of that provision are as set forth in this section. Terms in quotation marks are defined in § 176.83.

(b) *Table of provisions:*

Code	Provisions
1	(Reserved)
2	Temperature controlled material.
3	Do not stow with high explosives.
4	(Reserved)
5	(Reserved)
6	Emergency temperature material.
7	(Reserved)
8	Glass carboys not permitted on passenger vessels.
9	Glass carboys not permitted under deck.
10	Glass bottles not permitted under deck.
11	Keep away from heat and open flame.
12	Keep cool.
13	Keep dry.
14	Metal drums only permitted under deck.
15	May be stowed in portable magazine or metal locker.
16	No other cargo may be stowed in the same hold with this material.
17	(Reserved)
18	Prohibited on any vessel carrying explosives (except explosives in Division 1.4, Compatibility group S).
19	Protect from sparks and open flames.
20	Segregation same as for corrosives.
21	Segregation same as for flammable liquids.
22	Segregation same as for flammable liquids if flash-point below 61 °C (141 °F).
23	Segregation same as for flammable liquids if flash-point between 23 °C (73 °F) and 61 °C (141 °F).
24	Segregation same as for flammable solids.
25	Shade from radiant heat.
26	Stow "away from" acids.
27	Stow "away from" alkaline compounds.
28	(Reserved)
29	Stow "away from" ammonium compounds.
30	Stow "away from" animal or vegetable oils.
31	Stow "away from" combustible materials.
32	Stow "away from" copper, its alloys and its salts.
33	Stow "away from" fluorides.
34	Stow "away from" foodstuffs.
35	Stow "away from" all odor-absorbing cargo.
36	Stow "away from" heavy metals and their compounds.
37	Stow "away from" hydrazine.
38	Stow "away from" all other corrosives.
39	Stow "away from" liquid halogenated hydrocarbons.
40	Stow "clear of living quarters".
41	Stow "away from" mercury and its compounds.
42	Stow "away from" nitric acids and perchloric acids not exceeding 50% acid by weight.
43	Stow "away from" organic materials.
44	Stow "away from" oxidizers.
45	Stow "away from" permanganates.
46	Stow "away from" powdered metals.
47	Stow "away from" sodium compounds.
48	Stow "away from" sources of heat.
49	Stow "away from" corrosives.
50	Stow "away from" sources of heat where temperatures in excess of 55 °C (131 °F) for a period of 24 hours or more will be encountered.
51	Stow "separated from" acetylene.
52	Stow "separated from" acids.
53	Stow "separated from" alkaline compounds.
54	Stow "separated from" animal or vegetable oils.
55	Stow "separated from" ammonia.
56	Stow "separated from" ammonium compounds.
57	Stow "separated from" chlorine.
58	Stow "separated from" cyanides.
59	Stow "separated from" combustible materials.
60	Stow "separated from" chlorates, chlorites, hypochlorites, nitrites, perchlorates, permanganates, and metallic powders.
61	Stow "separated from" corrosive materials.
62	Stow "separated from" diborane.
63	Stow "separated from" diethylene triamine.
64	Stow "separated from" explosives.
65	Stow "separated from" flammable substances.
66	Stow "separated from" flammable solids.
67	Stow "separated from" halides.
68	Stow "separated from" hydrogen.
69	Stow "separated from" hydrogen peroxide.
70	Stow "separated from" mercury salts.
71	Stow "separated from" nitric acid.
72	Stow "separated from" nitrogen compounds.
73	Stow "separated from" nitrogen compounds and chlorates.
74	Stow "separated from" oxidizers.
75	Stow "separated from" permanganates.
76	Stow "separated by a complete compartment or hold from" organic peroxides.
77	Stow "separated longitudinally by a complete compartment or hold from" explosives.
78	Stow "separated longitudinally by an intervening complete compartment or hold from" explosives.
79	The maximum net quantity in one package for this material shipped aboard a passenger vessel is limited to 50 pounds (22.7 kg).
80	Toy torpedoes must not be packed with other special fireworks.
81	Under deck stowage permitted only if an indicating substance such as chloropicrin has been added.
82	Under deck stowage is permitted only if containing not more than 36% by weight of hydrazine.
83	(Reserved)
84	Under deck stowage must be in well-ventilated space.
85	Under deck stowage must be in mechanically ventilated space.
86	Stow "separated by a complete compartment or hold from" explosives Class 1.3.
87	Stow "separated from" explosives except Class 1.4.
88	Stow "separated by a complete compartment or hold from" explosives except Class 1.4.
89	Segregation same as for oxidizers.
90	Stow "separated from" radioactive materials.
91	Stow "separated from" flammable solids.
92	Stow "separated from" powdered materials.
93	Stow not accessible to unauthorized persons on passenger vessels.
94	Plastic jerricans and plastic drums not permitted under deck.
95	Stow "separated from" foodstuffs.
96	Glass carboys not permitted under deck on passenger vessels.
97	Stow "away from" azides.
98	Stow "away from" all flammable materials.
99	Only new metal drums permitted on passenger vessels.

PART 178—[AMENDED]

The authority citation for Part 178 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR Part 1, unless otherwise noted.

The title to Part 178 would be revised to read:

PART 178—SPECIFICATIONS FOR PACKAGINGS

The table of contents for Part 178 is revised to read as follows:

Sec.

178.0 Purpose, scope and applicability.

Subpart A—[Reserved]

Subpart B—Specifications for Inner Receptacles

178.33 Specification 2P; inner nonrefillable metal receptacles.

178.33a Specification 2Q; inner nonrefillable metal receptacles.

Subpart C—Specifications for Cylinders

178.36 Specification 3A; seamless steel cylinders or 3AX; seamless steel cylinders of capacity over 1,000 pounds water volume.

178.37 Specification 3AA; seamless steel cylinders made of definitely prescribed steels or 3AAX; seamless steel cylinders made of definitely prescribed steels of capacity over 1,000 pounds water volume.

178.38 Specification 3B; seamless steel cylinders.

178.39 Specification 3BN; seamless nickel cylinders.

178.42 Specification 3E; seamless steel cylinders.

178.44 Specification 3HT; inside containers, seamless steel cylinders for aircraft use made of definitely prescribed steel.

178.45 Specification 3T; seamless steel cylinders.

178.46 Specification 3AL; seamless cylinders made of definitely prescribed aluminum alloys.

178.47 Specification 4DS; inside containers, welded stainless steel for aircraft use.

178.50 Specification 4B; welded and brazed steel cylinders.

178.51 Specification 4BA; welded or brazed steel cylinders made of definitely prescribed steels.

178.53 Specification 4D; inside containers, welded steel for aircraft use.

178.54 Specification 4B240–FLW; welded or welded and brazed cylinders with fusion-welded longitudinal seam.
178.55 Specification 4B240ET; welded and brazed cylinders made from electric resistance welded tubing.
178.56 Specification 4AA480; welded steel cylinders made of definitely prescribed steels.
178.57 Specification 4L; welded cylinders insulated.
178.58 Specification 4DA; inside containers, welded steel for aircraft use.
178.59 Specification 8; steel cylinders with approved porous filling for acetylene.
178.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.
178.61 Specification 4BW; welded steel cylinders made of definitely prescribed steels with electric-arc welded longitudinal seam.
178.65 Specification 39; non-reusable (non-refillable) cylinder.
178.68 Specification 4E; welded aluminum cylinders.

Subparts D–G—[Reserved]

Subpart H—Specifications for Portable Tanks

178.245 Specification 51; steel portable tanks.
178.251 General design and construction requirements applicable to specifications 56 (§ 178.252) and 57 portable tanks (§ 178.253).
178.252 Specification 56; metal portable tanks.
178.253 Specification 57; metal portable tanks.
178.255 Specification 60; steel portable tanks.
178.270 Specification IM 101 and IM 102 steel portable tanks; general design and construction requirements.
178.271 Specification IM 101 steel portable tanks.
178.272 Specification IM 102 steel portable tanks.

Subpart I—[Reserved]

Subpart J—Specifications for Containers for Motor Vehicle Transportation

178.315 Specification MC 200; containers for liquid nitroglycerin, desensitized liquid nitroglycerin or diethylene glycol dinitrate.
178.318 Specification MC 201; container for detonators and percussion caps.
178.337 Specification MC 331; cargo tanks constructed of steel, primarily for transportation of compressed gases as defined in the Compressed Gas Section.
178.338 Specification MC 338; insulated cargo tank.
178.340 General design and construction requirements applicable to specifications MC 306 (§ 178.341), MC 307 (§ 178.342), and MC 312 (§ 178.343) cargo tanks.
178.341 Specification MC 306; cargo tanks.
178.342 Specification MC 307; cargo tanks.
178.343 Specification MC 312; cargo tanks.

Subpart K—Specifications for Packagings for Radioactive Materials

178.350 Specification 7A; general packaging, Type A.
178.352 Specification 6L; metal packaging.
178.354 Specification 6M; metal packaging.
178.356 Specification 20PF; phenolic-foam insulated, metal overpack.
178.358 Specification 21PF; fire and shock resistant, phenolic-foam insulated, metal overpack.
178.360 Specification 2R; inside containment vessel.
178.362 Specification 20WC; wooden protective jacket.
178.364 Specification 21WC; wooden-steel protective overpack.

Subpart L—Non-bulk Performance-oriented Packaging Standards

178.500 Purpose, scope and definitions.
178.502 Identification codes for packagings.
178.503 Marking of packagings.
178.504 Standards for steel drums.
178.505 Standards for aluminum drums.
178.506 Standards for metal drums other than steel or aluminum.
178.507 Standards for plywood drums.
178.508 Standards for fiber drums.
178.509 Standards for plastic drums and jerricans.
178.510 Standards for wooden barrels.
178.511 Standards for steel jerricans.
178.512 Standards for steel or aluminum boxes.
178.513 Standards for boxes of natural wood.
178.514 Standards for plywood boxes.
178.515 Standards for reconstituted wood boxes.
178.516 Standards for fiberboard boxes.
178.517 Standards for plastic boxes.
178.518 Standards for woven plastic bags.
178.519 Standards for plastic film bags.
178.520 Standards for textile bags.
178.521 Standards for paper bags.
178.522 Standards for composite packagings with inner plastic receptacles.
178.523 Standards for composite packagings with inner glass, porcelain, or stoneware receptacles.

Subpart M—Testing of Non-bulk Packagings and Packages

178.600 Purpose and scope.
178.601 General requirements.
178.602 Preparation of packagings and packages for testing.
178.603 Drop test.
178.604 Leakproofness test.
178.605 Hydrostatic pressure test.
178.606 Stacking test.
178.607 Cooperage test for bung-type wooden barrels.
178.608 Chemical compatibility test for plastic receptacles.

Section 178.0–2 would be revised to read as follows:

§ 178.0–2 Applicability and manufacturers' responsibility.

(a) *Applicability.* Any person who performs a function prescribed in this part shall perform that function in accordance with this part.

(b) *Specification markings.* When this part requires that a packaging be marked with a DOT specification or UN standard marking (for example, DOT–3AL 1800–1234–XY, UN 1A1/Y1.4/150/85) compliance with that requirement is the responsibility of the manufacturer (see § 171.8 of this subchapter for definition of "manufacturer") of the packaging. Except as otherwise provided in this section, marking of the packaging by the manufacturer with the appropriate DOT or UN markings is the certification by the manufacturer that—

(1) All requirements of the DOT specification or the UN standard, including performance tests, are met; and

(2) All functions performed by the manufacturer conform to requirements specified in this part.

(c) *General requirements for packagings.* Manufacturers of packagings shall comply with general requirements for packagings prescribed in Subpart B of Part 173 (particularly, § 173.24) of this subchapter to the extent that those requirements apply to the design, construction and suitability for use of the specification or standard to which the packaging is manufactured.

(d) *Notification.* Except as specifically provided in §§ 178.337–18 and 178.340–10, the manufacturer of a packaging shall inform in writing each person to whom that packaging is transferred of all requirements of this part not met at the time of transfer, and all actions which need to be taken for the packaging to conform to the requirements of this part. This notice must also include the type and dimensions of any closures needed to satisfy performance test requirements. Copies of these written statements shall be retained by the manufacturer for at least one year from date of issuance and must be open to inspection by a representative of the Department.

(e) Except as provided in paragraph (d) of this section, packagings which do not conform to the applicable specifications or standards in this part may not be marked to indicate such conformance.

Section 178.0–3 would be revised to read as follows:

§ 178.0–3 Marking of Packagings.

(a) Each packaging manufactured to a DOT specification or a UN standard shall be marked as follows:

(1) In an unobstructed area, with letters, and numerals identifying the standards or specification (e.g. UN 1A1, DOT 4B240ET, etc.).

(2) With the name and address or symbol of the person making the mark.

Symbols, if used, must be registered with the Director, OHMT.

(3) The markings must be stamped, embossed, burned, printed or otherwise marked on the packaging to provide adequate accessibility, permancy, contrast, and legibility so as to be readily apparent and understood.

(4) Unless otherwise specified, letters and numerals must be at least 12.0mm (0.47 inches) in height except that for packagings of less than or equal to 30 liters (7.9 gallons) capacity for liquids or 30 kilograms (66.1 pounds) capacity for solids the height must be at least 6.0mm (0.24 inches).

(b) Packagings may be marked with the United Nations symbol and packaging identification code as provided in this subchapter, in the ICAO Technical Instructions or in Annex 1 to the IMDG Code, provided the person applying these marks has established that the packaging conforms to the applicable provisions of this subchapter, the ICAO Technical Instructions or Annex 1 to the IMDG Code, respectively.

(1) If an indication of the State in whose territory the specified tests have been carried out, or of the State authorizing the allocation of the mark, is required, the letters "USA" shall be used.

(2) If an indication of the name of the manufacturer or other identification of the packaging as specified by the competent authority is required, the name and address or symbol of the person making the mark shall be entered. Symbols, if used, must be registered with the Director, OHMT. Duplicate symbols are not authorized.

(3) Packagings manufactured to UN standards in accordance with this subchapter shall be marked as prescribed in § 178.503.

Subpart A—[Removed and Reserved]

Subpart A of Part 178 would be removed and reserved.

Subpart B—[Amended]

In Subpart B, § 178.34 would be redesignated as § 178.360 and moved to Subpart K. With the exception of §§ 178.33 and 178.33a, the remaining sections in Subpart B would be removed.

The title of § 178.33 would be revised to read as follows:

§ 178.33 Specification 2P; inner nonrefillable metal receptacles.

* * * * *

The title to § 178 33a would be revised to read as follows:

§ 178.33a Specification 2Q; inner nonrefillable metal receptacles.

* * * * *

Subpart D—[Amended]

In Subpart D, §§ 178.103, 178.104, 178.120 and 178.121 would be moved to Subpart K and be redesignated as §§ 178.352, 178.354, 178.356 and 178.358, respectively. Then Subpart D would be removed and reserved.

Subpart E—[Amended]

In Subpart E, §§ 178.194 and 178.195 would be moved to Subpart K and be redesignated as §§ 178.362 and 178.364, respectively. Then Subpart E would be removed and reserved.

Subparts F and G—[Removed and Reserved]

Subparts F and G would be removed and reserved.

Subpart H—Specifications for Portable Tanks

In § 178.270–11, paragraphs (c) (1) and (2) would be revised to read as follows:

§ 178.270–11 Pressure and vacuum relief devices.

* * * * *

(c) *Pressure settings of relief devices*—(1) *Primary pressure relief devices.* The primary relief device required by paragraph (a) of this section must be set to function in the range of—

(i) No less than 67 percent and no greater than 83 percent of test pressure for tanks hydrostatically tested under § 178.270–13(a) at a pressure below 66 psig (455.1 kPa). Spring-loaded pressure relief valves must close after discharge at a pressure not less than 80 percent of start-to-discharge pressure.

(ii) No less than 67 percent and no greater than 74 percent of test pressure for tanks hydrostatically tested under § 178.270–13(a) at a pressure of 66 psig (455.1 kPa) or higher. Spring-loaded pressure relief valves must close after discharge at a pressure not less than 90 percent of start to discharge pressure.

(2) *Emergency pressure relief devices.* Each frangible disc, other than one used as a primary relief device in accordance with paragraph (b)(2) of this section, must be designed to burst at a pressure greater than 83 percent of and less than or equal to tank hydrostatic test pressure. Each spring-loaded pressure relief valve used as an emergency pressure relief device must be set to operate at no less than 83 percent of hydrostatic test pressure and be fully open at test pressure.

* * * * *

The title to Subpart K would be revised to read as follows:

Subpart K—Specifications for Packagings for Radioactive Materials

A new Subpart L would be added to read as follows:

Subpart L—Non-Bulk Performance-Oriented Packaging Standards

§ 178.500 Purpose, scope and definitions.

(a) This subpart prescribes certain requirements for non-bulk packagings for hazardous materials. Standards for these packagings are based on the UN Recommendations.

(b) Terms used in this subpart are defined in § 171.8 of this subchapter.

§ 178.502 Identification codes for packagings.

(a) Identification codes for designating types of packagings consist of the following:

(1) A numeral indicating the type of packaging, as follows:

(i) "1" means a drum.
(ii) "2" means a wooden barrell.
(iii) "3" means a jerrican.
(iv) "4" means a box.
(v) "5" means a bag.
(vi) "6" means a composite packaging.
(vii) "7" means a pressure receptacle.

(2) A capital letter indicating the material of construction, as follows:

(i) "A" means steel (all types and surface treatments).
(ii) "B" means aluminum.
(iii) "C" means natural wood.
(iv) "D" means plywood.
(v) "F" means reconstituted wood.
(vi) "G" means fiberboard.
(vii) "H" means plastic.
(viii) "L" means textile.
(ix) "M" means paper, multiwall.
(x) "N" means metal (other than steel or aluminum).
(xi) "P" means glass, porcelain or stoneware.

(3) A numeral indicating the category of packaging within the type to which the packaging belongs. For example, for steel drums ("1A"), "1" indicates a non-removable head drum (i.e., "1A1") and "2" indicates a removable head drum (i.e., "1A2").

(b) For composite packagings, two capital letters are used in sequence in the second position of the code, the first indicating the material of the inner receptacle and the second, that of the outer packaging. For example, a plastic receptacle in a steel drum is designated "6HA1".

(c) For combination packagings, only the code number for the outer packaging is used.

(d) Identification codes are set forth in the standards for packagings in §§ 178.504 through 178.523.

§ 178.503 Marking of packagings.

(a) The manufacturer shall mark every package that is required to conform to a UN standard of this subpart in a durable and clearly visible manner, with the following information and in the sequence presented:

(1) The United Nations symbol as illustrated in paragraph (d) of this section (for metal receptacles, the letters UN may be applied in place of the symbol);

(2) A packaging identification code designating the type of packaging, the material of construction and, when appropriate, the category of packaging under §§ 178.504 through 178.523 within the type to which the packaging belongs;

(3) A letter identifying the performance standard under which the packaging has been successfully tested, as follows:

(i) X—for packagings meeting Packing Group I, II and III tests;

(ii) Y—for packagings meeting Packing Group II and III tests; or

(iii) Z—for packagings only meeting Packing Group III tests;

(4) A designation of the specific gravity or mass for which the packaging has been tested, as follows:

(i) For packaging without inner packagings intended to contain liquids (except viscous liquids), the designation shall be the specific gravity rounded down to the first decimal but may be omitted when the specific gravity does not exceed 1.2; and

(ii) For packagings intended to contain viscous liquids, solids, or inner packagings, the designation must be the maximum gross mass in kilograms;

(5) Either a letter "S" designating that the packaging is intended only for the transport of solids or inner packagings, or the test pressure in kilopascals rounded off to the nearest 10 kilopascals of the hydrostatic pressure test that the packaging has successfully passed;

(6) The last two digits of the year of manufacture. Packagings of types 1H and 3H shall also be marked with the month of manufacture in any appropriate manner; this may be marked on the packaging in a different place from the remainder of the markings;

(7) The letters "USA" (indicating that the packaging was marked pursuant to the provisions of this subchapter);

(8) The name and address or symbol of the person applying the marks required by this section. Symbols, if used, must be registered in advance with the Director, OHMT;

(9) For metal or plastic drums or jerricans intended for reuse the minimum thickness of the packaging material, expressed in millimeters and abbreviated "mm", and

(10) For drums intended as packagings for nitric acid, the tare weight in kilograms preceded by the letters TW.

(b) For a reusable packaging likely to undergo a reconditioning process, the markings required in paragraphs (a)(1) through (a)(6) and (a)(9) of this section shall be applied in a permanent manner (e.g., by embossment) able to withstand the reconditioning process. For a packaging with a removable head, the markings may not be applied to the removable head.

(c) If a package is reconditioned, it shall be marked by the reconditioner near the marks required in paragraphs (a) (1) through (a)(6) of this section with the following additional information:

(1) The name of the country in which the reconditioning was performed (in the United States, use the letters "USA";

(2) The name and address or symbol of the reconditioner. Symbols, if used, shall be registered in advance with the Director, OHMT);

(3) The month and last two digits of the year of reconditioning;

(4) The letter "R"; and

(5) For every packaging successfully passing a leakproofness test, the additional letter "L".

(d) The following are examples of symbols and required markings:

(1) The United Nations symbol is:

(2) Examples of markings for a new packaging are as follows:

(i) For a fiberboard box designed to contain an inner receptacle:

4G/Y145/S/83—(as in § 178.503(a) (1), (2), (3), (4), (5) and (6))

USA/RA—(as in § 178.503(a) (7) and (8))

(ii) For a steel drum designed to contain liquids:

UN 1A1/Y1.4/150/83—(as in § 178.503(a) (1), (2), (3), (4), (5) and (6))

USA/VL824—(as in § 178.503 1mm(a) (7), (8) and (9))

(iii) For a steel drum to transport solids, viscous liquids or inner packagings:

UN 1A2/Y150/S/83—(as in § 178.503(a) (1), (2), (3), (4), (5) and (6))

USA/VL825—(as in § 178.503(a) (7) and (8))

(3) Examples of markings for reconditioned packagings are as follows:

USA/RB/10–85RL—(as in § 178.503(c) (1), (2), (3) and (4))

§ 178.504 Standards for steel drums.

(a) The following are identification codes for steel drums:

(1) 1A1 for a non-removable head steel drum; and,

(2) 1A2 for a removable head steel drum.

(b) Construction requirements for steel drums are as follows:

(1) Body and heads shall be constructed of steel sheet of suitable type and adequate thickness in relation to the capacity and intended use of the drum.

(2) Body seams shall be welded on drums designed to contain more than 40 liters (10.6 gallons) of liquids. Body seams shall be mechanically seamed or welded on drums intended to contain only solids or 40 liters (10.6 gallons) or less of liquids.

(3) Chimes shall be mechanically seamed or welded. Separate reinforcing rings may be applied.

(4) The body of a drum of a capacity greater than 60 liters (15.9 gallons) must, in general, have at least two expanded rolling hoops, or alternatively, at least two separate rolling hoops. If there are separate rolling hoops, they shall be fitted tightly on the body and so secured that they cannot shift. Rolling hoops may not be spot welded.

(5) Openings for filling, emptying and venting in the bodies or heads of non-removable head (1A1) drums may not exceed 7.0 centimeters (2.76 inches) in diameter. Drums with larger openings are considered to be of the removable head type (1A2). Closures for openings in the bodies and heads of drums shall be so designed and applied that they will remain secure and leakproof under normal conditions of transport. Closure flanges shall be mechanically seamed or welded in place. Gaskets or other sealing elements shall be used with closures unless the closure is inherently leakproof.

(6) Closure devices for removable head drums shall be so designed and applied that they will remain secure and drums will remain leakproof under normal conditions of transport. Gaskets or other sealing elements shall be used with all removable heads.

(7) If materials used for body, heads, closures, and fittings are not in themselves compatible with the contents to be transported, suitable internal protective coatings or treatments shall be applied. These coatings or treatments shall retain their protective properties under normal conditions of transport.

(8) Maximum capacity of drum: 450 liters (118.9 gallons).

(9) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.505 Standards for aluminum drums.

(a) The following are the identification codes for aluminum drums:

(1) 1B1 for a non-removable head aluminum drum; and

(2) 1B2 for a removable head aluminum drum.

(b) Construction requirements for aluminum drums are as follows:

(1) Body and heads shall be constructed of aluminum at least 99 percent pure or an aluminum base alloy. Material shall be of suitable type and adequate thickness in relation to the capacity and the intended use of the drum.

(2) All seams shall be welded. Chime seams, if any, shall be reinforced by the application of separate reinforcing rings.

(3) The body of a drum of a capacity greater than 60 liters (15.9 gallons) must, in general, have at least two expanded rolling hoops, or alternatively, at least two separate rolling hoops. If there are separate rolling hoops, the hoops shall be fitted tightly on the body and so secured that they cannot shift. Rolling hoops shall not be spot welded.

(4) Openings for filling, emptying, or venting in the bodies or heads of non-removable head (1B1) drums may not exceed 7.0 centimeters (2.76 inches) in diameter. Drums with larger openings are considered to be of the removable head type (1B2). Closures for openings in the bodies and heads of drums shall be so designed and applied that they will remain secure and leakproof under normal conditions of transport. Closure flanges shall be welded in place so that the weld provides a leakproof seam. Gaskets or other sealing elements shall be used with closures unless the closure is inherently leakproof.

(5) Closure devices for removable head drums shall be so designed and applied that they remain secure and drums remain leakproof under normal conditions of transport. Gaskets or other sealing elements shall be used with all removable heads.

(6) Maximum capacity of drum: 450 liters (118.9 gallons).

(7) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.506 Standards for metal drums other than steel or aluminum.

(a) The following are the identification codes for metal drums other than steel or aluminum:

(1) 1N1 for a non-removable head metal drum.

(2) 1N2 for a removable head metal drum.

(b) Construction requirements for metal drums other than steel or aluminum are as follows:

(1) Body and heads shall be constructed of metal (other than steel or aluminum) of suitable type and adequate thickness in relation to the capacity and the intended use of the drum.

(2) All seams shall be welded. Chime seams, if any, shall be reinforced by the application of separate reinforcing rings.

(3) The body of a drum of a capacity greater than 60 liters (15.85 gallons) must, in general, have at least two expanded rolling hoops, or alternatively, at least two separate rolling hoops. If there are separate rolling hoops, the hoops shall be fitted tightly on the body and so secured that they cannot shift. Rolling hoops shall not be spot welded.

(4) Openings for filling, emptying, or venting in the bodies or heads of non-removable head (1N1) drums may not exceed 7.0 centimeters (2.76 inches) in diameter. Drums with larger openings are considered to be of the removable head type (1N2). Closures for openings in the bodies and heads of drums shall be so designed and applied that they will remain secure and leakproof under normal conditions of transport. Closure flanges shall be welded in place so that the weld provides a leakproof seam. Gaskets or other sealing elements shall be used with closures unless the closure is inherently leakproof.

(5) Closure devices for removable head drums shall be so designed and applied that they remain secure and drums remain leakproof under normal conditions of transport. Gaskets or other sealing elements shall be used with all removable heads.

(6) Maximum capacity of drum: 450 liters (118.9 gallons).

(7) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.507 Standards for plywood drums.

(a) The identification code for a plywood drum is 1D.

(b) Construction requirements for plywood drums are as follows:

(1) The wood used must be well-seasoned, commercially dry and free from any defect likely to lessen the effectiveness of the drum for the purpose intended. A material other than plywood may be used for the manufacture of the heads, if it is of strength and durability at least equivalent to the plywood.

(2) At least two-ply plywood shall be used for the body and at least three-ply plywood for the heads; the plies shall be firmly glued together, with their grains crosswise.

(3) The body and heads of the drum and their joints must be of a design appropriate to the capacity of the drum and its intended use.

(4) In order to prevent sifting of the contents, lids shall be lined with kraft paper or some other equivalent material which shall be securely fastened to the lid and extend to the outside along its full circumference.

(5) Maximum capacity of drum: 250 liters (66.0 gallons).

(6) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.508 Standards for fiber drums.

(a) The identification code for a fiber drum is 1G.

(b) Construction requirements for fiber drums are as follows:

(1) The body of the drum shall be constructed of multiple plies of heavy paper or fiberboard (without corrugations) firmly glued or laminated together and may include one or more protective layers of bitumen, waxed kraft paper, metal foil, plastic material, or similar materials.

(2) Heads must be of natural wood, fiberboard, metal, plywood or plastic material and may include one or more protective layers of bitumen, waxed kraft paper, metal foil, plastic material, or similar material.

(3) The body and heads of the drum and their joints must be of a design appropriate to the capacity and intended use of the drum.

(4) The assembled packaging must be sufficiently water-resistant so as not to delaminate under normal conditions of transport.

(5) Maximum capacity of drum: 450 liters (118.9 gallons).

(6) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.509 Standards for plastic drums and jerricans.

(a) The following are identification codes for plastic drums and jerricans:

(1) 1H1 for a non-removable head plastic drum;

(2) 1H2 for a removable head plastic drum;

(3) 3H1 for a non-removable head jerrican; and

(4) 3H2 for a removable head jerrican.

(b) Construction requirements for plastic drums and jerricans are as follows:

(1) The packaging shall be manufactured from suitable plastic material and be of adequate strength in relation to its capacity and intended use. No used material other than production residues or regrind from the same manufacturing process may be used. The packaging must be adequately resistant to aging and to degradation caused either by the substance contained or by ultra-violet radiation. Any permeation of

the substance contained must not constitute a danger under normal conditions of transport.

(2) If protection against ultra-violet radiation is required, it shall be provided by the addition of carbon black or other suitable pigments or inhibitors. These additives must be compatible with the contents and remain effective throughout the life of the packaging. Where use is made of carbon black, pigments or inhibitors other than those used in the manufacture of the design type, retesting may be waived if the carbon black content does not exceed 2 percent by mass or if the pigment content does not exceed 3 percent by mass; the content of inhibitors of ultra-violet radiation is not limited.

(3) Additives serving purposes other than protection against ultraviolet radiation may be included in the composition of the plastic material provided they do not adversely affect the chemical and physical properties of the packaging material.

(4) The wall thickness at every point of the packaging must be appropriate to its capacity and its intended use, taking into account the stresses to which each point is liable to be exposed.

(5) Openings for filling, emptying and venting in the bodies or heads of non-removable head (1H1) drums and jerricans (3H1) may not exceed 7.0 centimeters (2.76 inches) in diameter. Drums and jerricans with larger openings are considered to be of the removable head type (1H2 and 3H2). Closures for openings in the bodies or heads of drums and jerricans shall be so designed and applied that they remain secure and leakproof under normal conditions of transport. Gaskets or other sealing elements shall be used with closures unless the closure is inherently leakproof.

(6) Closure devices for removable head drums and jerricans shall be so designed and applied that they remain secure and leakproof under normal conditions of transport. Gaskets shall be used with all removable heads unless the drum or jerrican design is such that when the removable head is properly secured, the drum or jerrican is inherently leakproof.

(7) Maximum capacity of drums and jerricans: 1H1, 1H2: 450 liters (118.9 gallons); 3H1, 3H2: 60 liters (15.9 gallons).

(8) Maximum net mass: 1H1, 1H2: 400 kg (881.8 pounds); 3H1, 3H2: 120 kg (264.6 pounds).

§ 178.510 Standards for wooden barrels.

(a) The following are identification codes for wooden barrels:

(1) 2C1 for a bung type wooden barrel; and

(2) 2C2 for a slack type (removable head) wooden barrel.

(b) Construction requirements for wooden barrels are as follows:

(1) The wood used must be of good quality, straight-grained, well-seasoned and free from knots, bark, rotten wood, sapwood or other defects likely to lessen the effectiveness of the barrel for the purpose intended.

(2) The body and heads must be of a design appropriate to the capacity and intended use of the barrel.

(3) Staves and heads shall be sawn or cleft with the grain so that no annual ring extends over more than half the thickness of a stave or head.

(4) Barrel hoops must be of steel or iron of good quality. The hoops of 2C2 barrels may be of a suitable hardwood.

(5) For wooden barrels 2C1, the diameter of the bung-hole may not exceed half the width of the stave in which it is placed.

(6) For wooden barrels 2C2, heads must fit tightly into crozes.

(7) Maxinum capacity of barrel: 250 liters (66.0 gallons)

(8) Maximum net mass: 400 kilograms (881.8 pounds)

§ 178.511 Standards for steel jerricans.

(a) The following are identification codes for steel jerricans:

(1) 3A1 for a non-removable head jerrican; and

(2) 3A2 for a removable head jerrican.

(b) Construction requirements for steel jerricans are as follows:

(1) Body and heads shall be constructed of steel sheet of suitable type and adequate thickness in relation to the capacity of the jerrican and intended use.

(2) Chimes of all jerricans shall be mechanically seamed or welded. Body seams of jerricans intended to carry more than 40 liters (10.6 gallons) of liquid shall be welded. Body seams of jerricans intended to carry 40 liters (10.6 gallons) or less shall be mechanically seamed or welded.

(3) Openings in jerricans (3A1) may not exceed 7.0 centimeters (2.76 inches) in diameter. Jerricans with larger openings are considered to be of the removable head type. Closures shall be so designed that they remain secure and leakproof under normal conditions of transport. Gaskets or other sealing elements shall be used with closures, unless the closure is inherently leakproof.

(4) If materials used for body, heads, closures and fittings are not in themselves compatible with the contents to be transported, suitable internal protective coatings or treatments shall be applied. These coatings or treatments must retain their protective properties under normal conditions of transport.

(5) Maximum capacity of jerrican: 60 liters (15.9 gallons).

(6) Maximum net mass: 120 kilograms (264.6 pounds).

§ 178.512 Standards for steel or aluminum boxes.

(a) The following are identification codes for steel or aluminum boxes:

(1) 4A1 for an unlined and uncoated steel box;

(2) 4A2 for a steel box with inner liner or coating;

(3) 4B1 for an unlined and uncoated aluminum box; and

(4) 4B2 for an aluminum box with inner liner or coating.

(b) Construction requirements for steel or aluminum boxes are as follows:

(1) The strength of the metal and the construction of the box must be appropriate to the capacity and intended use of the box.

(2) Boxes 4A2 and 4B2 shall be lined with fiberboard or felt packing pieces, as required, or shall have an inner liner or coating of suitable material. If a double seamed metal liner is used, steps shall be taken to prevent the ingress of substances, particularly explosives, into the recesses of the seams.

(3) Closures may be of any suitable type, and must remain secure under normal conditions of transport.

(4) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.513 Standards for boxes of natural wood.

(a) The following are the identification codes for boxes of natural wood:

(1) 4C1 for an ordinary box; and

(2) 4C2 for a box with sift-proof walls.

(b) Construction requirements for boxes of natural wood are as follows:

(1) The wood used must be well-seasoned, commercially dry and free from defects that would materially lessen the strength of any part of the box. The strength of the material used and the method of construction must be appropriate to the capacity and intended use of the box. The tops and bottoms may be made of water-resistant reconstituted wood such as hard board, particle board or other suitable type.

(2) Each part of the 4C2 box must be one piece or equivalent. Parts are considered equivalent to one piece when one of the following methods of glued assembly is used: Linderman joint, tongue and groove joint, ship lap or rabbet joint, or butt joint with at least

two corrugated metal fasteners at each joint.

(3) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.514 Standards for plywood boxes.

(a) The identification code for a plywood box is 4D.

(b) Construction requirements for plywood boxes are as follows:

(1) Plywood used must be at least 3 ply. It shall be made from well-seasoned rotary cut, sliced or sawn veneer, commercially dry and free from defects that would materially lessen the strength of the box. The strength of the material used and the method of construction must be appropriate to the capacity and intended use of the box. All adjacent plies shall be glued with water-resistant adhesive. Other suitable materials may be used together with plywood in the construction of boxes. Boxes shall be nailed or secured to corner posts or ends or assembled with other equally suitable devices.

(2) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.515 Standards for reconstituted wood boxes.

(a) The identification code for a reconstituted wood box is 4F.

(b) Construction requirements for reconstituted wood boxes are as follows:

(1) The walls of boxes shall be made of water-resistant, reconstituted wood such as hardboard, particle board, or other suitable type. The strength of the material used and the method of construction must be appropriate to the capacity of the boxes and their intended use.

(2) Other parts of the box may be made of other suitable materials.

(3) Boxes shall be securely assembled by means of suitable devices.

(4) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.516 Standards for fiberboard boxes.

(a) The identification code for a fiberboard box is 4G.

(b) Construction requirements for fiberboard boxes are as follows:

(1) Strong, solid or double-faced corrugated fiberboard (single or multiwall) shall be used, appropriate to the capacity and intended use of the box. The water resistance of the outer surface must be such that the increase in mass, as determined in a test carried out over a period of 30 minutes by the Cobb method of determining water absorption, is not greater than 155 grams per square meter (0.0316 pounds per square foot) -see ISO International Standard 535–1976 (E). It must have proper bending qualities. Fiberboard shall be cut, creased without scoring, and slotted so as to permit assembly without cracking, surface breaks, or undue bending. The fluting of corrugated fiberboard shall be firmly glued to the facings.

(2) The ends of boxes may have a wooden frame or be entirely of wood. Reinforcements of wooden battens may be used.

(3) Manufacturing joints in the body of boxes shall be taped, lapped and glued, or lapped and stitched with metal staples. Lapped joints shall have an appropriate overlap. Where closing is effected by gluing or taping, a water-resistant adhesive shall be used.

(4) Boxes shall be designed so as to provide a snug fit to the contents.

(5) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.517 Standards for plastic boxes.

(a) The following are identification codes for plastic boxes:

(1) 4H1 for an expanded plastic box; and

(2) 4H2 for a solid plastic box.

(b) Construction requirements for plastic boxes are as follows:

(1) The box shall be manufactured from suitable plastic material and be of adequate strength in relation to its capacity and intended use. The box must be adequately resistant to ageing and to degradation caused either by the substance contained or by ultraviolet radiation.

(2) An expanded plastic box must consist of two parts made of a moulded expanded plastic material: a bottom section containing cavities for the inner receptacles, and a top section covering and interlocking with the bottom section. The top and bottom sections shall be so designed that the inner receptacles fit snugly. The closure cap for any inner receptacle may not be in contact with the inside of the top section of the box.

(3) For transportation, an expanded plastic box shall be closed with a self-adhesive tape having sufficient tensile strength to prevent the box from opening. The adhesive tape must be weather resistant and its adhesive compatible with the expanded plastic material of the box. Other closing devices at least equally effective may be used.

(4) For solid plastic boxes, protection against ultra-violet radiation, if required, shall be provided by the addition of carbon black or other suitable pigments or inhibitors. These additives must be compatible with the contents and remain effective throughout the life of the box. Where use is made of carbon black pigment or inhibitors other than those used in the manufacture of the tested design type, retesting may be waived if the carbon black content does not exceed 2 percent by mass or if the pigment content does not exceed 3 percent by mass; the content of inhibitors of ultraviolet radiation is not limited.

(5) Additives serving purposes other than protection against ultraviolet radiation may be included in the composition of the plastic material if they do not adversely affect the material of the box. Addition of these additives does not change the design type.

(6) Solid plastic boxes must have closure devices made of a suitable material of adequate strength and so designed as to prevent the box from unintentional opening.

(7) Maximum net mass 4H1: 60 kg (132.3 pounds); 4H2: 400 kg (881.8 pounds).

§ 178.518 Standards for woven plastic bags.

(a) The following are identification codes for woven plastic bags:

(1) 5H1 for an unlined or non-coated woven plastic bag;

(2) 5H2 for a sift proof woven plastic bag; and

(3) 5H3 for a water-resistant woven plastic bag.

(b) Construction requirements for woven plastic fabric bags are as follows:

(1) Bags shall be made from stretched tapes or monofilaments of a suitable plastic material. The strength of the material used and the construction of the bag must be appropriate to the capacity and intended use of the bag.

(2) If the fabric is woven flat, the bags shall be made by sewing or some other method ensuring closure of the bottom and one side. If the fabric is tubular, the bag shall be closed by sewing, weaving, or some other equally strong method of closure.

(3) Bags, sift-proof, 5H2 shall be made sift-proof by appropriate means such as use of paper or a plastic film bonded to the inner surface of the bag or one or more separate inner liners made of paper or plastic material.

(4) Bags, water-resistant, 5H3: To prevent the entry of moisture, the bag shall be made waterproof by appropriate means, such as separate inner liners of water-resistant paper (e.g., waxed kraft paper, double-tarred kraft paper or plastic-coated kraft paper), or plastic film bonded to the inner or outer surface of the bag, or one or more inner plastic liners.

(5) Maximum net mass: 50 kilograms (110.2 pounds).

§ 178.519 Standards for plastic film bags.

(a) The identification code for a plastic film bag is 5H4.

(b) Construction requirements for plastic film bags are as follows:

(1) Bags shall be made of a suitable plastic material. The strength of the material used and the construction of the bag must be appropriate to the capacity and the intended use of the bag. Joints and closures must be capable of withstanding pressures and impacts liable to occur under normal conditions of transportation.

(2) Maximum net mass: 50 kilograms (110.2 pounds).

§ 178.520 Standards for textile bags.

(a) The following are identification codes for textile bags:

(1) 5L1 for an unlined or non-coated textile bag;

(2) 5L2 for a sift-proof textile bag; and

(3) 5L3 for a water-resistant textile bag.

(b) Construction requirements for textile bags are as follows:

(1) The textiles used must be of good quality. The strength of the fabric and the construction of the bag must be appropriate to the capacity and intended use of the bag.

(2) Bags, sift-proof, 5L2: The bag shall be made sift-proof, by appropriate means, such as by the use of paper bonded to the inner surface of the bag by a water-resistant adhesive such as bitumen, plastic film bonded to the inner surface of the bag, or one or more inner liners made of paper or plastic material.

(3) Bags, water-resistant, 5L3: To prevent entry of moisture, the bag shall be made waterproof by appropriate means, such as by the use of separate inner liners of water-resistant paper (e.g., waxed kraft, paper,. tarred paper, or plastic-coated kraft paper), or plastic film bonded to the inner surface of the bag, or one or more inner liners made of plastic material.

(4) Maximum net mass: 50 kilograms (110.2 pounds).

§ 178.521 Standards for paper bags.

(a) The following are identification codes for paper bags:

(1) 5M1 for a multiwall paper bag; and

(2) 5M2 for a multiwall water-resistant paper bag.

(b) Construction requirements for paper bags are as follows:

(1) Bags shall be made of a suitable kraft paper, or of an equivalent paper with at least three plies. The strength of the paper and the construction of the bag must be appropriate to the capacity and intended use of the bag. Seams and closures must be sift-proof.

(2) Paper bags 5M2: To prevent the entry of moisture, a bag of four plies or more shall be made water-proof by the use of either a water-resistant ply as one of the two outermost plies or a waterresistant barrier made of a suitable protective material between the two outermost plies. A 5M2 bag of three plies shall be made waterproof by the use of a water-resistant ply as the outermost ply. When there is danger of the lading reacting with moisture, or when it is packed damp, a water-resistant ply or barrier shall be placed next to the substance. Seams and closures must be waterproof.

(3) Maximum net mass: 50 kilograms (110.2 pounds).

§ 178.522 Standards for composite packagings with inner plastic receptacles.

(a) The following are the identification codes for composite packagings with inner plastic receptacles:

(1) 6HA1 for a plastic receptacle within a protective steel drum;

(2) 6HA2 for a plastic receptacle within a protective steel crate or box;

(3) 6HB1 for a plastic receptacle within a protective aluminum drum.

(4) 6HB2 for a plastic receptacle within a protective aluminum crate or box.

(5) 6HC for a plastic receptacle within a protective wooden box.

(6) 6HD1 for a plastic receptacle within a protective plywood drum;

(7) 6HD2 for a plastic receptacle within a protective plywood box;

(8) 6HG1 for a plastic receptacle within a protective fiber drum;

(9) 6HG2 for a plastic receptacle within a protective fiberboard box; and

(10) 6HH for a plastic receptacle within a protective plastic drum.

(b) Construction requirements for composite packagings with inner receptacles of plastic are as follows:

(1) Inner receptacles shall be constructed under the applicable construction requirements prescribed in § 178.509(b) (1) through (7).

(2) The inner plastic receptacle must fit snugly inside the outer packaging which must be free of any projections which may abrade the plastic material.

(3) Outer packagings shall be constructed as follows:

(i) 6HA1 or 6HB1: Protective packaging must conform to the requirements for steel drums in § 178.504(b), or aluminum drums in § 178.505(b).

(ii) 6HA2 or 6HB2: Protective packagings with steel or aluminum crate must conform to the requirements for steel or aluminum boxes found in § 178.512(b).

(iii) 6HC protective packaging must conform to the requirements for wooden boxes in § 178.513(b).

(iv) 6HD1: Protective packaging must conform to the requirements for plywood drums, in § 178.507(b).

(v) 6HD2: Protective packaging must conform to the requirements of plywood boxes, in § 178.514(b).

(vi) 6HG1: Protective packaging must conform to the requirements for fiber drums, in § 178.508(b).

(vii) 6HG2: protective packaging must conform to the requirements for fiberboard boxes, in § 178.516(b).

(viii) 6HH: Protective packaging must conform to the requirements for plastic drums, § 178.509(b).

(4) Maximum capacity of inner receptacles is as follows: 6HA1, 6HB1, 6HD1, 6HG1, 6HH—250 liters (66.0 gallons); 6HA2, 6HB2, 6HC, 6HD2, 6HG2—60 liters (15.9 gallons).

(5) Maximum net mass is as follows: 6HA1, 6HB1, 6HD1, 6HG1, 6HH—400 kg (881.8 pounds); 6HB2, 6HC, 6HD2, 6HG2—75 kg (165.4 pounds).

§ 178.523 Standards for composite packagings with inner glass, porcelain, or stoneware receptacles.

(a) The following are identification codes for composite packagings with inner receptacles of glass, porcelain, or stoneware:

(1) 6PA1 for glass, porcelain or stoneware receptacles within a protective steel drum;

(2) 6PA2 for glass, porcelain or stoneware receptacles within a protective steel crate or box;

(3) 6PB1 for glass, porcelain or stoneware receptacles within a protective aluminum drum;

(4) 6PB2 for glass, porcelain, or stoneware receptacles within a protective aluminum crate or box;

(5) 6PC for glass, porcelain, or stoneware receptacles within a protective wooden box;

(6) 6PD1 for glass, porcelain or stoneware receptacles within a protective plywood drum;

(7) 6PD2 for glass, porcelain, or stoneware receptacles within a protective wickerwork hamper;

(8) 6PG1 for glass, porcelain or stoneware receptacles within a protective fiber drum;

(9) 6PG2 for glass, porcelain, or stoneware receptacles within a protective fiberboard box;

(10) 6PH1 for glass, porcelain or stoneware receptacles within a protective expanded plastic packaging; and

(11) 6PH2 for glass, porcelain, or stoneware receptacles within a protective solid plastic packaging.

(b) Construction requirements for composite packagings with inner receptacles of glass, porcelain, or stoneware are as follows:

(1) Inner receptacles must conform to the following requirements:

(i) Receptacles must be of suitable form (cylindrical or pear-shaped), be made of good quality materials free from any defect that could impair their strength, and be firmly secured in the outer packaging.

(ii) Any part of a closure likely to come into contact with the contents of the receptacle must be resistant to those contents. Closures shall be fitted so as to be leakproof and secured to prevent any loosening during transportation. Vented closures must conform to § 173.24(f) of this subchapter.

(2) Protective packagings must conform to the following requirements:

(i) For receptacles with protective steel drum 6PA1, the drum must comply with § 178.504(b). However, the removable lid required for this type of packaging may be in the form of a cap.

(ii) For receptacles with protective packaging of steel crate or steel box 6PA2, the protective packaging must conform to the following:

(A) § 178.512(b);

(B) In the case of cylindrical receptacles, the protective packaging shall, when upright, rise above the receptacle and its closure; and

(C) If the protective crate surrounds a pear-shaped receptacle and is of matching shape, the protective packaging shall be fitted with a protective cover (cap).

(iii) For receptacles with protective aluminum drum 6PB1, the requirements of § 178.505(b) apply to the protective packaging.

(iv) For receptacles with protective aluminum box or crate 6PB2, the requirements of § 178.512(b) apply to the protective packaging.

(v) For receptacles with protective wooden box 6PC, the requirements of § 178.513(b) apply to the protective packaging.

(vi) For receptacles with protective plywood drum 6PD1, the requirements of § 178.507(b) apply to the protective packaging.

(vii) For receptacles with protective wickerwork hamper 6PD2, the wickerwork hamper shall be properly made with material of good quality. The hamper shall be fitted with a protective cover (cap) so as to prevent damage to the receptacle.

(viii) For receptacles with protective fiber drum 6PG1, the drum must conform to the requirements of § 178.506(b).

(ix) For receptacles with protective fiberboard box 6PG2, the requirements of § 178.516(b) apply to the protective packaging.

(x) For receptacles with protective solid plastic or expanded plastic packaging 6PH1 or 6PH2, the requirements of § 178.517(b) apply to the protective packaging. Solid protective plastic packaging shall be manufactured from highdensity polyethylene or from some other comparable plastic material. The removable lid required for this type of packaging may be a cap.

(3) Quantity limitations are as follows:

(i) Maximum net capacity for packagings for liquids: 60 liters (15.9 gallons).

(ii) Maximum net mass for packagings for solids: 75 kilograms (165.4 pounds).

A new Subpart M would be added to read as follows:

Subpart M—Testing of Non-bulk of Packagings and Packages

§ 178.600 Purpose and scope.

This subpart prescribes certain testing requirements for performance-oriented packagings identified in Subpart L of this part.

§ 178.601 General requirements.

(a) The test procedures prescribed in this subpart are intended to ensure that packages containing hazardous materials can withstand normal conditions of transportation and are considered minimum requirements. Each packaging shall be so manufactured and assembled as to be capable of successfully passing the prescribed tests and of conforming to the requirements of § 173.24 of this subchapter at all times while in transportation.

(b) It is the responsibility of the packaging manufacturer and the shipper, to the extent that assembly functions including final closure are performed by the latter, to assure that each package is capable of passing the prescribed tests.

(c) The packaging manufacturer shall achieve successful test results for each new or different packaging at the start of production of that packaging and at intervals established by the manufacturer of sufficient frequency to ensure that all packagings are capable of passing the prescribed tests. With the exception of the chemical compatability test for plastic receptacles (§ 178.608 of this subchapter) production tests must be conducted at least once in each 12 month period. For the purpose of this subpart, a different packaging is one that differs from a previously produced packaging in structural design, size, material of construction, wall thickness or manner of construction but does not include—

(1) A packaging which differs only in reduced design height (The cross-sectional shape and area must remain the same.);

(2) A packaging which differs only in surface treatment;

(3) A combination packaging which differs only in that the outer packaging has been successfully tested with different inner packagings (A variety of such different inner packagings may be assembled in this outer packaging without further testing); or

(4) A plastic packaging which differs only with regard to additives which conform to § 178.509(b)(3) or § 178.517(b)(4) or (5).

(d) The manufacturer shall conduct the tests prescribed in this subpart using random samples of production packagings, in the numbers specified in the appropriate test section. In addition, the leakproofness test shall be performed on every new packaging by the manufacturer or reconditioned packaging by the shipper or reconditioner, to which it applies.

(e) The Director, OHMT, may approve the selective testing of packagings that differ only in minor respects from a tested type, including packagings containing a lesser number or smaller sizes of inner packagings or with inner packagings of lower net mass; and packings such as drums, bags, and boxes which are produced with small reductions in external dimension.

(f) Notwithstanding the retest intervals specified in paragraph (c) of this section, the Director, OHMT, may at any time require proof, through testing in accordance with this subpart, that packagings meet the requirements of this subpart. As required by the Director, OHMT, the manufacturer shall either—

(1) Conduct performance tests in accordance with this subpart; or

(2) Supply packagings, in quantities sufficient to conduct tests in accordance with this subpart, to the Director, OHMT, or a designated representative.

(g) If an inner treatment or coating of a packaging is required for safety reasons, the manufacturer shall design the packaging so that the treatment or coating retains its protective properties even after withstanding the tests prescribed by this subpart.

(h) The manufacturer shall keep records of test results for at least one year and make them available for inspection by a representative of the Department upon request.

§ 178.602 Preparation of packagings and packages for testing.

(a) Tests shall be carried out on packagings and packages as prepared for transportation, including inner receptacles in the case of combination packagings.

(b) For the drop and stacking test, inner and single-unit receptacles shall be filled to not less than 95 percent of their capacity in the case of solids and not less than 98 percent in the case of liquids. The materials to be transported in the packagings may be replaced by non-hazardous materials, except for chemical compatibility testing or where this would invalidate the results of the tests.

(c) If the materials to be transported are replaced for test purposes by nonhazardous materials, the materials used must be of the same or higher specific gravity as the materials to be carried and their other physical properties (grain, size, viscosity) which might influence the results of the required tests must correspond as closely as possible to those of the hazardous materials to be transported.

(d) Paper or fiberboard packagings shall be conditioned for at least 24 hours in an atmosphere maintained—

(1) At 50 percent ± 2 percent relative humidity, and at a temperature of 23 °C ±2 °C (73 °F±4 °F); or

(2) At 65 percent ±2 percent relative humidity, and at a temperature of 20 °C±2 °C (68 °F±4 °F), or 27 °C±2 °C (80 °F±4 °F); or

(3) For testing at periodic intervals only (i.e., other than initial design qualification testing), at ambient conditions.

(e) Each packaging shall be closed in preparation for testing in the same manner as if prepared for actual shipment. All closures shall be installed using proper techniques and torques.

(f) Bung-type barrels made of natural wood shall be left filled with water for at least 24 hours before the tests.

(g) Except as provided in § 173.24(e)(3)(iii) of this subchapter, plastic receptacles shall be subjected to the chemical compatibility test provided in § 178.608 before undergoing the drop, stacking and, where applicable, internal pressure and leakproofness tests.

§ 178.603 Drop Test

(a) The number of drops required and the packages' orientation are as follows:

Packaging	No. of test samples	Drop orientation
Steel drums, Aluminum drums, Metal drums (other than steel or aluminum), Steel jerricans, Plywood drums, Wooden barrels, Fibre drums, Plastics drums and jerricans, Composite packagings which are in the shape of a drum.	Six (three for each drop).	First drop (using three samples): the package must strike the target diagonally on the chime or, if the packaging has no chime, on a circumferential seam or an edge. Second drop (using the other three samples): the package must strike the target on the weakest part not tested by the first drop, for example a closure or, for some cylindrical drums, the welded longitudinal seam of the drum body.
Boxes of natural wood, Plywood boxes, Reconstituted wood boxes, Fiberboard boxes, Plastic boxes, Steel or aluminum boxes, Composite packagings, which are in the shape of a box.	Five (one for each drop).	First drop: flat on the bottom (using the first sample). Second drop: flat on the top (using the second sample). Third drop: flat on the long side (using the third sample). Fourth drop: flat on the short side (using the fourth sample). Fifth drop: on a corner (using the fifth sample).
Bags—single-ply with a side seam.	Three (three drops per bag).	First drop: flat on a wide face (using all three samples). Second drop: flat on a narrow face (using all three samples). Third drop: on an end of the bag (using all three samples).
Bag—single-ply without a side seam; or multi-ply.	Three (two drops per bag).	First drop: flat on a wide face (using all three samples). Second drop: on an end of the bag (using all three samples).

(b) *Special preparation of test samples for the drop test.* Testing of plastic drums, jerricans, and boxes, composite packagings with inner plastic receptacles, and of combination packagings with inner plastic receptacles, other than expanded plastic boxes and bags, shall be carried out when the temperature of the test sample and its contents has been reduced to −18 °C (0 °F) or lower. Test liquids shall be kept in the liquid state, if necessary, by the addition of anti-freeze.

(c) *Target.* The target must be a rigid, non-resilient, flat and horizontal surface.

(d) *Drop height.* Drop heights, measured as the vertical distance from the target to the lowest point on the package, are determined as follows:

(1) For solids and liquids, if the test is performed with the solid or liquid to be transported or with a non-hazardous material having essentially the same physical characteristic, the drop height is determined according to Packing Group, as follows:

(i) Packing Group I: 1.8 meters (5.91 feet).

(ii) Packing Group II: 1.2 meters (3.94 feet).

(iii) Packing Group III: 0.8 meter (2.62 feet).

(2) For liquids, if the test is performed with water—

(i) Where the materials to be carried have a specific gravity not exceeding 1.2, drop height is determined according to Packing Group, as follows:

(A) Packing Group I: 1.8 meters (5.91 feet).

(B) Packing Group II: 1.2 meters (3.94 feet).

(C) Packing Group III: 0.8 meter (2.62 feet).

(ii) Where the materials to be transported have a specific gravity exceeding 1.2, the drop height shall be calculated on the basis of the specific gravity (SG) of the material to be carried, rounded up to the first decimal, as follows:

(A) Packing Group I: SG X 1.5 meters (4.92 feet).

(B) Packing Group II: SG X 1.0 meter (3.28 feet).

(C) Packing Group III: SG X 0.67 meters (2.25 feet).

(e) *Criteria for passing the test.* A package is considered to successfully pass the drop tests if for each sample tested—

(1) For receptacles containing liquid, each receptacle does not leak when equilibrium has been reached between the internal and external pressures;

(2) For removable head drums for solids, the entire contents are retained by an inner packaging (e.g., a plastic bag) even if the closure on the top head of the drum is no longer sift-proof;

(3) For a bag, neither the outermost ply nor an outer packaging exhibits any damage likely to adversely affect safety during transport;

(4) For a composite or combination packaging, there is no damage to the outer packaging likely to adversely affect safety during transport, and there is no leakage of the filling substance from the inner packaging;

(5) For a drum, jerrican or bag, any discharge from a closure is slight and ceases immediately after impact with no further leakage; and

(6) For packagings for explosives, no rupture of the packaging occurs.

§ 178.604 Leakproofness test.

(a) *General.* The leakproofness test shall be performed with compressed air or other suitable gases on all packagings

intended to contain liquids; however, this test is not required for inner packagings of combination packagings.

(b) *Number of packagings to be tested.* (1) *Production testing.* All packagings subject to the provisions of this section shall be tested and must pass the leakproofness test:

(i) Before they are first used in transportation; and

(ii) Prior to reuse, when authorized for reuse by § 173.28 of this subchapter.

(2) *Design qualification testing.* Three samples of each different packaging shall be tested and must pass the leakproofness test.

(c) *Special preparation.* (1) For design qualification testing, packagings must be tested with closures in place. For production testing, packagings need not have their closures in place.

(2) For testing with closures in place, vented closures shall either be replaced by similar non-vented closures or the vent shall be sealed.

(d) *Test method.* The packaging shall be restrained under water while an internal air pressure is applied; the method of restraint must not affect the results of the test. The test must be conducted for a period of time sufficient to pressurize the interior of the packaging to the specified air pressure, and to determine if there is leakage of air from the packaging. Other methods, at least equally effective, may be used, if approved by the Director, OHMT.

(e) *Pressure applied.* An internal air pressure (gauge) must be applied to the packaging as indicated for the following packing groups:

(1) Packing Group I: Not less than 30 kilopascals (4.4 psi).

(2) Packing Group II: Not less than 20 kilopascals (2.9 psi).

(3) Packing Group III: Not less than 20 kilopascals (2.9 psi).

(f) *Criteria for passing the test.* A packaging passes the test if there is no leakage of air from the packaging.

§ 178.605 Hydrostatic pressure test.

(a) *Packagings to be tested.* The hydrostatic pressure test shall be performed on samples of all metal, plastic, and composite packagings intended to contain liquids. This test is also required for inner packagings of combination packagings intended for transportation by aircraft.

(b) Number of test samples. Three test samples are required for each different packaging.

(c) Special preparation of receptacles for testings. Vented closures shall either be replaced by similar non-vented closures or the vent shall be sealed.

(d) Test method and pressure to be applied. Metal packagings and composite packagings other than plastic (e.g., glass, porcelain or stoneware), including their closures, shall be subjected to the test pressure for 5 minutes. Plastic packagings and composite packagings (plastic material), including their closures, shall be subjected to the test pressure for 30 minutes. This pressure is the one to be marked as required in § 178.503(a)(5). The receptacles shall be supported in a manner that does not invalidate the test. The test pressure shall be applied continuously and evenly and it shall be kept constant throughout the test period. The hydraulic pressure (gauge) applied, taken at the top of the receptacle, and determined by any one of the following methods shall be:

(1) Not less than the total gauge pressure measured in the packaging (i.e., the vapor pressure of the filling material and the partial pressure of the air or other inert gas minus 100 kilopascals (14.5 psi) at 55 °C (131 °F) and multiplied by a safety factor of 1.5. This total gauge pressure shall be determined on the basis of a maximum degree of filling in accordance with § 173.24a(b)(3) of this subchapter and a filling temperature of 15 °C (59 °F);

(2) Not less than 1.75 times the vapor pressure at 50 °C (122 °F) of the material to be transported minus 100 kilopascals (14.5 psi) but with a minimum test pressure of 100 kilopascals (14.5 psi); or

(3) Not less than 1.5 times the vapor pressure at 55 °C (131 °F) of the material to be transported minus 100 kilopascals (14.5 psi), but with a minimum test pressure of 100 kilopascals (14.5 psi). Packagings intended to contain hazardous materials of Packing Group I shall be tested to a minimum test pressure of 250 kilopascals (36.3 psi).

(e) *Pressure test requirements for air transport.* Additional pressure test requirements for air transport, contained in § 173.27(c) of this subchapter, may exceed the pressure test required by paragraph (d) of this section.

(f) *Criteria for passing the test.* A package passes the hydrostatic test if, for each test sample, there is no leakage of liquid from the package.

§ 178.606 Stacking test.

(a) *General.* All packages other than bags shall be subjected to a stacking test.

(b) *Number of test samples.* Three test samples are required for each different packaging.

(c) *Test method.* The test sample shall be subjected to a force applied to the top surface of the test sample equivalent to the total weight of identical packages which might be stacked on it during transport. The minimum height of the stack, including the test sample, must be 3.0 meters (9.84 ft.). The duration of the test must be 24 hours, except that plastic drums, jerricans, and composite packaging 6HH, intended for liquids, shall be subjected to the stacking test for a period of 28 days at a temperature of not less than 40 °C (104 °F). Alternative test methods which yield equivalent results may be used if approved by the Director, OHMT.

(d) *Criteria for passing the test.* No test sample may leak. In composite packagings or combination packagings, there must be no leakage of the filling substance from the inner receptacle, or inner packaging. No test sample may show any deterioration which could adversely affect transport safety or any distortion likely to reduce its strength or cause instability in stacks of packages. Stacking stability is considered sufficient when, after the stacking test, and, in the case of plastic receptacles after cooling to ambient temperature, two receptacles of the same type filled with water placed on each test sample maintain their positions for one hour.

§ 178.607 Cooperage test for bung-type wooden barrels.

(a) *Number of samples.* One barrel is required for each different packaging.

(b) *Method of testing.* Remove all hoops above the bilge of an empty barrel at least two days old.

(c) *Criteria for passing the test.* A packaging passes the cooperage test only if the diameter of the cross-section of the upper part of the barrel does not increase by more than 10 percent.

§ 178.608 Chemical compatibility test for plastic receptacles.

(a) This chemical compatibility test must be performed on samples of all packagings where plastic comes in contact with liquid hazardous material.

(b) Three test samples of each different packaging must withstand without failure the procedure specified in Appendix B of Part 173, entitled "Procedure for Testing Chemical Compatibility and Rate of Permeation in Polyethylene Packagings and Receptacles".

(c) In addition to the test requirement of this section, plastic packagings and receptacles must conform to the compatibility requirements of § 173.24(e) of this subchapter.

PART 179—SPECIFICATIONS FOR TANK CARS

The authority citation for Part 179 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR Part 1, unless otherwise noted.

Section 179.14 would be revised to read as follows:

§ 179.14 Coupler vertical restraint system.

(a) *Performance standard.* Each tank car shall be equipped with couplers capable of sustaining, without disengagement or material failure, vertical loads of at least 200,000 pounds (90,718.5 kg) applied in upward and downward directions in combination with buff loads of 2,000 pounds (907.2 kg), when coupled to cars equipped with couplers that do have this vertical restraint capability, and cars equipped with couplers, that do not have this vertical restraint capability.

(b) *Test verification and approval.* Except as provided in paragraph (d) of this section, compliance with the requirements of paragraph (a) of this section shall be achieved by verification testing of the coupler vertical restraint system in accordance with paragraph (c) of this section, and approval of the Federal Railroad Administrator.

(c) *Coupler vertical restraint tests.* A coupler vertical restraint system shall be tested under the following conditions:

(1) The test coupler shall be tested with a mating coupler (or simulated coupler) having only frictional vertical force resistance at the mating interface; or a mating coupler (or simulated coupler) having the capabilities described in paragraph (a) of this section.

(2) The testing apparatus shall simulate the vertical coupler performance at the mating interface and may not interfere with coupler failure or otherwise inhibit failure due to force applications and reactions.

(3) The test shall be conducted as follows:

(i) A minimum of 200,000 pounds (90,718.5 kg) vertical downward load shall be applied continuously for at least five minutes to the test coupler head simultaneously with the application of a nominal 2,000-pound (907.2 kg) buff load;

(ii) The procedures prescribed in paragraph (c)(3)(i) of this section shall be repeated with a minimum vertical upward load of 200,000 pounds (90,718.5 kg); and

(iii) A minimum of three consecutive successful tests shall be performed for each load combination prescribed in paragraphs (c)(3) (i) and (ii) of this section. A test is successful when a vertical disengagement or material failure does not occur during any of the prescribed load combinations.

(d) *Listing of approved couplers.* The following classes of couplers have been approved by the Federal Railroad Administrator and need not be verified by the testing requirements of paragraph (c) of this section:

(1) E top bottom shelf couplers designated by the Association of American Railroads' Catalog Nos. SE60CHT, SE60CHTE, SE67BHT, SE67BHTE, SE68BHT or SE68BHTE; and

(2) F top shelf couplers designated by the Association of American Railroads' Catalog Nos. SF70CHT, SF70CHTE, SF73AHT, SF73AHTE, SF79CHT or SF79CHTE.

§ 179.101-1 [Amended]

In § 179.101-1, the table of individual specification requirements would be revised as follows:

a. The column for DOT Specification 112A400 F is removed.

b. The "Insulation" requirement entry for 112A200W, 112A340W, 112A400W, 112A500W, 114A340W, and 114A400W is changed from "[4] None" to "[4, 13]Optional".

c. Footnote 13 is added to read: "[13] Tank cars equipped with insulation per § 179.100-18 of this subchapter may be stenciled "EQUIPPED WITH INSULATION PER 49 CFR 179.100-18".

d. The DOT specification entry "112A400W[12]" is revised to read "112A400W[11, 12]".

§ 179.102 [Removed and reserved].

Section 179.102 would be removed and reserved.

The title to § 179.105 would be revised to read as follows:

§ 179.105 Special requirements for Specification 105S, 105J, 111J, 112S, 112J, 112T, 114S, 114J and 114T tank cars.

* * * * *

Section 179.105-1 would be revised to read as follows:

§ 179.105-1 General.

(a) In addition to the requirements of this section, each Specification 105S, 105J, 111J, 111J, 112S, 112J, 112T, 114S, 114J and 114T tank car must meet the applicable requirements of § 179.100, 179.101, 179.103, and 179.104.

(b) Notwithstanding the provisions of §§ 179.3, 179.4 and 179.6, AAR approval is not required for changes in or additions to tank cars necessary to comply with this section.

(c) Each Specification 105S, 105J, 111J, 112S, 112J, 112T, 114S, 114J, and 114T tank car shall be equipped with a tank head puncture resistance system that meets the requirements of § 179.105-5.

(d) Each Specification 105J, 111J, 112J, 112T, 114J, and 114T tank car shall be equipped with:

(1) A thermal protection system that meets the requirements of § 179.105-4; and

(2) A safety valve that meets the requirements of § 179.105-7.

§§ 179.105-2 and 179.105-3 [Removed and reserved]

Section 179.105-2 and 179.105-3 would be removed and reserved.

§ 179.105-4 [Amended]

In paragraph (a) of § 179.105-4, the phrase "Each specification 112T, 112J, 114T, and 114J tank car" would be changed to read "Each Specification 105J, 111J, 112J, 112T, 114J, and 114T tank car".

§ 179.105-6 [Removed and reserved]

Section 179.105-6, would be removed and reserved.

§ 179.107-7 [Amended]

In paragraph (a) of § 179.105-7, the phrase "each 112 and 114 tank car" would be changed to read "each Specification 105J, 111J, 112J, 112T, 114J, and 114T tank car".

In § 179.105-8, paragraphs (d) and (e) would be added to read as follows:

§ 179.105-8 Stenciling.

* * * * *

(d) Each Specification 105 tank car that is equipped as prescribed in § 179.105-1(c) shall be stenciled with the letter "S" substituted for the letter "A" in the specification marking.

(e) Each Specification 105 tank car that is equipped as prescribed in § 179.105-1(d) shall be stenciled with the letter "J" substituted for the letter "A" in the specification marking.

§ 179.106 [Removed and reserved]

Section 179.106 would be removed and reserved.

§ 179.201-1 [Amended]

In § 179.201-1, the column heading "111A100W4" would be revised to read "111A100W4 [3]" and a footnote 3 would be added to the footnotes of the Table to read: "[3] Tank cars equipped with insulation per § 179.100-18 of this subchapter may be stenciled "EQUIPPED WITH INSULATION PER 49 CFR 179.100-18".

§ 179.202 [Removed and reserved]

Section 179.202 would be removed and reserved.

§ 179.203 [Amended]

In § 179.203, paragraphs (c) and (d) would be removed in § 179.203-1 and

paragraph (a)(1) would be removed from § 179.203–2.

§ 179.302 [Removed and reserved]

Section 179.302 would be removed and reserved.

Issued in Washington, DC on April 1, 1987 under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

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Part III

Department of Agriculture

Agricultural Stabilization and Conservation Service

7 CFR Part 702

Colorado River Basin Salinity Control Program; Interim Rule

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 702

Colorado River Basin Salinity Control (CRSC) Program

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to set forth the terms and conditions of the Colorado River Basin Salinity Control (CRSC) Program, which is authorized by section 202(c) of the Colorado River Basin Salinity Control Act, as amended [43 U.S.C. 1592(c)]. Under that section the Secretary of Agriculture is authorized to identify salt source areas in the Colorado River Basin and to develop project plans for implementing salinity control measures in such areas. In implementing such plans, the Secretary is to provide financial and technical assistance to land users to help them plan, install, and maintain needed soil and water conservation practices, including replacement of incidental fish and wildlife values, to conduct research, demonstration, and education activities, and to monitor and evaluate program effectiveness.

DATES: Effective May 5, 1987. Comments must be received on or before July 6, 1987 in order to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments to: Director, Conservation and Environmental Protection Division, ASCS, P.O. Box 2415, Washington, DC 20013, telephone number (202) 447–6221.

FOR FURTHER INFORMATION CONTACT: Mr. James R. McMullen, Director, Conservation and Environmental Protection Division, ASCS, or Mr. Gary A. Margheim, Director, Land Treatment Program Division, SCS, USDA, Washington, DC 20013, telephone numbers (202) 447–6221, and (202) 382–1870, respectively (8:00 a.m.–4:00 p.m.).

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under United States Department of Agriculture (USDA) procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulations 1512–1, and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the national economy by $100 million or more, (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the agencies involved are not required by 5 U.S.C 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

In accordance with the Act, the Soil Conservation Service (SCS), USDA, and the Bureau of Reclamation (BR), United States Department of Interior, USDI), investigate and identify salt source areas in the Colorado River Basin on a continuing project by project basis. Before implementing salinity reduction measures to reduce the amount of salt being contributed to the Colorado River, these agencies evaluate, assess, and prepare statements on the environmental impacts of salinity reduction measures if it is determined by both or either agency to be desirable to implement their respective program activities in an area. Environmental impact statements have been prepared for the Grand Valley Project, Colorado; Uintah Basin Project, Utah and the Lower Gunnison Project, Colorado. Copies of the completed documents are available for inspection at Room 6036, South Agriculture Building, 14th and Independence Avenue, Washington, DC.

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions 44 U.S.C. Chapter 35 and have been assigned OMB #0560–0128 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

The title and number of the Federal Assistance Program to which this rule applies are: Colorado River Salinity Control Program—10.070 as found in the Catalog of Federal Domestic Assistance.

This program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

In order to provide information with respect to program participation requirements so that timely decisions with respect to participation may be made prior to the end of this irrigation season, it has been determined that this interim rule shall be effective upon publication in the **Federal Resgister.** Comments are requested with respect to this interim rule and such comments shall be considered in developing the final rule.

Background

Salinity problems in the Colorado River Basin are a critical concern to the seven basin states of Colorado, Wyoming, Utah, Nevada, New Mexico, California, and Arizona and to the Republic of Mexico. Increasing salinity causes two major types of problems. First, salinity build-up in the soil root zones reduces or eliminates economic returns from growing agricultural products. Second, excessive salinity in groundwater, lakes, streams, and rivers reduces or precludes the use of this water for irrigation, domestic, municipal, and industrial water supply and for fish and wildlife habitat.

Salt concentrations and salt loading cause increased salinity levels within the Colorado River. Salt concentrations are caused by evaporation, evapo-transpiration of irrigated crops, and export of water for other uses. This results in increased concentrations of salt in the soil and remaining water. Salt loading occurs as seepage and deep percolation dissolves material salts in the soils and highly saline geologic formations as water returns to the Colorado River system.

Colorado River water serves as the primary source of water for parts of the seven basin states and is used and reused for crop irrigation, hydro-electric power generation, and municipal and industrial purposes. Increases in the salinity of the water causes considerable economic losses. For example, according to the United States Department of the Interior (USDI), each milligram per liter (mg/L) increase in salinity at Imperial Dam in Arizona causes approximately $680,000 per year (1986 dollars) in economic damages to downstream agricultural, municipal and industrial water users within the United States. The increase of salinity in the Colorado River poses a threat to maintaining established state water quality standards as approved by the United States Environmental Protection Agency and may cause problems in maintaining the water quality (salinity concentrations) standards to which the United States agreed for water delivered to Mexico under the Mexican Water Treaty of 1944.

Salinity levels of 500 to 700 mg/L in water and used for irrigation begin to have detrimental effects on farm

income. High salinity levels increase operating costs, suppress crop growth, and adversely affect crop yields. Salinity levels above 1000 mg/L cause severe crop production problems because of the need for specialized and costly irrigation management practices. The recommended safe drinking standard for salinity concentration is 500 mg/L. Concentrations above 500 mg/L, therefore, add to treatment costs for municipal, industrial and residential homeowners, add to the waste treatment costs, and reduce or preclude the reuse of the water supply.

The long term average annual salinity concentration of the Colorado River varies from about 50 mg/L in the headwaters to about 850 mL/g at Imperial Dam in Arizona. If no corrective action is taken, the USDI estimates that future salinity levels in the Colorado River will reach about 963 mg/L at Imperial Dam in the year 2010 as additional upstream industrial residential and agricultural development takes place. It has been estimated by USDI that irrigated agriculture contributes about 37 percent of the total salt load to the Colorado River above the Imperial Dam. Generally, on-farm irrigation and water distribution systems, especially in the Upper Basin, are not efficient and, therefore, have a high level of surface runoff, excessive deep percolation, and high amounts of seepage from irrigation canals and laterals. Excessive deep percolation from over-irrigation and seepage from distribution systems leaches salts from the soil and underlying geologic formations into the river.

There are approximately 1 million acres or irrigated cropland in 17 identified salt source units in the Colorado Basin. Ten of these units presently are considered feasible salinity control project areas from a cost-effective standpoint for inclusion in the CRSC Program. These ten units could require conservation treatment on as much as 700,000 acres of irrigated cropland.

Statutory Requirements

The Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1571 *et seq.*), (hereinafter referred to as the "Act") addresses certain salinity control issues. Title I of the Act relates to: (1) the maintenance of the water quality (salinity concentrations) standard under the agreement of August 30, 1973, (Minute 242 of the International Boundary and Water Commission, United States and Mexico) concluded pursuant to the Water Treaty of February 3, 1944 (59 Stat. 1219), with respect to water delivered to Mexico, and (2) a program for improving irrigation efficiences and reducing highly saline irrigation drainage return flows from the Wellton-Mohawk Irrigation and Drainage District. Title I of the Act also authorizes the USDI to design and construct a large desalinization plant to treat excess irrigation drainage return flows from the Wellton-Mohawk area.

Title II of the Act (43 U.S.C. 1592) deals specifically with the salinity concentrations in the Colorado River above Imperial Dam and provides the controls necessary to meet United States water quality (salinity concentration) standards for salinity established and adopted by the seven basin States and approved by the Environmental Protection Agency (EPA). The Secretary of the Interior is authorized to undertake various investigations and studies to determine the nature of salt loading problems, potential salinity control solutions, and costs. The Secretary of Interior also is authorized to construct certain salinity control projects. USDI investigations or construction projects, however, do not address on-farm salinity control. Title II of the Act directed the Secretary of the Interior, the Administrator of EPA, and the Secretary of Agriculture to cooperate and coordinate their activities to carry out the objectives of Title II.

The major program areas that have been addressed by USDA agencies are: (1) Irrigation salt source area studies [Soil Conservation Service (SCS)]; (2) implementation technical assistance (SCS); (3) implementation cost-sharing assistance [Agricultural Stabilization and Conservation Service (ASCS)]; (4) extension education [Extension Service (ES)], (5) research and demonstration [Agricultural Research Service (ARS), Cooperative State Research Service (CSRS)]; and (6) monitoring and evaluation (SCS). SCS has conducted irrigation salt source area studies in accordance with the provision of Pub. L. 83–566, section 6, 68 Stat. 668 (16 U.S.C. 1006). Some of these studies have resulted in published USDA Salinity Control Reports identifying salt source areas and salt load estimates and evaluating treatment alternatives with respect to the benefits of salt load reduction. These studies recommended implementation plans and projected their costs. ASCS provides cost-share assistance under the Agricultural Conservation Program (ACP) to assist producers to improve on-farm irrigation practices. These USDA agency programs have been effective in assisting with on-farm salinity control but have been limited in scope. The ACP annual payment limitation of $3,500 to individual program participants has been a major obstacle to the replacement or reorganization of costly irrigation structures and practices. The eligibility requirements for participants, land, and irrigation districts under ACP has also presented limitations to effective on-farm salinity control efforts.

To overcome these problems, section 202(c) of the Act was added by Pub. L. 98–569 to authorizes the Secretary of Agriculture to establish a voluntary cooperative on-farm salinity control program to improve on-farm water management and reduce watershed erosion on non-Federal lands and lands under the control of the USDA. In implementing the CRSC Program, the Act provides that the Secretary shall give preference to those cost-effective projects or self-contained portions of projects which reduces salinity at the least Federal cost per unit of salinity reduction.

This interim rule sets forth the terms and conditions of such program.

Discussion

General. This interim rule sets forth the terms and conditions of the Colorado River Salinity Control (CRSC) Program. Under the interim rule, county ASC committees (COC) may enter into CRSC Contracts with individuals or entities that have control of land identified in USDA Salinity Control Reports as land that is contributing to the salt loading of the Colorado River. Under these contracts, ASCS will agree to share the cost with the participant of establishing necessary salinity reduction practices on eligible land controlled by the participant. In return for the cost-share payments, a participant must agree to carryout a cost-effective salinity control plan developed for the participant's land. The salinity control plan includes the salinity reduction practice(s) that must be installed on the participant's land as well as a schedule of completion dates for the installation of such practices. An individual or entity that participates in the CRSC program may also be required to enter into Operation and Maintenance agreements with COC.

Operation and Maintenance agreements shall be designed to ensure that the participant maintains established salinity reduction practices for a specified period of time determined to be necessary to achieve the desired level of salinity control.

USDA salinity control reports. The Soil Conservation Service (SCS), on behalf of the Secretary and in consultation with the Department of

Interior and interested State and local governmental units, will develop USDA Salinity Control Reports with respect to the Colorado River Basin. These reports will serve as a basis for the implementation of the most cost-effective salinity reduction efforts undertaken in accordance with section 202(c) of the Act. Among other things, these reports will identify salt source areas within the Colorado River Basin that require conservation treatment. The USDA Salinity Control Reports will also set forth the most cost-effective salinity reduction practices that, if established, would reduce to a staisfactory degree the salt loading of the Colorado River occurring from the identified salt source areas.

Any Federal, State, county, or local governmental unit having interests in salinity control within the Colorado River Basin may request the development or modification of USDA salinity control reports. Such requests must be made with respect to areas identified by SCS as salt source areas and must be submitted to the State Conservationists in the State containing the major portion of the salt source area.

Eligibility requirements. Under § 702.5 of the interim rule, only land within the Colorado River Basin that has been identified as a salt-source area in a USDA Salinity Control Report and that has an approved project implementation plan may be subject of a CRSC Contract.

A person eligible to enter into a CRSC Contract includes an individual or group of individuals, Indian tribe, partnership, firm, joint-stock company, corporation, association, trust, estate, irrigation district or company, or other public or nonpublic entities (except Federal agencies) that has control over eligible land.

Persons who desire to participate in the CRSC Program may offer to enter into a CRSC Contract with the COC located in the same county as the eligible land or such other COC designated to serve the project area.

The county ASCS office may determine whether the applicant is eligible to participate in the CRSC program and whether to accept the applicant's offer to participate. Each applicant's offer to enter into a CRSC Contract will receive a priority ranking by the local county ASC committee and the local conservation district (CD) based upon degree of salt loading occurring from the applicant's land and upon the need for immediate conservation treatment on such land in relation to other applicants' land in salt-source areas.

To protect the Federal funds invested in cost-share assistance under this program, the CRSC Contract may require that a participant, as a condition of eligibility for such assistance, grant to the Secretary a recordable security interest, in an amount to be determined by ASCS, in property on which the conservation treatment is installed. Such interest shall be equal in value to the amount of cost-share assistance which is made available and shall be valid for the effective lifespan of the salinity reduction practice. Such security interest or encumbrance shall be released upon the performance by the participant of all provisions of the CRSC Contract and any operation and maintenance agreements that are required.

Salinity control plans. A salinity control plan shall be developed by the applicant, in consultation with SCS, with respect to eligible land that will be the subject of an approved CRSC Contract. The salinity control plan will specify the eligible salinity reduction practices that are the most cost-effective for: (1) Reducing salt loading from a unit of land; (2) reducing erosion or seepage to a degree which significantly benefits salinity control; and (3) for the voluntary replacement of incidental fish and wildlife values foregone. The salinity control plan will also include a schedule of completion dates for installation of the salinity reduction practices and the specifications of such practices.

CRSC contract provisions. Section 702.9 of the interim rule describes the obligations of the parties to a CRSC Contract. All participants in a CRSC Contract agree to: (1) Carry out the terms and conditions of the CRSC Contract; (2) implement the salinity control plan developed for the eligible land as approved by the CD in accordance with the schedule of completion dates contained in such plan; (3) acquire all authorities, rights, easements, permits or other approvals necessary to install and maintain the salinity reduction practices and to comply with applicable Federal, State, and local laws and regulations; (4) hold the Federal government harmless for any loss it may sustain if the participant infringes on the rights of others or fails to comply with applicable Federal, State, or local laws or regulations; and (5) operate and maintain, at no cost to the Federal government, the salinity reduction practices as specified in separate operation and maintenance agreements or other documents for the effective lifespan of the salinity reduction practices.

Section 202(c) of the Act provides that cost-share assistance be provided through contracts and agreements and that such contracts and agreements provide for continuing operation and maintenance of measures installed without additional cost-share assistance. Therefore, all CRSC Contracts will require that the participant operate and maintain each salinity reduction practice for its effective lifespan, which is the length of time established by SCS for the practice to be effective in achieving its intended purpose. If it is determined necessary by the COC, participants may be required to enter into separate operation and maintenance agreements to ensure the structural integrity of the salinity reduction practices and to ensure that such practices will serve the functional purposes for which they are installed. In exchange for the participant's carrying out the terms and conditions of the CRSC Contract, ASCS shall, subject to the availability of funds: (1) Share with participants the cost of establishing eligible salinity reduction practices specified in the participant's salinity control plan at the levels determined in accordance with the provisions of § 702.13 of the interim rule; and (2) provide such technical assistance as may be necessary to assist the participant in carrying out the CRSC Contract.

In accordance with section 202(c)(2)(c) of the Act, the cost-share assistance to be paid the participant for establishing the required salinity reduction practice shall be based on the relationship of on-farm and offsite benefits for the project, as identified in the selected plan of the published USDA Salinity Control Report, and on other factors as determined appropriate by the Secretary. For example, if improving on-farm irrigation water management systems results in 30 percent of the total benefits accruing on-farm, then the Federal cost-share assistance would be 70 percent. On-farm and offsite benefits are defined in § 702.2(a) (14) and (15) of this interim rule. Cost-share assistance levels will vary among projects. Cost-share payments shall be made available upon a determination by the COC and SCS that the salinity reduction practice has been correctly established.

Section 702.17 of this interim rule provides that CRSC Contracts may be transferred or modified by agreement of all parties. If the contract is transferred to another party, the transferee shall assume full responsibility for performance under the contract, including implementing SRP's scheduled in accordance with the salinity control plan and for operation and maintenance of practices already applied under the plan.

A participant who sells or loses control of the land subject to a CRSC Contract to a new owner who refuses to perform the provisions of the contract, or a participant who sells the water rights before there is compliance with all of the terms and conditions of a contract, including any operation and maintenance agreement, may be required to refund all or any portion of the cost-share assistance earned under the program. Contracts may also be modified to add, delete, or substitute salinity reduction practices in the salinity control plan if such practices fail, through no fault of the participant, to achieve adequate salinity control or if it is determined that another SRP will achieve adequate salinity control.

Miscellaneous. Section 702.18 of this interim rule sets forth the penalties for violations of the terms and conditions of the CRSC contract and any required operations and maintenance agreements. Upon a violation of the terms and conditions of the CRSC Contract or any operation and maintenance agreements, the COC may terminate the CRSC Contract and the maintenance agreement and the participant must refund all or part of the payments received under such agreements.

Section 702.20 of the interim rule sets forth the administrative appeal procedures which are available to program participants for review of any decision rendered by the Department. All requests for reconsideration or appeal of an administrative determinations rendered by the COC or other ASCS officials shall be conducted in accordance with the administrative appeal regulations found at 7 CFR Part 780. Determination regarding the salinity control plan may be reviewed in accordance with procedures established by the SCS.

Section 702.21 of this interim rule provides that representatives of the Department shall have the right of access to land which is the subject of an application to enter into a CRSC contract or land under a CRSC Contract and shall have the right to examine any other land under the participant or applicant's control to ascertain the extent or sources of salinity problems and program compliance.

List of Subjects in 7 CFR Part 702

Administrative practices and procedures, Grant program, Agriculture, Natural resources, Rural areas, Technical assistance, Water resources, Wildlife, Salinity control.

Interim Rule

Accordingly, Chapter VII of Title 7 of the Code of Federal Regulations is amended by adding a new Part 702 to read as follows:

PART 702—COLORADO RIVER BASIN SALINITY (CRSC) CONTROL PROGRAM

Sec.

702.1 General.
702.2 Definitions.
702.3 Administration.
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702.12 Availability of cost-share payments.
702.13 Levels and rates of cost-share payments.
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702.16 Maximum amount of cost-share payments.
702.17 Transfer of land and contract modifications.
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702.19 CRSC Contracts and operation and maintenance agreements not in conformity with regulations.
702.20 Appeals.
702.21 Access to land.
702.22 Performance based upon advice or action of representatives of the Department or a CD.
702.23 Filing of false claims.
702.24 Depriving others of payments.
702.25 Miscellaneous.
702.26 Paperwork Reduction Act assigned numbers.

Authority: Sec. 202, Pub. L. 93-920, 88 Stat. 271 as amended (43 U.S.C. 1592).

§ 702.1 General.

The regulations in this part set forth the terms and conditions of the Colorado River Salinity Control (CRSC) Program authorized by section 202 of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592) (the Act). Under the Act the Secretary is authorized to:

(a) Identify salt-source areas in the Colorado River Basin;

(b) Develop plans for implementing conservation measures that will reduce the salt load in the Colorado River, including the voluntary replacement of incidental fish and wildlife values foregone;

(c) Share the cost of establishing such conservation measures and practices;

(d) Provide technical assistance;

(e) Monitor and evaluate changes in salt contributions to the Colorado River; and

(f) Carry out related research, demonstration and education activities.

§ 702.2 Definitions.

(a) The following definitions shall be applicable for the purposes of this part:

(1) "Applicant" means an entity who has offered to enter into a CRSC Contract in accordance with the provisions of this part;

(2) "Actual cost" means the direct costs of establishing a salinity reduction practice, and includes the cost of labor, supplies, and other necessary activities;

(3) "Average cost" means the cost, determined by averaging actual costs and current cost estimates, considered to be necessary for a participant to carry out a salinity reduction practice, a designated component of a salinity reduction practice, or a system of practices;

(4) "Conservation District" (CD) means a subdivision of a State organized pursuant to applicable State law. The term includes bodies variously known in the States as conservation district, soil conservation district, soil and water conservation district, natural resource district, resource conservation district, or natural resource conservation district;

(5) "Components" means measurable units of a salinity reduction practice which, when completed by the program participant, can be certified by the Soil Conservation Service (SCS) as reasonable, identifiable progress toward completion of the practice with respect to which cost-share payment is being made under the CRSC program;

(6) "Conservation treatment" means the combination of salinity reduction practices that will provide the salinity control treatment required to reduce seepage and improve irrigation water management in order to achieve the projected salt load reductions indicated in the applicable published USDA Salinity Control Report. Such treatment includes replacement of incidental fish and wildlife values foregone as a result of salinity control treatment applied by the participant under the CRSC Program;

(7) "CRSC Contract" means the contract including the salinity control plan, entered into in writing between the local Agricultural Stabilization and Conservation Committee (COC) and the participant which sets forth the terms and conditions for participation in the CRSC Program established in accordance with this part.

(8) "Cost-effective" means maximization of the CRSC Program on-

farm and offsite benefits at the least Federal cost per unit of salinity reduction.

(9) "Cost-share assistance" means the providing of financial resources to assist program participants in establishing conservation treatment identified in participants' contracts;

(10) "Cost-share rate" means a fixed amount of cost-share funds paid per unit for carrying out certain salinity reduction practices.

(11) "Entity" means an individual or group of individuals, Indian tribe, partnership, firm, joint-stock company, corporation, association, trust, estate, irrigation district/company, or other public or nonpublic entity (except federal agencies), and wherever applicable, a State, a political subdivision of a State, or any agency thereof;

(12) "Fish and wildlife values foregone" means incidental fish and wildlife habitats that may be affected adversely by salinity reduction practices applied by the program participant;

(13) "Irrigation district/company" means a group of individuals (private or public) associated together in a locality, that has a vested interested in the operation of an irrigation distribution system that serve as a specific area. This definition includes irrigation districts, mutual water companies or districts, water conservancy districts, canal companies, and other similar entities;

(14) "Lifespan" means the period of time during which a salinity reduction practice is expected to effectively achieve or provide the results for which it was developed and implemented.

(15) "Offsite benefits" means those benefits which accrue downstream as a result of reduced salinity concentrations in the Colorado River by the salt load reductions achieved through implementation of the CRSC Program and/or its constituent practices and treatments;

(16) "On-farm benefits" means those benefits which accrue on a farm from improved irrigation systems and efficiencies, including reduced production costs, reduced labor costs, reduced operation and maintenance costs, and improved crop yields;

(17) "Operation and Maintenance Agreement" means the agreement entered into between the COC and the participant which sets forth the terms and conditions requiring the participant to use and maintain the salinity reduction practices for their effective lifespans as set forth in the agreement;

(18) "Participant" means any entity who has entered into an approved CRSC Contract with the COC to participate in the CRSC Program;

(19) "Project implementation plan" means a plan of operations developed by Agricultural Stabilization and Conservation Service, Extension Service and Soil Conservation Service, in consultation with local officials for the purpose of implementing a project plan for a specific salt source area;

(20) "Project plan" means that plan of conservation treatment that is identified in the applicable USDA Salinity Control Report as the preferred plan for implementation of salinity reduction practices in a specific salt source area. The project plan will identify cost-effective salinity reduction practices, the land which should receive conservation treatment on a priority basis in relation to other land in the specific salt source area, and the levels of conservation treatment needed in the specific salt source area in order to achieve the most cost-effective salinity control objectives for the particular area to be achieved;

(21) "Salinity control plan" means the plan and schedule of operations that sets forth salinity reduction practices that must be establish on a specific unit of land. The salinity control plan shall be developed by the applicant with assistance from the SCS and must be approved by the CD;

(22) "Salinity Reduction Practice (SRP)" means a specific conservation practice designed to reduce salt loading from a salt source area or to replace incidental fish and wildlife values foregone that is identified in a project plan and project implementation plan for a salt-source area;

(23) "Salt-source area" means a geographical area within the Colorado River Basin that has been identified by SCS as a significant contributing source of salt to the Colorado River;

(24) "Specifications" means minimum quantity and quality requirements established by SCS to meet the standard for a specific conservation practice;

(25) "State Conservationist" means the SCS official in charge of agency operations within a state, as set forth in Part 600 of this chapter;

(26) "Technical assistance" means use of personnel and financial resources to identify salt-source areas, develop project plans, prepare salinity control plans, contracts, and designs, supervise plan installation, and carry out research, demonstration, education, monitoring, and evaluation activities;

(27) "USDA Salinity Control Report" means a report that identifies salt source areas in the Colorado River Basin and establishes a cost-effective project plan for such areas designed to reduce the salinity levels in the Colorado River. The USDA Salinity Control Report is prepared and published by the Soil Conservation Service with provision for public comment;

(28) "Technical guide" means a document on file in the local SCS office containing technical information and specifications for the conservation of soil, water, plant, animal, and related natural resources specifically applicable to the area for which it is prepared.

(b) In the regulations in this part and in all instructions, forms, and documents in connection therewith, all other words and phrases shall, unless the context of subject matter otherwise requires, have the meanings assigned to them in the regulations governing reconstitutions of farms, allotments and bases, 7 CFR Part 719.

§ 702.3 Administration.

(a) *Agricultural Stabilization and Conservation Service.* (1) The Agricultural Stabilization and Conservation Service (ASCS), under the general supervision of the Administrator, ASCS, shall administer the program established by this part. This program shall be carried out in the field by State ASC committees (STC) and local county ASC committees (COC).

(2) Except as provided in paragraph (b) of this section, the Deputy Administrator, State and County Operations, ASCS (Deputy Administrator), may determine any question arising under the program provided for in this part, may reverse or modify any determination made by an STC or COC in connection with this program, and may administer any and all phases of this program delegated to the COC, STC, or any employee(s) where the COC, STC, or any employee fails to perform a function required in these regulations. In exercising this authority, the Deputy Administrator may authorize a person or persons to carry out this program for such period of time as is deemed necessary.

(b) *Soil Conservation Service.* (1) The Soil Conservation Service (SCS) shall:

(i) Identify salt source areas in the Colorado River Basin;

(ii) Develop USDA Salinity Control Reports;

(iii) Assist participants in developing salinity control plans; and

(iv) Provide such other technical assistance in the implementation of the CRSC Program as is determined to be necessary.

(2) The Chief, SCS, may determine any question arising under the CRSC Program with respect to the activities of

SCS, State Conservationists, and conservation districts.

(3) In developing the USDA Salinity Control Report and implementing the project plan, SCS shall coordinate with other agencies of the U.S. Department of Agriculture, the United States Department of the Interior, and the Environmental Protection Agency.

(c) The Extension Service (ES) shall develop and coordinate information and educational programs and may provide other technical support to carry out the program provided for by this part.

(d) Other USDA agencies such as Cooperative State Research Service (CSRS) and the Agricultural Research Service (ARS) may conduct research and may provide other technical support needed to carry out the CRSC Program.

§ 702.4 Applicability.

(a) The provision of this part shall be applicable to areas within the Colorado River Basin that have been identified by SCS as salt source areas.

(b) The program provided for by this part shall be applicable to private lands, Indian tribal lands, lands owned or controlled by irrigation districts or companies, Federal land under the control of the USDA, and State and local government lands.

§ 702.5 Eligible land.

For the purposes of this part, eligible land is land that is within the Colorado River Basin area which:

(a) Has been identified by SCS as a salt source area; and

(b) Is the subject of a published USDA Salinity Control Report and an approved project implementation plan.

§ 702.6 Eligible entity.

In order to be eligible to enter into a CRSC Contract, an entity must own or have control over eligible land.

§ 702.7 Salinity control plan.

(a) The applicant, in consultation with SCS, shall develop the salinity control plan which is the most cost-effective consistent with the project plan.

(b) All salinity control plans must be approved by the CD in order for the SRP's contained therein to be eligible for cost-share assistance.

(c) When approving salinity control plans, the CD shall ensure that the salinity control plan is consistent with the approved project plan and cost-effective SRP's identified in the approved project implementation plan for the area.

§ 702.8 Eligible salinity reduction practices (SRP's).

(a) Eligible SRP's are those practices specified in the project implementation plan and the participant's salinity control plan that:

(1) Significantly reduce the salt loading from a unit of land; or

(2) Replace incidental fish and wildlife values foregone; or

(3) Reduce erosion or seepage to a degree which significantly benefits salinity control.

(b) Notwithstanding the foregoing provisions of this section, the following practices shall not be considered to be eligible SRP's:

(1) Practices installed primarily for the purpose of bringing additional land into production, for increasing production above that which is incidental to application of conservation treatment for salinity control, or for flood protection; and

(2) Practices which are installed or commenced before the contract for cost-share assistance has been approved.

§ 702.9 CRSC Contract and obligations of the participant.

(a) In order to receive cost-share assistance in accordance with this part, an eligible entity must enter into a CRSC Contract with a COC and, if required by the COC, enter into separate operation and maintenance agreements in accordance with § 702.10 of this part.

(b) The CRSC Contract will be comprised of:

(1) The terms and conditions of the contract; and

(2) The salinity control plan.

(c) All CRSC Contracts shall have a term of not less than 3 nor more than 10 years.

(d) Eligible entities may offer to enter into a CRSC Contract in accordance with this part through the COC located in the same county as the eligible land or such other COC designated to administer contracts in the project area.

(e) By entering into a CRSC Contract, the participant agrees to:

(1) Carry out the terms and conditions of the CRSC Contract;

(2) Implement the salinity control plan:

(i) In accordance with the schedule of completion dates included in such plan, unless an extention of time is granted by the COC in consultation with the CD; and

(ii) Install all SRP's included in the salinity control plan in accordance with the SCS field office technical guide, regardless of whether the applicant receives cost-share assistance with respect to a SRP;

(3) Acquire all authorities, rights, easements, permits or other approvals necessary to install and maintain the SRP's and for compliance with applicable Federal, State, and local laws and regulations;

(4) Hold the Federal government harmless for any losses it may sustain if the participant infringes on the rights of others or fails to comply with applicable Federal, State, or local laws or regulations;

(5) Operate and maintain, at no cost to the Federal government, the SRP's as specified in the salinity control plan and ACP-245, Practice Approval and Payment Application, or as specified in separate operation and maintenance agreements entered into by the participant for the effective lifespan of the SRP's, as determined by SCS; and

(6) Not undertake any action on the land subject to the CRSC Contract that tends to defeat the purposes of the program provided for by this part.

(e) All entities who have a present possessory interest or a noncontingent future possessory interest in the land to be subject to a CRSC Contract must sign such contract.

(f) The participant and each entity signing the CRSC Contract shall be jointly and severally responsible for compliance with the contract and the provisions of this part and for any refunds or payments which may be required for violation of any of the terms and conditions of the CRSC Contract and the provisions of this part.

(g) The CRSC Contract may require that a participant, as a condition of eligibility for cost-share assistance, grant to the Secretary a recordable security interest in an amount to be determined by ASCS in the property on which the SRP's are installed. Such interest shall be equal in value to the amount of cost-share assistance which is made available by ASCS and shall cover the effective lifespan of the SRP's. Such security interest or encumbrance shall be released upon the performance by the participant of all of the provisions of the contract and any applicable operation and maintenance agreements entered into by the participant.

(h) The Deputy Administrator, or the Deputy Administrator's designee, may, in consultation with SCS and the CD, accept or reject offers to enter into a CRSC Contract.

(i) CRSC Contracts shall be implemented, and salinity control plans shall be developed, in the order of priority within the applicable salt source area that is established by the COC and CD in consultation with SCS.

§ 702.10 Operation and maintenance agreements.

(a) The participant shall enter into with the COC any operation and

maintenance agreements determined to be necessary by the COC in order to ensure proper operation and maintenance of the SRP's provided for in the CRSC Contract.

(b) The operation and maintenance agreement will be comprised of:

(1) The terms and conditions of the agreement; and

(2) An operation and maintenance plan prepared by SCS.

(c) By entering in a operation and maintenance agreement, the participant agrees to:

(1) Carry out the terms and conditions of the operation and maintenance agreement;

(2) Operate and maintain, at no cost to the Federal government, the SRP's for the effective lifespan of all SRP's included in the operation and maintenance agreement;

(3) Operate, maintain and inspect the SRP's in accordance with the operation and maintenance plan;

(4) Obtain prior COC and SCS approval of all plans, designs, and specifications for any alteration to the SRP's;

(5) Prohibit the installation of any structure or facility that will interfere with the operation and maintenance of the SRP's;

(6) Notify the COC and SCS of any agreement to be entered into with other parties for the operation and maintenance of all or part of SRP's and provide the COC and SCS with a copy of such agreement when it has been signed by the participant and the other party; and

(7) Not undertake any action on the land subject to the operation and maintenance agreement that tends to defeat the purposes of the CRSC program;

(d) The participant and each person signing the operation and maintenance agreement shall be jointly and severally responsible for compliance with the operation and maintenance agreement and the provisions of this part and for any refunds or payment adjustments that may be required for violation of any of the terms and conditions of the operation and maintenance agreement and provisions of this part.

§ 702.11 Obligations of USDA.

ASCS shall, subject to the availability of funds, share the cost with participants of establishing eligible SRP's specified in the salinity control plan at the levels and rates of cost-sharing determined in accordance with the provisions of § 702.13 and SCS shall provide such technical assistance as may be necessary to assist the participant in carrying out the CRSC Contract.

§ 702.12 Availability of cost-share payments.

(a) Cost-share payments shall be made available to a participant in a CRSC Contract upon a determination by the COC that SCS has certified that the eligible SRP or an identifiable portion thereof has been established in accordance with the appropriate standards and specifications and that such SRP would serve the functional purposes for which the practice is intended.

(b) Cost-share payments may be made available under this part only for the establishment or installation of an eligible SRP.

(c) Cost-share assistance may be approved for the replacement, enlargement, or restoration of SRP's installed under a CRSC Contract if such practices, as originally installed, failed to achieve the desired salinity reduction and if:

(1) The replacement, enlargement, or restoration of the SRP is required to solve identified problems or to achieve salt reduction benefits;

(2) The approved specifications for the SRP were met in the original installation of the practice; and

(3) The failure of the SRP to solve the identified problem or to achieve salt reduction benefits was caused by circumstances beyond the control of the participant.

(d) If a participant has taken any action which tends to defeat the purposes of the program provided for by this part, the COC may withhold or require a refund of all or part of any payments otherwise due or paid that participant in accordance with this part. Such actions include, but are not limited to, failure to properly maintain or deliberately destroying a SRP.

§ 702.13 Levels and rates of cost-share payments.

(a) The level of Federal cost-share assistance for the required SRP's for the project shall be determined by the percentage of total benefits comprised by offsite benefits as identified in the selected plan of the UDSA Salinity Control Report.

(b) Except as provided in paragraph (c) of this section, cost-share payments shall not exceed the lesser of 70 percent of the average cost or 70 percent of the actual cost of the installation of the SRP.

(c) The Deputy Administrator, in consultation with the USDA Salinity Control Coordinating Committee, may approve cost-share levels in excess of 70 percent of the average or actual cost of installation of the SRP or in excess of the level based on the ratio of on-farm and offsite benefits if such increased assistance is necessary to obtain acceptable program participation. Higher cost-share levels shall be considered only when one or more of the following apply, unless the Secretary finds at his descretion that such cost-sharing requirement would result in a failure to proceed with needed onfarm measures:

(1) Onfarm benefits that are low relative to offsite benefits;

(2) Higher degree of project cost-effectiveness and magnitude of salinity reduction benefits to be achieved relative to other projects;

(3) The need for and the cost of for implementing SRP's to replace incidental fish and wildlife values foregone;

(c) The combined cost-share assistance provided by Federal, State, and local governments or subdivisions thereof shall not exceed 100 percent of the cost of installing the SRP.

§ 702.14 Assignments.

Any participant entitled to cost-share payments under this program may assign the right to receive such payment, in whole or in part, as provided in the regulations at 7 CFR Part 709, Assignment of Payment, or as provided in instructions issued by the Deputy Administrator.

§ 702.15 Payments not subject to claims.

Subject to the regulations found at 7 CFR Part 13, any cost-share payment or portion thereof due any entity shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the practice in favor of the owner or any other creditor, except agencies of the United States Government.

§ 702.16 Maximum amount of cost-share payments.

(a) Maximum payments for on-farm SRP's.

(1) Except as provided in paragraph (a)(2) of this section, the maximum amount of cost-share payments that a COC may approve for the establishment of on-farm SRP's on all land owned or controlled by a participant for the life of the program provided for by this part shall not exceed $100,000.

(2) The Deputy Administrator may approve cost-share payments to a participant for the establishment of on-farm SRP's in excess of $100,000.

(b) Except as provided in paragraphs (b)(1) and (b)(2) of this section, the maximum program cost-share payment

that a COC may approve for implementing required SRP's for installing and improving canals and laterals on all land owned and controlled by a participant for the life of the program shall not exceed $200,000.

(1) Upon the request of the COC, the STC may authorize the COC to approve cost-share payments to a participant for the establishment of canal and lateral improvements in an amount that exceeds, $200,000 but not greater than $400,000.

(2) Upon the request of the COC, the Deputy Administrator may authorize the COC to approve cost-share payments to a participant for the establishment of canal and laterals improvements in amounts exceeding $400,000.

(c) Cost-sharing payments in excess of $100,000 shall be considered only when such payment will result in greater total offsite benefits, because the offsite benefits for the participants SCP, are greater than those of other participants under consideration at the same time and one or more of the following conditions exist:

(1) The cost of establishing required SRP's on the participant's land is high relative to the cost of installing practices on other similar land because of barriers or limitations imposed by nature or by man through past irrigation system practices;

(2) The extent of SRP's that must be established on a participant's land; and

(3) Increases in the cost of conservation materials and services that are beyond the participant's control.

§ 702.17 Transfers of land and contract modifications.

(a) CRSC Contracts may be transferrred or modified with the agreement of all parties to the contract. The transferee shall assume full responsibility for performance under the CRSC Contract, including the implementation of scheduled SRP's and the operation and maintenance of existing and scheduled SRP's.

(b) A participant who sells or loses control of the land under a CRSC Contract or any related operation and maintenance agreement to a new owner who refuses to perform the provisions of the CRSC Contract or operation and maintenance agreement or a participant who sells the water rights before there is compliance with all of the terms and conditions of a CRSC Contract or operation and maintenance agreement may be required to refund all or a portion of the cost-share assistance earned under the program.

§ 702.18 Violations.

(a)(1) If a participant violates the CRSC Contract or any related operations and maintenance agreement, the COC may, after considering the recommendations of the CD and SCS, terminate the CRSC Contract and operation and maintenance agreement.

(2) If the CRSC Contract is terminated by the COC in accordance with this section, the participant shall forfeit all rights to further cost-share payments under the CRSC Contract and shall refund all or part of the payments received as determined by the COC.

(b) The following actions constitute a violation of the CRSC Contract or any related operation and maintenance agreement by a participant:

(1) Destruction of a SRP on land which is the subject of a CRSC Contract, unless prior approval in writing is granted by ASCS with SCS concurrence;

(2) Failure to comply with the terms and conditions of the CRSC Contract and any related operation and maintenance agreements;

(3) Filing of a false claim;

(4) Undertaking any action during the CRSC Contract or any operation and maintenance agreement period that tends to defeat the purpose of the program, including the destruction of any existing conservation practices that were established under any other cost-share program unless the participant provides evidence that all of the participant's obligations under such other program have been met; or

(5) Employment of any scheme or device to obtain cost-share assistance or additional cost-share assistance, or to deprive any other land user of cost-share assistance or the right to participate in the program.

(c) The Deputy Administrator may terminate any CRSC Contract and any related operation and maintenance agreements by mutual agreement with the paticipant based upon recommendations from COC, STC, SCS, and CD, if the termination of the CRSC Contract and operation and maintenance agreement is determined to be in the best interest of the public.

(d) If the participant fails to carry out the terms and conditions of the CRSC Contract but the COC determines that such failure does not warrant termination of the CRSC Contract, the COC may require such particpant to refund all or part of the payments received under the CRSC Contract or to accept such adjustments in the payment as are determined to be appropriate by the COC.

§ 702.19 CRSC Contracts and operation and maintenance agreements not in conformity with regulations.

If, after a CRSC Contract and related operation and maintenance agreement are entered in by the COC with a participant, it is discovered that such contract and operation and maintenance agreement are not in conformity with the provisions of this part as the result of a misunderstanding of the program procedures by a signatory to the contract and operation and maintenance agreement, a modification of the contract and operation and maintenance agreement may be made by mutual agreement. If the parties to the CRSC Contract and operation and maintenance agreement cannot reach agreement with respect to such modification, the contract and operation and maintenance agreement shall be terminated and all payments paid or payable under the contract shall be forfeited or refunded to the Federal government, except as may otherwise be allowed in accordance with the provisions of § 702.18 of this part.

§ 702.20 Appeals.

(a) The applicant may request that the SCS State Conservationist review or reconsider criteria being used in developing the salinity control plan or practice specifications.

(b) The participant may obtain a review, in accordance with the provisions of 7 CFR Part 780, of any administrative determination which is rendered by ASCS under the provisions of this part.

§ 702.21 Access to land.

The COC, SCS or other agency providing technical services or representatives thereof shall have the right of access to land for which application to enter into a CRSC Contract has been made or for which a CRSC Contract has been entered into and the right to examine any program records to ascertain the accuracy of any representation made in the application or to determine compliance with the contract.

§ 702.22 Performance based upon advice or action of representatives of the Department or a CD.

Notwithstanding any other provision of law, performance rendered in good faith in reliance upon the action or advice of any authorized representative of a CD, a representative of SCS or the STC or COC may be accepted by the Chief of SCS or the Deputy Administrator, as applicable, as meeting the requirements of this program. SCS or the Deputy Administrator, respectively,

may grant relief because of such good faith reliance to the extent it is deemed necessary to provide fair and equitable treatment.

§ 702.23 Filing of false claims.

(a) If it is determined by the COC, with STC concurrence, that any participant has knowingly submitted false information or filed a false claim, such participant shall be ineligible for payments under the provisions of this part with respect to the calendar year in which the false information or claim was filed.

(b) False information or false claims include a claim for payment for a SRP not carried out or for the establishment of SRP's which do not meet the required specifications. Any amounts paid under these circumstances shall be refunded and any amounts otherwise due the participant shall be withheld. The withholding or refunding of such payments will be in addition to any other penalty or liability otherwise imposed by law.

§ 702.24 Depriving others of payments.

If the COC with STC concurrence finds that any participant has employed any scheme or device to deprive any other person of payments under this part, it may withhold or require a refund of all or part of any program payment otherwise due or paid that person in accordance with the CRSC Contract. A scheme or device includes, but is not limited to, coercion, fraud, or misrepresentation.

§ 702.25 Miscellaneous.

(a) In accordance with the regulations set forth at 7 CFR Part 796:

(1) No payment shall be made to any participant who harvests or knowingly permits to be harvested for illegal use, marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by such participants; and

(2) Any participant who is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payments under this part during that crop year and the four (4) succeeding crop years.

(b) In case of death, incompetency, or disappearance of any participant, any cost-share payment due shall be paid to the participant's successor in accordance with provisions of 7 CFR Part 707.

§ 702.26 Paperwork Reduction Act assigned numbers.

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 33 and OMB Number 0560–0128 has been assigned.

Signed at Washington, DC, on April 29, 1987.

Vern Neppl,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 87–10006 Filed 5–4–87; 8:45 am]

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federal register

Tuesday,
May 5, 1987

Part IV

Department of Education

Office of Elementary and Secondary Education

34 CFR Part 221

Assistance for School Construction in Areas Affected by Federal Activities; Final Rule and Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 221

Assistance for School Construction in Areas Affected by Federal Activities

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations implementing the School Construction Program. The regulations result from a review of current regulations and are designed to clarify requirements and to reduce regulatory burdens on applicants and grantees.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. David G. Phillips, Division of Impact Aid, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–6272. Telephone: (202) 732–4052.

SUPPLEMENTARY INFORMATION:

Statutory Authorization and Regulatory Implementation

Assistance for School Construction in Areas Affected by Federal Activities—referred to in these regulations as the School Construction Program—has been part of the Impact Aid (also referred to as SAFA) Program since 1950. It is authorized by Pub. L. 81–815, as amended (20 U.S.C. 631–645).

The current regulations implementing the program were published on April 8, 1975 (40 FR 16012), as Part 114 of Title 45 of the Code of Federal Regulations, subsequently redesignated as 34 CFR Part 221 (45 FR 77368; November 1, 1980).

Description of Program

Under the School Construction Program, the Secretary provides assistance to local educational agencies (LEAs) in whose school districts Federal activities affect the size of student memberships, the need for facilities, and the ability to finance the construction of school facilities.

Federal financial assistance awarded under the program is intended to help grantees construct or otherwise provide urgently needed minimum school facilities for eligible children. These facilities must meet State standards.

Statutory Requirements

While the authorizing Act (Pub. L. 81–815) leaves to the Secretary's discretion certain aspects of the operation of the program, the Act is relatively explicit with regard to a number of requirements.

The Act clearly designates, for example, the types of pupils for whom an LEA is eligible to receive assistance and the minimum number or percentage of these types of pupils an LEA must have to qualify for assistance.

The Act also directs the Secretary to establish priorities for funding, specifies the Federal share of a project, limits total payments to an LEA, states conditions under which the Secretary may consider supplemental payments, and specifies circumstances under which the Secretary may grant a waiver or reduction of certain requirements.

In section 9, the Act contains special provisions governing assistance if an increase in an LEA's membership results from a temporary Federal activity. In addition, in section 10, the Act authorizes the Secretary to arrange for facilities for certain types of pupils for whom an LEA is unable to provide a suitable free public education. The manner in which the Secretary handles requests for assistance under section 10 is discussed in greater detail elsewhere in this preamble.

A complete rewriting of the School Construction Program regulations was published in an NPRM in the **Federal Register** of June 29, 1979. Public comments were received. Other priority activities and responsibilities precluded publication of these regulations in final form. A revised NPRM was published in the **Federal Register** of October 15, 1984. These final regulations benefit from a full consideration of the public comments received on both the 1979 and the 1984 NPRMs.

Information Contained in the Notice of Proposed Rulemaking

Only three sets of comments were received on the 1984 NPRM, and the comments resulted in very few changes in these final regulations. Thus, most of the explanatory statements in the preamble to the 1984 NPRM are still fully applicable. For the sake of brevity, those statements are not being reprinted here.

Readers are referred to the **Federal Register** of October 15, 1984 (49 FR 40362–40364). With two exceptions, all information from the third column of page 40362 through the first column of page 40364 is still pertinent.

The first exception (under the heading "Types of Children No Longer Eligible" in the middle of the column of page 40363) is discussed in the response to a comment on § 221.11 later in this preamble.

The second exception (under the heading "Certification by SEAs" in the third column of page 40363) is now treated in the response to comments on §§ 221.44 and 221.45 later in this preamble.

Assistance Under Section 10 of the Act

A number of schools constructed with section 10 funds remain the property of the Federal Government. The Secretary may provide assistance under this section of the Act for two types of need: (1) Emergency repair, non-emergency upkeep and maintenance and upgrading, emergency provision of temporary facilities, construction of new facilities in an emergency situation, plus (2) construction of new facilities in non-emergency situations.

In the first case, the Secretary detemines the extent and urgency of need and, in any given year, provides assistance to the extent possible.

If funds are available after meeting requests under the first type of need, the Secretary considers requests for the construction of new facilities and establishes priorities among the non-emergency requests. Requests are generally from other Federal agencies whose activities result in the presence of children needing school facilities.

Regulations in §§ 221.90 through 221.96 govern assistance under section 10.

Significant Changes

The only significant changes in the final regulations from the NPRM are as follows:

1. Section 2212.11. At the time the NPRM was drafted an LEA could not count "b" children and certain other children as being federally connnected. Since then, a change in legislation—section 301(b) of Pub. L. 98–511—has made these children eligible again, and these final regulations reflect this change. Related adjustments were made in §§ 221.5, 221.13, and 221.15. Some additional changes in § 221.15 are the subject of an NPRM (published in this issue of the **Federal Register**) relating to the details of waivers and reductions of certain eligibility requirements.

2. Section 221.41. Paragraph (d) states an existing Department practice that, once a preapplication is found eligible but cannot be funded, the Secretary will hold it and will not require a refiling in a subsequent year.

Comments and Responses

Three commenters submitted recommendations and comments. A summary of their comments and the Secretary's responses follows.

General

Comment: One commenter recommended that the Secretary consider an application for Federal financial assistance if an LEA affected by federally connected children has to (1) build new facilities; (2) add to existing facilities to accommodate enrollment or program changes, or both; or (3) make major renovations to its facilities.

Response: No change has been made. The commenter's three recommendations for using Federal funds are all permitted under the Act.

Comment: A commenter recommended that financial assistance be based on a formula that would consider (1) the percentage of federally connected students in a school district; (2) the age and condition of the existing facility; and (3) the number of years that educational services have been provided to federally connected students.

Response: No change has been made. The Secretary does consider an LEA's number and percentages of federally connected children in determining eligibility under the Act. Priorities for funding among eligible applications are set forth in Subpart D. These formulas have been in use for a number of years and afford reasonable measures of an LEA's relative urgency of need for funds. The formulas do not specifically include the last two factors suggested by the commenter, but do take account of the LEA's federally connected children that lack minimum school facilities.

Section 221.1 Assistance for School Construction in Areas Affected by Federal Activities.

Comment: One commenter asked why the statutory phrase ". . . had substantial increases in school membership . . ." found in 20 U.S.C. 631 is left out of § 221.1.

Response: No change has been made. Not all of the provisions of Pub. L. 81–815, as amended, require increases in membership as a determinant of eligibility. Projects authorized under section 14 of the Act, for example, do not require membership increases. Because § 221.1 provides a general introduction to this program and is intended to cover all conditions under which the Secretary provides financial assistance, the words "had substantial increases in school membership" have been omitted.

Comment: One commenter contended that citing the entire Act as the authority for this section is too vague.

Response: No change has been made. This section of the regulations serves as an introduction to the entire regulatory implementation of Pub. L. 81–815. Thus it is appropriate to cite the entire statute as the authority.

Section 221.2 Who is eligible under the School Construction Program?

Comment: One commenter observed that the proposed regulations—in §§ 221.2(d)(2) and 221.2(e)(2)—stated that the criteria for determining financial need under sections 14(a) and 14(c) of the Act are contained in §§ 221.24, 221.25, 221.32, and 221.33. The commenter noted that these four sections did not contain these criteria.

Response: A change has been made. Language referring to financial need has been dropped from § 221.2 since the cross-referenced regulations do not contain such criteria.

Section 221.4 Under what circumstances may the Secretary waive or reduce requirements?

Comment: A commenter questioned the need for this section since the specifics are contained in other sections.

Response: No change has been made. The purpose of § 221.4 is to inform the reader near the beginning of the regulations that the Secretary may waive certain eligibility requirements. Subsequent sections of the regulations set forth various requirements before mentioning the possibility of a waiver, therefore § 221.4 helps ensure that the possibility of a waiver is not overlooked inadvertently.

Section 221.5 What definitions apply to the School Construction Program?

Comment: A commenter contended that citing 20 U.S.C. 635(e) as authority for the definitions of "attendance area" and "isolated" is confusing and probably unnecessary.

Response: No change has been made. The regulations use the two terms in conjunction with the waiver of eligibility requirements. Hence, the citations for "attendance area" and "isolated" include 20 U.S.C. 635(e), the section of the Act that deals with waivers.

Comment: One commenter asked why this section does not specifically refer to the eligibility of Indian students residing outside a district but receiving services from the district.

Response: No change has been made. The eligibility of children residing on Indian lands located outside the boundaries of an applicant LEA's school district is covered in §§ 221.25 and 221.29 of these regulations.

Comment: A commenter asked where the term "contracts-let-date" is used in the regulations.

Response: A change has been made. The term "contracts-let-date" is now incorporated and defined in the definition of "facilities available to the LEA" in § 221.5.

Comment: One commenter asked why, in the definition of "minimum school facilities," the words in the statute "classrooms and related facilities" had been change to "classrooms and auxiliary rooms."

Response: A change has been made. The definition has been revised to conform more closely to the statutory language.

Comment: One commenter asked whether the term "minimum school facilities" includes restrooms, dining areas, play areas, gyms, and all-purpose rooms.

Response: No change has been made. The term "minimum school facilities," as defined in these regulations, does include the type of facilities referred to in the comment if those facilities are part of the school's regular educational program and are in conformity with the laws and common educational practices in the State.

Section 221.11 What children may be counted as federally connected?

Comment: One commenter pointed out that "b" students were eligible under the statute and should be counted in determining an LEA's eligibility.

Response: A change has been made. At the time the 1984 NPRM was drafted an LEA could not count "b" children in its application. Since then, changes in legislation (section 301(b) of Pub. L. 98–511) have made "b" children eligible again and the final regulations reflect this change.

Comment: One commenter suggested that 20 U.S.C. 639, dealing with temporary increases, is also an appropriate authority for this section.

Response: The suggested change has been made.

Section 221.12 How does an LEA measure an increase?

Comment: One commenter asked why this section of the regulations does not contain a provision contained in section 5(f)(2) of the Act, which requires that an increase in federally connected membership be computed by subtracting the number of students covered by previous applications.

Response: No change has been made. This section of the regulations deals with the counting of federally connected children for the purpose of *eligibility*, not for the purpose of *payment*. Section 5(f)(2) of the Act deals with children counted for payment and, therefore, is not pertinent to this section of the regulations.

Section 221.13 What is the required minimum increase in the number of an LEA's federally connected children?

Comment: One commenter questioned the use of "6 percent" instead of "10 percent" which the commenter stated is the figure in 20 U.S.C. 635(c)(1)(A).

Response: No change has been made. The 10 percent figure was enacted on April 13, 1970, in section 204(a) of Pub. L. 91–230. It was changed on May 21, 1970 (and effective April 13, 1970), to 6 percent by Pub. L. 91–260. It has remained at 6 percent since that time. It should be noted that the latest edition of the United States Code has 6 percent.

Section 221.24 What are the requirements for eligibility under section 14(a) of the Act?

Section 221.28 What are the requirements for eligibility under section 14(b) of the Act?

Section 221.32 What are the requirements for eligibility under section 14(c) of the Act?

Comment: One commenter stated that these sections of the regulations do not mention the statutory threshold, found in 20 U.S.C. 644(a)(4) and 644(c)(4), that the LEA not have "sufficient funds from . . . Federal, State, and local sources."

Response: No change has been made. Paragraph (f) of § 221.24 uses the term "facilities available to . . . the LEA." The definition of this term in § 221.5(c) includes the indicated threshold. Section 221.28 of the regulations implements section 14(b) of the Act. This threshold is not applicable to section 14(b). Section 221.32 (governing section 14(c) of the Act) incorporates § 221.24 by reference.

Comment: A commenter asked why § 221.24(b)—which is cross-referenced in § 221.28(a) and § 221.32(a)—mentions only sections 5 and 9 of Pub. L. 81–815.

Response: No change has been made. These sections of the regulations implement section 14 of the Act. Section 14 refers to "children . . . whose membership in the schools of [the applicant LEA] has not formed and will not form the basis for payments under other provisions of this Act." The only other provisions of the Act under which an LEA could be eligible for payments on the basis of membership are sections 5 and 9. The Secretary has identified these two sections in § 221.24(b) for the convenience of readers.

Section 221.44 What are an SEA's responsibilities regarding a preapplication or an application from an LEA?

Section 221.45 What procedures does an SEA follow in certifying a preapplication or an application?

Comment: One commenter questioned the Secretary's authority to require an SEA to certify an LEA's preapplication or application. The commenter stated that a certification requirement is not authorized by 20 U.S.C. § 3474, the legal provision cited at the end of § 221.45 in the NPRM. The commenter also objected to the requirement that the SEA certify that the LEA's proposed project "is not inconsistent with overall State plans for the construction of school facilities." The commenter stated that there is no statutory authority for this requirement, and that the Secretary , rather than the SEA, must determine whether the LEA's project is inconsistent with State construction plans.

Response: A change has been made. These final regulations clarify that an SEA may either certify a preapplication or application and the fact that a project is not inconsistent with State plans, or may request a consultation with the Secretary regarding these matters. Pub. L. 81–815 requires that the Secretary consult with the SEA and LEA on a number of issues, including whether a project is inconsistent with State plans. See 20 U.S.C. §§ 636(b)(2)(B), 644(e), 645(6), 645(10). Historically, certification has provided a simple and effective means of ensuring that consultation has occurred. However, the Secretary is willing to adopt another method of consultation if this is preferable to an SEA. In addition, the general citation to 20 U.S.C. 3474 has been replaced by more specific references to sections of Pub. L. 81–815.

This change in final regulations is made to provide for flexible administration of the School Construction Program. The Secretary continues to believe that there is legal authority for the certification requirements included in the NPRM. See 20 U.S.C. 636(a) and the statutory provisions referenced above in this response. The Secretary also wishes to clarify the SEA's role in determining whether a project is inconsistent with State plans. The Secretary must make this determination, rather than the SEA. However, it would be inappropriate for the Secretary to determine that a project meets this condition without the SEA's concurrence. This policy furthers cooperation between Federal, State, and local governments, and ensures that the Secretary will not approve any project which is inconsistent with State plans. If an SEA chooses to consult with the Secretary on this issue through some means other than certification, the SEA must nevertheless satisfy the Secretary that the project being reviewed for funding is not inconsistent with State plans.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local governmental coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

List of Subjects in 34 CFR Part 221

Education, Elementary and secondary education, Federally affected areas, Grant programs—education, Reporting and recordkeeping requirements, School construction.

(Catalog of Federal Domestic Assistance No. 84.040, School Assistance in Federally Affected Areas—Construction)

Dated: April 27, 1987.

William J. Bennett,

Secretary of Education.

The Secretary revises Part 221 of Title 34 of the Code of Federal Regulations to read as follows:

PART 221—ASSISTANCE FOR SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Subpart A—General

Sec.

221.1 Assistance for School Construction in Areas Affected by Federal Activities.
221.2 Who is eligible under the School Construction Program?
221.3 What regulations apply to the School Construction Program?
221.4 Under what circumstances may the Secretary waive or reduce requirements?

Sec.

221.5 What definitions apply to the School Construction Program?

Subpart B—What Are the Specific Eligibility Requirements for Assistance Under the School Construction Program?

Eligibility Under Section 5 of the Act

221.10 What are the requirements for eligibility under section 5 of the Act?
221.11 What children may be counted as federally connected?
221.12 How does an LEA measure an increase?
221.13 What is the required minimum increase in the number or percentage of an LEA's federally connected children?
221.14 How does an LEA demonstrate financial need if it claims children in Category 6?
221.15 Under what circumstances may an LEA request a waiver or reduction of the minimum increase in the number or percentage of federally connected children?

Eligibility Under Section 9 of the Act

221.20 What are the requirements for eligibility under section 9 of the Act?
221.21 What other requirements apply to eligibility under section 9?

Eligibility Under Section 14(a) of the Act

221.24 What are the requirements for eligibility under section 14(a) of the Act?
221.25 What requirements for eligibility under section 14(a) are subject to waiver or exemption?

Eligibility Under Section 14(b) of the Act

221.28 What are the requirements for eligibility under section 14(b) of the Act?
221.29 What requirements for eligibility under section 14(d) are subject to waiver or exemption?

Eligibility Under Section 14(c) of the Act

221.32 What are the requirements for eligibility under section 14(c) of the Act?
221.33 What requirement for eligibility under section 14(c) is subject to waiver?

Eligibility Under Section 8(a) of the Act

221.36 What are the requirements for eligibility under section 8(1) of the Act?

Eligibility Under Section 8(2) of the Act

221.38 What are the requirements for eligibility under section 8(2) of the Act?

Subpart C—How Does an LEA Apply for Assistance Under the School Construction Program?

221.40 What are the general requirements for submitting a preapplication and an application under the School Construction Program?
221.41 During what year must an LEA file its preapplication?
221.42 What information does an LEA need to support a preapplication and an application under the School Construction Program?
221.43 What general provisions apply to a request for a waiver or reduction of certain requirements?
221.44 What are an SEA's responsibilities regarding a preapplication or an application from an LEA?
221.45 What procedures does an SEA follow in certifying a preapplication or an application?
221.46 How may an SEA comment on a preapplication or an application?
221.47 What types of comments does the Secretary consider?
221.48 What are the requirements for submitting an application under section 8(2) of the Act?
221.49 What general requirements apply to changes in an LEA's legal organization or jurisdiction?

Subpart D—How Does the Secretary Determine Priorities for Funding Among Eligible Applications?

221.50 What priorities does the Secretary apply?
221.51 How does the Secretary compute priority indices and rank preapplications?
221.52 What procedures does the Secretary follow if two or more preapplications in the same group have identical indices?
221.53 What effect may a delay in the starting date of construction have on an applicant's priority ranking?

Subpart E—How Much Assistance is Available Under the Act?

221.60 What assistance may the Secretary make available under section 5 of the Act?
221.61 What assistance may the Secretary make available under section 9 of the Act?
221.62 What assistance may the Secretary make available under section 14 of the Act?
221.63 What assistance may the Secretary make available under section 8 of the Act?
221.64 In what order does the Secretary fund applications?
221.65 When may the Secretary make payments under the Act?

Subpart F—What Conditions Must be Met by a Grantee?

221.70 What activities by a grantee require prior approval by the Secretary?
221.71 What provisions of the Indian Self-Determination and Education Assistance Act apply to the School Construction Program?

Subpart G—What Requirements Govern Administrative Hearings Under the School Construction Programs?

221.80 Under what circumstances may an LEA request an administrative hearing?
221.81 How does an LEA request a hearing?
221.82 How does the Secretary treat a request for a hearing?

Subpart H—What Special Provisions Govern Assistance Under Section 10 of the Act?

221.90 Under what circumstances does the Secretary make arrangements for the provision of minimum school facilities under section 10 of the Act?
221.91 What criteria does the Secretary use in determining whether a free public education is "suitable"?
221.92 For what types of children does the Secretary make arrangements for the provision of facilities under section 10?
221.93 For what types of projects may the Secretary provide assistance under section 10?
221.94 How does the Secretary compute priority indices and rank non-emergency request for new facilities under section 10?
221.95 What terms and conditions apply to minimum school facilities operated under section 10 by another agency?
221.96 What terms and conditions apply to the transfer of minimum school facilities by the Secretary to an LEA?

Authority: 20 U.S.C. 631–647, unless otherwise voted.

Subpart A—General

§ 221.1 Assistance for School Construction in Areas Affected by Federal Activities.

(a) The program of Assistance for School Construction in Areas Affected by Federal Activities—referred to in these regulations as the School Construction Program—provides Federal financial assistance to help local educational agencies (LEAs) construct urgently needed minimum school facilities in school districts that have been affected by various Federal activities.

(b)(1) Under the School Construction Program the Secretary—as authorized in section 10 of the Act (Pub. L. 81–815)—may also make arrangements with another Department or agency to provide minimum school facilities for certain federally connected children in cases in which no LEA is able to provide a suitable free public education for these children.

(2)(i) The provisions governing these arrangements are contained in Subpart H of these regulations.

(ii) These arrangements do not provide assistance directly to an LEA.

(Authority 20 U.S.C. 631–645, 647)

§ 221.2 Who is eligible under the School Construction Program?

(a) *Assistance.* (1) The types of LEAs listed in paragraphs (b) through (i) of this section are eligible for assistance under the School Construction Program.

(2) Each paragraph refers to a specific section of Pub. L. 81–815, entitled School Construction in Areas Affected by Federal Activities, referred to in these regulations as "the Act."

(b) *Eligibility under section 5.* (1) An LEA is eligible under section 5 of the Act because of an increased number of federally connected children.

(2) The requirements for eligibility under section 5 are contained in §§ 221.10 through 221.15.

(c) *Eligibility under section 9.* (1) An LEA is eligible under section 9 of the Act because a temporary Federal activity has caused an increase in the number of federally connected children.

(2) The requirements for eligibility under section 9 are contained in §§ 221.20 and 221.21.

(d) *Eligibility under sections 14(a) and 14(b).* (1) An LEA is eligible under section 14(a) or 14(b) of the Act if it—

(i) Serves children residing on Indian lands; and

(ii) Has financial need.

(2) The requirements for eligibility under section 14(a) are contained in §§ 221.24 and 221.25.

(3) The requirements for eligibility under section 14(b) are contained in §§ 221.28 and 221.29.

(e) *Eligibility under section 14(c).* (1) An LEA is eligible under section 14(c) of the Act if—

(i) A substantial portion of the land area in the LEA's school district is Federal property; and

(ii) The LEA has financial need.

(2) The requirements for eligibility under section 14(c) are contained in §§ 221.32 and 221.33.

(f) *Eligibility under section 8(1) and 8(2).* (1) An LEA is eligible for supplementary assistance under section 8 of the Act if the LEA has already established its eligibility under section 5, 9, or 14 of the Act.

(2) The requirements for eligibility under section 8(1) are contained in § 221.36.

(3) The requirements for eligibility under section 8(2) are contained in § 221.38

(g) *Arrangements.* Another Department or agency is eligible to enter into an arrangement with the Secretary for the provision of minimum school facilities under section 10 of the Act if the requirements for an arrangement under § 221.90 are satisfied.

(Authority: 20 U.S.C. 635, 638–640, 644)

§ 221.3 What regulations apply to the School Construction Program?

The following regulations apply to the School Construction Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants) except for the following:

(i) Section 74.94 (Payment methods under construction grants).

(ii) Subpart 0 (Property).

(2) 34 CFR Part 75 (Direct Grant Programs) except for the following:

(i) Section 75.603 (Grantee's title to site).

(ii) Section 75.605 (Beginning the construction).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations) except for the following terms:

(i) "Local educational agency" (LEA).

(ii) "State."

(iii) "State educational agency" (SEA).

(4) 34 CFR Part 78 (Education Appeal Board) if the Secretary refers to the Education Appeal Board a request for an administrative hearing under section 11(a) of the Act.

(5) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in 34 CFR Part 218 (Hearings in Connection with School Construction and Financial Assistance in Federally Impacted Areas).

(c) The regulations in this Part 221.

(Authority: 20 U.S.C. 3474)

§ 221.4 Under what circumstances may the Secretary waive or reduce requirements?

(a) The Secretary may waive or reduce certain requirements of this part—governing an LEA's eligibility to participate in the School Construction Program or limiting the amount of payment an LEA may receive under the program—if the Secretary determines that a waiver or reduction is necessary—

(1) To avoid inequity; and

(2) To avoid defeating the purposes of the Act.

(b) The general provisions that apply to the waiver or reduction of certain requirements are in § 221.43.

(c) The specific requirements that the Secretary may waive or reduce and the circumstances under which the Secretary may waive or reduce these requirements are identified in applicable provisions of this part.

(Authority: 20 U.S.C. 635, 639, 644)

§ 221.5 What definitions apply to the School Construction Program?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 15 of the Act:

Base year
Child
Construct, Constructing, Construction
Federal property
Free public education
Increase period
Indian lands (included in the definition of "Federal property")
Local educational agency (LEA)
Low-rent housing (included in the definition of "Federal property")
Parent
School facilities
State
State educational agency (SEA)

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77 (Definitions that Apply to Department Regulations):

Applicant
Application
Award
Department
EDGAR
Equipment
Fiscal year
Grant
Grantee
Project
Secretary
Work of art

(c) *Definitions that apply to this part.* The following definitions also apply to this part: "Act" means Pub. L. 81–815, as amended, 20 U.S.C. 631–647.

"Attendance area" means the geographic area in which the children normally served by a school reside.

(Authority: 20 U.S.C. 635(e), 644 (a), (b), (c))

"Average daily membership means—

(1) The definition given to that term by State law; or

(2) If State law does not define the term, the total days of membership of all pupils in an LEA's schools divided by the total number of days the schools were in session.

(Authority: 20 U.S.C. 645(5))

"Facilities available to the LEA."

(1) This term means classrooms and related facilities, such as the following, which the Secretary considers in determining an LEA's need for assistance under this part:

(i) Existing school facilities constructed for educational purposes and currently suitable for instruction.

(ii) All school facilities for which a construction contract has been awarded before the contracts-let-date—that is, the date on which the Secretary files with the Office of the Federal Register a notice setting a closing date for receipt of preapplications.

(iii) Facilities constructed or to be constructed, contracted for, or supported with financial assistance under any other grant under the Act—that is, under the School Construction Program or under the Program of School Construction Assistance in Cases of Certain Disasters (section 16 of the Act—or under any other type of assistance.

(iv) Portable facilities used for instruction if—

(A) The facilities were purchased with funds under the Act; or

(B) The State counts the facilities as instructional facilities for the purpose of computing State construction aid.

(v) If the LEA is applying under section 8, 14(a), or 14(c) of the Act, potential facilities available to the LEA that could be built using, local, State, or other Federal sources, including other funds under the Act.

(2) This term does not mean—

(i) Areas unsuitable for education, such as hallways and basement rooms not constructed for educational purposes; and

(ii) Facilities that must be abandoned by the end of the second year following the increase period, for applicants under sections 5, 8(1), and 9, or by the end of the second year following the school year for which the applicant seeks assistance, for applicants under section 14.

(Authority: 20 U.S.C. 631, 634, 645(10))

"Federally connected children" means those children whose inclusion in an LEA's membership results from a permanent or temporary Federal activity. Each of these children can be identified in one or more of the categories listed in § 221.11.

(Authority: 20 U.S.C. 238(a), 644(a))

"Isolated" means, with reference to an attendance area, that distance, topography, climate, traffic conditions, or another factor makes it impracticable to transport children in that attendance area to other school facilities.

(Authority: 20 U.S.C. 635(e), 644 (a), (b), (c))

"Membership."

(1) This term means—

(i) The definition given to the term by State law; or

(ii) If State law does not define the term, the number of children listed on an LEA's current enrollment records.

(2) As used in paragraph (1)(ii) of this definition, this term does not include children who have—

(i) Permanently left the school district; or

(ii) Otherwise became ineligible to attend classes there.

(3) If a child resides in the school district of an LEA that pays tuition to another LEA in whose district the child attends school, the child is counted in—

(i) The membership of the LEA of the child's district of residence; or

(ii) If both LEAs agree and the Secretary approves, the membership of the LEA in whose district the child attends school.

(Authority: 20 U.S.C. 645(5))

"Minimum school facilities."

(1) This term means those school facilities for which the Secretary may provide assistance under this part if—

(i) The Secretary, after consultation with the SEA and the LEA, considers these facilities necessary to support an educational program—

(A) For the membership to be served at normal capacity; and

(B) In accordance with the laws and common practice in the State; and

(ii) To the extent appropriate in view of the uses to be made of the facilities, they are accessible to and usable by handicapped persons.

(2) The term includes, but is not restricted to—

(i) Classrooms and related facilities; and

(ii) Machinery, utilities, and initial equipment, to the extent that these are necessary or appropriate for school purposes.

(3) The Secretary also considers the term to include:

(i) Works of art at a cost that does not exceed one percent of the cost of the project;

(ii) Within school buildings, spaces that—

(A) Provide shelter from nuclear fallout; and

(B) Are constructed at a nominal cost as part of a larger project; and

(iii) In the case of an application under section 9 or 10 of the Act, off-site improvements and interests in land.

(Authority: 20 U.S.C. 639, 640, 644, 645 (9), (10), EO 11490)

"Non-Federal share" means that portion of a project's cost supplied by a source or sources other than the Secretary under the Act.

(Authority: 20 U.S.C. 635)

"Normal capacity" means the number of pupils a school facility accommodates under ordinary conditions according to the laws and common practice of the State in which the facility is located.

(Authority: 20 U.S.C. 634, 645(9), (10))

"Temporary," with reference to an activity, means an activity of the United States—

(1) Carried on either directly or through a contractor; and

(2) Continuing for at least one year but not more than six years.

(Authority: 20 U.S.C. 635, 639)

"Unhoused children" means those children in an LEA's membership whose number exceeds the normal capacity of facilities available to the LEA.

(Authority: 20 U.S.C. 634,640 644,645(10))

"Uniformed services."

(1) This term means the Army, Navy, Air Force, Marine Corps, Coast Guard, Natinal Oceanic and Atmospheric Administration, and Public Health Service.

(2) This definition applies to a uniformed service of the United States.

(Authority: 20 U.S.C. 238(a)(2), 635(a) (1)(A), (2)(A); 37 U.S.C. 101)

Subpart B—What Are the Specific Eligibility Requirements for Assistance Under the School Construction Program?

Eligibility Under Section 5 of the Act

§ 221.10 What are the requirements for eligibility under section 5 of the Act?

(a) An LEA is eligible to receive Federal financial assistance under section 5 of the Act if the Secretary determines that, during an increase period—that is, a period of four consecutive school years—the LEA has experienced or will have experienced a substantial increase in the number of federally connected children.

(b) In calculating the increase in federally connected children the LEA shall meet the requirements of §§ 221.11 through 221.13.

(Authority: 20 U.S.C. 635, 645(16))

§ 221.11 What children may be counted as federally connected?

(a) An LEA may count as federally connected those children whom the LEA can identify in one or more of the six categories describe in paragraphs (a) (1) through (6) of this section. The statutory reference for each category appears in parentheses after the title of the category.

(1) *Category 1* (section 5(a)(1)(A) of the Act). A child is in category 1 if the child—

(i)(A) Resides on Federal property; and

(B) Has a parent on active duty in the uniformed services; or

(ii) Resides on Indian lands.

(2) *Category 2* (section 5(a)(1)(B) of the Act). A child is in category 2 if the child—

(i) Resides on Federal property; and

(ii) Resides with a parent employed on Federal property situated in whole or in part in the same State as the school district of the LEA.

(3) *Category 3* (section 5(a)(2)(A) of the Act). A child is in category 3 if the child—

(i) Does not reside on Federal property; and

(ii) Has a parent on active duty in the uniformed services.

(4) *Category 4* (section 5(a)(2)(B) of the Act). A child is in category 4 if the child—

(i) Resides on Federal property; and

(ii) Is not in either category 1 or category 2.

(5) *Category 5* (section 5(a)(2)(C) of the Act). A child is in category 5 if the child—

(i) Does not reside on Federal property; and

(ii) Resides with a parent employed on Federal property that is situated in whole or in part in the same State as the school district of the LEA.

(6) *Category 6* (section 5(a)(3) of the Act). A child is in category 6 if the child's membership in the LEA results directly from activities of the United States carried on either directly or through a contractor.

(b) Although the LEA may identify a child for eligibility purposes within more than one category, the LEA may not count the child more than once for purposes of payment under this program during a given year.

(c) In counting federally connected children for its eligibility, an LEA may include—

(1) Children whose membership results from permanent Federal activities (eligibility under section 5 of the Act); and

(2) Children whose membership results from temporary Federal activities (eligibility under section 9 of the Act).

(**Note.**—Although an LEA in establishing its eligibility for assistance under section 5 of the Act may count children who qualify under section 9 of the Act, the Secretary does not include for payment under section 5 those children who qualify under section 9. See § 221.60(a)(c)(1).)

(Authority: 20 U.S.C. 238(a), (b), 635(a), 639).

§ 221.12 How does an LEA measure an increase?

(a) An LEA that claims an increase in federally connected children must show that the increase has occurred during an increase period.

(b) An increase in federally connected children is the difference between—

(1) The estimated number of federally connected children in the LEA's membership at the close of the increase period; and

(2) The estimated number of federally connected children in the LEA's average daily membership during the base year; that is, during the school year immediately preceding the first year of the increase period.

Example. If the increase period covers the four consecutive school years of 1980–81, 1981–82, 1982–83, and 1983–84, the base year would be 1979–80.

(Authority: 20 U.S.C. 634, 635)

§ 221.13 What is the required minimum increase in the number or percentage of an LEA's federally connected children?

To be eligible for assistance under section 5 of the Act, an LEA must have, at the close of an increase period, an estimated increase in federally connected children, as follows:

(a) *Categories 1–5.* For children in categories 1 through 5, the estimated increase must be—

(1) At least 20 federally connected children, representing at least 6 percent of the LEA's total average daily membership during the base year; or

(2) At least 1,500 federally connected children, if the estimated increase represents less than the 6 percent required in paragraph (a)(1) of this section.

(b) *Category 6.* For children in category 6, the estimated increase must be—

(1) At least 20 federally connected children, representing at least 10 percent of the LEA's total average daily membership during the base year; or

(2) At least 2,500 federally connected children, if the estimated increase represents less than the 10 percent required in paragraph (b)(1) of this section.

(Authority: 20 U.S.C. 635(a), (b), (c))

§ 221.14 How does an LEA demonstrate financial need if it claims children in Category 6?

If an LEA bases its eligibility on an increased number of children in category 6, the LEA, in addition to meeting the requirements in § 221.13(b), shall demonstrate to the satisfaction of the Secretary that, without Federal assistance, construction of minimum school facilities for these children would cause an undue financial burden on the LEA's taxing and borrowing authority.

(Authority: 20 U.S.C. 635(c)(2))

§ 221.15 Under what circumstances may an LEA request a waiver or reduction of the minimum increase in the number or percentage of federally connected children?

(a) In applying for assistance under this part, an LEA may request a waiver or reduction of one or more of the following requirements:

(1) The minimum number requirement of 20 in § 221.13(a)(1).

(2) The minimum percentage requirement of 6 in § 221.13(a)(1).

(3) The minimum number requirement of 20 in § 221.13(b)(1).

(4) The minimum percentage requirement of 10 in § 221.13(b)(1).

(b) With respect to those federally connected children described in § 221.11 (a)(1) and (a)(2), the Secretary considers the request for a waiver or reduction if the LEA meets the following conditions:

(1) The LEA has an isolated attendance area that is affected by Federal activity.

(2) At the end of the increase period, the LEA will have in its membership federally connected children residing in the isolated attendance area who lack minimum school facilities.

(3)(i) In the case of a request for a waiver or reduction of the minimum percentage requirement of 6 percent on § 221.13(a)(1), or of 10 percent in § 221.13(b)(1), the estimated increase in federally connected membership in the isolated attendance area at the end of the increase period is at least 10 percent of the total average daily membership in the isolated attendance area during the base year.

(ii) In the case of a request for a waiver or reduction of the minimum number requirement of 20 children in § 221.13(a)(1), or § 221.13(b)(1), the estimated increase in the number of the LEA's federally connected children at the end of the increase period is at least 25 percent of the LEA's total average daily membership in the base year.

(c) The general provisions that apply to this waiver or reduction are in § 221.43.

(Authority: 20 U.S.C. 635 (c), (e))

Eligibility Under Section 9 of the Act

§ 221.20 What are the requirements for eligibility under section 9 of the Act?

An LEA is eligible to receive Federal financial assistance under section 9 of the Act if—

(a) During an increase period the LEA has experienced a substantial increase in the number of federally connected children; and

(b) The Secretary determines that some or all of these children are in the LEA's membership because of a temporary Federal activity.

(Authority: 20 U.S.C. 639)

§ 221.21 What other requirements apply to eligibility under section 9?

The provisions of §§ 221.11 through 221.15 also govern the eligibility of an LEA for Federal financial assistance under section 9 of the Act.

(Authority: 20 U.S.C. 635, 639)

Eligibility Under Section 14(a) of the Act

§ 221.24 What are the requirements for eligibility under section 14(a) of the Act?

An LEA is eligible to receive Federal financial assistance under section 14(a) of the Act if it meets the following requirements:

(a) The LEA is providing, or will be providing on completion of the project, free public education to children in its membership who reside on Indian lands.

(b) The LEA is not eligible, under either section 5 or section 9 of the Act, for enough Federal financial assistance to provide minimum school facilities.

(c) Any one of the following three conditions exists:

(1) At least 15 of the LEA's children, constituting at least 33⅓ percent of the LEA's total membership, reside on Indian lands.

(2) The land area of Indian lands constitutes at least one-third of the total land area of the LEA's school district.

(3) The LEA is providing, or will be providing on completion of the project, free public education for at least 100 children residing on indian lands outside the boundaries of the LEA's school district.

(d) The immunity of Indian lands to taxation creates a substantial and continuing impairment of the LEA's ability to finance needed school facilities.

(e) The LEA is making a reasonable tax effort and is diligently making use of State and other available financial assistance to provide the needed facilities.

(f) Despite full use of the facilities available to it, the LEA lacks the resources to provide minimum school facilities for at least 5 percent of the estimated number of children who will be in the LEA's membership at the end of the second year following the school year for which the applicant seeks assistance.

(Authority: 20 U.S.C. 644(a))

§ 221.25 What requirements for eligibility under section 14(a) are subject to waiver or exemption?

(a) *Waiver.* The Secretary considers a request for a waiver of the 33⅓ percent requirement in § 221.24(c)(1) if an LEA meets the following three requirements:

(1) The LEA has an isolated attendance area that includes children who reside on Indian lands.

(2) The LEA is providing, or will be providing on completion of the project, free public education in this isolated attendance area to at least 15 children residing on Indian lands and constituting at least 20 percent of the LEA's total membership.

(3) The land area of Federal property constitutes at least 80 percent of the total land area of the LEA's school district.

(b) *General provisions.* The general provisions that apply to this waiver are in § 221.43.

(c) *Exemption.* The LEA does not have to meet the condition described in § 221.24(d) if the LEA is providing free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(Authority: 20 U.S.C. 644(a))

Eligibility Under Section 14(b) of the Act

§ 221.28 What are the requirements for eligibility under section 14(b) of the Act?

An LEA is eligible to receive Federal financial assistance under section 14(b) of the Act if it meets the following requirements:

(a) The requirements of § 221.24(a), (b), and (d).

(b) Any one of the following three conditions exists:

(1) At least 15 of the LEA's children, constituting at least 10 percent of the LEA's total membership, reside on Indian lands.

(2) The land area of Indian lands constitutes at least 10 percent of the total land area of the LEA's school district.

(3) The LEA is providing, or will be providing on completion of the project, free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(Authority: 20 U.S.C. 644(b))

§ 221.29 What requirements for eligibility under section 14(b) are subject to waiver or exemption?

(a) *Waiver.* The Secretary considers a request for a waiver of the 10 percent requirement in § 221.28(b)(1) if an LEA meets the following three requirements:

(1) The LEA has an isolated attendance area that includes children who reside on Indian lands.

(2) The LEA is providing, or will be providing on completion of the project, free public education in this isolated attendance area to at least 15 children residing on Indian lands and constituting at least 5 percent of the LEA's total membership.

(3) The land area of Federal property constitutes at least 20 percent of the total land area of the LEA's school district.

(b) *General provisions.* The general provisions that apply to this waiver are in § 221.43.

(c) *Exemption.* The LEA does not have to meet the condition described in § 221.24(d) if the LEA is providing free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(Authority: 20 U.S.C. 644(b))

Eligibility Under Section 14(c) of the Act

§ 221.32 What are the requirements for eligibility under section 14(c) of the Act?

An LEA is eligible to receive Federal financial assistance under section 14(c) of the Act if it meets the following requirements:

(a) The requirements of § 221.24(b), (e), and (f).

(b) The land area of Federal property constitutes at least 33⅓ percent of the total land area of the LEA's school district.

(c) At least 20 of the LEA's children, constituting at least 33⅓ percent of the LEA's total membership, lack or will lack minimum school facilities.

(d) The immunity of Federal property to taxation creates a substantial and continuing impairment of the LEA's ability to finance needed school facilities.

(Authority: 20 U.S.C. 644(c))

§ 221.33 What requirement for eligibility under section 14(c) is subject to waiver?

(a) The Secretary considers a request for a waiver of the 33⅓ percent requirement in § 221.32(c) if an LEA meets the following three requirements:

(1) The LEA has an isolated attendance area with children who lack minimum school facilities.

(2) The LEA is providing, or will provide free public education in this isolated attendance area to at least 20 children lacking minimum school facilities and constituting at least 20 percent of the LEA's total membership.

(3) The land area of Federal property constitutes at least 80 percent of the total land area of the LEA's school district.

(b) The general provisions that apply to this wavier are in § 221.43.

(Authority: 20 U.S.C. 644(c))

Eligibility Under Section 8(1) of the Act

§ 221.36 What are the requirements for eligibility under section 8(1) of the Act?

(a) If the Secretary makes available supplemental Federal financial assistance under section 8(1) of the Act, an LEA is eligible to receive this assistance if the LEA—

(1) Is eligible to receive a grant under section 5 of the Act; and

(2) Has not received the grant because of its inability to finance the non-Federal share of the proposed project.

(b) In determining the LEA's eligibility under section 8(1), the Secretary requires that the LEA meet at least the following conditions:

(1) The LEA's eligibility under section 5 has not been achieved by reason of a waiver or reduction under § 221.15.

(2) The LEA demonstrates to the satisfaction of the Secretary that it is fully using or will fully use all other facilities available to the LEA.

(3)(i) The estimated number of the LEA's federally connected children who may be counted for payment is at least 12 percent of the LEA's average daily membership in the base year.

(ii) However—

(A) If the LEA has used one year of the increase period as a basis for payment under a previous application under the Act, the percentage requirement under paragraph (b)(3)(i) of this section is at least 9 percent;

(B) If the LEA has used two years of the increase period as a basis for payment under a previous application under the Act, the percentage requirement under paragraph (b)(3)(i) of this section is at least 6 percent; and

(C) If the LEA has used three years of the increase period as a basis for payment under a previous application under the Act, the percentage requirement under paragraph (b)(3)(i) of this section is at least 3 percent.

Example. An LEA submits a preapplication for Federal financial assistance under section 8(1) of the Act to supplement a grant under section 5 of the Act, based on an increase period consisting of the following school years: 1980–81, 1981–82, 1982–83, 1983–84. During the base year (1979–80), the LEA's average daily membership was 3,750. Under paragraph (b)(3)(i) of this section, the estimated number of the LEA's federally connected children who may be counted for payment would have to be at least 450 children; that is, at least 12 percent of the LEA's average daily membership in the base year.

However, in this example, the same LEA has previously submitted another eligible preapplication under section 5 of the Act for an increase period consisting of the following school years: 1978–79, 1979–80, 1980–81 and 1981–82. This means that the LEA is using in its current preapplication two of the same school years (1980–81 and 1981–82) used as a basis for payment under its previous preapplication. Thus, under paragraph (b)(3)(ii)(B) of this section, the estimated number of the LEA's federally connected children who may be counted for payment under the current preapplication must be at least 225; that is, at least 6 percent of the LEA's average daily membership in the base year.

(Authority: 20 U.S.C. 635, 638)

Eligibility Under Section 8(2) of the Act

§ 221.38 What are the requirements for eligibility under section 8(2) of the Act?

If the Secretary makes available supplemental Federal financial assistance under section 8(2) of the Act, an LEA is eligible to receive this assistance if—

(a) The LEA has received a grant under section 5, 8, 9, or 14 of the Act;

(b) The LEA is unable to complete the project because of flood, fire, or similar emergency affecting—

(1) The work on the project; or

(2) The LEA's ability to finance the non-Federal share of the project; and

(c) The LEA demonstrates to the satisfaction of the Secretary that it is fully using or will fully use all other facilities available to the LEA.

(Authority: 20 U.S.C. 635, 638)

Subpart C—How Does a LEA Apply for Assistance Under the School Construction Program?

§ 221.40 What are the general requirements for submitting a preapplication and an application under the School Construction Program?

(a) To be considered for assistance under the School Construction Program, except in the case of an application under section 8(2) of the Act, an LEA must file with the Secretary—

(1) A preapplication; and

(2) If invited by the Secretary—on the basis of the likelihood of funding—an application that meets the requirements of section 6(b)(1) of the Act

(b)(1) The Secretary publishes in the **Federal Register** a notice that establishes a closing date for the filing of preapplications.

(2) If the Secretary invites an LEA to file an application under this part, the Secretary establishes in the letter of invitation a closing date for the filing of the application.

(c)(1) The LEA shall submit its preapplication and its application to the Secretary through its State educational agency (SEA).

(2) The LEA shall submit its preapplication or application to its SEA at least 15 days before the deadline date for filing the preapplication or application with the Secretary.

(3) The LEA is responsible for ensuring that the SEA carries out its responsibilities under this subpart, and forwards the preapplication or application to the Secretary on or before the applicable filing date.

(d) The requirements for filing an application under section 8(2) of the Act are in § 221.48

(Authority: 20 U.S.C. 636)

§ 221.41 During what year must an LEA file its preapplication?

(a) In order to be considered for assistance under section 5, 9, or 8(1) of the Act, an LEA must file its preapplication during the third or fourth year of an increase period; that is, during the third or fourth year following the base year selected by the LEA.

Example. An LEA files a preapplication for Federal financial assistance under section 5, 9, or 8(1) of the Act for an increase period consisting of the following school years: 1980–81, 1981–82, 1982–83, 1983–84. The base year for this application is 1979–80. To be considered for assistance, the LEA must file its preapplication during the 1982–83 school year (the third year of the increase period) or during the 1983–84 school year (the fourth year of the increase period).

(b) During the same school year an LEA may file preapplications—under section 5, 9, or 8(1) of the Act—related to two different base years.

Example. During 1982–83, the third year of the increase period, an LEA may file a preapplication for Federal financial assistance under section 5, 9, or 8(1) of the Act for an increase period consisting of the following school years: 1980–81, 1981–82, 1982–83, 1983–84, with 1979–80 as the base year.

During the same year, 1982–83, the fourth year of another increase period, the LEA may file a preapplication for Federal financial assistance under section 5, 9, or 8(1) of the Act for an increase period consisting of the following school years: 1979–80, 1980–81, 1981–82, 1982–83, with 1978–79 as the base year.

Thus, in 1982–83, the LEA may file a preapplication related to base year 1979–80 and a preapplication related to base year 1978–79.

(c) In order to be considered for assistance under section 14(a), (b) or (c) of the Act, an LEA must file its preapplication during the first or second school year before the school year for which it seeks assistance.

Example. An LEA estimates that it will qualify for assistance under section 14(a), 14(b), or 14(c) of the Act during the 1985–86 school year. The LEA must apply for assistance during the 1983–84 school year or the 1984–85 school year.

(d)(1) The Secretary may hold for consideration for funding in a later year a preapplication that—

(i) Meets all requirements regarding eligibility and time of filing; and

(ii) Is from an LEA whose related application the Secretary would be unable to fund during the year for which the LEA has filed the preapplication.

(2) If funding becomes available for the project referred to in paragraph (d)(1) of this section, the Secretary, before inviting an application from the LEA, verifies—

(i) The continued impact of federally connected children on the LEA; and

(ii) The LEA's continued need for assistance under this part.

(Authority: (20) U.S.C. 635, 638, 639, 644, 645(15))

§ 221.42 What information does an LEA need to support a preapplication and an application under the School Construction Program?

(a) During the year in which it files its preapplication, an LEA shall—

(1) Determine the number of children in its membership; and

(2) Identify the number of children in the membership who are federally connected.

(b)(1) The determination or identification made by the LEA under paragraph (a) of this section must be as of the same date throughout the LEA's school district.

(2) This date must be during the regular school year at a time before the closing date for the filing of applications.

(c) In identifying federally connected children the LEA may collect whatever information the LEA needs to—

(1) Establish the LEA's eligibility under the School Construction Program; and

(2) If necessary, substantiate factors that might affect the amount of payment to the LEA under the program.

(d) For each federally connected child identified by the LEA, the information referred to in paragraph (c) of this section must include the following:

(1) Name.

(2) Date of birth.

(3) School in which enrolled.

(4) Grade in school.

(5)(i) The name and address of the Federal property on which the child resides, including Indian land if applicable; and

(ii) In the case of low-rent housing project assisted under the United States Housing Act of 1937, the identification number, if any, assigned to that housing by the U.S. Department of Housing and Urban Development.

(6) If the child is federally connected because the child has a parent on active duty in a uniformed service—

(i) The parent's name;

(ii) The parent's rank;

(iii) The name of the uniformed service; and

(iv) An attestation of the parent's active duty status.

(7) If the child is federally connected because the child resides with a parent employed on Federal property situated in whole or in part in the same State as the school district of the LEA—

(i) The parent's name; and

(ii)(A) The name and address of the Federal property where the parent is employed; or

(B) If the parent is a civilian employed on a Federal vessel, the name, hull number, and home port of the vessel and the name of the controlling agency.

(e) The LEA may obtain the information in paragraph (d)(5) of this section from any of the following:

(1) A parent of the child.

(2) An appropriate official of the Federal installation on which the child resides or of the Federal housing in which the child resides.

(3) If applicable, an appropriate tribal official.

(f) The LEA may obtain the information in paragraph (d)(6) of this section from either or both of the following:

(1) A parent of the child.

(2) An appropriate official of the uniformed service in which the parent is on active duty.

(g) The LEA may obtain the information in paragraph (d)(7) of this section from either or both of the following:

(1) A parent of the child.

(2) The employer of the parent employed on Federal property.

(h) The LEA shall obtain from the source or sources of information referred to in paragraphs (e), (f), and (g) of this section—

(1) The sources's signature; and

(2) The date of signing.

(i) In identifying federally connected children the LEA may meet the requirements of paragraphs (d) through (h) of this section by means of the membership count used by the LEA that same school year to identify federally connected children under 34 CFR Part 222 (Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education).

(j) The Secretary may require the LEA to update any of the information referred to in this section at the time the LEA files its application.

(k) For purposes of this section, "parent" means—

(1) Mother;

(2) Father;

(3) Legal guardian; or

(4) Another person standing in place of the parent.

(Authority: 20 U.S.C. 238,635)
(Approved by OMB under control number 1810–0502)

§ 221.43 What general provisions apply to a request for a waiver or reduction of certain requirements?

(a) If an LEA seeks a waiver or reduction of a requirement of these regulations for which the Secretary may grant a waiver or reduction, the LEA shall file its request as a separate document together with its preapplication.

(b) The LEA shall—

(1) State in the request the specific requirement(s) for which the LEA seeks the waiver or reduction; and

(2) Include in the request information the Secretary requires to determine whether the waiver or reduction is warranted.

(c) The Secretary determines—

(1) The extent of any waiver or reduction; and

(2) The portion of the LEA's jurisdiction for which the LEA receives assistance as a result of the waiver or reduction.

(Authority: 20 U.S.C. 635(e), 639, 644 (a), (b), (c))
(Approved by OMB under control number 1810–0502)

§ 221.44 What are an SEA's responsibilities regarding a preapplication or an application from an LEA?

(a) *Preapplication.* In forwarding a preapplication from an LEA to the Secretary, an SEA shall—

(1) Certify that, to the best of the SEA's knowledge, the information in the preapplication is correct and complete; or

(2) Request a consultation with the Secretary regarding the information in the preapplication.

(b) *Application.* In forwarding an application from an LEA to the Secretary, an SEA shall—

(1) Certify that the proposed project is not inconsistent with overall State plans for the construction of school facilities; or

(2) Request a consultation with the Secretary regarding the relationship of the proposed project to overall State plans for the construction of school facilities.

(Authority: 20 U.S.C. 636, 644(e), 645(6), (10))

§ 221.45 What procedures does an SEA follow in certifying a preapplication or an application?

(a) The deadline dates for the filing of SEA certifications or requests for consultation are the same dates the Secretary establishes under § 221.40(b) for the filing of preapplications and applications from LEAs.

(b) If the SEA certifies a preapplication or application, the appropriate SEA official shall—

(1) Sign a statement that certifies the document; and

(2) Forward the document and the statement by the deadline date for filing the document. The procedures in EDGAR, 34 CFR 75.102 (Deadline date for applications), apply to this forwarding.

(c)(1) If an SEA certifies a preapplication and an application on or before the appropriate filing dates, or requests a consultation before those dates, the Secretary may select that project for a grant.

(2) If an SEA neither certifies a preapplication or an application on or before the appropriate filing dates for

SEA certification nor requests a consultation with the Secretary with regard to the preapplication or application on or before those dates, the Secretary does not select that project for a grant.

(Authority: 20 U.S.C. 636 (a), (b), 644(e), 645 (6), 10))

§ 221.46 How may an SEA comment on a preapplication or an application?

(a) An SEA that receives a preapplication or an application under this part may review and comment on the preapplication or application in addition to making the certification under § 221.44.

(b) In commenting on the LEA's preapplication or application, the SEA shall follow the provisions in EDGAR for State Comment Procedures (34 CFR 75.155 through 75.159).

(c)(1) The Secretary encourages the SEA to forward its comments, if any, together with the preapplication or application when the SEA forwards that document to the Secretary.

(2) If the SEA forwards its comments to the Secretary separately from the preapplication or application, the SEA shall meet the requirements of 34 CFR 75.158 (Deadlines for State comments).

(Authority: 20 U.S.C. 636, 645)

§ 221.47 What types of comments does the Secretary consider?

In evaluating an LEA's preapplication or application under this part, the Secretary considers—in addition to the provisions of 34 CFR 75.159(a)—those comments of an SEA that relate to—

(a) Any criteria or other matters that could affect the Secretary's approval of the preapplication or application;

(b) Any State laws or practices related to the construction of school facilities in the State; and

(c) Whether the proposed project is consistent with overall State plans for the construction of school facilities.

(Authority: 20 U.S.C. 636)

§ 221.148 What are the requirements for submitting an application under section 8(2) of the Act?

(a) In the case of an application for assistance under section 8(2) of the Act—

(1) The Secretary considers the LEA's approved preapplication and application for the original project funded under section 5, 9, 14 or 8(a) as meeting the requirement for submission of a preapplication; and

(2) The LEA shall file with the Secretary an application only.

(b) The LEA may file its application at any time.

(c) The LEA shall file its application with the Secretary through its SEA.

(d)(1) In forwarding the application to the Secretary, the SEA shall follow the appropriate provisions of § 221.45.

(2) The SEA may also comment on the application according to the provisions of § 221.46.

(Authority: 20 U.S.C. 636, 638)

§ 221.49 What general requirements apply to changes in an LEA's legal organization or jurisdiction?

(a) An LEA shall notify the Secretary of any changes in its legal organization or jurisdiction that—

(1)(i) Occur during the application process; or

(ii) Have occurred since the LEA's filing of its most recent previous application, if any, under the Act; and

(2) Would affect the LEA's rights or benefits under the Act.

(b)(1) If an LEA succeeds to any part of the territory of one or more other LEAs that have filed applications under the Act, the successor LEA may assume any rights and benefits that those applications have established with respect to the transferred territory if the successor LEA—

(i) Demonstrates to the Secretary that its succession to the territory and any affected property meets all requirements of State law; and

(ii) Agrees to be bound by all assurances and obligations under this part undertaken by the LEA(s) that filed the application(s).

(2) The successor LEA may not receive under those applications rights and benefits that are greater than the total rights and benefits established by the application(s).

(Authority: 20 U.S.C. 636)

Subpart D—How Does the Secretary Determine Priorities for Funding Among Eligible Applications?

§ 221.50 What priorities does the Secretary apply?

If the amount of money estimated to be necessary to fund all eligible applications and requests is more than the amount the Congress appropriates for the School Construction Program for a fiscal year, the Secretary applies the following priorities for funding applications:

(a) *First priority.* (1) The first priority is full funding of all eligible applications and requests under sections 9, 10, and 14 (a) and (b) of the Act.

(2) If the Secretary is unable to provide full funding of all eligible applications and requests under sections 9, 10, and 14 (a) and (b), the Secretary—

(i) Groups preapplications under each of these three sections of the Act:

(ii) Except as specified in paragraph (a)(3) of this section, allocates to each group of preapplications funds in the ratio of (1) the total amount requested by all applicants in that group to (2) the total amount requested by all applicants in all groups.

(3) If the Secretary is unable to provide full funding of all eligible projects under sections 14 (a) and (b), the Secretary provides total funds for those projects at least equal to funds provided for projects under section 10.

(4)(i) In the case of preapplications under sections 9 and 14 (a) and (b), the Secretary assigns priority within each group in accordance with § 221.51.

(ii) However, if an applicant submitting a preapplication under section 9 does not have in its membership at least 20 unhoused children, the Secretary assigns a priority index of zero (0) to the preapplication.

(5) In the case of requests under section 10, the Secretary computes priority in accordance with § 221.94.

(b) *Second priority:* (1) The second priority is—

(i) Full funding of all eligible applications under sections 5 and 14(c) of the Act; and

(ii) Full funding of all eligible applications under section 8 of the Act if, for that year, the Secretary makes available supplemental assistance under section 8.

(2) If the Secretary is unable to provide full funding of all eligible applications under sections 5 and 14(c) and full funding of all eligible applications under section 8—if the Secretary makes available supplemental assistance under section 8—the Secretary applies the procedures in paragraphs (b)(3) and (b)(4) of this section.

(3) In the case of preapplications under sections 5, 8(1), and 14(c), the Secretary—

(i) Considers all of the preapplications as one group;

(ii)(A) Assigns priority in accordance with § 221.51.

(B) However, if an LEA submitting a preapplication under section 5, 8(1), or 14(c) does not have in its membership at least 20 unhoused children, the Secretary assigns a priority index of zero (0) to the preapplication; and

(iii) After fully funding all indexed applications—including those assigned an index of zero—gives consideration to making payments based on any increases in the number of children residing on property that is part of a

low-rent housing project assisted under the United States Housing Act of 1937.

(4) In the case of applications under section 8(2), the Secretary—

(i) Assigns to each application the same priority index as that assigned to the original preapplication for that project;

(ii) Ranks each application in descending order of priority starting from the highest index, together with the group of preapplications under sections 5, 8(1), and 14(c); and

(iii) Holds until the next quarter of a fiscal year in which funds become available, all eligible applications the Secretary is unable to fund.

(c) The Secretary does not award any funds to applications in the second priority unless the Secretary is able to provide full funding of all eligible applications in the first priority.

(d) The Secretary reserves the right to fund eligible applications under section 16 of the Act (School Construction Assistance in Cases of Certain Disasters) regardless of the priority assigned by the Secretary under this section to any other preapplication.

(Authority: 20 U.S.C. 632, 633, 636(b)(2)(C), 644(e), (h))

§ 221.51 How does the Secretary compute priority indices and rank preapplications?

(a)(1) If the Secretary is unable to provide full funding of all applications in each group of applications under section 5, 8(1), 9, or 14 of the Act, the Secretary—

(i) Computes or assigns a priority index for each preapplication according to the provisions of §§ 221.50 and 221.51;

(ii) Ranks each preapplication in descending order of priority starting from the highest index; and

(iii) Funds applications in accordance with § 221.64.

(2) If the Secretary is unable to provide full funding of all requests under section 10 of the Act, the Secretary computes or assigns a priority index for each request according to the applicable provisions of § 221.50 and the provisions of § 221.94.

(b)(1)(i) In computing or assigning a priority index, the Secretary uses or refers to data included in the preapplication.

(ii) Before actually funding a project the Secretary may refer to the most recently available data and other information to confirm an applicant's priority index and ranking.

(2) The membership figures the Secretary uses in computing the priority index are the estimated figures as of the end of the increase period or, in the case of a preapplication under section 14(a) or (b), as of the end of the school year for which the LEA seeks assistance.

(3)(i) The figures the Secretary uses are those for the LEA as a whole.

(ii) However, if the preapplication is for an isolated attendance area, the Secretary uses the figures for that area only.

(c) The steps the Secretary uses in computing the priority index are as follows:

(1) *Step 1.* (i) The Secretary divides—

(A) The number of children countable for payment; by

(B) The total membership.

(ii) As used in this section and in § 221.52, the term "children countable for payment" includes children residing on property that is part of a low-rent housing project assisted under the United States Housing Act of 1937, even though those children are not eligible for payment unless the Secretary is able to provide full funding of all eligible applications in the second priority (§ 221.50(b)).

(2) *Step 2.* (i) The Secretary divides—

(A) The number of all unhoused children; by

(B) The total membership.

(ii) However, the Secretary limits the result of Step 2 to a number that does not exceed the result of Step 1. (See Example 2)

(3) *Step 3.* The Secretary adds—

(i) The result of Step 1; to

(ii) The result of Step 2.

(4) *Step 4.* The Secretary multiplies the result of Step 3 by 100.

Example 1. An LEA has a total membership of 1,000 pupils. Of that number, 200 are children countable for payment. Within the LEA 125 children are unhoused. This includes those who are federally connected and those who are not federally connected. In following the steps described in paragraph (c) of this section, the Secretary computes the priority index as follows:

Step 1. 200 divided by 1,000 equals 0.2

Step 2. 125 divided by 1,000 equals 0.125.

Step 3. 0.2 plus 0.125 equals 0.325.

Step 4. 0.325 multiplied by 100 equals 32.5.

Thus, the preapplication has a index of 32.5 The Secretary compares that index with the indices of all other preapplications in the same group and ranks the preapplications in descending order beginning with the preapplication with the highest index.

Example 2. An LEA has a total membership of 2,000 pupils. Of that number 400 are children countable for payment. Within the LEA 500 children are unhoused. This includes those who are federally connected and those who are not federally connected. In following the steps described in paragraph (c) of this section, the Secretary computes the priority index as follows:

Step 1. 400 divided by 2,000 equals 0.2.

Step 2. 500 divided by 2,000 equals 0.25. However, in order to ensure that a priority index is not distorted by large numbers of unhoused children who are not federally connected, the Secretary limits the results of Step 2 to a number that does not exceed the result of Step 1. Therefore, the result of Step 2 is limited to 0.2.

Step 3. 0.2 plus 0.2 equals 0.4.

Step 4. 0.4 multiplied by 100 equals 40.0.

Thus, this preapplication has an index of 40.0.

(Authority: 20 U.S.C. 633, 635, 639, 644)

§ 221.52 What procedures does the Secretary follow if two or more preapplications in the same group have identical indices?

Except for requests eligible under section 10 of the Act, if two or more preapplications in a group have indentical indices—including preapplications with an index of zero—the Secretary ranks these preapplications in descending order of sub-priority indices computed according to the following steps:

(a) *Step 1.* the Secretary divides—

(1) The number of children countable for payment; by

(2) The total membership.

(b) *Step 2.* the Secretary multiplies the result of Step 1 by 100.

Example. Two LEAs that have filed preapplications under section 9 of the Act have identical indices of 35.5, computed according to the steps in § 221.51(c). In order to determine which preapplication ranks higher, the Secretary applies the steps in this § 221.52.

One of the LEAs has a total membership of 1,000 pupils. Of that number 200 are children countable for payment. Following the steps described in ths section, the Secretary computes the sub-priority index for this preapplication as follows:

Step 1. 200 divided by 1,000 equals 0.2.

Step 2. 0.2 multiplied by 200 equals 20.0.

Thus, this preapplication has a sub-priority index of 20.0.

The other LEA has a total membership of 1,300 pupils. Of that number, 233 are children countable for payment. Following the steps described in this section, the Secretary computes the sub-priority index for this preapplication as follows:

Step 1. 233 divided by 1,300 equals 0.179.

Step 2. 0.179 multiplied by 100 equals 17.9.

Thus, this preapplication has sub-priority index of 17.9.

The Secretary then compares the two sub-priority indices of 20.0 and 17.9 and gives a higher rank to the preapplication from the LEA with a total membership of 1,000, including 200 children countable for payment; that is, the preapplication with the sub-priority index of 20.0.

(Authority: 20 U.S.C. 633)

§ 221.53 What effect may a delay in the starting date of construction have on an applicant's priority ranking?

(a) If the Secretary approves an application for funding during a particular funding cycle, the applicant

shall begin construction of the project within 120 calendar days of notification of the Secretary's approval.

(b) If the applicant does not begin construction within 120 days, the secretary may—

(1) Extend the time if the applicant shows good cause to the Secretary; or

(2) Drop the application from that funding period and consider it in the next funding period—

(i) At the same priority index; or

(ii) At a priority index computed on the basis of new data.

(Authority: 20 U.S.C. 633, 636(b)(1)(D))

Subpart E—How Much Assistance is Available Under the Act?

§ 221.60 What assistance may the Secretary make available under section 5 of the Act?

(a) If an LEA is eligible for a grant under section 5 of the Act, as described in § 221.10, the Secretary may grant an amount in accordance with the provisions of section 5.

(b) The Secretary does not grant an amount that exceeds the cost of constructing, in the LEA's school district, minimum school facilites for the estimated membership in the district that—despite the full use of facilities available to the LEA—will lack minimum school facilities at the close of the second year following the increase period.

(c) In computing the amount of the grant, the Secretary does not include—

(1) Children whose membership in the LEA's school district the Secretary determines to be the result of a temporary Federal activity and who, therefore, are countable for payment under section 9 of the Act; and

(2) Children who receive or will receive services in facilities provided under section 10 of the Act.

(d) If the Secretary approves a request for a waiver or reduction under § 221.15 because an LEA has within it an isolated attendance area or areas, the Secretary limits the LEA's grant to an amount based on the lesser of—

(1) The increase in federally connected children eligible for payment in the LEA as a whole at the end of the increase period; and

(2) The increase in federally connected children eligible for payment in the isolated attendance area or areas at the end of the same increase period.

(Authority: 20 U.S.C. 634, 635, 639, 640)

§ 221.61 What assistance may the Secretary make available under section 9 of the Act?

(a) If an LEA is eligible for assistance under section 9 of the Act, as described in §§ 221.20 and 221.21, the Secretary may—

(1) Provide temporary facilities needed by the federally connected children who lack minimum school facilities and whose membership in the LEA's school district the Secretary determines is the result of a temporary Federal activity; or

(2) If the LEA assures the Secretary that it will provide at least minimum school facilities for these children, grant to the LEA an amount equal to the amount necessary to make temporary facilities available.

(b) In no case does the Secretary grant an amount that exceeds the cost of constructing, in the LEA's school district, minimum school facilities for these children.

(c) If the Secretary decides to transfer to the LEA facilities to carry out section 9 of the Act or facilities that have been used to carry out section 9, the Secretary establishes the terms and conditions of the transfer.

(Authority: 20 U.S.C. 635, 639)

§ 221.62 What assistance may the Secretary make available under section 14 of the Act?

(a)(1) If an LEA is eligible for a grant under section 14(a) or 14(c) of the Act, as described in §§ 221.24 and 221.32 respectively, the Secretary may grant an amount that does not exceed the cost of constructing minimum school facilities for the estimated number of children that—

(i) Will be in the LEA's membership two years after the end of the school year for which the applicant seeks assistance; and

(ii) Despite the full use of facilities available to the LEA, will lack minimum school facilities unless a grant is made.

(2) The Secretary counts for payment under paragraph (a)(1) of this section the estimated number of all unhoused children who will be in the LEA's membership, not only those children who reside on Federal property, including Indian lands.

(3) The Secretary does not grant an amount that exceeds the difference between—

(i) The cost of constructing minimum school facilities for the number of unhoused children; and

(ii) The amount the LEA has available or will have available for this purpose from other sources, including other Federal funds.

(b) If an LEA is eligible for a grant under section 14(b) of the Act, as described in § 221.28, the Secretary applies the provisions of paragraph (a) of this section, except that the only children the Secretary counts for payment are those who reside on Indian lands.

(c)(1) If an LEA is eligible for a grant under section 14 (a) or (b) of the Act as described in §§ 221.24 and 221.28 respectively, the Secretary may grant the LEA funds sufficient to—

(i) Construct consolidated school facilities in cases of consolidation of small school districts; or

(ii) Replace small, isolated, inadequate buildings.

(2) The Secretary may grant funds for a purpose stated in paragraph (c)(1) of this section even though the LEA may have enough classroom space to house all of the children.

(Authority: 20 U.S.C. 644)

§ 221.63 What assistance may the Secretary make available under section 8 of the Act?

(a)(1) If an LEA is eligible for a grant under section 8(1) of the Act because it is unable to finance the non-Federal share of a project under section 5 of the Act, as described in § 221.36, the Secretary may grant an amount that does not exceed the difference between—

(i) The cost of constructing, in the LEA's school district, minimum school facilities for the estimated membership in the district that—despite the full use of facilities available to the LEA—will lack minimum school facilities at the close of the second year following the increase period; and

(ii)(A) The amount the Secretary has approved as a grant for this purpose under section 5 of the Act; and

(B) The amount the LEA has available or will have available for this purpose from any other sources.

(2) In no case does the Secretary provide under paragraph (a) of this section an additional amount greater than the amount the Secretary has approved as a grant for this project under section 5 of the Act.

(3) In considering a request for assistance under paragraph (a) of this section, the Secretary uses the data included in the preapplication approved for this project under section 5 of the Act.

(b) If an LEA is eligible for a grant under section 8(2) of the Act because it has been prevented from completing a project by a flood, fire, or similar emergency, as described in § 221.38, the Secretary may grant an amount that does not exceed the difference between—

(1) The additional expenses caused by the emergency; and

(2) The amount the LEA has available or will have available for this purpose

from other sources, including insurance payments.

(Authority: 20 U.S.C. 634, 638, 639, 644)

§ 221.64 In what order does the Secretary fund applications?

(a)(1) In the case of a group of applications under sections 5, 8(l), and 14(c) of the Act (see § 221.50(b)), if the Secretary is unable to provide full funding of all applications in the group, the Secretary funds applications in the group in descending order of priority index until the Secretary is unable to provide full funding of the next ranked application in the group.

(2) However, if the next ranked application for which the Secretary is unable to provide full funding is an application under section 14(c) of the Act, the Secretary may provide partial funding of the application.

(b) In the case of a group of applications under section 9 of the Act or a group of applications under section 14 (a) and (b) of this Act (see § 221.50(a)(2)), if the Secretary is unable to provide full funding of all applications in the group, the Secretary partially or fully funds applications in the group in descending order of priority index until the Secretary is unable to provide what the Secretary regards as adequate funding of the next ranked application in the group.

(c) In the case of a group of requests under section 10 of the Act, the Secretary applies the procedures under § 221.94.

(d) If the Secretary partially funds an application in a given year, the Secretary, to the extent possible the next time funds are available, completes the funding of that application before funding any new applications within the same group.

(Authority: 20 U.S.C. 632, 633, 636(b)(2)(c), 644 (e), (h))

§ 221.65 When may the Secretary make payments under the Act?

Except for projects under section 10 of the Act, after the Secretary has approved a grant award under the Act, the Secretary—

(a) Makes an intial payment of 10 percent of the approved estimated Federal share of the cost of the project; and

(b) May pay the remainder of the award in portions at various stages of the project.

(Authority: 20 U.S.C. 637(a))

Subpart F—What Conditions Must Be Met by a Grantee?

§ 221.70 What activities by a grantee require prior approval by the Secretary?

(a) A grantee may issue invitations for bids or enter into contracts for construction of its project only after the Secretary has—

(1)(i) Approved all plans and pertinent specifications; and

(ii) Determined that these plans and specifications are educationally adequate for the purpose for which they are intended; and

(2) Approved all documents related to the bids or contracts.

(b) A grantee may issue invitations for bids or requests for proposals relating to equipment for the project only after the Secretary has approved a list of the equipment to be procured and a budget for this equipment.

(Authority: 20 U.S.C. 636, 637, 642, 645(9))

§ 221.71 What provisions of the Indian Self-Determination and Education Assistance Act apply to the School Construction Program?

(a) Assistance under sections 14(a) and 14(b) of the Act is subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. 93–638). That section requires that, to the greatest extent feasible, the recipient of any grant or contract awarded for the benefit of Indians—

(1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant or contract; and

(2) Give to Indian organizations and to Indian-owned economic enterprises—as defined in section 3 of the Indian Financing Act of 1974 (Pub. L. 93–262)—preference in the award of contracts and subcontracts at any level of the administration of the construction project.

(Authority: 25 U.S.C. 450e(b), 1452(e))

(b) For purposes of this section, an "Indian" is a member of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act of 1971 (Pub. L. 92–203), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(Authority: 25 U.S.C. 450 (a), (b))

Subpart G—What Requirements Govern Administrative Hearings Under the School Construction Program?

§ 221.80 Under what circumstances may an LEA request an administrative hearing?

(a) An LEA may request an administrative hearing if—

(1) The Secretary notifies the LEA of the Secretary's intent to disapprove the LEA's preapplication or application in whole or in part; or

(2) After a grant has been made, the Secretary notifies the LEA of the Secretary's intent to withhold payments under the provisions of—

(i) Section 11(a) of the Act; or

(ii) Section 453 of the General Education Provisions Act (GEPA).

(b) In the case of an intent to withhold payments under section 11(a) of the Act, the Secretary may set a stated place and time for a hearing even if the LEA has not requested a hearing. (See 34 CFR 218.2(c).)

(Authority: 20 U.S.C. 636(c), 641(a), 1234b)

§ 221.81 How does an LEA request a hearing?

(a) Notwithstanding the possibility of a shorter time period stated in 34 CFR 218.2(c), within 60 days of receiving notification of the Secretary's intent to disapprove its preapplication or application or to withhold payments under section 11(a) of the Act, an LEA may submit to the Secretary a written request for a hearing.

(1) In its request the LEA shall clearly state the issues of fact and of law to be considered at the hearing.

(2) The LEA shall send a copy of its request to its SEA when the LEA submits its request to the Secretary.

(Authority: 20 U.S.C. 636(c) 641(b), 1234 (a), (e), 1234b(b))

(b) If the LEA is appealing a decision of the Secretary to withhold payments under section 453 of the GEPA, then the LEA must follow the procedures stated in 34 CFR 78.22 for filing an application for a hearing with the Department's Education Appeal Board.

§ 221.82 How does the Secretary treat a request for a hearing?

(a) After receiving an LEA's written request for a hearing, the Secretary follows the procedures in paragraph (b) or (c) of this section.

(b)(1) If the hearing concerns disapproval of the LEA's preapplication or application or a withholding of payments under section 11(a) of the Act, then the Secretary appoints a hearing officer and assigns the hearing to this hearing officer.

(2)(i) In this case, the provisions of 34 CFR Part 218 (Hearings in Connection with School Construction and Financial Assistance in Federally Impacted Areas) govern this hearing.

(ii) As used in 34 CFR Part 218, the term "application" includes a preapplication.

(3) If the hearing concerns a withholding of payments under section 453 of the CEPA, then the Education Appeal Board's procedures for a withholding hearing (34 CFR Part 78) govern this hearing.

(Authority: 20 U.S.C. 636(c), 641, 1234, 1234 (a), (e), 1234b(b))

Subpart H—What Special Provisions Govern Assistance Under Section 10 of the Act?

§ 221.90 Under what circumstances does the Secretary make arrangements for the provision of minimum school facilities under section 10 of the Act?

(a) The Secretary makes arrangements for constructing, leasing, renovating, remodeling, rehabilitating, or otherwise providing minimum school facilities for the types of children described in § 221.92 under any of the following circumstances:

(1) The State or any political subdivision of the State is prohibited by law from spending its tax revenues to provide for the free public education of these children.

(2) The Secretary determines, after consultation with the appropriate SEA, that no LEA is able to provide for the suitable free public education of these children as the term "suitable" is defined in § 221.91.

(3) The special circumstances described in § 221.92(b) (1) and (2).

(b) For purposes of this subpart, the terms "constructing, leasing, renovating, remodeling, rehabilitating, or otherwise providing" include repair, removal of architectural barriers, prevention of deterioration, upkeep, maintenance, upgrading for purposes of curriculum or to meet the standards of minimum school facilities, and, under circumstances described in § 221.93(a)(2), improvements to a site.

(c) To the maximum extent practicable, the facilities for which the Secretary makes arrangements under section 10 of the Act in any State are comparable to minimum school facilities provided for children in comparable communities in that State.

Authority: (20 U.S.C. 640)

§ 221.91 What criteria does the Secretary use in determining whether a free public education is "suitable"?

The Secretary considers a free public education to be "suitable" if—

(a) The primary language of instruction is English;

(b) The distance between a pupil's home and the school facility the pupil attends or would attend is within the maximum commuting distance established by the State; and

(c)(1) The programs of instruction offered or that can be offered meet standards for State accreditation or approval.

(2) If the State does not have standards for accreditation or approval, the Secretary applies standards established by an appropriate accreditation association.

(Authority: 20 U.S.C. 640)

§ 221.92 For what types of children does the Secretary make arrangements for the provision of facilities under section 10?

(a) The Secretary makes arrangements for the provision of facilities under section 10 of the Act for the number of children—

(1) Who, the Secretary estimates in any fiscal year, will reside on Federal property at the end of the next fiscal year; and

(2) For whom minimum school facilities are unavailable because of the circumstances described in § 221.90(a) (1) or (2).

(b) The Secretary may make arrangements for the provision of facilities under section 10 of the Act for the following:

(1) Children who do not reside on Federal property, if—

(i) The children reside with a parent employed by the United States;

(ii) The minimum school facilities the Secretary provides are situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands; and

(iii) The Secretary, after consultation with the appropriate SEA, determines that—

(A) The construction or provision of the facilities is appropriate to carry out the purposes of the Act;

(B) No LEA is able to provide minimum school facilities for the suitable free public education of these children; and

(C) English is not the primary language of instruction in schools in the locality;

(2) Children of members of the Armed Forces—Army, Navy, Air Force, Marine Corps, Coast Guard—on active duty, if—

(i) The schools in which free public education is usually provided for these children are made unavailable to the children because of official action by State or local government authority; and

(ii) The Secretary, after consultation with the appropriate SEA, determines that no LEA is able to provide a suitable free public education for these children.

(c) *Ineligible children.* The Secretary does not make arrangements for the provision of facilities under section 10 for the following:

(1) Children who reside on Federal property formerly under the control of the Atomic Energy Commission and now under the control of the Department of Energy.

(2) Indian children attending federally operated Indian schools.

(Authority: 20 U.S.C. 640)

§ 221.93 For what types of projects may the Secretary provide assistance under section 10?

(a) The types of projects for which the Secretary may provide assistance under section 10 of the Act during any given year include, but are not restricted to, one or more of the following:

(1)(i) Emergency repairs to existing facilities for which the Secretary is responsible under section 10 of the Act.

(ii) As used in paragraph (a)(1)(i) of this section, the term "emergency repairs" means those repairs necessary—

(A) For the safety of persons using the facilities;

(B) For the removal of architectural barriers to the handicapped; or

(C) For the prevention of further deterioration of the facilities.

(2)(i) Non-emergency upkeep and maintenance of existing facilities for which the Secretary is responsible under section 10 of the Act.

(ii) As used in paragraph (a)(2)(i) of this section, upkeep and maintenance may include site improvements.

(3) Upgrading of existing facilities for which the Secretary is responsible under section 10 of the Act, if the purpose of the upgrading is to—

(i) Improve curriculum; or

(ii) Improve facilities to meet the standards of minimum school facilities.

(4) Provision of temporary facilities on Federal property pending—

(i) Emergency repairs; or

(ii) Construction of new minimum school facilities needed as a result of flood, fire, or other emergency.

(5) Construction of new minimum school facilities.

(b)(1) In the case of assistance for any type of project described in paragraphs

(a)(1), (2), (3), and (4) of this section, the Secretary—

(i) Determines the extent to which assistance is needed and the urgency with which the assistance is needed; and

(ii) If necessary, notifies any other agency that might be affected by the determination.

(2) The Secretary makes these determinations, also, in the case of assistance for a project described in paragraph (a)(5) of this section if the need for the project results from a flood, fire, or other emergency.

(c) Except in cases of projects needed as a result of a flood, fire, or other emergency, if the Secretary in any given year decides to fund requests for assistance for the construction of new minimum school facilities, the Secretary announces the closing dates for the submissions of requests in a notice published in the **Federal Register**.

(Authority: 20 U.S.C. 640)

§ 221.94 How does the Secretary compute priority indices and rank non-emergency requests for new facilities under section 10?

(a) The provisions of this section apply if, in any given year, the Secretary—

(1) Decides to fund requests for assistance under section 10 of the Act for the construction of new minimum school facilities, except for facilities needed as a result of a flood, fire, or other emergency; and

(2) Is unable to provide full funding of all requests.

(b) The Secretary—

(1) Computes or assigns a priority index for each request for construction according to—

(i) The applicable provisions of § 221.50; and

(ii) The provisions of this § 221.94; and

(2) Ranks each request in descending order of priority starting from the highest index.

(c) The numbers of children the Secretary uses in computing the priority index are the estimated numbers as of the end of the next fiscal year.

(d) The steps the Secretary uses in computing the priority index are as follows:

(1) *Step 1.* The Secretary divides—

(i) The number of children to be housed in the school facilities described in the request; by

(ii) The total number of children who both reside on and attend school on the Federal property.

(2) *Step 2.* (i) The Secretary divides—

(A) The number of unhoused children; by

(B) The total number of children who both reside on and attend school on the Federal property.

(ii) The Secretary limits the result of Step 2 to a number that does not exceed the result of Step 1. The Secretary does this to ensure that a priority index is not distorted by large numbers of unhoused children who would not be accommodated by the facilities described in the request.

(3) *Step 3.* The Secretary adds—

(i) The result of Step 1; to

(ii) The result of Step 2.

(4) *Step 4.* The Secretary multiplies the result of Step 3 by 100.

(e) If two or more requests have identical indices, the Secretary ranks these requests in decending order of subpriority indices computed according to the following steps:

(1) *Step 1.* The Secretary divides—

(i) The number of children to be housed in the school facilities described in the request; by

(ii) The total number of children who both reside on and attend school on the Federal property.

(2) *Step 2.* The Secretary multiplies the result of Step 1 by 100.

(Authority: 20 U.S.C. 640)

§ 221.95 What terms and conditions apply to minimum school facilities operated under section 10 by another agency?

If the Secretary makes arrangements for the provision of minimum school facilities under section 10 of the Act, the Secretary—

(a) Arranges for the operation of the facilities by an agency other than the Department;

(b) Establishes terms and conditions for the operation of the facilities; and

(c) May require the operating agency to submit assurances and enter into other arrangements that the Secretary specifies.

(Authority: 20 U.S.C. 640)

§ 221.96 What terms and conditions apply to the transfer of minimum school facilities by the Secretary to an LEA?

If the Secretary decides to transfer to an LEA facilities that has been used to carry out the purposes of section 10 of the Act and for which the Secretary is responsible, the Secretary establishes the terms and conditions for the transfer.

(Authority: 20 U.S.C. 640)

[FR Doc. 87-9791 Filed 5-4-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 221

Assistance for School Construction in Areas Affected by Federal Activities

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the school construction program. These amendments are needed to implement changes made by section 301(b) of Pub. L. 98–511. The proposed regulations would establish criteria for waiver or reduction of certain statutory eligibility requirements for four categories of federally connected children.

DATES: Comments must be received on or before June 4, 1987.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Dr. David G. Phillips, Division of Impact Aid, U.S. Department of Education, Room 2117, 400 Maryland Avenue, SW., Washington, DC 20202–6272.

FOR FURTHER INFORMATION CONTACT: Dr. David G. Phillips, Telephone: (202) 732–4052.

SUPPLEMENTARY INFORMATION:

Creation of Eligibility for Certain Categories of Federally-Connected Children

This notice of proposed rulemaking (NPRM) is published contemporaneously with new final regulations governing the school construction program. Those final regulations were preceded by NPRMs published in the **Federal Register** on June 29, 1979, and on October 15, 1984.

When the October 15, 1984, NPRM was published, only two categories of federally connected children were eligible to receive funding under the program. However, on October 18, 1984, the Congress enacted section 301(b) of Pub. L. 98–511, which reestablished eligibility for four additional categories of children. This NPRM proposes criteria for the waiver or reduction of certain statutory eligibility requirements for these categories of children. The proposed criteria are substantially the same as the criteria contained in the new final regulations for other categories of children.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The only small entities that would be affected by these regulations are small LEAs receiving Federal financial assistance under this program. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 2117, Federal Office Building No. 6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m, Monday through Friday of each week except Federal holidays.

List of Subjects in 34 CFR Part 221

Education, Education of the handicapped, and Elementary and secondary education, Federally affected areas, Grant programs—education, Reporting and recordkeeping requirements, School construction.

(Catalog of Federal Domestic Assistance Number 84–040, School Assistance in Federally Affected Areas—Construction)

Dated: April 27, 1987.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Part 221 of Title 34 of the Code of Federal Regulations to read as follows:

1. The authority statement continues to read as follows:

Authority: 20 U.S.C. 631–647, unless otherwise noted.

2. Section 221.15 is amended by revising the introductory text of paragraph (b) and republishing for comment paragraph (b)(3) which appears in a final rule elsewhere in this issue:

§ 221.15 Under what circumstances may an LEA request a waiver or reduction of the minimum increase in the number or percentage of federally connected children?

* * * * *

(b) The Secretary considers the request for a waiver or reduction if the LEA meets the following conditions:

* * * * *

(3)(i) In the case of a request for a waiver or reduction of the minimum percentage requirement of 6 percent in § 221.13(a)(1), or of 10 percent in § 221.13(b)(1), the estimated increase in federally connected membership in the isolated attendance area at the end of the increase period is at least 10 percent of the total average daily membership in the isolated attendance area during the base year.

(ii) In the case of a request for a waiver or reduction of the minimum number requirement of 20 children in §§ 221.13(a)(1) or 221.13(b)(1), the estimated increase in the number of the LEA's federally connected children at the end of the increase period is at least 25 percent of the LEA's total average daily membership in the base year.

[FR Doc. 87–9790 Filed 5–4–87; 8:45 am]

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federal register

Tuesday
May 5, 1987

Part V

Department of Education

Office of Special Education and Rehabilitative Services

Inviting Applications for New Awards Under the Research in Education of the Handicapped Program for Fiscal Year 1987 and Research in Education of the Handicapped; Proposed Annual Funding Priority; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Research in Education of the Handicapped; Proposed Annual Funding Priority

AGENCY: Department of Education.

ACTION: Notice of Proposed Annual Funding Priority.

SUMMARY: The Secretary proposes an annual funding priority for the Research in Education of the Handicapped program. This priority would support an early childhood research institute on policy.

DATE: Comments must be received on or before June 4, 1987.

ADDRESS: Comments should be addressed to: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Linda Glidewell. Telephone: (202) 732–1099.

SUPPLEMENTARY INFORMATION: The Research in Education of the Handicapped program, authorized by sections 641–644 of Part E of the Education of the Handicapped Act (20 U.S.C. 1441–1444), supports research, surveys, and demonstration projects relating to the educational needs of children and youth with handicaps; and, as amended by the 1986 Amendments, authorizes funding for research related to early intervention services for infants and toddlers with handicaps. Under this program, the Secretary makes awards to eligible parties for research and related activities to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for infants, toddlers, children, and youth; and to conduct research, surveys, or demonstrations relating to the education of infants, toddlers, children, and youth with handicaps. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and services for infants, toddlers, children, and youth with handicaps, including physical education or recreation.

Proposed Priority

In accordance with the Education Department General Administrative Regulations at 34 CFR 75.105(c)(3), and subject to available funds, the Secretary proposes to give an absolute preference to each application submitted in response to the following priority. Each application must provide satisfactory assurance that the recipient will use funds made available to conduct the following activity:

Early Childhood Research Institute—Policy

This proposed priority would establish an Early Childhood Research Institute to conduct a program of research related to policy development and implementation for providing early intervention and services for infants and toddlers with handicaps and their families. The research program must consist of two major areas of inquiry.

First, the institute must conduct descriptive studies that would identify, document, and analyze existing policies and policy development activities related to establishing comprehensive services for infants and toddlers with handicaps and their families. These studies must be conducted on an annual basis and must provide a State-by-State description of the status of States' efforts to implement comprehensive services. In conducting the studies, the institute must analyze data made available by the States and the Federal Government. The institute's research must include, but need not be limited to, studies that provide information about funding patterns for services, the numbers and kinds of infants and toddlers and their families receiving services, the numbers and kinds of services and service delivery agencies involved, the numbers and kinds of personnel involved in service delivery, and the status of personnel preparation, certification, and employment within each State.

Second, the institute must conduct explanatory research that includes, but is not limited to, studies that determine: (1) The positive and negative consequences of different State policies and funding patterns in providing comprehensive services; (2) State factors that account for variations in service availability; (3) State and local policies and practices that serve as incentives and disincentives for establishing comprehensive services; (4) policy development procedures and models that will assist State and local entities to develop comprehensive services; and (5) alternative statutory and/or regulatory changes that might be made at State levels to facilitate the development of comprehensive services.

In carrying out its research activities, the institute must provide research training and experience for at least 10 graduate students annually.

Period of Award

The Secretary will approve two cooperative agreements with a project period of 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the institute for the last two years of the project period, in addition to considering the factors in 34 CFR 75.253(a), the Secretary will also consider the recommendation of a review team consisting of three external experts selected by the Secretary and designated Federal program officials. The services of the review team are to be performed during the last half of the institute's second year, and will replace that year's annual evaluation which the recipient is required to perform under 34 CFR 75.590. During all other years of the project, the recipient must comply with 34 CFR 75.590. Costs associated with the services to be performed by the three external members of the review team are to be incorporated into the applicant's proposed budget. In developing its recommendation, the review team will consider, among other factors, the following:

(1) The timeliness and the effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the recipient of the cooperative agreement and its subgrantees; and

(2) The degree to which the institute's research design and methodological procedures demonstrate the potential for producing significant new knowledge and products.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority. All comments submitted in response to this priority will be available for public inspection, during and after the comment period, in Room 3522, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1441–1444)

(Catalog of Federal Domestic Assistance Number 84.024; Handicapped Children's Early Education Program)

Dated: April 3, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87–10130 Filed 5–4–87; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No. 84.023X]

Inviting Applications for New Awards Under the Research in Education of the Handicapped Program for Fiscal Year 1987

Purpose: To establish one early childhood research institute.

Deadline for Transmittal of Applications: June 30, 1987.

Deadline for Intergovernmental Review Comments: August 31, 1987.

Applications Available: May 13, 1987

Available Funds: $1.2 million for 24 mo.

Estimated Range of Awards: $550,000–$650,000 per year.

Estimated number of awards: 1 cooperative agreement.

Project Period: up to 60 months.

Applicable Regulations: (a) the Research in Education of the Handicapped Program Regulations, 34 CFR Part 324, (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79, and (c) when adopted in final form, the Annual Funding Priority for this program. A notice of proposed annual funding priority is published in this issue of the **Federal Register.** Applicants should prepare their applications based on the proposed priority. If there are any substantive changes made when the final annual funding priority is published, applicants will be given the opportunity to amend or resubmit their applications.

For Applications or Information Contact: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Telephone: (202) 732–1099.

Program Authority: 20 U.S.C. 1441–1444.

Dated: April 30, 1987.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 87–10131 Filed 5–4–87; 8:45 am]

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federal register

Tuesday
May 5, 1987

Part VI

Department of Labor

Employment and Training Administration

24 CFR Parts 654 and 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States; Proposed Rule

Wage and Hour Division, Employment Standards Administration

29 CFR Part 501

Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 654 and 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment and Training Administration (ETA) of the U.S. Department of Labor (DOL) is proposing to amend its regulations for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. These proposed amendments will conform the regulations to the requirements of the Immigration and Nationality Act (INA) as amended by the Immigration Reform and Control Act of 1986 (IRCA). The proposed amendments incorporate the provisions specified by the statute into the present regulatory framework, and make other procedural and technical changes deemed necessary to efficiently carry out the Secretary of Labor's responsibilities under the INA.

DATES: Written comments on the proposed rule must be received on or before May 19, 1987.

ADDRESS: Send written comments to: Assistant Secretary of Labor, Employment and Training Administration, Room N4456, 200 Constitution Avenue, NW., Washington, DC 20210; Attention: Director, U.S. Employment Service.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas M. Bruening, Telephone (202) 535–0163.

SUPPLEMENTARY INFORMATION:

I. Background

Whether to grant or deny an employer's petition to import a nonimmigrant alien to the United States for the purpose of temporary employment is solely the decision of the Attorney General and his designee, the Commissioner of the Immigration and Naturalization Service (INS). The Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*), as amended by the Immigration Reform and Control Act of 1986 (IRCA) (Pub. L. 99–603), provides that the Attorney General may not approve such a petition from an employer for employment of nonimmigrant H–2A alien workers, in agriculture unless the petitioner has applied to the Secretary of Labor (Secretary) for a labor certification showing that: (1) There are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

The amendments to the INA made by IRCA codify DOL's role in the temporary alien agricultural labor certification process. Prior to 1987, many of the responsibilities of the Department of Labor (DOL) specified in IRCA were carried out under the requirement in the INA at 8 U.S.C. 1184(c) that the Attorney General consult with appropriate agencies of the Government concerning the importation of nonimmigrant workers, and under INS regulations governing the reliance placed by INS on the advice of DOL relative to U.S. worker availability and adverse effect. See 8 CFR 214.2(h)(3)(i) (1986). Pursuant to INS regulations, DOL promulgated regulations at 20 CFR Part 655, Subpart C, for the certification of temporary employment of nonimmigrant aliens in agriculture and logging in the United States. The proposed amendments in this document contain changes to the labor certification process as mandated by IRCA and revise certain current procedures deemed necessary by DOL to carry out its statutory responsibilites. DOL's regulations governing the H–2A program will apply to all employer applications submitted on or after June 1, 1987. Applications for temporary alien agricultural labor certification submitted before June 1, 1987, will be governed by the current H–2 regulations in 20 CFR Part 655, Subpart C (1986). (The INS, through its regulations at 8 CFR Part 214, will continue to be responsible for the final approval of petitions for the admission of nonimmigrant aliens, including H–2A workers.)

II. Contents Of Proposed Regulations

Following is a section-by-section summary of the primary components of the proposed regulations. Major changes to current procedures which are required by IRCA or have resulted from those mandated by IRCA are identified, as are those determined by DOL to be necessary for carrying out the Secretary's responsibilities under the INA. These regulations will be arranged as follows: Sections 655.0–655.000 will describe broadly the concepts behind the temporary worker programs; Subpart A will continue to provide regulations for occupations other than agriculture and logging; Subpart B will cover H–2A agricultural work; and Subpart C will continue to cover non-H–2A temporary agricultural work and logging.

A. Sections 655.0–655.000 and 655.91–655.93: Statutory and Regulatory Background

These sections describe the statutory and regulatory standards behind the H–2 and the H–2A regulations; the construction given by DOL to the factors impacting upon the Secretary's responsibilites and determinations; and the delegation of authority for program operation to certain officials. A provision in the H–2A program allows DOL to have some flexibility in permitting exceptions to general procedures in the certification process to recognize unique circumstances and characteristics for some agricultural employer/worker situations. DOL has determined this is needed based on past experiences with such occupations as sheepherding and custom combine occupations and available information which indicates that flexibility will be needed to efficiently handle the applications of employers who may be seeking H–2A certification as the result of IRCA.

B. Section 655.100: General Description of Subpart and Definitions of Terms

In this section, a general description of Subpart B is provided along with definitions for terms used in the subpart. For example, the definition of "United States workers" includes special agricultural workers (SAWs) as provided for under sections 210 and 210A of the INA, as amended by IRCA. 8 U.S.C. 1161 and 1162; see H.R. Conf. Rep No. 99–1000, 99th Cong., 2d Sess. 97 (1986).

The definitions also include a new definition for "agricultural labor or services of a temporary or seasonal nature," consistent with the INA. As mandated by the INA, "agricultural labor or services" consists of "agricultural labor" as defined in section 3121(g) of the Internal Revenue Code of 1954 (29 U.S.C. 3121(g)); and "agriculture" as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)).

The phrase "of a temporary or seasonal nature" is defined consistently with the phrase "on a seasonal or other temporary basis", as defined by DOL in the regulations implementing the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). See 29 CFR 500.20. Given the interconnection between the various programs administered by DOL in the area of agricultural labor and services, and the

fact that many agricultural employers and workers will have to deal with both the MSPA and H–2A programs in securing a labor force during an agricultural season, it is appropriate to have a single definition, consistent with a coordinated approach toward compliance and enforcement. This will not be a problem for much of agriculture, which uses workers on a seasonal basis.

These regulations reflect the present administrative interpretation of the word "temporary" under the H–2 provision and are consistent with the common meaning of the word "temporary." One would expect that the same word would have the same meaning within a single sentence—*i.e.*, that "temporary" would have the same meaning in both sections 101(a)(15)(H)(ii) (a) and (b) of the INA. 8 U.S.C. 1101(a)(15)(H)(ii)(a) and (b). There is nothing in either the language of the statute or the legislative history that would lead DOL to question this otherwise self-evident proposition. Therefore, the definition of temporary for H–2A workers is the same as that for H–2 workers: Less than 12 months. It may be that there are unusual circumstances where a "temporary" job might last 12 months or longer. Nevertheless, a blanket assumption that all jobs are "temporary" simply because the alien will not be permitted to occupy a job—any job—for more than three years, for example, appears to DOL to be an interpretation not supported by the statute.

A policy to have a blanket three-year provision, for example, would threaten the integrity of the INA which already has a provision for *immigrant* visas for *permanent* positions. 8 U.S.C. 1153(a)(6). Because the number of these so-called "sixth preference" visas is strictly limited (10 percent of each year's total visa quota), employers would be strongly tempted to call a permanent position temporary in order to fill it with an H–2A worker. As one court has said,

> The INS's present interpretation of [H–2] prevents the likelihood of so-called "temporary" workers from entering this country permanently under the less rigorous standard of [H–2], rather than applying properly as immigrants under the more stringent [sixth] preference classification[.]

Volt Technical Services Corporation v. *Immigration and Naturalization Service*, 648 F. Supp 578, 581 (S.D.N.Y. 1986).

In some situations the employer's need may create a temporary job opportunity in an employment situation which may otherwise have been permanent in nature. Where the employer can show clearly that the need for the H–2A worker's services or labor is of a short, identified length, *limited* by an identified event located in time, the job opportunity is temporary. *Volt Technical Services Corp.* v. *Immigration and Naturalization Service*, 648 F. Supp. at 580. For example, a temporary job opportunity could be created because the incumbent has fallen ill or is otherwise unavailable for a short, identified period of less than one year, or an extra hand is needed during a busy period.

In view of all these factors, in order to determine whether a particular job opportunity is "temporary" within the meaning of section 101(a)(15)(H)(ii)(a) of the INA, DOL must focus upon the employer's need. If an employer makes a *bona fide* application showing that it needs to fill a job opportunity on a temporary basis, the work is "of a temporary or seasonal nature." It is irrelevant whether the job is for three weeks to harvest berries or for six months to replace a sick worker or for a year to help handle an unusually large agricultural contract. What is relevant to the temporary alien agricultural labor certification determination is the employer's assessment—*evaluated, as required by statute, by DOL*—of its need for a short-term (as opposed to permanent) employee. The issue to be decided is whether the employer has demonstrated a *temporary need for a worker* in some area of agriculture. The nature of the job itself is irrelevant. What is relevant is whether the employer's need is truly temporary.

This interpretation is supported in part by administrative and judicial interpretations of the H–2 provision. As was stated in the leading case of *In re Artee*, 18 I. & N. Dec. 355 (1982),

> It is not the nature of the duties of the position which must be examined to determine the temporary need. It is the nature of the need for the duties to be performed which determines the temporariness of the position.

Id. at 367. In *Artee*, the INS reversed a long-standing rule that the functional nature of the duties of the job controlled its characterization in favor of determining that eligibility for an H–2 visa was controlled by "the intent of the petitioner and the beneficiary concerning the time that the individual would be employed." *Id.* See also *In re Ord*, 18 I. & N. Dec. 285 (1982).

This position has been affirmed by the courts. Thus, in *Wilson* v. *Smith*, 587 F. Supp. (D.D.C. 1984), the court held that a "housekeeper/child caretaker" was a "temporary" worker because the parents only needed child care until the child was old enough for day care.

> Plaintiffs have made a plausible case for their assertion that their need for live-in help is temporary, based on their daughter's youth .... The Wilsons have credibly established that their need will end in the "near, definable future."

Id. at 473 (quoting *Artee*). The court did not focus on whether those engaged in child care occupy a permanent job function, although they arguably do so since child care could be said to last at least until children enter high school. What the court based its ruling on was its determination that the parents only needed the "housekeeper/child caretaker" until their child entered day care.

Similarly, in *Volt Technical Services Corporation* v. *Immigration and Naturalization Service, supra*, the court adopted the *Artee* standard: a temporary job is one where "it is clearly shown that the petitioner's need for the beneficiary's services or labor is of a short, identified length, limited by an identified event located in time." 648 F. Supp. at 580. In doing so, the court recognized that aliens could be hired as engineers—a permanent job description—if they were hired by a temporary help service "to fill a specific contract with a client and the beneficiaries entered the United States with the understanding that their employment was to be of a temporary period." *Id.* at 581.

Finally, in *North American Industries, Inc.* v. *Feldman*, 722 F. 2d 893 (1st Cir. 1983), the court discussed at some length the position of a man who programmed and operated computerized lathes and high-speed gear cutters. The underlying job was permanent. Indeed, the issue in the case was whether the alien, having held the position as an H–2 worker on a temporary basis, could apply to hold it on a permanent basis using a "sixth preference" visa. See 8 U.S.C. 1153(a)(6); and *Volt Technical Services Corporation* v. *Immigration and Naturalization Service*, 648 F. Supp 578, 581 (S.D.N.Y. 1986). As in the other cases cited above, the First Circuit noted that "the INS has conceded that the needs of an employer should determine whether a position offered an alien is temporary or permanent." *Id.* at 900 (citing *Artee*); see also *Hess* v. *Esperdy*, 234 F. Supp. 909 (S.D.N.Y. 1964); 9 *Foreign Affairs Manual* section 41.55, note 17.

DOL understands that focusing on the employer's need may encourage numerous applications by employers to DOL and that it is often very difficult to distinguish between temporary and permanent jobs. Nevertheless, DOL believes a one-year limitation reflects Congress' intent and will be

administratively feasible. Based on all the factors, DOL believes that the word "temporary" in 8 U.S.C. 1101(a)(15)(H)(ii)(a) refers to any job opportunity covered by the H–2A regulations where the employer needs a worker for a limited period of time.

One should note, however, that the longer the employer needs a "temporary" worker, the more likely it would seem that the job has in fact become a permanent one. Thus, DOL will take a careful look at repeated temporary alien agricultural labor certification applications for the same job, and will approve applications where the job opportunity would be filled by an H–2A worker for a cumulative period, including past and future certifications (and extensions), of 12 months or more only in extraordinary circumstances.

C. Section 655.101: Applications

1. General

This section prescribes the general parameters within which an employer seeking H–2A workers must file an application with the appropriate Regional Administrator (RA) of the Employment and Training Administration; the roles of agents and associations in the process; certain minimum general requirements regarding job offers; the general time frame within which the certification process is conducted; amendments and modifications to applications; and provisions governing emergency situations and "first-time" potential H–2A employers.

2. Major Changes

a. *Dates.* IRCA provides that applications may not be required to be filed more than 60 days prior to the employer's date of need for workers. These regulations, therefore, provide that the applications be filed with the RA a minimum of 60 calendar days before the first date of need. This permits time for review of the application, time for an employer to submit an amended application (if necessary), and adequate time for the recruitment of U.S. workers, with a certification determination no later than 20 calendar days before the employer's date of need for workers. See 8 U.S.C. 1186 (c)(1) and (3)(A). Employers are encouraged to file their applications early, nevertheless, since delay in submitting an acceptable application can result in a delay in recruiting and a delay in issuance of the temporary alien agricultural labor certification.

DOL has determined that the application shall be filed directly with the RA to permit the RA to review the application within the seven calendar days provided by IRCA and to allow adequate time to recruit U.S. workers. Under IRCA, DOL must make the certification determination no later than 20 calendar days before the date of need, provided that the employer has complied with DOL certification criteria, including recruitment of U.S. workers.

b. *Minor amendments.* Minor, technical amendments to certification applications may be requested and made before the certification determination. Current procedures allow for this, but existing regulations do not cover it.

c. *Local office recruitment.* Duplicate applications are to be submitted to the local State employment service (ES) office at the time they are filed with the RA. DOL has determined that the local office must begin recruitment of local workers before the RA accepts for consideration the application in order to maximize local recruitment and permit intrastate and interstate clearance orders to be prepared and ready for interstate submittal when the RA approves an employer's application as acceptable for consideration.

d. *Fees.* A fee is being proposed as a requirement for certification by each employer (sole or joint) of H–2A workers. For each certification, an employer would pay a fee of $100 plus $10 per H–2A job opportunity certified, with a maximum total fee of $1,000 for each employer's certification.

In the case of an application filed by a joint employer association, a separate fee for each employer-member will be required, as well as a fee for the association. Thus, the joint employer association would pay $100 for the certification, and each employer-member would pay $100 plus $10 per H–2A worker certified to that employer up to a $1,000 maximum for each employer-member.

Applications for temporary alien agricultural labor certification must contain an assurance that the fee will be paid within the prescribed time period after the issuance of the temporary alien agricultural labor certification. A bill for the fee will be included with the temporary alien agricultural labor certification determination. Failure to pay the fee in a timely manner is a substantial violation for which certification may be withheld in future years.

DOL is authorized by IRCA to require a fee to recover reasonable costs of processing applications for certification. 8 U.S.C. 1186(a)(2). In establishing the proposed fee, DOL conducted studies of estimated time and costs involved in ETA Regional Office processing of H–2 agricultural applications under the INA prior to amendment by IRCA.

For the purposes of this study, processing included regional office review of applications for compliance with legal and regulatory requirements, preparation of notices to applicants giving the results of the review, and activities related to arriving at and rendering a certification determination near the employer's date of need. This study did not include, however, the costs of processing by the State employment service agencies, post-certification activities and post-denial activities at all levels, ETA national office activities, DOL Office of the Solicitor activities, and DOL Office of Administrative Law Judges activities. DOL believes that the proposed fee structure is fair and reasonable.

Since the fee is a new addition to the temporary alien agricultural labor certification program, DOL is inviting specific comments on the level of the fee and on the fee-charging mechanisms, and is inviting recommendations for reasonable alternatives.

D. Section 655.102: Contents of Job Offers

1. General

This section presents DOL's policy of requiring equivalent benefits for U.S. and alien workers, and lists the minimum benefits, wages and working conditions which must be offered when an H–2A certification is requested.

2. Major Changes

a. *Housing.* Employers are given the option to secure rental or public accommodation housing, or other substantially similar class of habitation, for their workers. Such housing must meet appropriate health and safety standards. See 8 U.S.C. 1186(c)(4).

b. *Range housing.* Different housing standards shall apply to all workers engaged in the range production of livestock. See 8 U.S.C. 1186(c)(4).

c. *Workers' compensation.* The employer must provide the RA with specific information on State workers' compensation or comparable insurance coverage. See 8 U.S.C. 1186 (b)(3).

d. *Qualifications.* Bona fide occupational qualifications specified by an employer will be reviewed in the context of their normal use by non-H–2A employers in the same or comparable occupations and crops. See 8 U.S.C. 1186(c)(3)(A).

e. *Positive recruitment.* Positive recruitment has been included as a requirement to these regulations. INA

section 216(b)(4) requires employers under the H–2A program to make positive recruitment efforts within a multistate area of traditional or expected labor supply where the Secretary finds that there are a significant number of able, willing, and qualified U.S. workers who, if recruited, would be willing to make themselves available for work at the time and place needed. 8 U.S.C. 1186(b)(4). The regulations delegate specific positive recruitment determinations to the ETA Regional Administrators (RAs). Positive recruitment is performed contemporaneously with recruitment through the interstate clearance system. *Id.* There are provisions relating to positive recruitment at 20 CFR 655.102(d), 655.103 (d) and (f), 655.105(a), and 655.106(b)(1)(v).

At § 655.102(d), the employer is required to submit with the job offer a positive recruitment plan. This will ensure compliance with IRCA's positive recruitment provisions. It will facilitate coordination between the employer and the RA; the RA will be made aware of the employer's planned efforts, and can advise the employer of any modifications which will have to be made to the plan.

At § 655.103(d), the employer is required to assure that the positive recruitment will be performed along with recruitment through the interstate clearance system.

Section 655.103(f) requires the employer to assure that it will engage in positive recruitment of U.S. workers to an extent (with respect to both location and effort) no less than that of non-H–2A agricultural employers of comparable or smaller size in the area of intended employment. This includes efforts to recruit through farm labor contractors. It is reasonable and appropriate to consider, among other things, the recruitment efforts made by other agricultural employers located in the area of intended employment, who are relying solely on the availability of U.S. workers, and the efforts made by the employer to obtain H–2A workers. See H.R. Rept. No. 99–682(I), 99th Cong., 2d Sess. 80–81 (July 16, 1986). It is likely that there will be a significant number of able, willing, and qualified U.S. workers in areas where such local non-H–2A agricultural employers recruit. Of course, the employer would not be required to go to such areas to positively recruit where it can reasonably demonstrate that the U.S. agricultural workers have already been recruited to work elsewhere or are otherwise unavailable. In addition, the regulation avoids an unnecessary burden on small employers by requiring employers only to meet the recruitment efforts of non-H–2A agricultural employers of comparable or smaller size in the area of intended employment.

Section 655.105(a) sets forth positive recruitment requirements which may possibly be required after the employer's application is accepted for consideration. Thus, as part of the notice which the RA sends to the employer, the RA may require the employer to conduct positive recruitment in other areas of expected labor supply. However, the RA must first obtain current information from a State employment service agency that there are a significant number of able, willing, and qualified U.S. workers who, if recruited, would likely to be willing to make themselves available for work at the time and place needed. Further, the RA must take into account recent recruiting efforts in those areas and attempt to avoid requiring employers to engage in futile recruitment in out-of-state areas where there are a significant number of local employers attempting to recruit workers with similar occupational qualifications. An employer is permitted to terminate all positive recruitment on the date the H–2A workers depart for the employer's place of work.

In § 655.106(b)(1)(v), the RA is required to take into account, in determining whether to grant a application for temporary alien agricultural labor certification, whether the employer has satisfactorily complied with the positive recruitment requirements of the regulations.

E. Section 655.103: Assurances

This section lists the assurances which an employer must make with an H–2A application. The only changes from current requirements are that the paperwork burden is reduced, a prohibition against retaliation has been added, the employer must agree to engage in positive recruitment at least to the same extent as non-H–2A employers in the same or comparable occupations and crops, and the employer must agree to pay the certification fee.

F. Section 655.104: Determinations Based on Acceptability of H–2A Applications

1. General.

This section describes the actions that are to be taken by the local office and by the RA when an H–2A application is received. Procedures are prescribed for the RA to follow when a filed application is not accepted for consideration, and what an employer may do to seek further review if an application is not accepted for consideration. See 8 U.S.C. 1186(c)(2).

2. Major Changes

a. *Deficiencies.* The RA is expected to notify the employer of any deficiencies in the application within seven calendar days and provide five calendar days for amendment and resubmittal. See 8 U.S.C. 1186(c)(2).

b. *Review.* In addition to the present option open to such employers to seek expedited review before an administrative law judge, the employer is given an opportunity to request a *de novo* hearing when an application is not accepted for consideration. See 8 U.S.C. 1186 (c)(2)(B) and (e)(1).

c. *Delayed notices.* If the RA's notice that the application is not acceptable for consideration is not made within seven calendar days, the recruitment of U.S. workers will be accomplished on an expedited basis within the time available until 20 calendar days before the date of need. DOL has determined that it would not be reasonable to delay an employer's certification to a date later than 20 calendar days before the date of need due to delays which are not attributable to the employer.

G. Section 655.105: Recruitment Period

This section describes the recruitment activity that must be conducted after an application is accepted for consideration. The only significant change from current regulations is the positive recruitment required of employers. See 8 U.S.C. 1186(b)(4).

H. Section 655.106: Determinations Based on U.S. Worker Availability

1. General

This section describes the process that occurs after an application has been accepted for consideration and the requirements for recruitment of U.S. workers have been completed. Factors the RA must take into account when arriving at a certification determination are presented, as are obligations that continue for an employer after the temporary alien agricultural labor certification has been granted. Matters related to requests for new determinations because of U.S. worker shortfall, extensions of certification periods also are addressed.

2. Major Changes

a. *Referrals of U.S. workers.* Referrals of U.S. workers to employers and the subsequent determination of the availability of such workers must be based on the referral of workers who have been made aware of the terms and

conditions of and qualifications for the job, and who have indicated, by accepting referral to the job, that they meet the qualifications required and are able, willing, and eligible to take such a job.

b. *New grounds for denial.* The RA may not certify if the employer has substantially violated a material term or condition of a labor certification within the past two years (see also proposed § 655.110); not complied with workers' compensation requirements; or not complied with positive recruitment requirements. See 8 U.S.C. 1186(b) (2), (3), and (4).

c. *Labor disputes.* The RA will subtract from affirmative certification decisions the numbers of job opportunities open because of a strike or other labor dispute involving a work stoppage, or because of a lockout. This reflects current DOL operating procedure, but is not in current regulations. See 8 U.S.C 1186(b)(1).

d. *Fifty-percent rule.* Several modifications to the "fifty-percent referral rule" are specified in order to comply with IRCA. 8 U.S.C. 1186(c)(3)(i).

e. *Shortfalls.* Procedures for requesting a new certification determination because of U.S. worker shortfall, quits, or terminations are presented. While these procedures are required because of IRCA, they represent an extension of current DOL policies in the application and interpretation of the present regulations. See 8 U.S.C. 1186 (c)(3)(A)(ii) and (e)(2).

I. Section 655.107: Adverse Effect Wage Rates (AEWRs)

1. Introduction

DOL, through its own knowledge, informed experience, and judgment, has found for many years that the presence of alien workers in agriculture depresses the wages of similarly employed U.S. workers. In order to ensure that the wages of similarly employed U.S. workers are not adversely affected, DOL is continuing in these H–2A regulations its past policy and practice of requiring covered agricultural employers to offer and pay their U.S. and H–2A workers no less than the applicable hourly adverse effect wage rate (AEWR), as determined by the Director, U.S. Employment Service (USES).

Further, the H–2A regulations, as did the H–2 regulations, provide that employers applying for temporary alien agricultural labor certifications must agree to comply with all employment-related laws. If the employment is covered by a wage standard applicable under any federal or State minimum wage law, the employer must comply with that law. See, *e.g.*, 29 U.S.C. 206(a); and 20 CFR 653.501 (d)(4) and (e)(1) (1986). If the prevailing wage for the occupation in the labor market of intended employment is higher, the employer must offer and pay that wage. Thus, a worker in employment under the H–2A program must be paid at the highest of the applicable wage rates, whether that highest rate is the AEWR, the prevailing wage, or the Federal or State statutory minimum wage. See *Limoneira Co.* v. *Wirtz*, 327 F. 2d 499 (9th Cir. 1964), *aff'g*, 225 F. Supp. 961 (S.D. Cal. 1963); see also *Elton Orchards, Inc.* v. *Brennan*, 508 F. 2d 493 (1st Cir. 1974); and *Flecha* v. *Quiros*, 567 F. 2d 1154, 1156 (1st Cir. 1977). These decisions acknowledge DOL's discretion in the area of AEWRs and form a basis for construing DOL's H–2A regulations.

Although continuing its basic past policy of requiring the payment of the AEWR, prevailing wage, or statutory minimum wage, whichever is highest, DOL is revising its procedures for calculating and establishing AEWRs in these H–2A regulations. First, DOL is proposing to publish AEWRs for all States, as opposed to the current procedures of publishing AEWRs only for those States (currently 14) for which DOL has determined on a State-by-State basis that adverse impact has resulted from the employment of alien labor. Second, DOL is proposing to change the method of calculating AEWRS, by basing these AEWRs on the level of actual average hourly agricultural wages for each State.

2. Purpose of AEWRs

The AEWR is the minimum wage rate that agricultural employers seeking nonimmigrant alien workers must offer to and pay their U.S. and alien workers, if prevailing wages are below the AEWR. The AEWR is a wage floor, and the existence of an AEWR does not prevent the worker from seeking a higher wage or the employer from paying a higher wage.

The purpose of an AEWR, as described by the U.S. Court of Appeals for the Fifth Circuit, is "to neutralize any 'adverse effect' resultant from the influx of temporary foreign workers." It is a "method of avoiding wage deflation." *Williams* v. *Usery*, 531 F. 2d 305, 306 (5th Cir. 1976), *cert. denied*, 429 U.S. 1000; see *Florida Sugar Cane League, Inc.* v. *Usery*, 531 F. 2d 299 (5th Cir. 1976); see also *Production Farm Management* v. *Brock*, 767 F. 2d 1368 (9th Cir. 1985); *Limoneira Co.* v. *Wirtz*, 225 F. Supp. 961 (S.D. Cal. 1963), *aff'd*, 327 F. 2d 499 (9th Cir. 1964); *Dona Ana County Farm and Livestock Bureau* v. *Goldberg*, 200 F. Supp. 210 (D.D.C. 1961); and 20 CFR 655.0 (1986). The purpose of an AEWR is to ensure that the wages of similarly employed U.S. workers will not be adversely affected by the importation of alien workers.

The IRCA amendments to the INA do not change the role and effect of DOL's policies to protect the wages of similarly employed U.S. agricultural workers from the adverse effect which may result from the employment of alien workers. Under the H–2A program, as under the H–2 program before it,

> [t]he common purpose [of the program is] . . . to assure [employers] an adequate labor force on the one hand and to protect the jobs of citizens on the other. Any statutory scheme with these two purposes must inevitably strike a balance between the two goals. Clearly, citizenworkers would best be protected and assured high wages if no aliens were allowed to enter. Conversely, elimination of all restrictions upon entry would most effectively provide employers with an ample labor force.

Rogers v. *Larsen*, 563 F. 2d 617, 626 (3rd Cir. 1977); *Flecha* v. *Quiros*, 567 F. 2d 1154 (1st Cir. 1977). As stated by the U.S. Court of Appeals for the First Circuit, the purpose of the INA and temporary foreign worker regulations are "to provide a manageable scheme . . . that is fair to both sides." *Flecha* v. *Quiros*, 567 F. 2d at 1156.

> We start with a given, that it has always been a Congressional policy to prefer domestic workers in all fields. However, it is also necessary to consider would-be employers, although in case of conflict, wide leeway favoring domestic workers is given the U.S. Secretary [of Labor]. *Elton Orchards, Inc.* v. *Brennan*, 1 Cir., 1974, 508 F. 2d 493 . . . .

Id., 567 F. 2d at 1155. Thus, the methodology for computing an AEWR must recognize the need to balance the goals of supplying an adequate labor force to employers and protecting the jobs of U.S. workers.

3. History of AEWRs

For a number of decades, DOL has computed and published AEWRs for the temporary employment of nonimmigrant alien workers for agricultural employment under various admission programs. *See* H. N. DELLON, "Foreign Agricultural Workers and the Prevention of Adverse Effect", 17 Labor Law Journal 739 (1966). Mr. Dellon's article notes that as far back as 1953, employers seeking to import foreign nationals to work in various crop activities (in that case, under the Bracero Program) were required to pay not less than a wage established by DOL. Eventually, AEWRs began to be set periodically on a Statewide basis. See *Dona Ana County Farm & Livestock*

Bureau, Inc. v. *Goldberg*, 200 F. Supp. 210 (D.D.C. 1961).

As time passed, establishment of AEWRs became more formalized, and AEWRs were computed and set for the H–2 agricultural worker program as well, after public notice and comment. See, *e.g.*, 29 FR 19101, 19102 (December 30, 1964); 32 FR 4569, 4571 (March 28, 1967); and 35 FR 12394, 12395 (August 4, 1970).

Beginning in 1968, these AEWRs were computed by adjusting the previous year's Statewide AEWR by the same percentage as the percentage change in the Statewide annual average wage rates for field and livestock workers, as surveyed by the United States Department of Agriculture (USDA); and were set through rulemaking amending the H–2 agricultural worker regulations. See 41 FR 25018 (June 22, 1976); and 43 FR 10306, 10310 (March 10, 1978); see also 20 CFR 602.10b(a)(1) (1977).

The regulations for the H–2 agricultural worker program were consolidated and substantially revised in 1978, after an extended comment period and six public hearings (May and June 1977). 20 CFR Part 655, Subpart C, 43 FR 10306 (March 10, 1978). As part of that rulemaking, DOL's methodology for computing AEWRs, as well as alternative methodologies for computing AEWRs were discussed and considered. 43 FR at 10310–10311. The methodology was set out in the regulations for the H–2 agricultural worker program. 20 CFR 655.207, 43 FR at 10317.

DOL continued to study the AEWR after the 1977–78 rulemaking. An Advance Notice of Proposed Rulemaking was published in 1979, and six additional public hearings were held. 44 FR 59890 (October 16, 1979). Various alternative methodologies were presented for public comment; the public responded to the alternatives and additional methodologies were suggested as part of the rulemaking record. A proposed rule (with a four-month comment period) was published in 1980, and a final rule was published in 1981. 46 FR 4568 (January 16, 1981); 45 FR 29854 (May 6, 1980); and 45 FR 15914 (March 11, 1980). The final rule would have established a single, nationwide, AEWR at the level of the previous year's national annual average hourly wage for piece-rate-paid hired agricultural workers, as computed by USDA surveys. However, as part of a general review of agency regulations, and to consider fully the impact of the new methodology, it was withdrawn prior to its effective date. 46 FR 32437 (June 23, 1981); and 46 FR 19110 (March 27, 1981).

In 1981 USDA substantially reduced its number of surveys and ceased compiling annual average field and livestock worker wage rates, as well as the survey data which would have been used in the rule withdrawn in 1981. Various interim methodologies were utilized until USDA reestablished its surveys and DOL reestablished the 1968–1981 methodology. These were accompanied by further rulemaking, and opportunity for and consideration of public comments. See, *e.g.*, 51 FR 20516 (June 5, 1986); 51 FR 15915 (April 29, 1986); 51 FR 12872 (April 16, 1986); 50 FR 47636 (November 19, 1985); 49 FR 31784 (August 8, 1984); 49 FR 30208 (July 27, 1984); 48 FR 40168 (September 2, 1983); 48 FR 33684 (July 22, 1983); 48 FR 232 (January 4, 1983); 47 FR 52198 (November 19, 1982); and 47 FR 37980 (August 27, 1982).

4. Discretion in Setting AEWRs

DOL has "broad discretion" to set AEWRs in accordance with "any of a number of reasonable formulas . . . ." *Florida Sugar Cane League, Inc.* v. *Usery*, 531 F. 2d 299, 303–304 (5th Cir. 1976); *Florida Fruit & Vegetable Association, Inc.* v. *Donovan*, 583 F. Supp. 268 (S.D. Fla. 1984), *aff'd sub nom. Florida Fruit & Vegetable Association, Inc.* v. *Brock*, 771 F. 2d 1455 (11th Cir. 1985), *cert. denied*, 106 S. Ct. 1524 (1986); *Shoreham Cooperative Apple Producers' Association, Inc.* v. *Donovan*, 764 F. 2d 135 (2d Cir. 1985); *Virginia Agricultural Growers' Association, Inc.* v. *Donovan*, 774 F. 2d 90 (4th Cir. 1985); *accord, Rowland* v. *Marshall*, 650 F. 2d 28 (4th Cir. 1981) (*per curiam*); *Williams* v. *Usery*, 531 F. 2d 305, 306 (5th Cir. 1976), *cert. denied*, 429 U.S. 1000; *Flecha* v. *Quiros*, 567 F. 2d 1154 (1st Cir. 1977); *Limoneira Co.* v. *Wirtz*, 225 F. Supp. 961 (S.D. Cal. 1963), *aff'd*, 327 F. 2d 499 (9th Cir. 1964); and *Dona Ana County Farm & Livestock Bureau, Inc.* v. *Goldberg*, 200 F. Supp. 210 (D.D.C. 1961); see also *Production Farm Management* v. *Brock*, 767 F. 2d 1368 (9th Cir. 1985).

Since this is an area in which DOL has "great discretion to reach a number of different results rather than an area of pure statutory interpretation as to which there is in theory only a single answer", DOL is proposing the regulation described below for setting AEWRs under the H–2A program. See *Building & Construction Trades' Department, AFL–CIO* v. *Donovan*, 712 F. 2d 611, 619 (D.C. Cir. 1983), *cert. denied*, 464 U.S. 1069 (1984).

Congress has recognized as early as 1961 that the Secretary had the authority to set special rates where alien workers were involved. H.R. Rep. No. 274 (on H.R. 2010), 87th Cong., 1st Sess. 9 (1961). Similar language appeared in the Senate debate on H.R. 2010, which was enacted as Pub. L. 87–345.

However, the INA as amended by IRCA raises to a statutory level the previous regulatory standard preventing the importation of temporary foreign agricultural workers (now H–2A) from adversely affecting the wages of similarly employed U.S. workers. However, no particular methodology for implementing it is fixed by statute. Indeed, the legislative history indicates that Congress had examined DOL's H–2 agricultural worker regulations in great detail, but did not enact any particular AEWR methodology.

While the AEWR methodology in the proposed H–2A rule differs from the methodology used to set AEWRs under the H–2 agricultural worker program, it is within DOL's discretion to make such a change. As the U.S. Court of Appeals for the D.C. Circuit has stated, "prior administrative practice carries much less weight when reviewing an action taken in the area of discretion, when little more than a clear statement is needed, than when reviewing an action in the field of interpretation, where it is thought that the agency's own contemporaneous interpretation of one of its enabling statutes is reliable evidence of what Congress intended." *Building & Construction Trades' Department, AFL–CIO* v. *Donovan*, 712 F. 2d at 619. In any event, even if the establishment of a new AEWR methodology were to be found an act of interpretation rather than an act of discretion, this rulemaking would constitute DOL's contemporaneous interpretation of a recent statute, *i.e.*, the Immigration Reform and Control Act of 1986 (IRCA).

5. Proposed AEWR Methodology

a. *General.* DOL is proposing to set the AEWRs in each year for the H–2A program at a level equal to the previous year's annual regional average hourly wage rates for field and livestock workers (combined), as computed by USDA quarterly wage surveys. This is the data series by which AEWRs under the H–2 agricultural worker program currently are indexed. USDA publishes the data for the 48 contiguous States and Hawaii by nineteen agricultural regions, which consist of one or more States.

Based on information provided by representatives of employers and workers, DOL has concluded that the universe of employers who may seek H–2A workers could expand considerably as the result of IRCA. Therefore, DOL has also determined to compute and publish on an annual basis AEWRs for all the States included in the USDA

survey of wage rates for field and livestock workers (combined), *i.e.*, the forty-eight contiguous States and Hawaii. In addition, a separate rate for Florida sugarcane has been discontinued.

This AEWR methodology is being proposed as a result of DOL's consideration of the INA as amended by IRCA, and with full knowledge and consideration of the administrative record developed in earlier rulemaking activities regarding AEWRs, as published in the **Federal Register**. See "3. *History of AEWRs*", above.

b. *Reasons for changing methodology.* DOL has carefully reviewed its current AEWR methodology in light of the probable expansion of the H–2A program under IRCA to new growers in new crops and new States. In examining the application of the present methodology to new States, certain anomalies have become apparent. Specifically, there would be wide variations between States in terms of the relationship of the AEWR to average hourly earnings of field and livestock workers in those States, ranging from five percent lower in Oregon to ninety-one percent higher in Alabama. These variations cannot be explained readily in economic terms, such as impact of the use of illegal aliens, degree of mechanization, *etc.* For example, in Minnesota, where there is little hand-harvesting of crops, the AEWR would be eighty-six percent higher than the average hourly wage rate showing up in USDA data; in California, with extensive hand-harvesting and use of illegals, the AEWR would be only five percent higher.

Thus, while the current methodology has been successfully defended where the program has been used, in a limited number of States, DOL sees a need to implement a superior methodology which will better achieve program objectives under the expected program expansion under IRCA.

c. *Rationale for proposed methodology.* Based on its own knowledge, expertise, informed experience, and judgment, DOL has determined that the USDA survey is the best available "barometer" for measuring actual farm wages on a nationwide basis. Given the probability that the H–2A program will be more expansive in States where H–2 agricultural workers now are imported, and will expand to other States where H–2 agricultural workers had not recently been sought, this methodology would permit DOL to establish AEWRs which are equal to regional average wages in traditional and new "user" States.

The proposed methodology is a basic extension of the DOL practice of over two decades of establishing AEWRs at or above average hourly wages in agriculture. DOL believes that Congress endorsed this basic concept in its passage of IRCA.

In passing IRCA, Congress incorporated into statutory law the longstanding regulatory requirement that the employment of temporary nonimmigrant alien labor "not adversely affect the wages . . . of workers in the United States similarly employed." 8 U.S.C. 1101(a)(15)(H)(ii)(a); see 8 CFR 214.2(h)(3)(i) (1987). By incorporating such a provision in the statute, it is clear that Congress was intimately conversant with the DOL implementation of the previous regulatory requirements and aware of the DOL system of AEWRs.

Prior to selecting the proposed methodology for setting AEWRs, DOL considered various alternative options. These ranged from: (1) The setting of AEWRs at the level of prevailing wages in the local area and occupations and then indexing those prevailing wages over time by the average hourly earnings in agriculture; to (2) the setting of such AEWRs only for prevailing wages below average agricultural wages and only in those instances where a high penetration of H–2A workers already had occurred, with no effective indexing over time.

Given implicit Congressional approval of the longstanding DOL AEWR concept, DOL has determined that the most effective way of establishing simple, durable AEWRs over time, without encountering the anomalies under the present methodology, is to set AEWRs under the H–2A program equal to the regional average wages in traditional and new "user" States. This methodology provides an adequate wage floor for protecting similarly employed U.S. workers and automatically provides the indexing needed to reduce adverse wage impacts over time, as the AEWRs will increase as average hourly wages increase. Further, the proposed methodology is not unlike that adopted, but withdrawn for further study, in the 1979–81 rulemaking, albeit using a more applicable USDA data series and setting AEWRs on the more reflective regional, rather than national basis. See "3. History of AEWRs", above; see also 46 FR 4568 (January 16, 1981); *cf.*, 46 FR 32437 (June 23, 1981).

DOL acknowledges that this is a complex issue. DOL therefore invites specific comments on the proposed methodology and is inviting recommendations for reasonable alternatives that both provide adequate protections for U.S. workers and avoid introducing excess rigidities in agricultural labor markets.

d. *Publishing AEWRs for forty-nine States.* The expansion of AEWR coverage to all States included in the USDA survey, *i.e.*, the forty-eight contiguous States and Hawaii, is being proposed for various reasons. As indicated above, it is expected that the H–2A program will expand to most States under IRCA. A basic congressional premise for temporary foreign worker programs under IRCA and previous legislation is that the unregulated use of aliens in agriculture would have an adverse impact on the wages of U.S. workers, absent protection. This premise is supported by the basic economic laws of supply and demand, as recognized by the court in *Production Farm Management* v. *Donovan*, 767 F. 2d 1368 (9th Cir. 1985). This has been confirmed by DOL's longstanding actual experience and administrative actions (see discussion of agricultural wage regulation going back to 1950's, cited in "3. *History of AEWRs*", above).

Further, DOL has recognized adverse effect in agriculture, beyond the current fourteen States in the past. For example, in 1970 AEWRs were published for forty-eight contiguous States (see 20 CFR 602.10b(a)(1) (1970)). In addition, DOL has consistently calculated AEWRs for all States, under the current methodology, even though it has not always published them.

Establishing and publishing AEWRs for all States benefits both employers and workers. It aids the former in planning for actual operating costs, without the uncertainty of how long the regulatory process will take adding a new State to the list of AEWR States. Similarly, it provides immediate protection to workers, rather than waiting until a regulatory change is effected. Finally, it provides ease of administration and cost savings to the government, by avoiding the cumbersome and time-consuming process of amending the regulation for each new State.

Since AEWRs are being proposed to be published for all States (except Alaska, for which USDA data are not available), this rulemaking subsumes the proposed rules published in the **Federal Register** on December 10, 1985, and April 6, 1986, where DOL announced its intention of adding Montana, Idaho, and Oregon to the list of States for which AEWRs were published annually under the H–2 program. See 51 FR 28599 (August 8, 1986); 51 FR 11942 (April 8,

1986); 51 FR 7084 (February 28, 1986); 50 FR 50311 (December 10, 1985). Of course, the rulemaking records, including all comments received, on those proposed rules will be added to the rulemaking record and taken into consideration in this rulemaking.

e. *Projected AEWRs.* The projected 1987 AEWRS computed according to the proposed methodology are set forth in the Table below.

TABLE—ADVERSE EFFECT WAGE RATES (AEWRS) COMPUTED UNDER EXISTING H-2 AND PROPOSED H-2A METHODOLOGIES

State	1987 AEWR under current H-2 methodology[1]	1987 AEWR under proposed H-2A methodology
Alabama	$7.11	$3.73
Arizona	*5.51	4.43
Arkansas	5.66	4.05
California	5.43	5.17
Colorado	*6.14	5.19
Connecticut	*4.84	4.17
Delaware	4.50	4.17
Florida	*4.44	4.66
Florida (sugarcane work)	*5.49	([2])
Georgia	5.92	3.73
Hawaii	([3])	6.43
Idaho	5.52	4.15
Illinois	5.40	4.38
Indiana	5.10	4.38
Iowa	5.40	4.10
Kansas	6.03	4.61
Kentucky	6.51	3.79
Louisiana	6.13	4.05
Maine	*4.97	4.17
Maryland	*4.92	4.17
Massachusetts	*4.84	4.17
Michigan	5.87	3.91
Minnesota	7.27	3.91
Mississippi	6.72	4.05
Missouri	5.63	4.10
Montana	5.64	4.15
Nebraska	6.21	4.61
Nevada	7.88	5.19
New Hampshire	*5.18	4.17
New Jersey	5.37	4.17
New Mexico	5.62	4.43
New York	*5.03	4.17
North Carolina	4.77	4.02
North Dakota	6.21	4.61
Ohio	5.68	4.38
Oklahoma	6.85	4.49
Oregon	4.34	4.52
Pennsylvania	5.07	4.17
Rhode Island	*4.84	4.17
South Carolina	6.63	3.73
South Dakota	5.83	4.61
Tennessee	6.39	3.79
Texas	*5.56	4.49
Utah	7.45	5.19
Vermont	*5.12	4.17
Virginia	*4.98	4.02
Washington	5.05	4.52
West Virginia	*4.45	3.79
Wisconsin	5.16	3.91
Wyoming	5.40	4.15

[1] These AEWRs were computed under the methodology at 20 CFR 655.207(b)(1) (1986) for the current H-2 agricultural worker program. Under the current H-2 agricultural worker program's AEWR methodology, these AEWRs apply only to agricultural work (except sheepherding) in Arizona, Colorado, Connecticut, Florida, Florida (sugarcane work), Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, Texas, Vermont, Virginia, and West Virginia (which States' 1987 AEWRs are noted above by an asterisk (*)). 20 CFR 655.207(b) (1986). However, except for the fourteen States (and for Florida sugarcane work) listed in 20 CFR 655.207(b)(2) (1986), the AEWR was not the rate listed here, but was, instead, the prevailing local wage rate for the agricultural activity. 20 CFR 655.207(a) (1986). Pursuant to 20 CFR 655.207 (1986), a separate determination for sheepherding was made for each State having H-2 activity in that occupation.

[2] Under the proposed AEWR methodology for the H-2A program there would be no separate AEWR in Florida for sugarcane work.

[3] Under the current H-2 agricultural worker program's AEWR methodology, AEWRs were not computed for Hawaii. While there was no H-2 agricultural worker activity in Hawaii, had there been such activity the AEWR would have been the local prevailing wage for the crop activity. 20 CFR 655.207(a).

J. Section 655.108: Temporary Alien Agricultural Labor Certification Applications Involving Fraud or Willful Misrepresentation

This section describes actions required when matters involving fraud or willful misrepresentation involving an H-2A certification are surfaced.

K. Section 655.110: Employer Penalties for Noncompliance With Terms and Conditions of Temporary Alien Agricultural Labor Certifications

This section describes sanctions that may be levied against an employer for a substantial violation of a condition of labor certification. The sanctions are required by the INA, as amended by IRCA, and those provisions of the INA are incorporated into the regulations. See 8 U.S.C. 1186(b)(2). A definition for a "substantial" violation is provided.

A special procedure which enables the RA to take corrective action when a less than substantial violation exists is also provided. DOL has determined this is necessary in order to administratively correct situations where U.S. worker recruitment and retention may be impacted negatively, but total denial of certification is excessively severe, and, therefore, not appropriate.

L. Section 655.111: Petition for Higher Meal Charges

This section having to do with petitions for higher meal charges is practically identical to the corresponding section in the current regulations.

M. Section 655.112: Administrative Review and De Novo Hearing Before an Administrative Law Judge

This section describes the process involved when an employer wishes to pursue an administrative law judge review or *de novo* hearing of a denial of a labor certification or rejection of an application. The process for the administrative law judge review is the same as the current regulations provide, and the *de novo* hearing procedures incorporate those in the DOL *Rules of Practice for Administrative Hearings Before the Office of Administrative Law Judges* at 29 CFR Part 18; however, precise, short time frames are established for setting the date for a hearing and for the administrative law judge to render a decision.

N. Section 655.113: Job Service Complaint System; Enforcement of Work Contracts

This section describes how complaints regarding the work contracts will be handled by the State employment service agencies. Under section 216(g)(2) of the INA, the Secretary

> is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

8 U.S.C. 1186(g)(2).

If workers file complaints with the local employment service office under the Job Service Complaint System (see 20 CFR Part 658, Subpart E) regarding alleged employer noncompliance with contractual obligations, such complaints shall be referred by the local office to the DOL Employment Standards Administration for appropriate handling and resolution. The Employment Standards Administration is proposing a separate set of regulations for handling such matters.

Complaints and enforcement relating to the work contract will be handled by

the Employment Standards Administration. Enforcement relating to the pre-employment activities, such as recruitment of U.S. workers, and issues which relate to the employer's future eligibility to apply for H–2A workers, will be handled by ETA.

O. Changes to Other Regulations

Other minor, procedural changes are made to the regulations on housing for agricultural workers at 20 CFR Part 654, Subpart E; and to the regulations at 20 CFR Part 655, Subpart C, for the temporary alien agricultural labor certification process for H–2 logging employment (and for applications filed before June 1, 1987, for H–2 agricultural employment).

Regulatory Impact

The proposed rule would affect only those employers using nonimmigrant alien workers ("H–2A visaholders") in temporary agricultural jobs in the U.S. It would not have the financial or other impact to make it a major rule, and therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291, 3 CFR 1981 Comp., p. 127, 5 U.S.C. 601 note.

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the proposal would not have a significant economic impact on a substantial number of small entities. No significant economic impact would be imposed by the proposed regulation above the costs contained in the current temporary alien agricultural labor certification program.

In preparing the proposed rule, the Department of Labor consulted with the Immigration and Naturalization Service of the Department of Justice, and with the Department of Agriculture. This proposed rule has been submitted to the Attorney General for approval, pursuant to section 301(e) of the Immigration Reform and Control Act of 1986. 8 U.S.C. 1186 note. The final rule will be published after such approval is obtained.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the paperwork requirements that are included in this proposed rule will be submitted to the Office of Management and Budget for approval.

Catalog of Federal Domestic Assistance Number

This program is listed in the *Catalog of Federal Domestic Assistance* as Number 17.202, "Certification of Foreign Workers for Agricultural and Logging Employment."

List of Subjects

20 CFR Part 654

Agriculture, Employment, Employment and Training Administration, Government procurement, Housing standards, Labor, Migrant labor, Unemployment.

20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Forest and forest products, Guam, Labor, Migrant labor, Wages.

Proposed Rule

Accordingly, it is proposed that Parts 654 and 655 of Chapter V of Title 20, Code of Federal Regulations, be amended as follows:

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

Subpart E—Housing for Agricultural Workers

1. In 20 CFR Part 654, Subpart E, the separate authority citation for Subpart E is revised to read as follows:

Authority: 29 U.S.C. 49k; 8 U.S.C. 1186(c)(4); 41 Op.A.G. 406 (1959).

2. In 20 CFR Part 654, § 654.403 is revised to read as follows:

§ 654.403 Conditional access to the intrastate or interstate clearance system.

(a) *Filing requests for conditional access*—(1) *"Noncriteria" employers.* Except as provided in paragraph (a)(2) of this section, an employer whose housing does not meet applicable standards may file with the local Job Service office serving the area in which its housing is located, a written request that its job orders be conditionally allowed into the intrastate or interstate clearance system, provided that the employer's request assures that its housing will be in full compliance with the requirements of the applicable housing standards at least 25 calendar days (giving the specific date) before the housing is to be occupied.

(2) *"Criteria" employers.* If the request for conditional access described in paragraph (a)(1) of this section is from an employer filing a job order pursuant to an application for temporary alien agricultural labor certification for H–2A alien agricultural workers or H–2 alien workers under Subpart B or Subpart C, respectively, of Part 655 of this chapter, the request shall be filed with the RA as an attachment to the application for temporary alien agricultural labor certification.

(3) *Assurance.* The employer's request pursuant to paragraphs (a)(1) or (a)(2) of this section shall contain an assurance that the housing will be in full compliance with the applicable housing standards at least 25 calendar days (stating the specific date) before the housing is to be occupied.

(b) *Processing requests.* (1) *State agency processing.* Upon receipt of a written request for conditional access to the intrastate or interstate clearance system under paragraph (a)(1) of this section, the local Job Service office shall send the request to the State office, which, in turn, shall forward it to the Regional Administrator, Employment and Training Administration (RA).

(2) *Regional office processing and determination.* Upon receipt of a request for conditional access pursuant to paragraph (a)(2) or paragraph (b)(1) of this section, the RA shall review the matter and, as appropriate, shall either grant or deny the request.

(c) *Authorization.* The authorization for conditional access to the intrastate or interstate clearance system shall be in writing, and shall state that although the housing does not comply with the applicable standards, the employer's job order may be placed into intrastate or interstate clearance until a specified date. The RA shall send the authorization to the employer and shall send copies to the appropriate State agency and local Job Service office. The employer shall submit and the local Job Service shall attach copies of the authorization to each of the employer's job orders which is placed into intrastate or interstate clearance.

(d) *Notice of denial.* If the RA denies the request for conditional access to the intrastate or interstate clearance system, the RA shall provide written notice to the employer, the appropriate State agency, and the local Job Service office, stating the reasons for the denial.

(e) *Inspection.* The local Job Service office serving the area containing the housing of any employer granted conditional access to the intrastate or interstate clearance system shall assure that the housing is inspected no later than the date by which the employer has promised to have its housing in compliance with the requirements of this subpart. An employer, however, may request an earlier preliminary inspection. If, on the date set forth in the

authorization, the housing is not in full compliance with the applicable housing standards as assured in the request for conditional access, the local Job Service office immediately:

(i) Shall notify the RA;

(ii) Shall remove the employer's job orders from intrastate and interstate clearance; and

(iii) Shall, if workers have been recruited against these orders, in cooperation with the employment service agencies in other States, make every reasonable attempt to locate and notify the appropriate crew leaders or workers, and to find alternative and comparable employment for the workers.

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

3. In 20 CFR Part 655, the authority citation is revised to read as set forth below and the authority citations for all the subparts and following all the sections in Part 655 are removed:

Authority: 8 U.S.C. 1101(a)(15)(H) and 1184(c); 29 U.S.C. 49 *et seq.*; §§ 655.0, 655.00, and 655.000 also issued under 8 U.S.C. 1186 and 8 CFR 214.2(h)(3)(i); Subpart A and Subpart C also issued under 8 CFR 214.2(h)(3)(i); Subpart B also issued under 8 U.S.C. 1186.

§ 655.0 [Amended]

4. In 20 CFR Part 655, § 655.0 is amended:

a. By removing paragraphs (b) and (c);

b. By redesignating paragraphs (d) and (e) as paragraphs (b) and (c) respectively; and

c. By removing from paragraph (a) the words "are required by the Attorney General, acting through the Immigration and Naturalization Service (INS) of the Department of Justice, to assist the Attorney General to carry out the policy of the Immigration and Nationality Act, as implemented by the INS regulation at 8 CFR 214.2(h)(3)(i)," and adding, in their place, the words "are required to carry out the policies of the Immigration and Nationality Act (INA),".

§ 655.00 [Amended]

5. In 20 CFR Part 655, § 655.00 is amended by removing the words "The Administrator" and adding, in their place, the words "The Director".

§ 655.000 [Amended]

6. In 20 CFR Part 655, §§ 655.000 is amended by removing the period at the end of the first sentence in paragraph (a) and adding in its place the words ", except with respect to agricultural employment covered by 8 U.S.C. 1101 (a)(15)(H)(ii)(a) and Subpart B of this Part."

§ 655.1 [Amended]

7. In 20 CFR Part 655, § 655.1 is amended by removing paragraph (b) and by redesignating § 655.1(a) as § 655.1.

8. In 20 CFR Part 655, Subpart B is revised to read as follows:

Subpart B—Labor Certification Process for Temporary Agricultural Employment in the United States (H-2A Workers)

§ 655.90 Scope and purpose of Subpart B.

(a) *General.* This subpart sets out the procedures established by the Secretary of Labor to acquire information sufficient to make factual determinations of: (1) whether there are sufficient able, willing, and qualified U.S. workers available to perform the temporary and seasonal agricultural employment for which an employer desires to import nonimmigrant foreign workers (H-2A workers); and (2) whether the employment of H-2A workers will adversely effect the wages and working conditions of workers in the U.S. similarly employed. Under the authority of the INA, the Secretary of Labor has promulgated the regulations in this subpart. This subpart sets forth the requirements and procedures applicable to requests for certification by employers seeking the services of temporary foreign workers in agriculture. This subpart provides the Secretary's methodology for the two-fold determination of availability of domestic workers and of any adverse effect which would be occasioned by the use of foreign workers, for particular temporary and seasonal agricultural jobs in the United States.

(b) *The statutory standard.* (1) A petitioner for H-2A workers must apply to the Secretary of Labor for a certification that, as stated in the INA:

(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and

(B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(2) Section 216(b) of the INA further requires that the Secretary may not issue a certification if the conditions regarding U.S. worker availability and adverse effect are not met, and may not issue a certification if, as stated in the INA:

(1) There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

(2)(A) The employer during the previous two-year period employed H-2A workers and the Secretary has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or non-immigrant workers.

(B) No employer may be denied certification under subparagraph (A) for more than three years for any violation described in such subparagraph.

(3) The employer has not provided the Secretary with satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(4) The Secretary determines that the employer has not made positive recruitment efforts within a multistate region of traditional or expected labor supply where the Secretary finds that there are a significant number of qualified United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed. Positive recruitment under this paragraph is in addition to, and shall be conducted within the same time period as, the circulation through the interstate employment service system of the employer's job offer. The obligation to engage in positive recruitment . . . shall terminate on the date the H-2A workers depart for the employer's place of employment.

(3) Regarding the labor certification determination itself, Section 216(c)(3) of the INA, as quoted in the following, specifically directs the Secretary to make the certification if—

(i) the employer has complied with the criteria for certification (including criteria for the recruitment of eligible individuals as prescribed by the Secretary), and

(ii) the employer does not actually have, or has not been provided with referrals of, qualified individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary.

(c) *The Secretary's determinations.* Before any factual determination can be made concerning the availability of U.S. workers to perform particular job opportunities, two steps must be taken. First, the minimum level of wages, terms, benefits, and conditions for the particular job opportunities below which similarly employed U.S. workers would be adversely affected must be established. (The regulations in this subpart establish such minimum levels for wages, terms, benefits, and conditions of employment). Second, the

wages, terms, benefits, and conditions offered and afforded to the aliens must be compared to the established minimum levels. If it is concluded that adverse effect would result, the ultimate determination of availability within the meaning of the INA cannot be made since U.S. workers cannot be expected to accept employment under conditions below the established minimum levels. *Florida Sugar Cane League, Inc.* v. *Usery*, 531 F. 2d 299 (5th Cir. 1976). Once a determination of no adverse effect has been made, the availability of U.S. workers can be tested only if U.S. workers are actively recruited through the offer of wages, terms, benefits, and conditions at least at the minimum level or the level offered to the aliens, whichever is higher. The regulations in this subpart set forth requirements for recruiting U.S. workers in accordance with this principle.

(d) *Construction.* This subpart shall be construed to effectuate the purpose of the INA that U.S. workers rather than aliens be employed wherever possible. *Elton Orchards, Inc.* v. *Brennan*, 508 F. 2d 493, 500 (1st Cir. 1974); *Flecha* v. *Quiros*, 567 F.2d 1154, 1156 (1st Cir. 1977). Where temporary alien workers are admitted, the terms and conditions of their employment must not result in a lowering of the wages, terms, and conditions of domestic workers similarly employed. *Williams* v. *Usery*, 531 F. 2d 305, 306 (5th Cir. 1976), *cert. denied*, 429 U.S. 1000, and the job benefits extended to any U.S. workers shall be at least those extended to the alien workers.

§ 655.92 Authority of the Regional Administrator.

Under this subpart, the accepting for consideration and the making of temporary alien agricultural labor certification determinations are ordinarily performed by the Regional Administrator (RA) of an Employment and Training Administration region, who, in turn, may delegate this responsibility to a designated staff member. The Director of the United States Employment Service, however, may direct that certain types of applications or certain applications shall be handled by, and the determinations made by USES in Washington, DC. In those cases, the RA will informally advise the employer or agent of the name of the official who will make determinations with respect to the application.

§ 655.93 Special circumstances.

(a) *Systematic process.* The regulations under this subpart are designed to provide a systematic process for handling applications from the kinds of employers who have historically utilized nonimmigrant alien workers in agriculture, usually in relation to the production or harvesting of a particular agricultural crop for market, and which normally share such characteristics as:

(1) A fixed-site farm, ranch, or similar establishment;

(2) A need for workers to come to their establishment from other areas to perform services or labor in and around their establishment;

(3) Labor needs which will normally be controlled by environmental conditions, particularly weather and sunshine; and

(4) A reasonably regular workday or workweek.

(b) *Establishment of special procedures.* In order to provide for a limited degree of flexibility in carrying out the Secretary's responsibilities under the INA, while not deviating from the statutory requirements to determine U.S. worker availability and make a determination as to adverse effect, the Director has the authority, after consultation with employer representatives, appropriate RAs, and worker representatives, to establish special procedures for processing H–2A applications when employers can demonstrate upon written application to and consultation with the Director that special procedures are necessary. In a like manner, for work in occupations characterized by other than a reasonably regular workday or workweek, such as the range production of sheep or other livestock, the Director has the authority, after consultation with employer representatives, appropriate RAs, and worker representatives, to establish monthly, weekly, or bi-weekly adverse effect wage rates for those occupations, for a Statewide or other geographical area, other than the rates established pursuant to § 655.107 of this part, provided that the Director uses a methodology to establish such adverse effect wage rates which is consistent with the methodology in § 655.107(a).

(c) *Construction.* This subpart shall be construed to permit the Director to continue and, when the Director deems appropriate, to revise special procedures previously in effect for the handling of applications for sheepherders in the Western States and for custom combine crews.

§ 655.100 Overview of this subpart and definition of terms.

(a) *Overview*—(1) *Filing applications.* This subpart provides guidance to an employer who desires to apply for temporary alien agricultural labor certification for the employment of H–2A workers to perform agricultural employment of a temporary or seasonal nature. The regulations in this subpart provide that such employer shall file an H–2A application, including a job offer, on forms prescribed by the Employment and Training Administration (ETA), which describes the material terms and conditions of employment to be offered and afforded to U.S. workers and H–2A workers, with the Regional Administrator (RA) having jurisdiction over the geographical area in which the work will be performed. The entire application shall be filed with the RA no less than 60 calendar days before the first date of need for workers, and a copy of the job offer shall be submitted at the same time to the local office of the State employment service agency which serves the area of intended employment. Under the regulations, the RA will promptly review the application and notify the applicant in writing if there are deficiencies which render the application not acceptable for consideration, and afford the applicant a five-calendar-day period for resubmittal of an amended application or an appeal of the RA's refusal to approve the application as acceptable for consideration. Employers are encouraged to file their applications in advance of the 60-calendar-day period mentioned above in this paragraph (a)(1). Sufficient time should be allowed for delays that might arise due to the need for amendments in order to make the application acceptable for consideration.

(2) *Amendment of applications.* This subpart provides for the amendment of applications, at any time prior to the RA's certification determination, to increase the number of workers requested in the initial application; without requiring, under certain circumstances, an additional recruitment period for U.S. workers.

(3) *Untimely applications.* If an H–2A application does not satisfy the specified time requirements, this subpart provides for the RA's advice to the employer in writing that the certification cannot be granted because there is not sufficient time to test the availability of U.S. workers; and provides for the employer's right to an administrative review or a *de novo* hearing before an administrative law judge. Emergency situations are provided for, wherein the RA may waive the specified time periods.

(4) *Recruitment of U.S. workers; determinations*—(i) *Recruitment.* This subpart provides that, where the application is accepted for consideration

and meets the regulatory standards, the State agency and the employer begin to recruit U.S. workers. If the employer has complied with the criteria for certification, including recruitment of U.S. workers, by 20 calendar days before the date of need specified in the application (except as provided in certain cases), the RA makes a determination to grant or deny, in whole or in part, the application for certification.

(ii) *Granted applications.* This subpart provides that the application for temporary alien agricultural labor certification is granted if the RA finds that the employer has not offered foreign workers higher wages or better working conditions (or has imposed less restrictions on foreign workers) than those offered and afforded to U.S. workers; that sufficient U.S. workers who are able, willing, and qualified will not be available at the time and place needed to perform the work for which H–2A workers are being requested; and that the employment of such aliens will not adversely affect the wages and working conditions of similarly employed U.S. workers.

(iii) *Fees*—(A) *Amount.* This subpart provides that each employer (sole or joint) of H–2A workers shall pay to the RA fees for each temporary alien agricultural labor certification received. The fee for each employer receiving a temporary alien agricultural labor certification is $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall be no greater than $1,000. In the case of a joint employer association receiving a temporary alien agricultural labor certification, the association shall pay a fee of $100, and each employer-member receiving a temporary alien agricultural labor certification shall pay a fee of $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall be no greater than $1,000.

(B) *Timeliness of payment.* The fee must be received by the RA no later than seven calendar days after the granting a each temporary alien agricultural labor certification. Fees received any later are untimely. Failure to pay fees in a timely manner is a substantial violation which may result in the denial of future temporary alien agricultural labor certifications.

(iv) *Denied applications.* This subpart provides that if the application for temporary alien agricultural labor certification is denied, in whole or in part, the employer may seek review of the denial, or a *de novo* hearing, by an administrative law judge as provided in this subpart.

(b) *Definitions of terms used in this subpart.* For the purposes of this subpart:

"Accept for consideration" means, with respect to an application for temporary alien agricultural labor certification, the action by the RA to notify the employer that a filed temporary alien agricultural labor certification application meets the adverse effect criteria necessary for processing. An application accepted for consideration ultimately will be approved or denied in a temporary alien agricultural labor certification determination.

"Administrative law judge" means a person within the Department of Labor Office of Administrative Law Judges appointed pursuant to 5 U.S.C. 3105; or a panel of such persons designated by the Chief Administrative Law Judge from the Board of Alien Labor Certification Appeals established by Part 656 of this chapter, but which shall hear and decide appeals as set forth in § 655.112 of this part. "Chief Administrative Law Judge" means the chief official of the Department of Labor Office of Administrative Law Judges or the Chief Administrative Law Judge's designee.

"Adverse effect wage rate (AEWR)" means the wage rate which the Director has determined must be offered and paid, as a minimum, to every H–2A worker and every U.S. worker for a particular occupation and/or area in which an employer employs or seeks to employ an H–2A worker so that the wages of similarly employed U.S. workers will not be adversely affected.

"Agent" means a legal entity or person, such as an association of agricultural employers, or an attorney for an association, which (1) is authorized to act on behalf of the employer for temporary alien agricultural labor certification purposes, and (2) is not itself an employer, or a joint employer, as defined in this paragraph (b).

"Director" means the chief official of the United States Employment Service (USES) or the Director's designee.

"DOL" means the United States Department of Labor.

"Employer" means a person, firm, corporation or other association or organization which suffers or permits a person to work and (1) which has a location within the United States to which U.S. workers may be referred for employment, and which proposes to employ workers at a place within the United States and (2) which has an employer relationship with respect to employees under this subpart as indicated by the fact that it may hire, pay, fire, supervise or otherwise control the work of any such employee. An association of employers shall be considered the sole employer if it has the indicia of an employer set forth in this definition. Such an association, however, shall be considered as a joint employer with an employer member if it shares with the employer member one or more of the definitional indicia.

"Employment Service (ES)" and "Employment Service (ES) System" mean, collectively, the USES, the State agencies, the local offices, and the ETA regional offices.

"Employment Standards Administration" means the agency within the Department of Labor (DOL), which includes the Wage and Hour Division, and which is charged with the carrying out of certain functions of the Secretary under the INA.

"Employment and Training Administration (ETA)" means the agency within the Department of Labor (DOL) which includes the United States Employment Service (USES).

"H–2A worker" means any nonimmigrant alien admitted to the United States for agricultural labor or services of a temporary or seasonal nature under section 101(a)(15)(H)(ii)(a) of the INA (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

"Immigration and Naturalization Service (INS)" means the component of the U.S. Department of Justice which makes the determination under the INA on whether or not to grant visa petitions to employers seeking H–2A workers to perform temporary agricultural work in the United States.

"INA" means the Immigration and Nationality Act, as amended (8 U.S.C. 1101 *et seq.*).

"Job offer" means the offer made by an employer or potential employer of H–2A workers to both U.S. and H–2A workers describing all the material terms and conditions of employment, including those relating to wages, working conditions, and other benefits.

"Job opportunity" means a job opening for temporary, full-time employment at a place in the United States to which U.S. workers can be referred.

"Local office" means the State agency's office which serves a particular geographic area within a State.

"Positive recruitment" means the active participation of an employer or its authorized hiring agent in locating and interviewing applicants in other potential labor supply areas and in the area where the employer's

establishment is located in an effort to fill specific job openings with U.S. workers.

"Regional Administrator, Employment and Training Administration (RA)" means the chief ETA official of a DOL regional offfice or the RA's designee.

"Secretary" means the Secretary of Labor or the Secretary's designee.

"Solicitor of Labor" means the Solicitor, United States Department of Labor, and includes employees of the Office of the Solicitor of Labor designated by the Solicitor to perform functions of the Solicitor under this subpart.

"State agency" means the State employment service agency designated under § 4 of the Wagner-Peyser Act to cooperate with the USES in the operation of the ES System.

"Temporary alien agricultural labor certification" means the certification made by the Secretary of Labor with respect to an employer seeking to file with INS a visa petition to import an alien as an H–2A worker, pursuant to sections 101(a)(15)(H)(ii)(a), 214 (a) and (c), and 216 of the INA that (1) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed (8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184 (a) and (c), and 1186).

"Temporary alien agricultural labor certification determination" means the written determination made by the RA to approve or deny, in whole or in part, an application for temporary alien agricultural labor certification.

"United States Employment Service (USES)" means the agency of the U.S. Department of Labor, established under the Wagner-Peyser Act, which is charged with administering the national system of public employment offices and carrying out certain functions of the Secretary under the INA.

"United States (U.S.) worker" means any worker who, whether a U.S. national, citizen or alien, is legally permitted to work in the job opportunity within the United States (as defined at § 101(a)(38)) of the INA (8 U.S.C. 1101(a)(38)). Special agricultural workers admitted to the United States under §§ 210 or 210A of the INA (8 U.S.C. 1160 and 1161) as temporary or permanent resident aliens are considered United States workers for the purposes of this subpart.

"Wages" means all forms of cash remuneration to a worker by an employer in payment for personal services.

(c) *Definition of "agricultural labor or services of a temporary or seasonal nature.* For the purposes of this subpart, "agricultural labor or services of a temporary or seasonal nature" means the following:

(1) *"Agricultural labor or services".* Pursuant to section 101(a)(15)(H)(ii)(a) of the INA (8 U.S.C. 1101(a)(15)(H)(ii)(a)), "agricultural labor or services" is defined for the purposes of this subpart as either "agricultural labor" as defined and applied in § 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) or "agriculture" as defined and applied in § 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)). An occupation included in either statutory definition shall be "agricultural labor or services", notwithstanding the exclusion of that occupation from the other statutory definition. For informational purposes, the statutory provisions are quoted below:

(i) *"Agricultural labor".* Section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)), quoted as follows, defines the term "agricultural labor" to include all service performed:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(2) Services performed in the employ of the owner or tenant or other operator of a farm, in connection with the operation, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended (12 U.S.C. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4)(A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

(B) in the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar quarter in which such service is performed;

(C) the provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(5) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(ii) *"Agriculture".* Section 203(f) of Title 29, United States Code, (section 3(f) of the Fair Labor Standards Act of 1938), quoted as follows, defines "agriculture" to include:

(f) * * * farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities as defined as agricultural commodities in section 1141j(g) of Title 12), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(iii) *"Agricultural commodity".* Section 1141j(g) of Title 12, United States Code, (§ 15(g) of the Agricultural Marketing Act, as amended), quoted as follows, defines "agricultural commodity" to include:

(g) * * * in addition to other agricultural commodities, crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine, and gum rosin, as defined in section 92 of Title 7.

(iv) *"Gum rosin".* Section 92 of Title 7, United States Code, quoted as follows, defines "gum spirits of turpentine" and "gum rosin" as—

(c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.

* * * * *

(h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.

(2) *"Of a temporary or seasonal nature"*—(i) *"On a seasonal or other temporary basis"*. For the purposes of this subpart, "of a temporary or seasonal nature" means "on a seasonal or other temporary basis", as defined in the Employment Standards Administration's Wage and Hour Division's regulation at 29 CFR 500.20 under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

(ii) *MSPA definition.* The definition of "on a seasonal or other temporary basis", as set forth at 29 CFR 500.20, is provided below:

"On a seasonal or other temporary basis" means:

* * * * *

Labor is performed on a seasonal basis, where, ordinarily, the employment pertains to or is of the kind exclusively performed at certains seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year. A worker who moves from one seasonal activity to another, while employed in agriculture or performing agricultural labor, is employed on a seasonal basis even though he may continue to be employed during a major portion of the year.

* * * * *

A worker is employed on "other temporary basis" where he is employed for a limited time only or his performance is contemplated for a particular piece of work, usually of short duration. Generally, employment, which is contemplated to continue indefinitely, is not temporary.

* * * * *

"On a seasonal or other temporary basis" does not include the employment of any foreman or other supervisory employee who is employed by a specific agricultural employer or agricultural association essentially on a year round basis.

* * * * *

"On a seasonal or other temporary basis" does not include the employment of any worker who is living at his permanent place of residence, when that worker is employed by a specific agricultural employer or agricultural association on essentially a year round basis to perform a variety of tasks for his employer and is not primarily employed to do field work.

(iii) *"Temporary"*. For the purposes of this subpart, the definition of "temporary" in paragraph (c)(2)(ii) of this section refers to any job opportunity covered by this subpart where the employer needs a worker for a position, either temporary or permanent, for a limited period of time, which shall be for less than one year, unless the original temporary alien agricultural labor certification is extended based on unforeseen circumstances, pursuant to § 655.106(c)(3) of this part.

§ 655.101 Temporary alien agricultural labor certification applications.

(a) *General*—(1) *Filing of application.* An employer who anticipates a shortage of U.S. workers needed to perform agricultural labor or services of a temporary or seasonal nature may apply to the RA in whose region the area of intended employment is located, for a temporary alien agricultural labor certification for temporary foreign workers (H–2A workers). A signed application for temporary alien agricultural worker certification shall be filed by the employer, or by an agent of the employer, with the RA. At the same time, a duplicate application shall be submitted to the local office serving the area of intended employment.

(2) *Applications filed by agents.* If the temporary alien agricultural labor certification application is filed by an agent on behalf of an employer, the agent may sign the application if the application is accompanied by a signed statement from the employer which authorizes the agent to act on the employer's behalf. The employer may authorize the agent to accept for interview workers being referred to the job and to make hiring commitments on behalf of the employer. The statement shall specify that the employer assumes full responsibility for the accuracy of the application, for all representations made by the agent on the employer's behalf, and for compliance with all regulatory and other legal requirements.

(3) *Applications filed by associations.* If an association of agricultural producers which uses agricultural labor or services files the application, the association shall identify whether it is: (i) The sole employer; (ii) a joint employer with its employer-member employers; or (iii) the agent of its employer-members. The association shall submit documentation sufficient to enable the RA to verify the employer or agency status of the association; and shall identify by name and address each member which will be an employer of H–2A workers.

(b) *Application form.* Each H–2A application shall be on a form or forms prescribed by ETA. The application shall include:

(1) A copy of the job offer which will be used by each employer for the recruitment of U.S. and H–2A workers. The job offer shall state the number of workers needed by the employer and the specific estimated date on which the workers are needed. The job offer shall comply with the requirements of §§ 655.102 and 653.501 of this chapter, and shall be signed by the employer or the employer's agent on behalf of the employer; and

(2) An agreement to abide by the assurances required by § 655.103 of this part.

(c) *Timeliness.* Applications for temporary alien agricultural labor certification are not required to be filed more than 60 calendar days before the first day of need. The employer shall be notified by the RA in writing within seven calendar days of filing the application if the application is not approved as acceptable for consideration. The RA's temporary alien agricultural labor certification determination on the approved application shall be made no later than 20 calendar days before the date of need if the employer has complied with the criteria for certification. To allow for the availability of U.S. workers to be tested, the following process applies:

(1) *Application filing date.* The entire H–2A application, including the job offer, shall be filed with the RA, in duplicate, no less than 60 calendar days before the first date on which the employer estimates that the workers are needed. Applications may be filed in person; may be mailed to the RA (Attention: H–2A Certifying Officer) by certified mail, return receipt requested; or delivered by guaranteed commercial delivery which will ensure delivery to the RA and provide the employer with a documented acknowledgment of receipt of the application by the RA. Any application received 60 calendar days before the date of need will have met the minimum timeliness of filing requirement as long as the application is eventually approved by the RA as being acceptable for processing.

(2) *Review of application; recruitment; certification determination period.* Section 655.104 of this part requires the RA to promptly review the application, and to notify the applicant in writing within seven calendar days of any deficiencies which render the application not acceptable for consideration and to afford an opportunity for resubmittal of an amended application. The employer shall have five calendar days in which to file an amended application. Section 655.106 of this part requires the RA to grant or deny the temporary alien agricultural labor certification application no later than 20 calendar days before the date on which the workers are needed, provided that the employer has complied with the criteria for certification, including recruitment of eligible individuals. Such recruitment, for the employer, the State agencies, and

DOL to attempt to locate U.S. workers locally and through the circulation of intrastate and interstate agricultural clearance job orders acceptable under § 653.501 of this chapter and under this subpart, shall begin on the date that an acceptable application is filed. The time needed to obtain an application acceptable for consideration (including the job offer) after the five-calendar-day period allowed for an amended application will postpone day-for-day the certification determination beyond the 20 calendar days before the date of need, provided that the RA notifies the applicant of any deficiencies within seven calendar days after receipt of the application. Delays in obtaining an application acceptable for consideration which are directly attributable to the RA will not postpone the certification determination beyond the 20 calendar days before the date of need. When an employer resubmits to the RA (with a copy to the local office) an application with modifications required by the RA, and the RA approves the modified application as meeting necessary adverse effect standards, the modified application will not be rejected solely because it now does not meet the 60-calendar-day filing requirement and recruitment will be considered to have begun on the date the modified application was received by the RA. If an application is approved as being acceptable for processing without need for any amendment within the seven-calendar-day review period after initial filing, recruitment of U.S. workers will be considered to have begun on the date the application was received by the RA; and the RA shall make the temporary alien agricultural labor certification determination required by § 655.106 of this part no later than 20 calendar days before the date of need provided that other regulatory conditions are met.

(3) *Early filing.* Employers are encouraged to file their applications in advance of the 60-calendar-day minimum period specified in paragraph (c)(1) of this section, to afford more time for review and discussion of the applications and to consider amendments, should they be necessary. This is particularly true for employers submitting H–2A applications for the first time who may not be familiar with the Secretary's requirements for an acceptable application or U.S. worker recruitment. Such employers particularly are encouraged to consult with DOL and local office staff for guidance and assistance well in advance of the minimum 60-calendar-day filing period.

(4) *Local recruitment; preparation of clearance orders.* At the same time the employer files the H–2A application with the RA, a copy of the application shall be submitted to the local office which will use the job offer portion of the application to prepare a local job order and begin to recruit U.S. workers in the area of intended employment. The local office also shall begin preparing an agricultural clearance order, but such order will not be used to recruit workers in other geographical areas until the employer's H–2A application and the clearance order are approved by the RA and the local office is so notified by the RA.

(5) *First-time employers of H–2A workers.* With respect only to those applications filed on or before May 31, 1989, and notwithstanding the time requirements in paragraphs (c)(1) through (c)(4) of this section, under the following circumstances the RA shall make the certification determination required by § 655.106 of this part no later than 10 calendar days before the date of need:

(i) The employer would be a first-time employer of H–2A workers (and, prior to June 1, 1987, did not use or apply for certification to use H–2 agricultural workers under the INA as then in effect) and has not previously applied for a temporary alien agricultural labor certification to use H–2A workers;

(ii) The RA, the employer, and the ES System have had a reasonable opportunity to test the availability of U.S. workers under the conditions of a job offer which has been determined to be acceptable by the RA in accordance with the provisions of §§ 655.102 and 655.103 of this part at least 30 calendar days before the date of need; and

(iii) The RA has determined that the employer has otherwise made good faith efforts to comply with the requirements of this subpart.

(d) *Amendments to application to increase number of workers.* Applications may be amended at any time, prior to an RA certification determination, to increase the number of workers requested in the initial application by not more than 20 percent (50 percent for employers of less than ten workers) without requiring an additional recruitment period for U.S. workers. Requests for increases above the percent prescribed, without additional recruitment, may be approved only when the need for additional workers could not have been foreseen, and that crops or commodities will be in jeopardy prior to the expiration of an additional recruitment period.

(e) *Minor amendments to applications.* Minor technical amendments may be requested by the employer and made to the application and job offer prior to the certification determination if the RA determines they are justified and will have no significant effect upon the RA's ability to make the labor certification determination required by § 655.106 of this part. Amendments described at paragraph (d) of this section are not "minor technical amendments".

(f) *Untimely applications*—(1) *Notices of denial.* If an H–2A application, or any part thereof, does not satisfy the time requirements specified in paragraph (c) of this section, and if the exception in paragraph (d) of this section does not apply, the RA may then advise the employer in writing that the certification cannot be granted because, pursuant to paragraph (c) of this section, there is not sufficient time to test the availability of U.S. workers. The notice of denial shall inform the employer of its right to an administrative review or *de novo* hearing before an administrative law judge.

(2) *Emergency situations.* Notwithstanding paragraph (f)(1) of this section, in emergency situations the RA may waive the time period specified in this section on behalf of employers who have not made use of temporary alien agricultural workers (H–2 or H–2A) for the prior year's agricultural season or for any employer which has other good and substantial cause (which may include unforeseen changes in market conditions), provided that the RA has an opportunity to obtain sufficient labor market information on an expedited basis to make the labor certification determination required by section 216 of the INA (8 U.S.C. 1186). In making this determination, the RA will accept information offered by and may consult with representatives of the U.S. Department of Agriculture.

(g) *Length of job opportunity.* The employer shall set forth on the application sufficient information concerning the job opportunity to demonstrate to the RA that the need for the worker is "of a temporary or seasonal nature", as defined at § 655.100(c)(2) of this part. Job opportunities of 12 months or more are presumed to be permanent in nature. Therefore, the RA shall not grant a temporary alien agricultural labor certification where the job opportunity has been or would be filled by an H–2A worker for a cumulative period, including temporary alien agricultural labor certifications and extensions, of 12 months or more, except in extraordinary circumstances.

§ 655.102 Contents of job offers.

(a) *Preferential treatment of aliens prohibited.* The employer's job offer to U.S. workers shall offer the U.S. workers no less than the same benefits, wages, and working conditions which the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on U.S. workers any restrictions or obligations which will not be imposed on the employer's H–2A workers. This does not relieve the employer from providing to H–2A workers at least the same level of minimum benefits, wages, and working conditions which must be offered to U.S. workers consistent with this section.

(b) *Minimum benefits, wages, and working conditions.* Except when higher benefits, wages or working conditions are required by the provisions of paragraph (a) of this section, DOL has determined that in order to protect similarly employed U.S. workers from adverse effect with respect to benefits, wages, and working conditions, every job offer which must accompany an H–2A application always shall include each of the following minimum benefit, wage, and working condition provisions:

(1) *Housing.* The employer shall provide to those workers who are not reasonably able to return to their residence within the same day housing, without charge to the worker, which may be, at the employer's option, rental or public accommodation type housing.

(i) *Standards for employer-provided housing.* Housing provided by the employer shall meet the full set of DOL Occupational Safety and Health Administration standards set forth at 29 CFR 1910.142, or the full set of standards at §§ 654.404–654.417 of this chapter, whichever are applicable, except as provided for under paragraph (b)(1)(iii) of this section. Requests by employers, whose housing does not meet the applicable standards, for conditional access to the intrastate or interstate clearance system, shall be processed under the procedures set forth at § 654.403 of this chapter.

(ii) *Standards for range housing.* Housing for workers principally engaged in the range production of livestock shall meet standards of the DOL Occupational Safety and Health Administration for such housing. In the absence of such standards, range housing for sheepherders and other workers engaged in the range production of livestock shall meet guidelines issued by ETA.

(iii) *Standards for other habitation.* Rental, public accommodation, or other substantially similar class of habitation must meet local standards for such housing. In the absence of applicable local standards, State standards shall apply. In the absence of applicable local or State standards, Occupational Safety and Health Administration standards at 29 CFR 1910.142 shall apply. Any charges for rental housing shall be paid directly by the employer to the owner or operator of the housing. When such housing is to be supplied by an employer, the employer shall document to the satisfaction of the RA that the housing complies with the local, State, or federal housing standards applicable under this paragraph (b)(1)(iii).

(iv) *Charges for public housing.* If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

(v) *Deposit charges.* Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. However, employers may require workers to reimburse them for damage caused to housing by the individual workers found to have been responsible for damage which is not the result of normal wear and tear related to habitation.

(vi) *Family housing.* When it is the prevailing practice in the area of intended employment and the occupation to provide family housing, family housing shall be provided to workers with families who request it.

(2) *Workers' compensation.* The employer shall provide, at no cost to the worker, insurance, under a State workers' compensation law or otherwise, covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law, if any, for comparable employment. The employer shall furnish the name of the insurance carrier and the insurance policy number, or, if appropriate, proof of State law coverage, to the RA prior to the issuance of a labor certification.

(3) *Employer-provided items.* Except as provided below, the employer shall provide, without charge including deposit charge, to the worker all tools, supplies, and equipment required to perform the duties assigned; the employer may charge the worker for reasonable costs related to the worker's refusal or negligent failure to return any property furnished by the employer or due to such worker's willful damage or destruction of such property. Where it is a common practice in the particular area, crop activity and occupation for workers to provide tools and equipment, with or without the employer reimbursing the workers for the cost of providing them, such an arrangement is permissible if approved in advance by the RA.

(4) *Meals.* Where the employer has centralized cooking and eating facilities designed to feed workers, the employer shall provide each worker with three meals a day. When such facilities are not available, the employer shall furnish free and convenient cooking and kitchen facilities to the workers which will enable the workers to prepare their own meals. Where the employer provides the meals, the job offer shall state the charge, if any, to the worker for such meals. Until a new amount is set pursuant to this paragraph (b)(4), the charge shall not be more than $5.26 per day unless the RA has approved a higher charge pursuant to § 655.111 of this part. Each year the charge allowed by this paragraph (b)(4) will be changed by the same percentage as the 12-month percent change in the Consumer Price Index for All Urban Consumers for Food between December of the year just concluded and December of the year prior to that. The annual adjustments shall be effective on the date of their publication by the Director as a notice in the **Federal Register.**

(5) *Transportation; daily subsistence*—(i) *Transportation to place of employment.* The employer shall advance transportation and subsistence costs (or otherwise provide them) to workers when it is the prevailing practice of non-H–2A agricultural employers in the area to do so, or when such benefits are extended to H–2A workers. The amount of the transportation payment shall be no less than the most economical and reasonable similar common carrier transportation charges for the distances involved. If the employer has not previously advanced such transportation and subsistence costs to the worker or otherwise provided such transportation or subsistence directly to the worker by other means and if the worker completes 50 percent of the work contract period, the employer shall pay the worker for costs incurred by the worker for transportation and daily subsistence from the place from which the worker, without intervening employment, has come to work for the employer to the place of employment.

The amount of the daily subsistence payment shall be at least as much as the employer will charge the worker for providing the worker with three meals a day during employment. If no charges will be made for meals and free and convenient cooking and kitchen facilities will be provided, the amount of the subsistence payment shall be no less than the amount permitted under paragraph (b)(4) of this section.

(ii) *Transportation from place of employment.* If the worker completes the work contract period, the employer shall provide or pay for the worker's transportation and daily subsistence from the place of employment to the place from which the worker, without intervening employment, came to work for the employer, or if the worker has contracted with a subsequent employer who has not agreed in that contract to provide or pay for the worker's transportation and daily subsistence expenses from the employer's worksite to such subsequent employer's worksite, the employer shall provide or pay for such expenses; except that, if the worker has contracted for employment with a subsequent employer who, in that contract, has agreed to pay for the worker's transportation and daily subsistence expenses from the employer's worksite to such subsequent employer's worksite, the employer is not required to provide or pay for such expenses.

(iii) *Transportation between living quarters and worksite.* The employer shall provide transportation between the worker's living quarters (*i.e.*, housing provided by the employer pursuant to paragraph (b)(1) of this section) and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations. This paragraph (b)(5)(iii) is not applicable to the transportation of workers recruited locally.

(6) *Three-fourths guarantee*—(i) *Offer to worker.* The employer shall guarantee to offer the worker employment for at least three-fourths of the workdays of the total periods during which the work contract and all extensions thereof are in effect, beginning with the first workday after the arrival of the worker at the place of employment and ending on the expiration date specified in the work contract or in its extensions, if any. If the employer affords the U.S. or H–2A worker during the total work contract period less employment than that required under this paragraph (b)(6), the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of days. For purposes of this paragraph (b)(6), a workday shall mean the number of hours in a workday as stated in the job order and shall exclude the worker's Sabbath and legal federal holidays. An employer shall not be considered to have met the work guarantee if the employer has merely offered work on three-fourths of the workdays if each workday did not consist of a full number of hours of work time specified in the job order. The work shall be offered for at least three-fourths of the workdays (that is, 3/4 x (number of days) x (specified hours)). Therefore, if, for example, the contract contains 20 eight-hour workdays, the worker shall be offered employment for 120 hours during the 20 workdays. A worker may be offered more than the specified hours of work on a single workday. For purposes of meeting the guarantee, however, the worker shall not be required to work for more than the number of hours specified in the job order for a workday, or on the worker's Sabbath or Federal holidays.

(ii) *Guarantee for piece-rate-paid worker.* If the worker will be paid on a piece rate basis, the employer shall use the worker's average hourly piece rate earnings or the AEWR, whichever is higher, to calculate the amount due under the guarantee.

(iii) *Failure to work.* Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job order for a workday, when the worker has been offered an opportunity to do so pursuant to paragraph (b)(6)(i) of this section and all hours of work actually performed (including voluntary work over 8 hours in a workday or on the worker's Sabbath or Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

(iv) *Displaced H–2A worker.* The employer shall not be liable for payment under this paragraph (b)(6) with respect to an H–2A worker who is displaced because of the employer's compliance with § 655.103(e) of this part.

(7) *Records.*(i) The employer shall keep accurate and adequate records with respect to the workers' earnings including field tally records, supporting summary payroll records and records showing the nature and amount of the work performed; the number of hours of work offered each day by the employer (broken out by hours offered both in accordance with and over and above the three-fourths guarantee at paragraph (b)(6) of this section); the hours actually worked each day by the worker; the time the worker began and ended each workday; the rate of pay (both piece rate and hourly, if applicable); the worker's earnings per pay period; and the amount of and reasons for any and all deductions made from the worker's wages;

(ii) If the number of hours worked by the worker is less than the number offered in accordance with the three-fourths guarantee at paragraph (b)(6) of this section, the records shall state the reason or reasons therefore.

(iii) Upon reasonable notice, the employer shall make available the records, including field tally records and supporting summary payroll records for inspection and copying by representatives of the Secretary of Labor, and by the worker and the worker's representatives; and

(iv) The employer shall retain the records for not less than three years after the completion of the work contract.

(8) *Hours and earnings statements.* The employer shall furnish to the worker on or before each payday in one or more written statements the following information:

(i) The worker's total earnings for the pay period;

(ii) The worker's hourly rate and/or piece rate of pay;

(iii) The hours of employment which have been offered to the worker (broken out by offers in accordance with and over and above the guarantee);

(iv) The hours actually worked by the worker;

(v) An itemization of all deductions made from the worker's wages; and

(vi) If piece rates are used, the units produced daily.

(9) *Rates of pay.* (i) If the worker will be paid by the hour, the employer shall pay the worker at least the adverse effect wage rate in effect at the time the work is performed, the prevailing hourly wage rate, or the legal federal or State minimum wage rate, whichever is highest, for every hour or portion thereof worked during a pay period; or

(ii)(A) If the worker will be paid on a piece rate basis and the piece rate does not result at the end of the pay period in average hourly piece rate earnings during the pay period at least equal to the amount the worker would have earned had the worker been paid at the appropriate hourly rate, the worker's pay shall be supplemented at that time so that the worker's earnings are at least as much as the worker would have earned during the pay period if the worker had been paid at the appropriate hourly wage rate for each hour worked; and the piece rate shall be no less than the piece rate prevailing for the activity in the area of intended employment; and

(B) If the employer who pays by the piece rate requires one or more minimum productivity standards of workers as a condition of job retention,

(*1*) Such standards shall be specified in the job offer and be no more than those required by the employer in 1977, unless the RA approves a higher minimum; or

(*2*) If the employer first applied for H–2 agricultural or H–2A temporary alien agricultural labor certification after 1977, such standards shall be no more than those normally required (at the time of the first application) by other employers for the activity in the area of intended employment, unless the RA approves a higher minimum.

(10) *Frequency of pay.* The employer shall state the frequency with which the worker will be paid (in accordance with the prevailing practice in the area of intended employment, or at least twice monthly whichever is more frequent).

(11) *Abandonment of employment; or termination for cause.* If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, and the employer notifies the local office of such abandonment or termination, the employer will not be responsible for providing or paying for the subsequent transportation and subsistence expenses of any worker for whom the employer would have otherwise been required to pay such expenses under paragraph (b)(5)(ii) of this section.

(12) *Contract impossibility.* If, before the expiration date specified in the work contract, the services of the worker are no longer required for reasons beyond the control of the employer due to fire, hurricane, or other Act of God which makes the fulfillment of the contract impossible the employer may terminate the work contract. In the event of such termination of a contract, the employer shall fulfill the three-fourths guarantee at paragraph (b)(6) of this section for the time that has elapsed from the start of the work contract to its termination. In such cases the employer will make efforts to transfer the worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall:

(i) Return the worker to the place from which the worker without intervening employment came to work for the employer at the employer's expense, and

(ii) Reimburse the worker the full amount of any deductions made from the worker's pay by the employer for transportation and subsistence expenses to the place of employment.

(13) *Deductions.* The employer shall make those deductions from the worker's paycheck which are required by law. The job offer shall specify all deductions not required by law which the employer will make from the worker's paycheck. All deductions shall be reasonable. The employer may deduct the cost of the worker's transportation and daily subsistence expenses to the place of employment which were borne directly by the employer. In such cases, the job offer shall state that the worker will be reimbursed the full amount of such deductions upon the worker's completion of 50 percent of the worker's contract period. However, an employer subject to the Fair Labor Standards Act (FLSA) may not make deductions which will result in payments to workers of less than the federal minimum wage permitted by the FLSA as determined by the Secretary at 29 CFR Part 531.

(14) *Copy of work contract.* The employer shall provide to the worker, no later than on the day the work commences, a copy of the work contract between the employer and the worker. The work contract shall contain all of the provisions required by paragraphs (a) and (b) of this section. In the absence of a separate, written work contract entered into between the employer and the worker, the required terms of the job order and application for temporary alien agricultural labor certification shall be the work contract. Bona fide occupational qualifications specified by an employer in a job offer shall be consistent with the normal and accepted qualifications required by non-H–2A employers in the same or comparable occupations and crops, and shall be reviewed by the RA for their appropriateness. The RA may require the employer to submit documentation to substantiate the appropriateness of the qualification specified in the job offer; and shall consider information offered by and may consult with representatives of the U.S. Department of Agriculture.

(d) *Positive recruitment plan.* The employer shall submit in writing, as a part of the application, the employer's plan for conducting independent, positive recruitment of U.S. workers as required by §§ 655.103 and 655.105(a) of this part. Such a plan shall include a description of recruitment efforts (if any) made prior to the actual submittal of the application. The plan shall describe how the employer will engage in positive recruitment of U.S. workers to an extent (with respect to both effort and location(s)) no less than that of non-H–2A agricultural employers of comparable or smaller size in the area of employment. When it is the prevailing practice in the area of employment and for the occupation for non-H–2A agricultural employers to secure U.S. workers through farm labor contractors and to compensate farm labor contractors with an override for their services, the employer shall describe how it will make the same level of effort as non-H–2A agricultural employers and provide an override which is no less than that being provided by non-H–2A agricultural employers.

§ 655.103 Assurances.

As part of the temporary alien agricultural labor certification application, the employer shall include in the job offer a statement agreeing to abide by the conditions of this subpart. By so doing, the employer makes each of the following assurances:

(a) *Labor disputes.* The specific job opportunity for which the employer is requesting H–2A certification is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

(b) *Employment-related laws.* During the period for which the temporary alien agricultural labor certification is granted, the employer shall comply with applicable federal, State, and local employment-related laws and regulations, including employment-related health and safety laws.

(c) *Rejections and terminations of U.S. workers.* No U.S. worker will be rejected for or terminated from employment for other than a lawful job-related reason, and notification of all rejections or terminations shall be made to the local office.

(d) *Recruitment of U.S. workers.* The employer shall independently engage in positive recruitment until the foreign workers have departed for the employer's place of employment and shall cooperate with the ES System in the active recruitment of U.S. workers by:

(1) Assisting the ES System to prepare local, intrastate, and interstate job orders using the information supplied on the employer's job offer;

(2) Placing advertisements (in a language other than English, where the RA determines appropriate) for the job opportunities in newspapers of general circulation and/or on the radio, as required by the RA:

(i) Each such advertisement shall describe the nature and anticipated duration of the job opportunity; offer at least the adverse effect wage rate; give the 3/4 guarantee; state that work tools, supplies and equipment will be provided by the employer; state that housing will also be provided, and that transportation and subsistence expenses

to the worksite will be provided or paid by the employer upon completion of 50% of the work contract, or earlier, if appropriate; and

(ii) Each such advertisement shall direct interested workers to apply for the job opportunity at a local employment service office in their area;

(3) Cooperating with the ES System and independently contacting farm labor contractors, migrant workers and other potential workers in other areas of the State and/or Nation by letter and/or telephone; and

(4) Cooperating with the ES System in contacting schools, business and labor organizations, fraternal and veterans' organizations, and nonprofit organizations and public agencies such as sponsors of programs under the Job Training Partnership Act throughout the area of intended employment and in other potential labor supply areas in order to enlist them in helping to find U.S. workers.

(e) *Fifty-percent rule.* From the time the foreign workers depart for the employer's place of employment, the employer, except as provided for by § 655.106(e)(1) of this part, shall provide employment to any qualified, eligible U.S. worker who applies to the employer until 50% of the period of the work contract, under which the foreign worker who is in the job was hired, has elapsed. In addition, the employer shall offer to provide housing and the other benefits, wages, and working conditions required by § 655.102 of this part to any such U.S. worker and shall not treat less favorably than H–2A workers any U.S. worker referred or transferred pursuant to this assurance.

(f) *Other recruitment.* The employer shall perform the other specific recruitment and reporting activities specified in the notice from the RA required by § 655.105(a) of this part, and shall engage in positive recruitment of U.S. workers to an extent (with respect to both effort and location) no less than that of non-H–2A agricultural employers of comparable or smaller size in the area of employment. When it is the prevailing practice in the area of employment and for the occupation for non-H–2A agricultural employers to secure U.S. workers through farm labor contractors and to compensate farm labor contractors with an override for their services, the employer shall make the same level of effort as non-H–2A agricultural employers and shall provide an override which is no less than that being provided by non-H–2A agricultural employers. Where the employer has centralized cooking and eating facilities designed to feed workers, the employer shall not be required to provide meals through an override. The employer shall not be required to provide for housing through an override.

(g) *Retaliation prohibited.* The employer shall not intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against, and shall not cause any person to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against, any person who has with just cause:

(1) Filed a complaint under or related to section 216 of the INA (8 U.S.C. 1186), or this subpart or any other DOL regulations promulgated pursuant to section 216 of the INA;

(2) Instituted or caused to be instituted any proceeding under or related to section 216 of the INA, or this subpart or any other DOL regulations promulgated pursuant to section 216 of the INA (8 U.S.C. 1186);

(3) Testified or is about to testify in any proceeding under or related to section 216 of the INA (8 U.S.C. 1186), or this subpart or any other DOL regulations promulgated pursuant to section 216 of the INA; or

(4) Exercised or asserted on behalf of himself/herself or others any right or protection afforded by section 216 of the INA (8 U.S.C. 1186), or this subpart or any other DOL regulations promulgated pursuant to section 216 of the INA.

(g) *Fees.* The application shall include the assurance that fees will be paid in a timely manner, as follows:

(1) *Amount.* The fee for each employer receiving a temporary alien agricultural labor certification is $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee for an employer for each temporary alien agricultural labor certification received shall be no greater than $1,000. In the case of a joint employer association receiving a temporary alien agricultural labor certification, the fee for the association shall be $100, and the fee for each employer-member receiving a temporary alien agricultural labor certification shall be $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee for an employer for each temporary alien agricultural labor certification received shall be no greater than $1,000. Fees shall be paid by a check or money order made payable to "Department of Labor", and are nonrefundable. In the case of employers of H–2A workers which are members of a joint employer association applying on their behalf, the aggregate fees for all employers of H–2A workers under the application may be paid by one check or money order.

(2) *Timeliness.* Fees received by the RA within seven calendar days after the date of the temporary alien agricultural labor certification determination are timely.

§ 655.104 Determinations based on acceptability of H–2A applications.

(a) *Local office activities.* The local office, using the job offer portion of the H–2A application, shall promptly prepare a local job order and shall begin to recruit U.S. workers in the area of intended employment. The RA should notify the State or local office by telephone no later than seven calendar days after the application was received by the RA if the application has been accepted for consideration. Upon receiving such notice or seven calendar days after the application is received by the local office, whichever is earlier, the local office shall promptly prepare an agricultural clearance order which will permit the recruitment of U.S. workers by the Employment Service System on an intrastate and interstate basis.

(b) *Regional office activities.* The RA, upon receipt of the H–2A application, shall promptly review the application to determine whether it is acceptable for consideration under the timeliness and adverse effect criteria of §§ 655.101–655.103 of this part. If the RA determines that the application does not meet the requirements of §§ 655.101–655.103, the RA shall not accept the application for consideration on the grounds that the availability of U.S. workers cannot be adequately tested because the benefits, wages and working conditions do not meet the adverse effect criteria; however, if the RA determines that the application is not timely in accordance with § 655.101 of this part and that neither the first-year employer provisions of § 655.101(c)(5) nor the emergency provisions of § 655.101(f) apply, the RA may determine not to accept the application for consideration because there is not sufficient time to test the availability of U.S. workers.

(c) *Rejected applications.* If the application is not accepted for consideration, the RA shall notify the applicant in writing (by means normally assuring next-day delivery) within seven calendar days of the date the application was received by the RA with a copy to the local office. The notice shall:

(1) State all the reasons the application is not accepted for consideration, citing the relevant regulatory standards;

(2) Offer the applicant an opportunity for the resubmission within five calendar days of a modified application,

stating the modifications needed in order for the RA to accept the application for consideration;

(3) Offer the applicant an opportunity to request an expedited administrative review or a *de novo* administrative hearing before an administrative law judge of the nonacceptance; the notice shall state that in order to obtain such a review or hearing, the employer, within seven calendar days of the date of the notice, shall telegraph a written request to the Chief Administrative Law Judge of the Department of Labor (giving the address) and to telegraph a copy to the RA; the notice shall also state that the employer may submit any legal arguments which the employer believes will rebut the basis of the RA's action; and

(4) State that if the employer does not request an expedited administrative-judicial review or a *de novo* hearing before an administrative law judge within the seven calendar days no further consideration of the employer's application for temporary alien agricultural labor certification will be made by any DOL official.

(d) *Appeal procedures.* If the employer timely requests an expedited administrative review or *de novo* hearing before an administrative law judge pursuant to paragraph (c)(3) of this section, the procedures at § 655.112 of this part shall be followed.

(e) *Required modifications.* If the application is not accepted for consideration by the RA, but the RA's written notification to the applicant is not timely as required by § 655.101 of this part, the certification determination will not be extended beyond 20 calendar days before the date of need. The notice will specify that the RA's temporary alien agricultural labor certification determination will be made no later than 20 calendar days before the date of need, provided that the applicant submits the modifications to the application which are required by the RA within five calendar days and in a manner specified by the RA which will enable the test of U.S. worker availability to be made as required by § 655.101 of this part within the time available for such purposes.

§ 655.105 Recruitment period.

(a) *Notice of acceptance of application for consideration; required recruitment.* If the RA determines that the H–2A application meets the requirements of §§ 655.101–655.103 of this part, the RA shall promptly notify the employer in writing with copies to the State agency. The notice shall inform the employer and the State agency of the specific efforts which will be expected from them during the following weeks to carry out the assurances contained in § 655.103 with respect to the recruitment of U.S. workers. The notice shall require that the job order be placed into intrastate clearance and into interstate clearance to such States as the RA shall determine to be potential sources of U.S. workers. The notice may require the employer to engage in positive recruitment efforts within a multi-State region of traditional or expected labor supply where the RA finds, based on current information provided by a State agency, that there are a significant number of able and qualified U.S. workers who, if recruited, would likely be willing to make themselves available for work at the time and place needed. In making such a finding, the RA shall take into account other recent recruiting efforts in those areas and will attempt to avoid requiring employers to futilely recruit in areas where there are a significant number of local employers recruiting for U.S. workers for the same types of occupations. Positive recruitment is in addition to, and shall be conducted within the same time period as, the circulation through the interstate clearance system of an agricultural clearance order. The obligation to engage in such positive recruitment shall terminate on the date H–2A workers depart for the employer's place of work. In determining what positive recruitment shall be required, the RA will ascertain the normal recruitment practices of non-H–2A agricultural employers in the area, and will ensure that the effort, including the location(s) of the positive recruitment, required of potential H–2A employers shall be no less than that of non-H–2A agricultural employers of comparable or smaller size in the area of employment.

(b) *Recruitment of U.S. workers.* After an application for temporary alien agricultural labor certification is accepted for processing pursuant to paragraph (a) of this section, the RA, under the direction of the ETA national office and with the assistance of other RAs with respect to areas outside the region, shall provide overall direction to the employer and the State agency with respect to the recruitment of U.S. workers.

(c) *Modifications.* At any time during the recruitment effort, the RA may require modifications to the application and job offer when the RA determines that the application or job offer does not contain all the provisions required by this subpart. If any such modifications are required after an application has been accepted for consideration by the RA, the modifications must be made; however, the certification determination shall not be delayed beyond the 20 calendar days prior to the date of need as a result of such modification.

(d) *Final determination.* By 20 calendar days before the date of need specified in the application, except as provided for under §§ 655.101(c)(2) and 655.104(e) of this part for untimely modified applications, the RA, when making a determination of the availability of U.S. workers, shall also make a determination as to whether the employer has satisfied the recruitment assurances in § 655.103 of this part. If the RA concludes that the employer has not satisfied the requirements for recruitment of U.S. workers, the RA shall deny the temporary alien agricultural labor certification, and shall immediately notify the employer in writing with a copy to the State agency and local office. The notice shall contain the statements specified in § 655.104(d) of this part.

(e) *Appeal procedure.* If the employer timely requests an expedited administrative review or a *de novo* hearing before an administrative law judge, the procedures in § 655.112 of this part shall be followed.

§ 655.106 Referral of U.S. workers; determinations based on U.S. worker availability and adverse effect; activities after receipt of the temporary alien agricultural labor certification.

(a) *Referral of able, willing, and qualified eligible U.S. workers.* With respect to the referral of U.S. workers to job openings listed on a job order accompanying an application for temporary alien agricultural labor certification, no U.S. worker-applicant shall be referred unless such U.S. worker has been made aware of the terms and conditions of and qualifications for the job, and has indicated, by accepting referral to the job, that she or he meets the qualifications required and is able, willing, and eligible to take such a job.

(b)(1) *Determinations.* If the RA, in accordance with § 655.105 of this part, has determined that the employer has complied with the recruitment assurances and the adverse effect criteria of § 655.102 of this part, by the date specified pursuant to § 655.101(c)(2) of this part for untimely modified applications or 20 calendar days before the date of need specified in the application, whichever is applicable, the RA shall grant the temporary alien agricultural labor certification request for enough H–2A workers to fill the employer's job opportunities for which U.S. workers are not available. In

making the temporary alien agricultural labor certification determination, the RA shall consider as available any U.S. worker who has made a firm commitment to work for the employer, including those workers committed by other authorized persons such as farm labor contractors and family heads. Such a firm commitment shall be considered to have been made not only by workers who have signed work contracts with the employer, but also by those whom the RA determines are likely to sign a work contract. The RA shall count as available any U.S. worker who has applied to the employer (or on whose behalf an application has been made), but who was rejected by the employer for other than lawful job-related reasons or who has not been provided with a lawful job-related reason for rejection by the employer, as determined by the RA. The RA shall not grant a temporary alien agricultural labor certification request for any H–2A workers if the RA determines that:

(i) Enough able, willing, and qualified U.S. workers have been identified as being available to fill all the employer's job opportunities;

(ii) The employer, since the time the application was accepted for consideration under § 655.104 of this part, has adversely affected U.S. workers by offering to, or agreeing to provide to, H–2A workers better wages, working conditions or benefits (or by offering to, or agreeing to impose on alien workers less obligations and restrictions) than those offered to U.S. workers;

(iii) The employer during the previous two-year period employed H–2A workers and the RA has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of a temporary alien agricultural labor certification with respect to the employment of U.S. or H–2A workers;

(iv) The employer has not complied with the workers' compensation requirements at § 655.102(b)(2) of this part; or

(v) The employer has not satisfactorily complied with the positive recruitment requirements specified by this subpart.

Further, the RA, in making the temporary alien agricultural labor certification determination, will subtract from any temporary alien agricultural labor certification the specific number of job opportunities involved which are vacant because of a strike or other labor dispute involving a work stoppage, or a lockout, in the occupation at the place of employment (and for which H–2A workers have been requested), provided that the RA has received written verification of the existence of the strike, labor dispute, or lockout and the vacancies directly attributable thereto from the State agency, after the State agency has investigated the situation under the oversight of the RA, and the RA has consulted with the Director prior to making such a determination.

(2) *Fees.* A temporary alien agricultural labor certification determination granting an application shall include a bill for the required fees. Each employer (sole or joint) of H–2A workers under the application for temporary alien agricultural labor certification shall pay in a timely manner a nonrefundable fee upon issuance of the temporary alien agricultural labor certification granting the application (in whole or in part), as follows:

(i) *Amount.* The fee for each employer receiving a temporary alien agricultural labor certification is $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall be no greater than $1,000. In the case of a joint employer association receiving a temporary alien agricultural labor certification, the association shall pay a fee of $100, and each employer-member receiving a temporary alien agricultural labor certification shall pay a fee of $100 plus $10 for each job opportunity for H–2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall be no greater than $1,000. The fees shall be paid by check or money order made payable to "Department of Labor". In the case of employers of H–2A workers which are members of a joint employer association applying on their behalf, the aggregate fees for all employers of H–2A workers under the application may be paid by one check or money order.

(ii) *Timeliness.* Fees received by the RA no more than seven calendar days after the date of the temporary alien agricultural labor certification determination are timely.

(c) *Changes to temporary alien agricultural labor certifications; temporary alien agricultural labor certifications involving employer associations.*—(1) *Changes.* Temporary alien agricultural labor certifications are subject to the conditions and assurances made during the application process. Any changes in the level of benefits, wages, and working conditions an employer may wish to make at any time during the work contract period must be approved by the RA after written application by the employer, even if such changes have been agreed to by an employee. Temporary alien agricultural labor certifications shall be for the specific period of time specified in the employer's job offer, which shall be less than twelve months; shall be limited to the employer's specific job opportunities; and may not be transferred from one employer to another, except as provided for by paragraph (c)(2) of this section.

(2) *Associations.*—(i) *Applications.* If an association is requesting a temporary alien agricultural labor certification as a joint employer the temporary alien agricultural labor certification granted under this section shall be made jointly to the association and to its employer members. If an association is requesting a temporary alien agricultural labor certification as a sole employer, the temporary alien agricultural labor certification granted pursuant to this section shall be made to the association only. All temporary alien agricultural labor certifications to associations may be used for the certified job opportunities of any of its members. Except as provided in paragraph (c)(2)(iii) of this section, such workers may be transferred among its producer members to perform work for which the temporary alien agricultural labor certification was granted, provided the association controls the assignment of such workers and maintains a record of such assignments.

(ii) *Referrals and transfers.* For the purposes of complying with the "fifty-percent rule" at § 655.103(e) of this part, any association shall be allowed to refer or transfer workers among its members (except as provided in paragraph (c)(2)(iii) of this section), and an association acting as an agent for its members shall not be considered a joint employer merely because of such referral or transfer.

(iii) *Ineligible employer-members.* Workers shall not be transferred or referred to an association's member, if that member is ineligible to obtain any or any additional workers, pursuant to § 655.110 of this part.

(3) *Extension of temporary alien agricultural labor certification.* An employer may, after 50 percent of the work contract period has elapsed, apply to the RA for an extension of the period of the temporary alien agricultural labor certification, for reasons related to weather conditions or other external factors beyond the control of the employer (which may include unforeseen changes in market conditions), provided that the

employer's need for an extension of more than seven calendar days is supported in writing by the employer, with documentation showing that the extension is needed and could not have been reasonably foreseen by the employer. The RA shall grant or deny the request for extension of the temporary alien agricultural labor certification based on available information, and shall notify the employer of the decision on the request in writing. The RA shall not grant extensions where the total work contract period, including past temporary alien labor certifications for the job opportunity and extensions, would be 12 months or more, except in extraordinary circumstances.

(d) *Denials of applications.* If the RA does not grant the temporary alien agricultural labor certification (in whole or in part) the RA shall notify the employer by means reasonably calculated to assure next-day delivery. The notification shall contain all the statements required in § 655.104(c) of this part. If a timely request is made for an administrative-judicial review or a *de novo* hearing by an administrative law judge, the procedures of § 655.112 of this part shall be followed.

(e) *Approvals of applications.*—(1) *Continued recruitment of U.S. workers.* After a temporary alien agricultural labor certification has been granted, the employer shall continue its efforts to recruit U.S. workers, until the H–2A workers have departed for the employer's place of employment, and shall notify the local office, in writing, of the exact date on which the H–2A workers depart for the employer's place of employment. The employer, however, shall keep an active job order on file until the "50-percent rule" assurance at § 655.103(e) of this part is met, except as provided for by paragraph (f) of this section.

(2) *Referrals by ES System.* The ES System shall continue to refer to the employer U.S. workers who apply as long as there is an active job order on file.

(f) *Exceptions.*—(1) *"Fifty-percent rule" inapplicable to small employers.* The assurance requirement at § 655.103(e) of this part does not apply to any employer who:

(i) Did not, during any calendar quarter during the preceeding calendar year, use more than 500 "man-days" of agricultural labor, as defined in Section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)), and so informs the RA in the H–2A application; and

(ii) Is not a member of an association which has applied for a temporary alien agricultural labor certification under this subpart for its members; and

(iii) Has not otherwise "associated" with other employers who are applying for H–2A workers under this subpart, and so certifies to the RA.

(2) *Displaced H–2A workers.* An employer shall not be liable for payments under § 655.102(b)(6) of this part with respect to an H–2A worker who is displaced due to compliance with § 655.103(e) of this part.

(g) *Withholding of U.S. workers prohibited*—(1) *Complaints.* Any employer who has reason to believe that a person or entity has willfully and knowingly withheld U.S. workers prior to the arrival at the job site of H–2A workers in order to force the hiring of U.S. workers under § 655.103(e) of this part may submit a written complaint to the local office. The complaint shall clearly identify the person or entity whom the employer believes has withheld the U.S. workers, and shall specify sufficient facts to support the allegation (*e.g.*, dates, places, numbers and names of U.S. workers) which will permit an investigation to be conducted by the local office.

(2) *Investigations.* The local office shall inform the RA by telephone that a complaint under the provisions of this paragraph (f) has been filed and shall immediately investigate the complaint. Such investigation shall include interviews with the employer who has submitted the complaint, the person or entity named as responsible for withholding the U.S. workers, and the individual U.S. workers whose availability has purportedly been withheld.

(3) *Reports of findings.* Within five working days after receipt of the complaint, the local office shall prepare a report of its findings, and shall submit such report (including recommendations) and the original copy of the employer's complaint to the RA.

(4) *Written findings.* The RA shall immediately review the employer's complaint and the report of findings submitted by the local office, and shall conduct any additional investigation the RA deems appropriate. No later than 36 working hours after receipt of the employer's complaint and the local office's report, the RA shall issue written findings to the local office and the employer. Where the RA determines that the employer's complaint is valid and justified, the RA shall immediately suspend the application of § 655.103(e) of this part to the employer. Such suspension of § 655.103(e) of this part under these circumstances shall not take place, however, unless the interviews required by paragraph (g)(2) of this section have been conducted. The RA's determination under the provisions of this paragraph (g)(4) shall be the final decision of the Secretary, and no further review by any DOL official shall be given to it.

(h) *Requests for new temporary alien agricultural labor certification determinations based on nonavailability of able, willing, and qualified U.S. workers*—(1) *Standards for requests.* If a temporary alien agricultural labor certification application has been denied (in whole or in part) based on the RA's determination of the availability of able, willing, and qualified U.S. workers, and, on or after 20 calendar days before the date of need specified in the temporary alien agricultural labor certification determination, such U.S. workers identified as being able, willing, qualified, and available are, in fact, not able, willing, qualified, or available at the time and place needed, the employer may request a new temporary alien agricultural labor certification determination from the RA. If an employer asserts that any U.S. worker who has been referred by the ES System or any other person or entity is not able, willing, or qualified for the job opportunity for which the employer has requested H–2A workers, the burden of proof shall be on the employer to establish that the individual referred is not able, willing, or qualified because of lawful job-related reasons. For purposes of this subpart, a U.S. worker who has voluntarily quit the job opportunity after the U.S. worker had been hired by the employer and who has not expressed any intention to return shall be considered not available.

(2) *Filing requests; local office statements.* The employer's request for a new determination shall be made directly to the RA. The RA may require that the request be in writing and be accompanied by a signed statement from the local office attesting to the employer's assertion of U.S. worker nonavailability or referred U.S. workers not being able, willing, or qualified because of lawful job-related reasons.

(3) *Regional office review.* The RA promptly shall review the request for a new determination. If the RA determines that the employer's assertion of nonavailability is accurate and that no able, willing, or qualified U.S. worker has been refused or is being refused employment for other than lawful job-related reasons, the RA shall, within 72 hours after receipt of the employer's request, render a new determination. Prior to making a new determination, the RA promptly shall ascertain (which

may be through the ES System or other sources of information on U.S. worker availability) whether able, willing, and qualified replacement U.S. workers are available or can be reasonably expected to be present at the employer's establishment within 72 hours from the date the employer's request was received. If the RA cannot identify sufficient able, willing, and qualified U.S. workers who are or who are likely to be available, the RA shall grant the employer's new determination request (in whole or in part) based on available information as to replacement U.S. worker availability. The RA's notification to the employer on the new determination shall be in writing, and the RA's determination under the provisions of this paragraph (h)(3) shall be the final decision of the Secretary, and no further review shall be given to an employer's request for a new H–2A determination by any DOL official. However, this does not preclude an employer from submitting subsequent requests for new determinations, if warranted, based on subsequent facts concerning purported nonavailability of U.S. workers or referred U.S. workers not being able, willing, or qualified because of lawful job-related reasons.

§ 655.107 Adverse effect wage rates (AEWRs).

(a) *Computation and Publication of AEWRs.* Except as otherwise provided in this section, the AEWRs for all agricultural employment (except for those occupations deemed inappropriate under the special circumstances provisions of § 655.93 of this part) for which temporary alien agricultural labor certification is being sought shall be equal to the annual weighted average hourly wage rate for field and livestock workers (combined) as published annually by the U.S. Department of Agriculture (USDA) based on the USDA quarterly wage survey. The Director shall publish, at least once in each calendar year, on a date or dates to be determined by the Director, AEWRs for each State (except Alaska) calculated pursuant to this paragraph (a) as a notice or notices in the **Federal Register.**

(b) *Higher prevailing wage rates.* If, as the result of a State agency prevailing wage survey determination, the prevailing wage rate in an area and agricultural activity (as determined by the State agency survey and verified by the Director) is found to be higher that the AEWR computed pursuant to paragraph (a) of this section, the higher prevailing wage rate shall be offered and paid to all workers by employers seeking temporary alien agricultural labor certification for that agricultural activity and area.

(c) *Federal minimum wage rate.* In no event shall an AEWR computed pursuant to this section be lower than the hourly wage rate published in 29 U.S.C. 206(a)(1) and currently in effect.

§ 655.108 H–2A applications involving fraud or willful misrepresentation.

(a) *Referral for investigation.* If possible fraud or willful misrepresentation involving a temporary alien agricultural labor certification application is discovered prior to a final temporary alien agricultural labor certification determination or if it is learned that the employer or agent (with respect to an application) is the subject of a criminal indictment or information filed in a court, the RA shall refer the matter to the INS and DOL Office of the Inspector General for investigation. The RA shall continue to process the application and may issue a temporary alien agricultural labor certification.

(b) *Continued processing.* If a court finds an employer or agent not guilty of fraud or willful misrepresentation, or if the Department of Justice decides not to prosecute an employer or agent, the RA shall not deny the temporary alien agricultural labor certification application on the grounds of fraud or willful misrepresentation. The application, of course, may be denied for other reasons pursuant to this subpart.

(c) *Terminated processing.* If a court or the INS determines that there was fraud or willful misrepresentation involving a temporary alien agricultural labor certification application, the application is thereafter invalid, consideration of the application shall be terminated and the RA shall return the application to the employer or agent with the reasons therefor stated in writing.

§ 655.110 Employer penalties for noncompliance with terms and conditions of temporary alien agricultural labor certifications.

(a) *Investigation of violations.* If, during the period of two years after a temporary alien agricultural labor certification has been granted (in whole or in part), the RA has reason to believe that an employer violated a material term or condition of the temporary alien agricultural labor certification, the RA shall, except as provided in paragraph (b) of this section, investigate the matter. If, after the investigation, the RA determines that a substantial violation has occurred, the RA, after consultation with the Director, shall notify the employer that a temporary alien agricultural certification request will not be granted for the next period of time in a calendar year during which the employer would normally be expected to request a temporary alien agricultural labor certification, and any application subsequently submitted by the employer for that time period will not be accepted by the RA. If multiple or repeated substantial violations are involved, the RA's notice to the employer shall specify that the prospective denial of the temporary alien agricultural labor certification will apply not only to the next anticipated period for which a temporary alien agricultural labor certification would normally be requested, but also to any periods within the coming two or three years; two years for two violations, or repetitions of the same violations, and three years for three or more violations, or repetitions thereof. The RA's notice shall be in writing, shall state the reasons for the determinations, and shall offer the employer an opportunity to request an expedited administrative review or a *de novo* hearing before an administrative law judge of the determination within seven calendar days of the date of the notice. If the employer requests an expedited administrative review or a *de novo* hearing before an administrative law judge, the procedures in § 655.112 of this part shall be followed.

(b) *Employment Standards Administration investigations.* The RA may make the determination described in paragraph (a) of this section based on information and recommendations provided by the Employment Standards Administration, after an Employment Standards Administration investigation has been conducted in accordance with the Employment Standards Administration procedures, that an employer has not complied with the terms and conditions of employment prescribed as a condition for a temporary alien agricultural labor certification. In such instances, the RA need not conduct any investigation of his/her own, and the subsequent notification to the employer and other procedures contained in paragraph (a) of this section will apply. Penalties invoked by the Employment Standards Administration for violations of temporary alien agricultural labor certification terms and conditions shall be treated and handled separately from sanctions available to the RA, and an employer's obligations for compliance with the Employment Standards Administration's enforcement penalties shall not absolve an employer from sanctions applied by ETA under this

section (except as noted in paragraph (a) of this section).

(c) *Less than substantial violations.* If, after investigation as provided for under paragraph (a) of this section, or an Employment Standards Administration notification as provided under paragraph (b) of this section, the RA determines that a less than substantial violation has occurred, but the RA has reason to believe that past actions on the part of the employer may have had and may continue to have a chilling or otherwise negative effect on the recruitment, employment, and retention of U.S. workers, the RA may require the employer to conform to special procedures before and after the temporary alien labor certification determination (including special on-site positive recruitment and streamlined interviewing and referral techniques) designed to enhance U.S. worker recruitment and retention in the next year as a condition for receiving a temporary alien agricultural labor certification. Such requirements shall be reasonable, and shall not require the employer to offer better wages, working conditions and benefits than those specified in § 655.102 of this part, and shall be no more than deemed necessary to assure employer compliance with the test of U.S. worker availability and adverse effect criteria of this subpart. The RA shall notify the employer in writing of the special procedures which will be required in the coming year. The notification shall state the reasons for the imposition of the requirements, state that the employer's agreement to accept the conditions will constitute inclusion of them as bona fide conditions and terms of a temporary alien agricultural labor certification, and shall offer the employer an opportunity to request an administrative review or a *de novo* hearing before an administrative law judge. If an administrative review is requested, the procedures prescribed in § 655.112 of this part shall apply. Failure of an employer to comply with any special requirements imposed under this paragraph (c) (after a final determination by an administrative law judge) shall result in an employer's otherwise affirmative temporary alien agricultural labor certification determination being reduced by twenty-five percent of the total number of H–2A aliens requested (which cannot be more than those requested in the previous year) for a period of one year after the administrative law judge's determination. Notice of such a reduction in the number of workers requested shall be conveyed to the employer by the RA in the RA's written temporary alien agricultural labor certification determination required by § 655.101 of this part (after consultation with the Director) and shall not be further reviewable by any DOL official.

(d) *Penalties involving members of associations.* If, after investigation as provided for under paragraph (a) of this section, or notification from the Employment Standards Administration under paragraph (b) of this section, the RA determines that a substantial violation has occurred, and if an individual producer member of a joint employer association is determined to have committed the violation, the denial of temporary alien agricultural labor certification penalty prescribed in paragraph (a) shall apply only to that member of the association unless the RA determines that the association or other association member participated in, had knowledge of, or had reason to know of the violation, in which case the penalty shall be invoked against the association or other association member as well.

(e) *Penalties involving associations acting as joint employers.* If, after investigation as provided for under paragraph (a) of this section, or notification from the Employment Standards Administration under paragraph (b) of this section, the RA determines that a substantial violation has occurred, and if an association acting as a joint employer with its members is determined to have committed the violation, the denial of temporary alien agricultural labor certification penalty prescribed in paragraph (a) of this section shall apply only to the association, and shall not be applied to any individual producer member of the association unless the RA determines that the member participated in, had knowledge of, or reason to know of the violation, in which case the penalty shall be invoked against the association member as well.

(f) *Penalties involving associations acting as sole employers.* If, after investigation as provided for under paragraph (a) of this section, or notification from the Employment Standards Administration under paragraph (b) of this section, the RA determines that a substantial violation has occurred, and if an association acting as a sole employer is determined to have committed the violation, no individual producer member of the association shall be permitted to employ certified H–2A workers in the crop and occupation for which the H–2A workers had been previously certified for the sole employer association unless the producer member applies for temporary alien agricultural labor certification under the provisions of this subpart in the capacity of an individual employer/applicant or as a member of a joint employer association, and is granted temporary alien agricultural labor certification by the RA.

(g) *Types of violations.*—(1) *Substantial violation.* For the purposes of this subpart, a substantial violation is one or more actions of commission or omission on the part of the employer or the employer's representative, with respect to which the RA determines:

(i)(A) That the action(s) is/are significantly injurious to the wages, benefits, or working conditions of 10 percent or more of an employer's U.S. and/or H–2A workforce; and that:

(*1*) With respect to the action(s), the employer has failed to comply with one or more penalties imposed by the Employment Standards Administration for violation(s) of contractual obligations found by that agency (if applicable), or with one or more decisions or orders of the Secretary or a court pursuant to section 216 of the INA (8 U.S.C. 1186), this subpart, or 29 CFR Part 501 (Employment Standards Administration enforcement of contractual obligations); or

(*2*) The employer has engaged in a pattern or practice of actions which are significantly injurious to the wages, benefits, or working conditions of 10 percent or more of an employer's U.S. and/or H–2A workforce;

(B) That the action(s) involve(s) impeding an investigation of an employer pursuant to section 216 of the INA (8 U.S.C. 1186), this subpart, or 29 CFR Part 501 (Employment Standards Administration enforcement of contractual obligations);

(C) That the employer has not paid the necessary fee in a timely manner;

(D) That the employer is not currently eligible to apply for a temporary alien agricultural labor certification pursuant to § 655.210 of this part (failure of an employer to comply with the terms of a temporary alien agricultural labor certification in which the application was filed under Subpart C of this part prior to June 1, 1987); or

(E) That there was fraud involving the application for temporary alien agricultural labor certification or that the employer made a material misrepresentation of fact during the application process; and

(ii) That there are no extenuating circumstances involved with the action(s) described in paragraph (g)(1)(i) of this section (as determined by the RA).

(2) *Less than substantial violation.* For the purposes of this subpart, a less than substantial violation is an action of commission or omission on the part of the employer or the employer's representative which violates a requirement of this subpart, but is not a substantial violation.

§ 655.111 Petition for higher meal charges.

(a) *Filing petitions.* Until a new amount is set pursuant to this paragraph (a), the RA may permit an employer to charge workers up to $6.58 for providing them with three meals per day, if the employer justifies the charge and submits to the RA the documentation required by paragraph (b) of this section. An employer may appeal a denial in whole or in part. Such appeals shall be filed with the Chief Administrative Law Judge. Administrative law judges shall hear such appeals according to the procedures in 29 CFR Part 18, except that the appeal shall not be considered as a complaint to which an answer is required. The decision of the administrative law judge shall be the final decision of the Secretary. Each year the maximum charge allowed by this paragraph (a) will be changed by the same percentage as the twelve-month percent change for the Consumer Price Index for all Urban Consumers for Food between December of the year just concluded and December of the year prior to that. The annual adjustments shall be effective on the date of their publication by the Director as a notice in the **Federal Register.** However, an employer may not impose such a charge on worker prior to the effective date contained in the RA's written confirmation of the amount to be charged.

(b) *Required documentation.* Documentation submitted shall include the cost of goods and services directly related to the preparation and serving of meals, the number of workers fed, the number of meals served and the number of days meals were provided. The cost of the following items may be included: food; kitchen supplies other than food, such as lunch bags and soap; labor costs which have a direct relation to food service operations, such as wages of cooks and restaurant supervisors; fuel, water, electricity, and other utilities used for the food service operation; and other costs directly related to the food service operation. Charges for transportation, depreciation, overhead and similar charges may not be included. Receipts and other cost records for a representative pay period shall be available for inspection by the RA for a period of one year.

§ 655.112 Administrative review and de novo hearing before an administrative law judge.

(a) *Administrative review*—(1) *Consideration.* Whenever an employer has requested an administrative review before an administrative law judge of a decision not to accept for consideration a temporary alien agricultural labor certification application, of the denial of a temporary alien agricultural labor certification, or of a penalty under § 655.110 of this part, the RA shall send a certified copy of the case file to the Chief Administrative Law Judge by means normally assuring next-day delivery. The Chief Administrative Law Judge shall immediately assign an administrative law judge (which may be a panel of such persons designated by the Chief Administrative Law Judge from the Board of Alien Labor Certification Appeals established by Part 656 of this chapter, but which shall hear and decide the appeal as set forth in this section) to review the record for legal sufficiency. The administrative law judge shall not remand the case and shall not receive additional evidence.

(2) *Decision.* Within five working days after receipt of the case file the administrative law judge shall, on the basis of the written record and after due consideration of any written submissions submitted from the parties involved or *amici curiae,* either affirm, reverse, or modify the RA's denial by written decision. The decision of the administrative law judge shall specify the reasons for the action taken and shall be immediately provided to the employer, RA, the Director, and INS by telegram or hand delivery. The administrative law judge's decision shall be the final decision of the Secretary and no further review shall be given to the temporary alien agricultural labor certification application or the temporary alien agricultural labor certification determination by any DOL official.

(b) *De novo hearing*—(1) *Request for hearing; conduct of hearing.* Whenever an employer has requested a *de novo* hearing before an administrative law judge of a decision not to accept for consideration a temporary alien agricultural labor certification application, of the denial of a temporary alien agricultural labor certification, or of a penalty under § 655.110 of this part, the RA shall send a certified copy of the case file to the Chief Administrative Law Judge by means normally assuring next-day delivery. The Chief Administrative Law Judge shall immediately assign an administrative law judge (which may be a panel of such persons designated by the Chief Administrative Law Judge from the Board of Alien Labor Certification Appeals established by Part 656 of this chapter, but which shall hear and decide the appeal as set forth in this section) to conduct the *de novo* hearing. The procedures contained in 29 CFR Part 18 shall apply to such hearings, except that:

(i) The appeal shall not be considered to be a complaint to which an answer is required,

(ii) The administrative law judge shall ensure that, at the request of the employer, the hearing is scheduled to take place within five working days after the administrative law judge's receipt of the case file, and

(iii) The administrative law judge's decision shall be rendered within ten working days after the hearing.

(2) *Decision.* After a *de novo* hearing, the administrative law judge shall either affirm, reverse, or modify the RA's determination, and the administrative law judge's decision shall be provided immediately to the employer, RA, Director, and INS by telegram or hand delivery. The administrative law judge's decision shall be the final decision of the Secretary, and no further review shall be given to the temporary alien agricultural labor certification application or the temporary alien agricultural labor certification determination by any DOL official.

§ 655.113 Job Service Complaint System; enforcement of work contracts.

Complaints arising under this subpart may be filed through the Job Service Complaint System, as described in 20 CFR Part 658, Subpart E. Complaints which involve worker contracts shall be referred by the local office to the Employment Standards Administration for appropriate handling and resolution. See 29 CFR Part 501. As part of this process, the Employment Standards Administration may report the results of its investigation to ETA for consideration of employer penalties under § 655.110 of this part or such other action as may be appropriate.

9. In 20 CFR Part 655, Subpart C is amended by revising the subpart heading to read as follows:

Subpart C—Labor Certification Process for Logging Employment and Non-H-2A Agricultural Employment

10. In 20 CFR Part 655, § 655.200 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c) respectively, and by adding a new paragraph (a), to read as follows:

§ 655.200 General description of this subpart and definition of terms.

(a) This subpart applies to applications for temporary alien agricultural labor certification filed before June 1, 1987, and to applications for temporary alien labor certification for logging employment.

* * * * *

Signed at Washington, DC, this 29th day of April, 1987.

William E. Brock,

Secretary of Labor.

[FR Doc. 87-10028 Filed 5-4-87; 8:45 am]

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Wage and Hour Division, Employment Standards Administration

29 CFR Part 501

Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment Standards Administration (ESA) of the U.S. Department of Labor (DOL) is proposing to establish new regulations applicable to employers of nonimmigrant aliens for temporary employment in agriculture in the United States. This program is commonly know as the "H-2A" program. These proposed regulations conform to the requirements of Section 216 of the Immigration and Nationality Act (INA) as amended by the Immigration Reform and Control Act of 1986 (IRCA). The proposed regulations incorporate some provisions previously used by the Employment and Training Administration (ETA) of DOL in carrying out responsibilities of that agency under the "H-2" program which were codified by enactment of IRCA. These regulations relate specifically to enforcement of the contractual obligations of an employer of H-2A workers to the workers, including U.S. and H-2A workers and other workers employed by the employer.

DATES: Written comments on the proposed rule must be received on or before May 19, 1987.

ADDRESS: Send written comments to: Paula V. Smith, Administrator, Wage and Hour Division, Employment Standards Administration, Room S-3502, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Herbert J. Cohen, Deputy Administrator, Telephone (202) 523-8305.

SUPPLEMENTARY INFORMATION:

I. Background

Whether to grant or deny an employer's petition to import a nonimmigrant alien to the United States for the purpose of temporary employment is solely the decision of the Attorney General and his designee, the Commissioner of the Immigration and Naturalization Service (INS). The Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA), provides that the Attorney General may not approve such a petition from an employer for employment of a nonimmigrant H-2A alien worker, in agriculture unless the petitioner has applied to the Secretary of Labor (the Secretary) for a labor certification showing that: (1) There are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or service involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

The amendments to the INA made by IRCA codify DOL's role in the temporary agricultural labor certification process. Prior to 1987, many of the responsibilities of the Department of Labor (DOL) specified in IRCA were carried out under the requirement in the INA at 8 U.S.C. 1184(c) that the Attorney General consult with appropriate agencies of the Government concerning the importation of nonimmigrant workers; also, under INS regulations governing the reliance placed by INS on the advice of DOL relative to U.S. worker availability and adverse effect. Pursuant to INS regulations, DOL promulgated regulations at 20 CFR Part 655, Subpart C, for the certification of temporary employment of nonimmigrant aliens in agriculture and logging in the United States.

The proposed regulation in this document adopts procedures deemed necessary by DOL to carry out its statutory responsibilities regarding enforcement of an H-2A employer's contractual obligations to H-2A workers and other workers. The regulations pertaining to the certification of H-2A workers will be codified at 20 CFR Part 655, Subpart B.

An employer seeking such a labor certification must submit a job offer to the State Employment Service Agency. That job offer will specify the conditions of employment relative to such matters as wages, transportation, meal charges and housing provided. The minimum requirements of such job offers are established by ETA and set forth at 20 CFR 655. In the absence of an employment contract, the job offer will be regarded as the agreement between the employer and worker and subject to enforcement under the proposed regulation.

It is clear from the enactment of IRCA and the legislative history that the Congress intended that DOL would increase its effort regarding the enforcement of labor standards with respect to the H-2A programs as shown by Section 301(g).

(2) The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

Accordingly, the Secretary of Labor (the Secretary) has determined that enforcement of the contractual obligations of employers under this program can be most efficiently accomplished by assigning responsibility to the ESA, Wage and Hour Division.

Applications for temporary alien agricultural labor certification submitted before June 1 will be governed by the current H-2 regulations in 20 CFR Part 655, Subpart C, in effect prior to June 1, and will not be subject to these proposed regulations.

II. Contents of Proposed Regulations

Following is a section-by-section summary of the primary components of the proposed regulations.

Section 501.1

This section sets forth the statutory basis for importing aliens as H-2A workers under section 216 of the Immigration and Nationality Act (INA). It also defines which responsibilities have been delegated by the Secretary to ETA and which responsibilities were delegated to ESA, Wage and Hour Division and the effective dates of these responsibilities.

Section 501.2

Complaints related to an employer's contractual obligations to workers under the H-2A program received by ETA or any State Employment Service Agency will be forwarded to the Wage and Hour Division for action.

Section 501.3

This section sets forth protections for workers against discrimination in employment by any person as a result of the worker's taking specified actions on behalf of himself or others.

Section 501.4

This section sets forth the prohibition against any H–2A worker or other worker employed by an H–2A employer from waiving rights conferred under section 216 of INA, under 29 CFR Part 655, or under these regulations.

Section 501.5

This section sets forth the Secretary's authority to make investigations to determine compliance with applicable provisions of INA. Persons refusing to permit such investigations may be subject to injunction, imposition of civil money penalties or denial of any future labor certifications. Investigations shall be conducted in a manner which provides confidentiality to persons who provide information. Violations may be reported by any person to any local office of the Employment Service, to any office of the Wage and Hour Division, ESA, or any other authorized representative of the Secretary.

Section 501.6

This section sets forth the prohibition against interference by any person with any official of the Department of Labor assigned to perform an investigation, inspection or law enforcement function pursuant to INA and these regulations.

Section 501.7

This section incorporates appropriate language from Title 18, U.S.C. which, provides for a fine of not more than $10,000 and or imprisonment for not more than 5 years for anyone who willfully or knowingly provides false or misleading information in statements and data with regard to any matter under the jurisdiction of the United States.

Section 501.10

This section provides definitions of terms used in these regulations. Definitions promulgated by ETA in 20 CFR Part 665 are set forth for information purposes. Comments concerning such definitions should be submitted to the Assistant Secretary for Employment and Training, Washington, DC 20210, Attention: Director U.S. Employment Service, or before May 19, 1987. Of particular interest are the definitions of "work contract" at 501.10(d) and "agricultural employer" at 501.10(f). As used in these regulations "work contract" means the conditions of employment relating to wages, hours, working conditions, and other benefits and includes at a minimum, the terms of the job offer and application for temporary labor certification under 20 CFR Part 655. The definition of "agricultural employer" matches the existing definition in the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and the Fair Labor Standards Act (FLSA).

Section 501.15

This section identifies those enforcement actions by the Wage and Hour Division, as provided in these regulations, which pertain to the employment of any H–2A worker or other worker employed by an H–2A employer and include any work contract provisions which apply to such employment under section 216 of INA.

Section 501.16

This section sets forth sanctions which may be taken against any person who has violated Section 216 A of the INA or these regulations. These include revocation or denial of labor certification, institution of administrative proceedings for the inforcement of contractual obligations, assessment of civil money penalties, and civil actions through the U.S. District court.

Section 501.17

This section sets forth that multiple remedies may be sought simultaneously against any person who has violated the Act or these regulations.

Section 501.18

This section authorizes the Solicitor of Labor, through authorized representatives, to represent the Secretary in any civil litigation or administrative hearing under the Act and these regulations.

Section 501.19

This section outlines criteria to be considered in determining the amount of civil money penalty to be assessed.

Section 501.20

This section sets forth the manner by which findings of violations disclosed are enforced through: (1) Administrative proceedings to recover unpaid wages, to enforce contractual obligations or to assess civil money penalties and/or (2) civil proceedings in any appropriate District Court for injunctive relief or to petition for specific performance of contractual obligations.

Section 501.21

This section indicates that recommendations shall be made by Wage and Hour to ETA, for consideration of labor certification denial where violations disclosed appear to warrant such action.

Section 501.22

This section provides for the payment of civil money penalties which have become a final order to the Secretary, to be submitted to the Wage and Hour Regional Office having jurisdiction over the area in which the violation occurred.

Section 501.30

This section states that the process to assess a civil money penalty and the enforcement of contractual obligations are contained in the following procedures.

Section 501.31

This section advises that any person who is assessed a civil money penalty or against whom administrative action is taken to enforce contractual obligations, including the recovery of unpaid wages, under these regulations shall be notified in writing of such assessment or action taken.

Section 501.32

This section sets forth the information contained in the notification letter concerning any unpaid wages due or contractual obligations required and the amount of any civil money penalty assessment and reasons therefor.

Section 501.33

This section indicates that any person who is assessed a civil money penalty or against whom administrative action is taken to enforce contractual obligations, including the recovery of unpaid wages, may request an administrative hearing on the determination and lists the information that should be included in a request for such a hearing.

Section 501.34

This section indicates that the rules established by the Secretary at 29 CFR Part 18 shall apply to administrative proceedings under this regulation unless otherwise specifically stated herein.

Section 501.35

This indicates that action to grant a hearing on the assessment of civil money penalties shall begin upon receipt of a timely request for such hearing.

Section 501.36

This section explains the manner by which administrative proceedings are captioned.

Section 501.37

This section explains the procedures for referral of a properly filed request for hearing to the Chief Administrative Law Judge.

Section 501.38

This section provides for notification of all parties of docketing by the Chief Administrative Law Judge.

Section 501.39

This section explains procedure for service of pleadings and other documents required for any administrative proceeding upon attorneys for the Department of Labor.

Section 501.40

This section concerns agreements containing consent findings and preparation of any order disposing of all or part of the proceeding prior to hearing and specifies the time frame for negotiating such agreement and the contents thereof.

Section 501.41

This section sets forth the process for the issuance of a Decision and Order by the Administrative Law Judge, the contents thereof, and the right by either party to petition the Secretary to review the decision.

Section 501.42

This section provides for notification by certified mail to be made to all parties of the Secretary's determination to review the Decision and Order of the Administrative Law Judge.

Section 501.43

This section states the responsibility of the Office of Administrative Law Judges to forward documents to the Secretary upon receipt of the Secretary's Notice of Intent to Review a Decision and Order of an Administrative Law Judge.

Section 501.44

This section states the responsibility of the Secretary concerning notification of the parties involved where the Secretary has issued a Notice of Intent to Review a Decision and Order of an Administrative Law Judge.

Section 501.45

This section provides for the distribution of the Secretary's final decision by certified mail where the Secretary has reviewed a Decision and Order of an Administrative Law Judge.

Section 501.46

This section provides for the retention of official records of completed administrative hearings.

Section 501.47

This section provides for action by the Chief Administrative Law Judge upon receipt of a notice of appeal to a U.S. District Court after administrative remedies have been exhausted.

Regulatory Impact

The proposed rule would affect only the small number of employers using nonimmigrant alien workers ("H–2A visaholders") in temporary agricultural jobs in the U.S. The regulations are largely procedural in nature. It would not have the financial or other impact to make it a major rule, and therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291, 3 CFR 1981 Comp., p. 127, 5 U.S.C. 601 note.

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the proposal would not have a significant economic impact on a substantial number of small entities. It applies only to the small number employers (and their workers) who employ nonimmigrant aliens in agricultural employment in the United States.

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* as Number 17.202, "Certification of Foreign Workers for Agricultural and Logging Employment."

List of Subjects in 29 CFR Part 501

Administrative practice and procedure, Agriculture, Aliens, Employment, Farmers, Housing, Housing standards, Immigration, Labor, Migrant labor, Penalties, Transportation wages.

Accordingly, it is proposed that a new Part 501 be added to Title 29, Code of Federal Regulations, as follows:

Signed at Washington, DC this 29th day of April, 1987.

William E. Brock,

Secretary of Labor.

PART 501—ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

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Authority: 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1186.

Subpart A—General Provisions

§ 501.0 Introduction

These regulations cover the enforcement of all contractual obligations provisions applicable to the employment of H–2A workers under section 216 of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA). These regulations are also applicable to the employment of other workers employed by users of H–2A workers.

§ 501.1 Purpose and scope.

(a) *Statutory Standard.* Section 216(a) of the INA provides that)—

(1) A petition to import an alien as an H–2A worker (as defined in subsection (i)(2) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

(A) there are not sufficient workers who are able, willing, and qualifed, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and

(B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(b) *Role of the ETA, USES.* The issuance and denial of labor certification under section 216 of the INA has been delegated by the Secretary of Labor to the Employment and Training Administration (ETA). In general, matters concerning the obligations of an employer of H–2A workers related to the labor certification process are administered and enforced by ETA. Included within ETA's jurisdiction are such issues as whether U.S. workers were available, whether positive recruitment was conducted, whether there was a strike or lockout, the methodology for establishing adverse effect wage rates, whether workers' compensation insurance was provided, whether employment was offered to U.S. workers for up to 50 percent of the contract period and other similar matters. The regulations pertaining to the issuance and denial of labor certification for temporary alien workers by the Employment and Training Administration are found in Title 20 CFR, Part 655.

(c) *Role of ESA, Wage and Hour Division.* Section 216(g)(2) of the INA provides that—

[T]he Secretary of Labor is authorized to take such actions including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

Certain investigation, inspection and law enforcement functions to carry out the provisions of section 216 of the INA have been delegated by the Secretary of Labor to the Employment Standards Administration (ESA) Wage and Hour Division. In general, matters concerning the obligations of the work contract between an employer of H–2A workers and all workers hired by H–2A employers are enforced by ESA. Included within the enforcement responsibility of ESA, Wage and Hour Division are such matters as the payment of required wages, transportation, meals and housing provided during the employment. The Wage and Hour Division has the responsibility to carry out investigations, inspections and law enforcement functions and in appropriate instances impose penalities, seek injunctive relief and specific peformance of contractual obligations, including recovery of upaid wages.

(d) *Effect of regulations.* The amendments to the INA made by Title III of the IRCA apply to petitions and applications filed on and after June 1, 1987. Accordingly, the enforcement functions carried out by the Wage and Hour Division under the INA and these regulations apply to the employment of any H–2A worker and any other workers hired by H–2A employers employed as the result of any petition or application filed with the Department on and after June 1, 1987.

§ 501.2 Coordination of intake between DOL agencies.

Complaints received by ETA, or any State Employment Service Agency regarding contractual H–2A labor standards between the employer and the employee will be immediately forwarded to the appropriate Wage and Hour office for appropriate action under these regulations.

§ 501.3 Discrimination prohibited.

No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any person who has:

(a) Filed a complaint under or related to Section 216 of the INA or these regulations;

(b) Instituted or caused to be instituted any proceedings related to section 216 of the INA or these regulations;

(c) Testified or is about to testify in any proceeding under or related to section 216 of the INA or these regulations;

(d) Exercised or asserted on behalf of himself or others any right or protection afforded by section 216 of the INA or these regulations.

Allegations of discrimination in employment against any person will be investigated by Wage and Hour. Where Wage and Hour has determined through investigation that such allegations have been substantiated appropriate remedies may be sought. Wage and Hour may assess civil money penalties, seek injunctive relief, and/or seek additional remedies necessary to make the employee whole as a result of the discrimination, as appropriate, and may recommend to ETA that labor certification of any violator be denied in the future.

§ 501.4 Waiver of rights prohibited.

No person shall seek to have an H–2A worker, or other worker employer by an H–2A employer, waive rights conferred under section 216 of the INA or under these regulations. Such waiver is against public policy. Any agreement by an employee purporting to waive or modify any rights inuring to said person under the Act or these regulations shall be void as contrary to public policy, except that a waiver or modification of rights or obligations hereunder in favor of the Secretary shall be valid for purposes of enforcement of the provisions of the Act or these regulations. This does not prevent agreements to settle private litigation.

§ 501.5 Investigation authority of Secretary.

(a) *General.* The Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate and, in connection therewith, enter and inspect such places and vehicles (including housing) and such records (and make transcriptions thereof), question such persons and gather such information as deemed necessary by the Secretary to determine compliance with contractual obligations under section 216 of the INA or these regulations.

(b) *Failure to permit investigation.* Where any person using the services of an H–2A worker does not permit an investigation concerning the employment of his or her workers the Wage and Hour Division shall report such occurrence to ETA and may recommend revocation of such person's current labor certification and/or denial of future labor certifications to such person. In addition, Wage and Hour may

take such action as may be appropriate, including, the seeking of an injunction or assessing civil money penalties against any person who has failed to permit Wage and Hour to make an investigation.

(c) *Confidential investigation.* The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.

(d) *Report of violations.* Any person may report a violation of the Act or these regulations to the Secretary by advising any local office of the Employment Service of the various States, or any office of the Wage and Hour Division, ESA, U.S. Department of Labor, or any other authorized representative of the Secretary. The office or person receiving such a report shall refer it to the appropriate office of the Wage and Hour Division, ESA, for the area in which the reported violation is alleged to have occurred.

§ 501.6 Prohibition on interference with Department of Labor officials.

No person shall interfere with any official of the Department of Labor assigned to perform an investigation, inspection or law enforcement function pursuant to the INA and these regulations during the performance of such duties. Wage and Hour will seek such action as it deems appropriate, including an injunction to bar any such interference with an investigation and/or assess a civil money penalty therefor. In addition Wage and Hour may refer a report of the matter to ETA with a recommendation that the person's labor certification be denied in the future. (Federal statutes which prohibit persons from interfering with a Federal officer in the course of official duties are found at 18 U.S.C. 111 and 18 U.S.C. 1114.)

§ 501.7 Accuracy of information, statements, data.

Information, statements and data submitted in compliance with provisions of the Act or these regulations are subject to Title 18, section 1001, of the United States Code, which provides:

Section 1001. Statements or entries generally.

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

§ 501.10 Definitions.

For purposes of this part:

(a) "Act" and "INA" mean the Immigration and Nationality Act, as amended (8 USC 1101 *et seq.*).

(b) "Administrative Law Judge (ALJ)" means a person within the Department of Labor Office of Administrative Law Judges appointed pursuant to 5 U.S.C. 3105.

(c) "Administrator" means the Administrator of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor, and such authorized representatives as may be designated to perform any of the functions of the Administrator under this part.

(d) "Work contract" means all the material terms and conditions of employment relating to wages, hours, working conditions, and other benefits, including those terms and conditions required by the applicable regulations in Subpart B of 20 CFR Part 655, *Labor Certification Process for Temporary Agricultural Employment in the United States*, and those contained in the Application for Alien Employment Certification and job offer under that subpart, which contract between the employer and the worker may be in the form of a separate written document. In the absence of a separate written work contract, entered into between the employer and the worker, the work contract at a minimum shall be the terms of the job offer and application for temporary labor certification. In addition, the following definitions promulgated at 20 CFR 655.100(b) which terms are utilized herein are incorporated and are set forth for information purposes.

(e) "Adverse effect wage rate (AEWR)" means the wage rate which the Director, USES, has determined must be offered and paid, as a minimum, to every H–2A worker and every U.S. worker for a particular occupation and/or area in which an employer employs or seeks to employ an H–2A worker so that the wages of similarly employed U.S. workers will not be adversely affected.

(f) "Agricultural employer" means an employer who uses agricultural labor or services of a temporary or seasonal nature:

(1) *"Agricultural labor or services".* Pursuant to section 101(a)(15)(ii)(a) of the Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), "agricultural labor or services" is defined for the purposes of this subpart as "agricultural labor" as defined and applied in 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) or "agriculture" as defined and applied in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)). For informational purposes, the statutory provisions are quoted below:

(i) *"Agricultural labor".* Section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) defines the term "agricultural labor" to include all service performed:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) Services performed in the employ of the owner or tenant or other operator of a farm, in connection with the operation, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended (12 U.S.C. 114j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) (A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

(B) in the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar quarter in which such service is performed;

(C) the provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(5) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the

raising of agricultural or horticultural commodities, and orchards.

(ii) *"Agriculture"*. Section 203(f) of Title 29, United States Code, (section 3(f) of the Fair Labor Standards Act of 1938) defines "agriculture" to include:

(f) * * * farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(iii) "Agricultural commodity". Section 1141j(g) of Title 12, United States Code, (section 15(g) of the Agricultural Marketing Act, as amended) defines "agricultural commodity" to include:

(g) * * * in addition to other agricultural commodities, crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine, and gum rosin, as defined in section 92 of Title 7.

(iv) *"Gum rosin"*. Section 92 of Title 7, United States Code, defines "gum spirits of turpentine;; and gum rosin" as follows:

(c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree

* * * * *

(h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.

(2) *"Of a temporary or seasonal nature"*. For the purposes of this subpart "of a temporary or seasonal nature" means "on a seasonal or other temporary basis", as defined in the ESA Wage and Hour Division's regulation at 29 CFR 500.20 under the Migrant and Seasonal Agricultural Worker Protection Act. Section 500.20 as it pertains to seasonal or temporary basis is quoted below.

(s) "On a seasonal or other temporary basis" means:

(1) Labor is performed on a seasonal basis, where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on through the year. A worker who moves from one seasonal activity to another, while employed in agriculture or performing agricultural labor, is employed on a seasonal basis even though the worker may continue to be employed during a major portion of the year.

(2) A worker is employed on "other temporary basis" where the worker is employed for a limited time only or the performance is contemplated for a particular piece of work, usually of short duration. Generally, employment, which is contemplated to continue indefinitely, is not temporary.

(g) "DOL" means the United States Department of Labor.

(h) "Employer" means a person, firm, corporation or other association or organization which suffers or permits persons to work and (1) which as a location within the United States to which U.S. workers may be referred for employment, and which proposes to employ workers at a place within the United States and (2) which has an employment relationship with respect to employees under this subpart as indicated by the fact that it may hire, pay, fire, supervise or otherwise control the work of any such emloyee. An association of employers shall be considered the sole employer if it has all the indicia of an employer set forth in this definition. Such an association, however, shall be considered as a joint employer with an employer member if it shares with the employer member one or more of the definitional indicia.

(i) "Employment Service (ES)" and "Employment Service (ES) System" mean, collectively, the USES, the State agencies, the local offices, and the ETA regional offices.

(j) "Employment Standards Administration (ESA)" means the agency within the Department of Labor (DOL), which includes the Wage and Hour Division, and which is charged with the carrying out certain functions of the Secretary under the INA.

(k) "Employment and Training Administration (ETA)" means the agency within the Department of Labor (DOL) which includes the United States Employment Services (USES).

(l) "H–2A worker" means any nonimmigrant alien admitted to the United States for agricultural labor or services of a temporary or seasonal nature under section 101(a)(5)(H)(ii)(a) of the INA.

(m) "Immigration and Naturalization Service (INS)" means the component of the U.S. Department of Justice which makes the determination under the INA on whether or not to approve a petition to import an alien seeking to perform temporary agricultural work in the United States.

(n) "Job offer" mean the offer made by an employer or potential employer of H-2A workers to both U.S. and H–2A workers describing all the material terms and conditions of employment, including those relating to wages, working conditions, and other benefits.

(o) "Joint Employment" means a condition in which a single individual stands in the relation of an employee to two or more persons at the same time.

(p) "Person" mean individual, partnership, association, joint stock company, trust, cooperative, or corporation.

(q) "Secretary" means the Secretary of Labor or the Secretary's designee.

(r) "State agency" means a State employment service agency.

(s) "Solicitor of Labor" means the Solicitor, United States Department of Labor, and includes attorneys designated by the Solicitor to perform functions of the Solicitor under these regulations.

(t) "Temporary labor certification" means the advice given by the Secretary of Labor to INS with respect to a petition to import an alien as an H–2 worker, pursuant to sections 101(a)(15)(H)(ii)(a), 214 (a) and (c), and 216 of the INA that (1) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(u) "United States Employment Service (USES)" means the agency of the U.S. Department of Labor, established under the Wagner-Peyser Act, which is charged with administering the national system of public employment offices and carrying out certain functions of the Secretary under the INA.

(v) "United States (US) workers" means any worker who, whether a U.S. national, citizen or alien, is legally permitted to work within the United States. Special agricultural workers admitted to the United States under sections 210 and 210A of the Immigration and Nationality Act as temporary or permanent resident aliens are considered United States workers for the purposes of this subpart.

(w) "User of H–2A worker" means any person, firm, corporation, or other entity which meets the definition in paragraph (g) of "employer"; or is an employer member of an association which is a joint employer and which employs or seeks to employ H–2A workers in agriculture in the United States.

(x) "Wages" means all forms of cash remuneration to a worker by an

employer in payment for personal services.

Subpart B—Enforcement of Work Contracts

§ 501.15 Enforcement.

The investigations, inspections and law enforcement functions to carry out the provisions of section 216 of the INA, as provided in these regulations for enforcement by the Wage and Hour Division, pertain to the employment of any H–2A worker and any other worker employed by an H–2A employer. Such enforcement includes those work contract provisions as defined in ETA regulations at Title 20 CFR 501.10 which apply to such employment under section 216 of the INA. The work contract enforced includes the employment benefits which must be stated in the job offer, as prescribed in 20 CFR 655.102.

§ 501.16 General.

Whenever the Secretary believes that the H–2A provisions of the INA or these regulations have been violated such action shall be taken and such proceedings instituted as deemed appropriate, including (but not limited to) the following:

(a) Impose revocation or denial of labor certification against any person for a violation of the H–2A obligations of the INA or the regulations. ETA shall make all determinations regarding the issuance, revocation or denial of labor certification. ESA shall make all determinations regarding the enforcement functions listed in paragraphs (b) through (d) of this section.

(b) Institute appropriate administrative proceedings, including the recovery of unpaid wages, the enforcement of any other contractual obligations and the assessment of a civil money penalty against any person for a violation of the H–2A work contract obligations of the Act or these regulations.

(c) Petition any appropriate District Court of the United States for temporary or permanent injunctive relief, including the withholding of unpaid wages, to restrain violation of the H–2A provisions the Act or these regulations by any person;

(d) Petition any appropriate District Court of the United States for specific performance of contractual obligations.

§ 501.17 Concurrent actions.

The taking of any one of the actions referred to above shall not be a bar to the concurrent taking of any other action authorized by the H–2A provisions of the Act and these regulations, or the regulations of 20 CFR Part 655.

§ 501.18 Representation of the Secretary.

(a) Except as provided in section 518(a) of Title 28, U.S. Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under the Act.

(b) The Solicitor of Labor, through the authorized representatives shall represent the Administrator and the Secretary in all administrative hearings under the H–2A provisions of the Act and these regulations.

§ 501.19 Civil money penalty assessment.

(a) A civil money penalty may be assessed by the Administrator for each violation of the work contract or these regulations.

(b) In determining the amount of penalty to be assessed for any violation of the work contract as provided in the H–2A provisions of the Act or these regulations the Administrator shall consider the type of violation committed and other relevant factors. The matters which may be considered include, but are not limited, to the following:

(1) Previous history of violation, or violations of the H–2A provisions of the Act and these regulations;

(2) The number of workers affected by the violation or violations;

(3) The gravity of the violation or violations;

(4) Efforts made in good faith to comply with the H–2A provisions of the Act;

(5) Explanation of person charged with the violation or violations;

(6) Commitment to future compliance, taking into account the public health, interest or safety, and whether the person has previously violated the H–2A provisions of the Act;

(7) The extent to which the violator achieved a financial gain due to the violation, or the potential financial loss or potential injury to the workers.

(c) A civil money penalty for violations of the work contract will not exceed $1,000 for each violation committed against each worker. A civil money penalty for discrimination or interference with Wage and Hour investigative authority will not exceed $1,000 for each such act of discrimination or interference.

§ 501.20 Enforcement of Wage and Hour investigative authority.

Sections 501.5 through 501.7 of this part prescribe the investigation authority conferred upon the Wage and Hour Division for the purpose of enforcing the contractual obligations. These sections indicate the actions which may be taken upon failure to permit or interference with an investigation. No person shall interfere with any employee of the Secretary who is exercising or attempting to exercise this investigative or enforcement authority. As stated in §§ 501.5, 501.6 and in 501.19 of this part, a civil money penalty may be assessed for each failure to permit an investigation or interference therewith, and other appropriate relief may be sought. In addition Wage and Hour shall report each such occurrence to ETA and may recommend to ETA denial of future labor certifications. The taking of any one action shall not bar the taking of any additional action.

§ 501.21 Referral of findings to ETA.

Where Wage-Hour finds violations Wage and Hour shall so notify the appropriate representative of ETA and shall forward appropriate information, including investigative information to such representative for review and consideration.

§ 501.22 Civil money penalties—payment and collection.

Where the assessment is directed in a final order by the Administrator or by an Administrative Law Judge, and if there is no review by the Secretary, the amount of the penalty is immediately due and payable to the United States Department of Labor. The person assessed such penalty shall remit promptly the amount thereof as finally determined, to the Administrator by certified check or by money order, made payable to the order of "Wage and Hour Division, Labor." The remittance shall be delivered or mailed to the Wage and Hour Division Regional Office for the area in which the violations occurred.

Subpart C—Administrative Proceedings

§ 501.30 Applicability of procedures and rules.

The procedures and rules contained herein prescribe the administrative process which will be applied with respect to a determination to impose an assessment of civil money penalties and which may be applied to the enforcement of contractual obligations, including the collection of unpaid wages due as a result of any violation of the H–2A provisions of the Act or of these regulations. Except with respect to the imposition of civil money penalties, the Secretary may, in his discretion, seek enforcement action in Federal court without resort to any administrative proceedings.

Procedures Relating to Hearing

§ 501.31 Written notice of determination required.

Whenever the Administrator determines to assess a civil money penalty or to proceed administratively to enforce contractual obligations, including the recovery of unpaid wages, the person against whom such action is taken shall be notified in writing of such determination.

§ 501.32 Contents of notice.

The notice required by § 501.31 shall:

(a) Set forth the determination of the Administrator including the amount of any unpaid wages due or contractual obligations required and the amount of any civil money penalty assessment and the reason or reasons therefor.

(b) Set forth the right to request a hearing on such determination.

(c) Inform any affected person or persons that in the absence of a timely request for a hearing, the determination of the Administrator shall become final and unappealable.

(d) Set forth the time and method for requesting a hearing, and the procedures relating thereto, as set forth in §501.33.

§ 501.33 Request for hearing.

(a) Any person desiring to request an administrative hearing on a determination referred to in § 501.32 shall make such request in writing to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, no later than thirty (30) days after issuance of the notice referred to in § 501.32.

(b) No particular form is prescribed for any request for hearing permitted by this part. However, any such request shall:

(1) Be typewritten or legibly written.

(2) Specify the issue or issues stated in the notice of determination giving rise to such request;

(3) State the specific reason or reasons why the person requesting the hearing believes such determination is in error;

(4) Be signed by the person making the request or by an authorized representative of such person; and

(5) Include the address at which such person or authorized representative desires futher communications relating thereto.

(c) The request for such hearing shall be delivered in person or by mail to the Administrator at the above address, within the time set forth in paragraph (a) of this section. For the affected person's protection, if the request is by mail, it should be by certified mail.

Rules of Practice

§ 501.34 General.

Except as specifically provided in these regulations, the "Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges" established by the Secretary at 29 CFR Part 18 shall apply to administrative proceedings descibed in this part.

§ 501.35 Commencement of proceeding.

Each administrative proceeding permitted under the Act and these regulations shall be commenced upon receipt of a timely request for hearing filed in accordance with §501.33.

§ 501.36 Caption of proceeding.

(a) Each administrative proceeding instituted under the Act and these regulations shall be captioned in the name of the person requesting such hearing, and shall be styled as follows: In the Matter of —, Respondent.

(b) For the purposes of such administrative proceedings the Administrator shall be identified as plaintiff and the person requesting such hearing shall be named as respondent.

Referral for Hearing

§ 501.37 Referral to Administrative Law Judge.

(a) Upon receipt of a timely request for a hearing filed pursuant to and in accordance with § 501.33 the Administrator, by the Associate Solicitor for the Division of the Fair Labor Standards or by the Regional Solicitor for the Region in which the action arose, shall, by Order of Reference, promptly refer a copy of the notice of administrative determination complained of, and the original or a duplicative copy of the request for hearing signed by the person requesting such hearing or by the authorized representative of such person, to the Chief Administrative Law Judge, for a determination in an administrative proceeding as provided herein. The notice of administrative determination and request for hearing shall be filed of record in the Office of the Chief Administrative Law Judge and shall, repectively, be given the effect of a complaint and answer thereto for purposes of the administrative proceeding, subject to any amendment that may be permitted under these regulations.

(b) A copy of the Order of Reference, together with a copy of these regulations, shall be served by counsel for the Administrator upon the person requesting the hearing, in the manner provided in 29 CFR 18.3.

§ 501.38 Notice of docketing.

The Chief Administrative Law Judge shall promptly notify the parties of the docketing of each matter.

§ 501.39 Service upon attorneys for the Department of Labor—number of copies.

Two copies of all pleadings and other documents required for any administrative proceeding provided herein shall be served on the attorneys for the Department of Labor. One copy shall be served on the Associate Solicitor, Division of Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, and one copy on the Attorney representing the Department in the proceeding.

Procedures Before Administrative Law Judge

§ 501.40 Consent findings and order.

(a) *General.* At any time after the commencement of a proceeding under this part, but prior to the reception of evidence in any such proceeding, a party may move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be at the discretion of the Administrative Law Judge, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent fndings and an order disposing of a proceeding or any part thereof shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the notice of administrative determination (or amended notice, if one is filed), and the agreement;

(3) A waiver of any further procedural steps before the Administrative Law Judge; and

(4) A waiver of any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for

negotiations, the parties or their authorized representatives or their counsel may:

(1) Submit the proposed agreement for consideration by the Administrative Law Judge; or

(2) Inform the Administrative Law Judge that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed therefor, the Administrative Law Judge, within thirty (30) days thereafter, shall, if satisfied with its form and substance, accept such agreement by issuing a decision based upon the agreed findings.

Post-Hearing Procedures

§ 501.41 Decision and order of Administrative Law Judge.

(a) The Administrative Law Judge shall prepare, as promptly as practicable after completion of the hearing and closing of the record, a decision on the issues referred by the Administrator.

(b) The decision of the Administrative Law Judge shall include a statement of findings and conclusions, with reasons and basis therefor, upon each material issue presented on the record. The decision shall also include an appropriate order which may affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator. The reason or reasons for such order shall be stated in the decision.

(c) The decision when served by the Administrative Law Judge shall constitute the final order of the Administrator unless the Secretary, as provided for in § 501.42 below determines to review the decision.

Review of Administrative Law Judge's Decision

§ 501.42 Procedures for initiating and undertaking review.

(a) A respondent, the Administrator or any other party may, within 30 days of the decision of an Administrative Law Judge, petition the Secretary to review the decision; or the Secretary may, within 30 days of such a decision, determine *sua sponte* to review the decision. If the Secretary does not accept a petition for review within 30 days after the date of a timely filing of the petition, the decision of the Administrative Law Judge shall be deemed the final agency action.

(b) Whenever the Secretary either on the Secretary's own motion or by acceptance of a party's petition, determines to review the decision of an Administrative Law Judge, a notice of the same shall be served upon all parties to the proceeding by certified mail.

§ 501.43 Responsibility of the Office of Administrative Law Judges.

Upon receipt of the Secretary's Notice pursuant to § 501.42 of these regulations, the Office of Administrative Law Judges shall, within fifteen (15) days, index, certify and forward a copy of the complete hearing record to the Secretary.

§ 501.44 Additional information, if required.

Where the Secretary has determined to review such decision and order, the Secretary shall notify each party of:

(a) The issue or issues raised;

(b) The form in which submission shall be made (i.e., briefs, oral argument, etc.); and the time within which such presentation shall be submitted.

§ 501.45 Final decision of the Secretary.

The Secretary's final decision shall be served upon all parties and the administrative law judge, by certified mail.

Record

§ 501.46 Retention of official record.

The official record of every completed administrative hearing provided by these regulations shall be maintained and filed under the custody and control of the Chief Administrative Law Judge.

§ 501.47 Certification.

Upon receipt of timely notice of appeal to a United States District Court, after the administrative remedies have been exhausted, the Chief Administrative Law Judge shall promptly certify and file with the appropriate United States District Court, a full, true, and correct copy of the entire record, including the transcript of proceedings.

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