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DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

RIN 1651–AB38

Period of Admission and Extensions of Stay for Representatives of Foreign Information Media Seeking To Enter the United States

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This rule amends the Department of Homeland Security's (''DHS'' or ''the Department'') regulations to achieve greater reciprocity between the United States and the People's Republic of China (PRC), with the exception of Hong Kong Special Administrative Region (SAR) or Macau SAR passport holders, relative to the treatment of representatives of foreign information media of the respective countries seeking entry into the other country. For entry into the United States, such foreign nationals would seek to be admitted in I nonimmigrant status as bona fide representatives of foreign information media. These changes apply to foreign nationals who present a passport issued by the PRC, with the exception of Hong Kong SAR and Macau SAR passport holders. Under this rule, DHS will admit such aliens in I nonimmigrant status, or otherwise grant I nonimmigrant status to such aliens, only for the period necessary to accomplish the authorized purpose of their stay in the United States, not to exceed 90 days. The rule also allows such visitors to apply for extensions of stay.

DATES: This rule is effective on May 8, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Minton, Program Manager, Enforcement Programs, Office of Field Operations, U.S. Customs and Border Protection, at 202–344–1581 or *Paul.A.Minton@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Legal Authority

The Secretary of Homeland Security (Secretary) has broad authority to administer and enforce the immigration and naturalization laws of the United States. *See* section 103(a)(1) of the Immigration and Nationality Act of 1952 (Pub. L. 82–414, 66 Stat. 163), as amended (8 U.S.C. 1103(a)(1)) (INA); *see also* 6 U.S.C. 202. The Secretary is authorized to establish such regulations as he or she deems necessary to carry out this authority under the immigration laws. *See* INA 103(a)(3) (8 U.S.C. 1103(a)(3)). Section 214(a)(1) of the INA authorizes the Secretary to prescribe regulations specifying the period of admission, as well as any conditions, for the admission of nonimmigrants to the United States.[1] 8 U.S.C. 1184(a)(1).

The Secretary has authorized the Commissioner of U.S. Customs and Border Protection (CBP) to enforce and administer the immigration laws relating to the inspection and admission of people seeking admission to the United States, including the authority to make admissibility determinations and set the duration, terms, and conditions of admission. *See* Delegation Order 7010.3, II.B.5 (Revision No. 03.1) (Sept. 25, 2019). U.S. Citizenship and Immigration Services (USCIS) is authorized to consider applications for a change of nonimmigrant status under section 248 of the INA, 8 U.S.C. 1258, including establishing the authorized period of stay in the new nonimmigrant status. *See* 6 U.S.C. 271(b); 8 CFR part 248. USCIS also is authorized to consider applications for an extension of stay in nonimmigrant status. *See* 6 U.S.C. 271(b); 8 CFR 214.1(c).

Section 101(a)(15)(I) of the INA establishes the I nonimmigrant classification for aliens wishing to visit the United States temporarily as representatives of foreign information media. In order to qualify as a nonimmigrant under the I classification, an alien must be a bona fide representative of foreign press, radio, film or other foreign information media having its home office in a foreign country, and must be seeking to enter the United States solely to engage in such employment. *See* INA 101(a)(15)(I) (8 U.S.C. 1101(a)(15)(I)). In addition, the statute expressly requires that such a visa or status be provided ''upon a basis of reciprocity.'' *Id.; see also* INA 214(a)(1) (providing that the admission of nonimmigrants to the United States ''shall be for such time and under such conditions as the [Secretary] may by regulations prescribe'') (8 U.S.C. 1184(a)(1)).

B. Current Admission Process for I Visa Holders

Foreign nationals visiting the United States temporarily as representatives of information media must possess a nonimmigrant I visa for admission. INA 101(a)(15)(I), 212(a)(7)(B)(i)(II) (8 U.S.C. 1101(a)(15)(I), 1182(a)(7)(B)(i)(II)). In order to obtain an I visa, foreign travelers must generally apply for a visa with the U.S. Department of State and obtain the visa prior to traveling to the United States. *Id.; see also* INA 221–222, 273(a) (8 U.S.C. 1201–1202, 1323(a)); 22 CFR 41.52, 41.101–41.122. An I visa holder seeking entry into the United States must appear at a port of entry and establish, to the satisfaction of the CBP officer, that he or she is admissible as an I nonimmigrant. *See* INA 235(a), (b)(2)(A), and 291 (8 U.S.C. 1225(a), (b)(2)(A), and 1361)); 8 CFR 212.1, 235.1(f)(1); *see also* INA 221(h) (providing that issuance of a visa does not entitle the visa holder to admission to the United States). The alien must also be otherwise admissible and not subject to other grounds of inadmissibility. *See generally* INA 212(a) (8 U.S.C. 1182(a)). The CBP officer will inspect the traveler, including reviewing his or her travel documents, collecting his or her biometric data (*i.e.,* fingerprints and photograph), interviewing the traveler and, if applicable, collect any applicable forms or fees. INA 235(a) (8 U.S.C. 1225(a)); 8 CFR 235.1(f) and (h).

The period of time the traveler is authorized to remain in the United States is referred to as the period of admission or the period of stay. Unless otherwise exempted, each arriving nonimmigrant who is admitted to the

[1] *See also* sections 402, 1512, and 1517 of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2142, 2187), as amended (6 U.S.C. 202, 552, and 557) (regarding transfer of authority to enforce immigration laws and prescribe regulations necessary to carry out that authority from the Attorney General to the Secretary.

United States will be issued a Form I–94 as evidence of the terms of admission. *See* 8 CFR 1.4 and 235.1(h).[2]

C. Current Period of Admission and Extensions of Stay for I Visa Holders

The Immigration and Nationality Act of 1952 established the I visa category as ''a new class of nonimmigrants and is designed to facilitate, on a basis of reciprocity, the exchange of information among nations. It is intended that the class is to be limited to aliens who are accredited as members of the press, radio, film or other information media by their employer.'' S. Rep. No. 82–1137 at 21 (1952); H.R. Rep. No. 1365 at 45 (1952).

The current DHS regulation at 8 CFR 214.2(i), promulgated in 1985, *see Nonimmigrant Classes; Admission Period and Extensions of Stay,* 50 FR 42006–01 (Oct. 17, 1985), specifies that an alien ''may'' be authorized admission for the duration of his or her employment. DHS and its predecessor the Immigration and Naturalization Service (INS) have long interpreted the regulation to provide that I visa holders are authorized admission for the duration of status, rather than for a set period of time. *See generally* Memorandum, INS Office of the General Counsel, Genco Op. No. 94–23, 1994 WL 1753127, at *3 (May 9, 1994) (''[R]epresentatives of information media are not currently restricted by statutory language to any temporary period. The regulations authorize their admission for 'duration of status.' ''). Duration of status refers to the period of time in which the alien continues to meet the terms and conditions of their admission, including that they remain employed with the same employer and use the same information medium. 8 CFR 214.2(i). The regulation states that the admission requires that the alien maintain the same information medium and employer until ''he or she obtains permission'' to change either. *Id.*

While an interpretation of the regulation requiring admission for the duration of status is reasonable, it would also be reasonable for DHS to interpret the regulation to allow DHS, in its discretion, to admit I visa holders for a set duration of time.[3] The Department is promulgating this final rule to enhance the notice provided to prospective I visa holders presenting passports issued by the PRC, with the exception of Hong Kong SAR and Macau SAR passport holders.

D. Purpose and Summary

The INA generally authorizes the admission of a foreign information media representative in I nonimmigrant status if the alien is admissible and meets the requirements described in section 101(a)(15)(I) of the INA. Among those requirements is that I visas be provided ''upon a basis of reciprocity.'' The United States has for decades permitted individuals who are representatives of foreign information media outlets to remain in the United States for the entirety of the period that the individual is engaged in that activity.

Based on the treatment by the PRC of foreign journalists, including U.S. citizens, DHS has determined that the PRC is not treating journalists in a manner that admitting I visa holders for the duration of status is sufficiently reciprocal to the treatment accorded by the PRC to U.S. journalists or in alignment with U.S. foreign policy. Information received from the Department of State, as well as open source information, demonstrates a suppression of independent journalism in the PRC, including an increasing lack of transparency and consistency in the admission periods granted to foreign journalists, including U.S. journalists. According to the Foreign Correspondents' Club of China (FCCC) Report on Media Freedoms in 2019, the PRC has forced out nine foreign journalists since 2013, either through expulsion or by non-renewal of visas; three Wall Street Journal reporters were expelled from China following an opinion piece criticizing the country's response to the Coronavirus (or COVID–19) pandemic.

Not long after the expulsion of the three Wall Street Journal reporters, the PRC announced additional restrictions, including more expulsions, of U.S. journalists in the PRC. On March 18, 2020, the PRC's Ministry of Public Affairs announced ''that journalists of US citizenship working with the New York Times, the Wall Street Journal and the Washington Post whose press credentials are due to expire before the end of 2020 notify the Department of Information of the Ministry of Foreign Affairs within four calendar days starting from today and hand back their press cards within ten calendar days.''[4] In that same announcement, the PRC demanded that the China-based branches of several media outlets must report information about their staffs, finances, operations, and real estate in the PRC.[5]

Although the PRC government tried to paint these actions as ''reciprocal'' and ''in response to the discriminatory'' measures placed on U.S.-based Chinese Communist Party-controlled news outlets by the U.S. Government,[6] the open-source information outlined in this rule including the FCCC report demonstrates that the PRC government's actions are not merely ''reciprocal'' as it claims, but instead an escalation of hostile measures targeting a free press within its borders.

Alarmingly, foreign reporters who have been expelled tend to be reporters who have reported on topics that are critically important to an international audience: The Chinese Communist Party's indoctrination camps and the use of forced labor to produce export products for U.S. consumers; high-level corruption; and the manner in which wealth and power are employed by top leaders, sometimes against the interests of American business. For example, in 2018, the PRC effectively expelled Megha Rajagopalan, Buzzfeed News' China bureau chief, by refusing to renew her visa. Ms. Rajagopalan had extensively reported on surveillance and mass incarceration of minorities in the Xinjiang region of northwest China.

The FCCC's Report on Media Freedoms in 2019 further reveals that foreign journalists are receiving severely shortened visa admission periods and reporting credentials, one for just two and a half months. Moreover, the FCCC Report indicates that foreign journalists

[2] The term issuance includes the creation of an electronic record of admission, or arrival/departure by DHS following an inspection performed by an immigration officer. *See* 8 CFR 1.4. In the case of air or sea arrivals, CBP issues the Form I–94 electronically. The traveler may retrieve it through the internet at *http://www.cbp.gov/I-94.* CBP currently issues a paper Form I–94 to travelers arriving at land border ports of entry.

[3] In 1985, the INS promulgated a final rule changing the admission period for I visa holders from one year to the current standard, duration of status. *See Nonimmigrant Classes; Admission Period and Extensions of Stay,* 50 FR 42006–01, 42008 (Oct. 17, 1985). The language used in the regulation was (and remains) ''an alien . . . *may* be authorized admission for the duration of employment.'' *Id.* (emphasis added). By contrast, the INS provided in a 1978 rule that the ''[t]he period of admission of a[n F] nonimmigrant student *shall* be for the duration of status in the United States as a student if the information on his/her form 1–20 indicates that he/she will remain in the United States as a student for more than 1 year, and if he/she agrees to keep his/her passport valid at all times for at least 6 months.'' *Admission of Nonimmigrant Students for Duration of Status,* 43 FR 54618, 54620 (Nov. 22, 1978) (emphasis added). The current I nonimmigrant status regulation thus could reasonably be interpreted as allowing, but not requiring, the admission of I visa holders for the duration of status. *See, e.g., Kingdomware Techs., Inc.* v. *United States,* 136 S. Ct. 1969, 1977 (2016) (''Unlike the word 'may,' which implies discretion, the word 'shall' usually connotes a requirement.'').

[4] See remarks by the Ministry of Foreign Affairs of the People's Republic of China: *https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1757162.shtml* (Mar. 18, 2020).

[5] *Id.*

[6] *Id.*

applying for visa renewals face numerous challenges, with a record number of at least 12 correspondents receiving visas of six months or less. Indeed, 25 percent of FCCC survey respondents reported they received visas of less than 12 months, the typical duration of PRC-issued credentials. One European-based reporter interviewed for the Report described their experience as follows: ''I've been given press cards of seriously curtailed validity, one 6-month and two 3-month cards. And the renewals have been long, drawn out affairs, often taking four weeks or more.''

The Department is therefore issuing this rule to address the actions of the PRC government and to enhance reciprocity in the treatment of U.S. journalists in the PRC. Foreign nationals who present a passport issued by the PRC, with the exception of Hong Kong Special SAR and Macau SAR passport holders, may no longer be admitted for an indefinite period. This approach taken by the Department—admitting foreign nationals who present certain PRC passports for up to a 90-day period with the ability to apply for extensions of status—more appropriately aligns with U.S. foreign policy and the principle of reciprocity set forth in the INA. [The PRC typically issues a three-month, single entry visa to foreign journalists, including to U.S. citizens. Despite this three-month visa, the PRC expects employed individuals to apply for a residency permit within 30 days of entering the PRC. The individuals, including U.S. citizens, must go to the local Entry Exit Bureau office in order to apply for a residency permit. The residency permit allows the individual to live and work in the PRC, and to enter and exit regularly. Although residency permits had typically been issued by the PRC in one-year increments, based on information provided by the U.S. Department of State, the PRC is increasingly issuing U.S. citizen journalists residency permits of less than one year.

Accordingly, this rule addresses the actions of the PRC government and creates a greater degree of reciprocity with the treatment the PRC accords foreign journalists, including U.S. citizens, who are increasingly receiving shorter and shorter durations of stay, as well as increasing uncertainty during the visa renewal process. This rule requires foreign nationals who present a passport issued by the PRC, with the exception of Hong Kong SAR and Macau SAR passport holders with I nonimmigrant status to depart on or before a specified date, thus decreasing the opportunity for them to remain for a period greater than that provided to journalists from the United States presently in the PRC.

The rule does not contain any substantive changes to the admission or duration of status period of stay provisions currently applicable to I visa holders coming to the United States from any country other than the PRC.

Aliens with I nonimmigrant status who entered using a passport issued by the PRC (that is not a Hong Kong SAR passport or a Macau SAR passport), who are properly maintaining their status and are present in the United States on May 8, 2020 will have their status, and employment incident to such status, automatically extended for a period necessary to complete their authorized activity, not to exceed 90 days from May 8, 2020. Subsequently, they may apply for extensions of stay. An alien subject to this rule who timely files an application for an extension of stay, is authorized to stay in the United States and continue employment with the same employer for a period not to exceed 90 days beginning on the date of the expiration of the authorized period of stay. However, if USCIS adjudicates the application prior to the expiration of the 90-day period, and denies the application for an extension of stay, the alien is required to immediately depart the United States. In determining this transition procedure, DHS considered the reliance interests of these nonimmigrants who had chosen to temporarily come to the United States, and does not believe the changes will significantly affect these interests. DHS is not changing the fundamental requirements to qualify for this nonimmigrant status, rather it is only changing the length of time and including a requirement to apply for an extension of stay. A fixed date of admission simply places these nonimmigrants in the same position as most other nonimmigrants who are temporarily in the United States.[7]

A second option that DHS considered was to allow I visa holders already admitted to the United States on the date of enactment of this rule who entered on passports issued by the PRC, with the exception of those who entered on a Hong Kong SAR passport or a Macau SAR passport, to keep their duration of status admission until they departed the United States. However, the Department rejected that alternative because it would undermine the goals of this rulemaking initiative, especially the goal of enhancing reciprocity and addressing the actions of the PRC Government as described above.

II. Discussion of Regulatory Changes

In order to effect the changes described above, DHS amends 8 CFR 214.2(i). As currently interpreted, 8 CFR 214.2(i) provides that I visa holders may be admitted for the duration of employment in the United States. The Department is revising 8 CFR 214.2(i) to provide that DHS will continue to admit all I nonimmigrants, except foreign nationals who present a passport issued by the PRC, with the exception of Hong Kong SAR and Macau SAR passport holders, for the duration of status. The period of admission in I nonimmigrant status for such PRC nationals is revised so that the maximum initial admission period is 90 days. Such I visa holders can request extensions, each for a maximum duration of 90 days.

III. Statutory and Regulatory Review

A. Administrative Procedure Act

The Administrative Procedure Act (''APA'') generally requires agencies to publish notice of a proposed rulemaking in the **Federal Register** for a period of public comment and to delay the effective date of the final rule. However, rules that involve a foreign affairs function of the United States are excluded from the rulemaking provisions of the APA. *See* 5 U.S.C. 553(a)(1). For the reasons discussed below, this rule involves a foreign affairs function of the United States. The Department, after consultation with DOS, in direct and measured response to the actions of the PRC government, is adopting this rule to limit the duration of admission for media representatives from the PRC with the exception of Hong Kong SAR or Macau SAR passport holders.

In order to obtain and be admitted to the United States with an I visa, a representative of foreign information media must be a national of a country whose government grants similar privileges to representatives of media from the United States. *See* 8 U.S.C. 1101(a)(15)(I) (providing that I nonimmigrant visas may be issued ''upon a basis of reciprocity''). One such government is the PRC. Recently, the

[7] Accordingly, the ''retroactive'' effect, if any, is secondary (upsetting expectations by changing future legal effects of past actions, *i.e.,* admission in I nonimmigrant status) rather than primary (changing the past legal effect of the past action). *See, e.g., Nat'l Cable & Telecomms. Ass'n* v. *FCC,* 567 F.3d 659, 670 (D.C. Cir. 2009) (''Here the Commission . . . has not rendered past actions illegal or otherwise sanctionable. It is often the case that a business [or individual] will undertake a certain course of conduct based on the current law, and will then find its expectations frustrated when the law changes. Such expectations, however legitimate, cannot furnish a sufficient basis for identifying impermissibly retroactive rules.'' (citation and quotation marks omitted)).

PRC revoked the press credentials and expelled three reporters from the United States based in Beijing.[8] Such an act demonstrates that the PRC is no longer willing to grant similar privileges to United States media representatives as those granted to members of the Chinese media in the United States. This rule encompasses diplomatic relations with the PRC regarding the authorized terms and conditions of admission of representatives of radio, film or other information media as they perform such functions abroad. The U.S. Court of Appeals for the Second Circuit, in *City of New York* v. *Permanent Mission of India to United Nations,* made clear that regulation of the reciprocal treatment to be afforded to representatives of foreign nations in the United States ''relates directly to, and has clear consequences for, foreign affairs.'' 618 F.3d 172, 201 (2d Cir. 2010).

Any diplomatic negotiations between the United States and the PRC as to the reciprocal treatment of foreign media representatives will be more effective in ensuring full and fair access for U.S. journalists and less disruptive to long-term relations the sooner this final rule is in place. *Rajah* v. *Mukasey,* 544 F.3d 427, 438 (2d Cir. 2008) (finding that the notice and comment process can be ''slow and cumbersome,'' which can negatively impact efforts to secure U.S. national interests, thereby justifying application of the foreign affairs exemption). Furthermore, notice and comment procedures prior to the effective date of this rule would disrupt the Executive Branch's foreign policy with respect to the PRC and erode the sovereign authority of the United States to pursue the strategy it deems to be most appropriate as it engages with foreign nations. *See Am. Ass'n of Exps. & Imps.-Textile & Apparel Grp.* v. *United States,* 751 F.2d 1239, 1249 (Fed. Cir. 1985) (noting that the foreign affairs exception covers agency actions ''linked intimately with the Government's overall political agenda concerning relations with another country'').

B. Executive Orders 12866, 13563 and 13771

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 directs agencies to reduce regulation and control regulatory costs, and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.'' [9]

Rules involving the foreign affairs function of the United States are exempt from the requirements of Executive Order 13563, 12866, and 13771. This final rule advances the President's foreign policy goals, as they impact a specific bilateral relationship. The Office of Information and Regulatory Affairs has concurred that this rulemaking falls under the foreign affairs function of Executive Order 12866. As this rule is thus not a significant regulatory action under E.O. 12866, it is not subject to E.O. 13771. Nevertheless, CBP has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Orders 13563, 12866, and 13771.

In 2019, 561 I visas were issued to PRC nationals. For purposes of this analysis, DHS projects the number of I visa visitors from PRC to remain the same as in 2019, only for the period necessary to accomplish the authorized purpose of their stay in the United States, not to exceed 90 days with the possibility of applying for extensions of stay.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. *See* 2 U.S.C. 1532(a). This rule will not result expenditure by state, local, and tribal governments, in the aggregate, or by the private section, of $100 million or more in any one year. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995) (PRA), all Departments are required to submit to OMB, for review and approval, any reporting or recordkeeping requirements inherent in a rule. DHS, USCIS, and CBP are revising one information collection related to this rulemaking action, increasing the number of respondents impacted by this collection of information due to the requirements set forth by the rulemaking. The agency is requesting approval separate from this rulemaking for the collection to be revised following the emergency processing provisions of 5 CFR 1320.13 so this collection can be immediately available when the rule goes into effect. The information below is provided solely for informational purposes. The agency will undergo notice and comment on this.

I–539 and I–539A

Overview of Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Extend/Change Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–539 and I–539A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form will be used for nonimmigrants to apply for an extension of stay, for a change to another nonimmigrant classification, or for obtaining I nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to*

[8] *China Expels Three Wall Street Journal Reporters,* Wall Street Journal, Feb. 19, 2020, *available at https://www.wsj.com/articles/china-expels-three-wall-street-journal-reporters-11582100355.*

[9] *See* 82 FR 9339 (Feb. 3, 2017).

respond: The estimated total number of respondents for the information collection Form I–539 (paper) is 175,860 and the estimated hour burden per response is 2.00 hours; the estimated total number of respondents for the information collection Form I–539 (e-file) is 75,369 and the estimated hour burden per response is 1.08 hours; the estimated total number of respondents for the information collection I–539A is 54,865 and the estimated hour burden per response is .50 hours; the estimated total number of respondents for biometrics processing is 376,496 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection of information in hours is 901,051.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $56,627,017.

F. Congressional Review Act

Under the Congressional Review Act, a rule that is likely to result in an annual effect on the U.S. economy of $100,000,000 or more is considered a major rule. *See* 5 U.S.C. 804. Generally, the effective date of a major rule must be the later of these two dates: 60 days after publication in the **Federal Register**, or 60 days after delivery of the report to Congress. *See* 5 U.S.C. 801(a)(3). The Office of Information and Regulatory Affairs has concluded that this rule is not likely to result in an annual effect on the U.S. economy of $100,000,000 or more. Therefore, it does not meet the criteria for a major rule.

G. Signature

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel for DHS, for purposes of publication in the **Federal Register**.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens.

Regulatory Amendments

For the reasons stated in the preamble, we are amending 8 CFR part 214 as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305, 1356, and 1372; section 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively, 48 U.S.C. 1806; 8 CFR part 2.

■ 2. Amend § 214.2 by revising paragraph (i) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(i) *Representatives of information media*—(1) *In general.* The admission of an alien of the class defined in section 101(a)(15)(I) of the Act constitutes an agreement by the alien not to change the information medium or his or her employer until he or she obtains permission to do so from the district director having jurisdiction over his or her residence. An alien classified as an information media nonimmigrant (I) may be admitted in or otherwise granted I nonimmigrant status for:

(i) The duration of employment, except as provided in paragraph (i)(1)(ii) of this section; or

(ii) In the case of an alien who presents a passport issued by the People's Republic of China (other than a Hong Kong Special Administrative Region passport or a Macau Special Administrative Region passport), until the activities or assignments consistent with the I classification are completed, not to exceed 90 days.

(2) *Extension of stay.* An alien in I status who is described in paragraph (i)(1)(ii) of this section may be eligible for extensions of stay, each of up to 90 days or until the activities or assignments consistent with the I classification are completed (whichever date is earlier).

(i) Notwithstanding 8 CFR 274a.12(b)(20), an alien in I status who is described in paragraph (i)(1)(ii) of this section whose status has expired, but who timely filed an application for an extension of stay, is authorized to stay in the United States and continue employment with the same employer for a period not to exceed 90 days beginning on the date of the expiration of the authorized period of stay. However, if USCIS adjudicates the application prior to the expiration of the 90-day period, and denies the application for an extension of stay, the alien must immediately depart the United States.

(ii) To request an extension of stay, an alien in I status must file an application to extend his or her stay by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, as appropriate.

(3) *Change of status.* An alien seeking to change from a different nonimmigrant status to, if eligible, an I status described in paragraph (i)(1)(ii) of this section, may be granted a period of stay until the activities or assignments consistent with the I classification are completed, not to exceed 90 days. To request a change from a different nonimmigrant status to an I status described in paragraph (i)(1)(ii), an alien must file an application to change his or her status by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, as appropriate.

(4) *Transition from duration of status admission to a fixed admission period for aliens with I status who had presented a passport issued by the People's Republic of China (that is not a Hong Kong Special Administrative Region passport or a Macau Special Administrative Region passport) at the time of admission and are present in the U.S. on* May 8, 2020. An alien in I status who is described in paragraph (i)(1)(ii) of this section who is properly maintaining his or her nonimmigrant status under the class defined in section 101(a)(15)(I) of the Act and is present in the United States on May 8, 2020 is authorized to remain in the United States in I status for a period necessary to complete the activity, not to exceed 90 days from May 8, 2020. Subsequently, the alien may apply for extensions of stay pursuant to, and subject to the conditions and limitations set forth in paragraph (i)(2) of this section.

* * * * *

Chad R. Mizelle,

Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security.

[FR Doc. 2020–10090 Filed 5–8–20; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 124, 125, 126, and 127

RIN 3245–AG75

Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business Certification

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA or the Agency) amends its regulations to implement a statutory requirement to certify Women-Owned Small Business Concerns (WOSBs) and Economically Disadvantaged Women-Owned Small Business Concerns (EDWOSBs) participating in the Procurement Program for Women-Owned Small Business Concerns (the Program). The certification requirement applies only to those businesses wishing to compete for set-aside or sole source contracts under the Program, and to those seeking to be awarded multiple award contracts for pools reserved for WOSBs and EDWOSBs. Once this rule is effective, WOSBs and EDWOSBs that are not certified will not be eligible for contracts under the Program. Other women-owned small business concerns that do not participate in the Program may continue to self-certify their status, receive contract awards outside the Program, and count toward an agency's goal for awards to WOSBs. For those purposes, contracting officers would be able to accept self-certifications without requiring them to verify any documentation. In this rule, SBA implements the statutory mandate to provide certification, to accept certification from certain identified government entities, and to allow certification by SBA-approved third-party certifiers. As part of the changes necessary to implement a certification program, this final rule amends SBA's regulations with regard to continuing eligibility and program examinations. This rule also adjusts the economic disadvantage thresholds for determining whether an individual qualifies as economically disadvantaged. The new thresholds will be used for assessing the economic disadvantage of applicants to the 8(a) Business Development (BD) Program, as well as applicants seeking EDWOSB status.

DATES: This rule is effective on July 15, 2020, except for the amendments to §§ 127.300, 127.304, 127.305, the addition of § 127.351, and the amendments to §§ 127.400, 127.401, 127.403, 127.405, 127.504, 127.505, 127.603, and 127.604, which are effective on October 15, 2020. The addition of § 127.355 is delayed indefinitely and we will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Nikki Burley, U.S. Small Business Administration, Office of Policy, Planning and Liaison, 409 Third Street SW, Washington, DC 20416; (202) 205–6459; *nikki.burley@sba.gov.*

SUPPLEMENTARY INFORMATION: As set forth in section 8(m) of the Small Business Act, 15 U.S.C. 637(m), the Program authorizes Federal contracting officers to restrict competition to eligible WOSBs or EDWOSBs for Federal contracts in certain industries. Section 825 of the National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291, 128 Stat. 3292 (December 19, 2014) (2015 NDAA), amended the Small Business Act to grant contracting officers the authority to award sole source awards to WOSBs and EDWOSBs. In addition, section 825 of the 2015 NDAA amended the Small Business Act to create a requirement that a concern be certified as a WOSB or EDWOSB by a Federal agency, a State government, SBA, or a national certifying entity approved by SBA, in order to be awarded a set aside or sole source contract under the authority of section 8(m) of the Small Business Act. 15 U.S.C. 637(m)(2)(E). SBA believes that certification is also required where an agency establishes a pool of WOSBs or EDWOSBs on a multiple award contract and intends to set-aside or reserve one or more orders for WOSBs or EDWOSBs.

On September 14, 2015, SBA published in the **Federal Register** a final rule to implement the sole source authority for WOSBs and EDWOSBs. 80 FR 55019 (effective October 14, 2015). SBA did not address the certification portion of the 2015 NDAA in that final rule because its implementation could not be accomplished by merely incorporating the statutory language into the regulations and would have delayed the implementation of the sole source authority. SBA notified the public that because it did not want to delay the implementation of the WOSB sole source authority, it would implement the certification requirement through a separate rulemaking.

As part of the process to draft the regulations governing the WOSB/EDWOSB certification program, SBA published an Advance Notice of Proposed Rulemaking in the **Federal Register** on December 18, 2015 (80 FR 78984) and a proposed rule in the **Federal Register** on May 14, 2019 (84 FR 21256). The proposed rule solicited public comments to assist SBA in drafting a final rule to implement a WOSB/EDWOSB certification program. SBA received 898 comments from 307 commenters in response to the proposed rule (Regulations.Gov Docket #SBA–2019–0003). SBA has reviewed all input from interested stakeholders while drafting this rule.

The proposed rule also revised § 124.104(c) to make the economic disadvantage requirements for the 8(a) BD Program consistent with the economic disadvantage requirements for women-owned small businesses seeking EDWOSB status. The proposed change eliminated the distinction in the 8(a) BD Program for initial entry into and continued eligibility for the program.

Economic Disadvantage

Currently, the economic disadvantage criteria for EDWOSBs is $750,000, which is the same as the continuing eligibility threshold for the 8(a) BD program, but higher than the $250,000 initial eligibility threshold for that program. A concern applying for EDWOSB and 8(a) BD status simultaneously could thus be found economically disadvantaged for EDWOSB purposes, but not economically disadvantaged for the 8(a) BD Program. This result would introduce unnecessary confusion and uncertainty into the application and certification processes. To remedy this, this final rule makes economic disadvantage consistent across programs.

SBA commissioned a study to assist the Office of Business Development in defining or establishing criteria for determining what constitutes ''economic disadvantage'' for purposes of firms applying to the 8(a) BD program. The study concluded that the available data support an economic disadvantage threshold between $375,000 and $1.2 million. This range reflects the complexity of establishing a threshold that considers the ability of disadvantaged business owners to compete in the free enterprise system, as well as those individuals' access to credit and capital. That inherent complexity is evident in the varied economic disadvantage thresholds established by other Federal and state programs. For example, the Disadvantaged Business Enterprise Program (DBE), administered by agencies authorized by the U.S. Department of Transportation (DOT), uses a $1.32 million economic disadvantage threshold. States with similar programs for ''minority and

women business enterprises'' have economic disadvantage thresholds up to $1.6 million. The study commissioned by SBA did not come to a definitive conclusion on which threshold the Agency should use. One suggestion was to use a $1.1 million ''unadjusted'' (home and business equity included) personal net worth standard, which would be equal to a $375,000 ''adjusted'' (home and business equity excluded) standard. The study did not, however, consider differences in economic disadvantage between applying to the 8(a) BD program and continuing in the program once admitted, nor did it consider economic disadvantage in the context of EDWOSB eligibility. Because SBA believes that it is important to have the same economic disadvantage criteria for the 8(a) BD program as for the EDWOSB program to avoid confusion and inconsistency between the programs, SBA considered applying a $375,000 net worth standard to both the 8(a) BD and EDWOSB programs. SBA requested comments on whether the $375,000 net worth standard or the $750,000 net worth standard should be used for the EDWOSB and 8(a) BD and Programs.

In response, SBA received 146 comments that supported $750,000 as the appropriate economic disadvantage threshold. Of these, a substantial number explicitly expressed support for changing the regulations to make the economic disadvantage threshold consistent between programs, while the rest expressed support more broadly for maintaining EDWOSB's economic disadvantage threshold of $750,000. SBA did not receive any comments supporting a common $375,000 net worth standard for the EDWOSB and 8(a) BD programs. SBA also received four comments that offered alternative methods to establish an economic threshold. One argued that the standard should be variable and based on inflation, one thought the standard should be locality-based, and two suggested a tiered system. Three additional commenters opposed an economic disadvantage threshold of $750,000. One recommended an economic disadvantage threshold of $1 million, one opposed having an economic disadvantage threshold at all, and the third merely thought that $750,000 was inappropriate. SBA believes that varying the economic disadvantage threshold depending on fluid external factors such as inflation, or applying different thresholds depending on locality, would introduce too much volatility and confusion into the application process and lead to inconsistency between programs. Increasing the economic disadvantage threshold to $1 million or abolishing economic disadvantage thresholds altogether were not contemplated in the proposed rule and are not under consideration now. Based on the study's conclusion that SBA could set an economic disadvantage threshold between $375,000 and $1.2 million, stakeholders' clear affirmation of a $750,000 economic disadvantage threshold, and the preference for uniform standards across programs, SBA is keeping the EDWOSB economic disadvantage threshold and adjusting the 8(a) BD economic disadvantage thresholds accordingly.

SBA also received comments regarding how economic disadvantage would be assessed going forward. Specifically, commenters asked about whether there is any difference between the EDWOSB and the 8(a) BD regulations governing how retirement accounts are calculated when determining an economically disadvantaged individual's net worth, and if the change in the economic disadvantage threshold will affect that calculation. In light of this feedback, SBA has revised § 124.104(c)(2)(ii) and § 127.203(b)(3) in the final rule to note that retirement accounts will now be excluded from calculations of an economically disadvantaged individual's net worth, irrespective of the individual's age. SBA has previously contemplated this change, believing that it accords with the valuable public policy of incentivizing, rather than punishing, saving for retirement. It also expands the pool of potential EDWOSB and 8(a) BD participants because retirement-age small business owners will no longer be ineligible solely due to their retirement savings. Changing the EDWOSB and 8(a) BD net worth provisions now, in conjunction with the changes to the economic disadvantage threshold for both programs, furthers SBA's long-term aim of promoting regulatory consistency and continuity.

Women-Owned Small Business Certification Program

The 2015 NDAA amended the Small Business Act to require that concerns participating in the Program must be certified by SBA, a Federal agency, a state government, or an approved national certifying entity. In response, SBA proposed amending the regulations in part 127 to remove references to self-certification with respect to the award of WOSB/EDWOSB contracts. The certification requirement applies only to participants wishing to compete for set-aside or sole source contracts under the Program. Once this rule is effective, WOSBs and EDWOSBs that are not certified will not be eligible for contracts under the Program. Other women-owned small business concerns that do not participate in the Program may continue to self-certify their status, receive contract awards outside the Program, and count toward an agency's goal for awards to WOSBs. The final rule adds a new § 127.200(c) to make clear that a concern may continue to self-certify as a WOSB for goaling purposes. Revised § 127.300 establishes options for small business concerns seeking certification as WOSBs or EDWOSBs: Applying via SBA's free online application, submitting evidence of certification from another approved Government entity, or submitting evidence of certification from an approved third-party certifier.

SBA received over 400 comments on the proposed revisions to § 127.300(a) and (b), which detail the options for certification. Of these, 170 commenters expressed a general sentiment that there should be ''a fair and unified set of requirements and application processes for all participants'' and ''the process of submitting an application . . . should be fully uniform and completed at *certify.sba.gov.*'' An additional sixteen commenters explicitly supported the proposed processes, and two commenters opposed them.

SBA shares the view that certification requirements must be fair and consistently applied. To ensure this consistency, SBA is the final authority for all of the certification processes. Congress' intent in allowing SBA to delegate certification to other authorized parties was to ensure that the public has access to the broadest range of certification options while at the same time ensuring that consistent Program eligibility requirements are met. There will naturally be differences between each of the processes because they will be administered by different entities, but the foundation for all the processes is SBA's Program eligibility requirements. Each applicant will be providing evidence to SBA that it meets these requirements; the application processes outlined in §§ 127.300–127.305 differ primarily in what kind of documentation demonstrates eligibility.

Based on the comments received, SBA understands that many stakeholders harbor reservations about the fairness and uniformity of the application process. As such, the final rule will clarify in subpart C, ''Certification of WOSB or EDWOSB Status,'' that there is no distinction between ''Certification by SBA'' and ''Certification by Third Party,'' as written in the proposed rule.

Instead, the regulations will refer to all the provisions covering the different application processes in §§ 127.300–127.305 as ''Certification.'' SBA also removed references to SBA in the headings for §§ 127.301–127.305 so that concerns understand that the regulations apply to all applicants, regardless of how they opt to seek certification. The rules for third-party certifiers, covered extensively in new §§ 127.350–127.356, will be labeled as ''Requirements for Third-Party Certifiers.'' SBA believes this will reaffirm that ''Certification'' is a unitary process, that all concerns must meet the same eligibility requirements, and that the only difference is in how they can present evidence that they have met those requirements.

SBA received four comments regarding the proposed change to § 127.300(a)(1), which specifies that concerns can apply for WOSB certification from SBA. Three commenters were supportive. The fourth opposed the provision because it believes that concerns should continue to have the option to self-certify. Because the statutory language mandates the methods for certification, SBA has no authority to retain self-certification as an option for concerns seeking to compete for WOSB and EDWOSB set-aside procurements (as noted above, concerns can still self-certify for non-WOSB and non-EDWOSB set-aside procurements, still self-identify as women-owned small businesses, and awards to firms self-identifying as WOSBs may be counted by a procuring agency towards its WOSB goal). SBA adopts the proposed language as final.

SBA received 12 comments that specifically touched on § 127.300(a)(2), which outlines the options for non-SBA, government-entity certification options. The proposed rule stated that a concern could submit evidence that it was a certified participant of the 8(a) BD Program or the DBE Program, or that it was certified as a Veteran-Owned or Service-Disabled Veteran-Owned Small Business by the U.S. Department of Veterans Affairs (VA) Center for Verification and Evaluation (CVE). The Supplementary Information in the proposed rule also contemplated potentially accepting evidence that a concern participated in SBA's HUBZone Program.

The final rule removes reference to the 8(a) BD Program in § 127.300(a)(2) and instead includes it only in § 127.300(b)(2), which details EDWOSB certification. Every current 8(a) BD participant that is 51% owned and controlled by a woman or women is an EDWOSB because economic disadvantage is a component of 8(a) BD eligibility, and all EDWOSBs are WOSBs. As such, including this information in the EDWOSB certification sub-section covers both EDWOSB and WOSB participation.

The final rule also omits reference to the HUBZone Program in that section. While evidence of HUBZone participation would indicate a concern is small, it would not provide any of the other information to demonstrate WOSB/EDWOSB eligibility. Specifically, a firm need not demonstrate that it is owned and controlled by a specific individual in order to be eligible for the HUBZone program. Thus, such a certification does not include a finding by SBA of any ownership and control. The purpose of § 127.300(a)(2) and (b)(2) is to expand the options for concerns to demonstrate Program eligibility as efficiently as possible. A certification option that necessitates submitting documentation of all but one of the elements of Program eligibility does not meaningfully effectuate this purpose. Similarly, the final rule removes DBE certification from the list of options. After discussions with stakeholders, SBA concluded that evidence of DBE certification would not provide the requisite level of certainty that a concern was eligible for the Program. While the DOT DBE regulations refer back to SBA's size regulations at 13 CFR part 121, concerns would still need to provide documentation to confirm they met SBA's distinct requirements for ownership and control by one or more women, or that they met SBA's economic disadvantage criteria if they were seeking EDWOSB certification. As with HUBZone Program participation, evidence of DBE participation would not help small businesses demonstrate eligibility as efficiently and easily as possible while still ensuring the requirements are met. In contrast, the governing regulations for the CVE program (38 CFR 74.2–74.4) refer to SBA's standards for size, socioeconomic status, ownership, and control. Documentation of CVE certification, along with confirmation that the concern was owned and controlled by one or more women, would demonstrate that a concern had met all the eligibility requirements for the Program. To help concerns better understand how to demonstrate their Program eligibility with their CVE certification, the final rule details the application process in § 127.303.

SBA received 188 comments on § 127.300(a)(3), which provides that a concern may submit evidence that it has been certified as an eligible Program participant by a Third-Party Certifier. Of these, 170 stated generally that SBA should have oversight of third-party certifiers and implement standards for certifiers. SBA agrees with these commenters and §§ 127.350–127.356, discussed below, detail requirements for third-party certifiers. These commenters also requested that SBA update *SAM.gov* to reflect that they are certified, including third-party certified. SBA does not oversee *SAM.gov* but will maintain its own internal records that will reflect up-to-date information and that information will be relayed to the General Services Administration, the agency that maintains *SAM.gov*.

Fifteen commenters opposed proposed § 127.300(a)(3) for a wide variety of reasons. One commenter stated that there should not be ''required'' third-party certification. SBA believes that this commenter misinterpreted the rule. As outlined in the rule, there are several different certification options, and concerns are not required to choose third-party certification. Which way to seek WOSB or EDWOSB certification is a business decision up to discretion of each firm. Three commenters said all certification should be handled by SBA, rather than by third-party certifiers that may have differing standards. In response, SBA notes that Congress specifically enumerated several different certification options in the statutory language, making clear that SBA should not be the sole entity processing certification applications. However, SBA retains responsibility for overseeing the Program eligibility requirements, and these requirements are the standards by which all applicants will be assessed. Certifiers will not be able to impose their own application standards for Program applicants.

Six commenters opposed third-party certification because of the associated fees, which commenters perceived as prohibitively expensive for many small businesses. Both Congress and SBA understand the importance of ensuring certification is available to every eligible concern. As such, Congress authorized several free certification options, and SBA will not distinguish between concerns based on how they were certified. No firm will be required to pay a fee for certification. Again, it is up to each firm seeking WOSB or EDWOSB certification to determine which method of certification makes sense for it. One commenter opposed third-party certification because of the ''frequency of certification'' associated with third-party certifiers. Currently, third-party-

certified concerns are recertified annually. Under the new regulations, all concerns, whether certified directly by SBA or otherwise, will be required to attest to SBA annually that they remain eligible for the Program and undergo a full program examination every three years. As such, third-party-certified concerns will not face a greater administrative burden than concerns certified via other processes. SBA updated subpart D to discuss the requirements for recertification, and these changes are discussed in greater detail below.

SBA received six comments on § 127.300(b), which discusses how SBA will certify concerns as EDWOSBs. One commenter supported having an array of certification options. Two others requested clarification about how SBA will accept certification from other government entities. SBA has provided additional detail about what applicants must submit in order to demonstrate certification via non-SBA government entity certifiers in § 127.303.

SBA received seven comments related to § 127.300(b)(2), which states that a woman- or women-owned business that is a certified 8(a) BD participant qualifies as an EDWOSB. One commenter said that EDWOSB should be a ''sub-set'' of the 8(a) BD Program. Another commenter said that EDWOSB certification should automatically confer 8(a) BD certification. There is significant overlap between the eligibility requirements of the two programs, but they are not identical. The most important difference is that a concern can participate in the WOSB Program for as long as it is eligible, whereas participation in the 8(a) BD Program is limited to nine years. Further, the 8(a) BD Program has unique eligibility requirements that do not apply to the WOSB Program. In particular, the 8(a) BD Program requires the principal of a business to be socially disadvantaged in order to qualify for participation, and women as a group are not presumed to be socially disadvantaged. An individual seeking to qualify as socially disadvantaged based on her status as a woman must demonstrate that she personally has suffered discrimination or bias that has adversely affected her entry into or advancement in the business world. Determining whether an individual woman can demonstrate social disadvantage requires fact-specific analysis and cannot be automatically presumed. Thus, EDWOSB qualification does not automatically confer 8(a) BD qualification, even though the converse is true. In addition, the 8(a) BD certification process requires an applicant to demonstrate that it possesses the necessary ''potential for success,'' as defined in the 8(a) BD regulations, and WOSB certification has no corresponding requirement.

Two commenters said that SBA should adjust goaling requirements so that more 8(a) BD awards are apportioned for WOSBs/EDWOSBs. Goaling thresholds are set by Congress and SBA establishes them in a way that seeks to ensure that the statutory goal is met Government-wide. Although SBA has some discretion in the setting of a particular agency's goals, SBA cannot establish goals that do not meet the overall Government-wide statutory goal. SBA is always seeking to enhance small business participation in Federal contracting and will continue to do so. One commenter suggested that the Program should mirror the outreach and public education efforts of the 8(a) BD Program because the contracting community is not aware of or familiar with WOSB and EDWOSB opportunities. SBA hopes that the increased public outreach during the rulemaking process has helped ameliorate this perceived lack of awareness and that the certification application process will further familiarize concerns with Program benefits and responsibilities. SBA adopts the proposed language as final.

One commenter opposed § 127.300(b)(3), specifically asking why veteran-owned small business that are owned and controlled by women could not be automatically certified as WOSBs, but rather had to submit additional information to SBA to be so designated. CVE eligibility is not based on gender and thus evidence of CVE certification would not automatically communicate that an applicant had necessarily satisfied all Program requirements, including 51% ownership and control by a woman or women. A CVE certification demonstrates that a firm is owned and controlled by one or more veterans or service-disabled veterans, but not necessarily by women veterans or women service-disabled veterans. The process for CVE-certified small businesses will be to demonstrate that the individuals certified to own and control the business concern are women and, if they seek EDWOSB status, that they are economically disadvantaged. CVE certification alone would also not demonstrate an applicant's economic disadvantage, which is a necessary component of EDWOSB participation. SBA adopts the proposed language as final.

SBA did not receive any comments on proposed § 127.301, which provides guidance on when concerns should apply for Program certification. As such, SBA adopts it as final in this rule. SBA did, however, receive comments regarding who will be deemed certified as a WOSB or EDWOSB upon this rule becoming effective and, therefore, be immediately eligible to be awarded set-aside and sole source WOSB and EDWOSB contracts. SBA agrees that this is an important issue that should be clarified.

Pursuant to the underlying statutory authority, a concern must be certified as a WOSB or EDWOSB in order to be awarded a WOSB or EDWOSB set-aside or sole-source contract. The change in the regulations implementing that statutory provision does not affect contracts previously awarded through the Program, so a concern that was previously awarded a WOSB or EDWOSB contract may continue to perform that contract and the procuring agency may continue to count the contract towards its WOSB goal. Once this rule is effective, however, a concern performing on a long-term WOSB or EDWOSB contract (*i.e.,* one in excess of five years) must represent that it is a certified WOSB or EDWOSB in order for the award to continue to count towards an agency's WOSB goal. For new WOSB and EDWOSB set-aside contracts, a concern must be able to demonstrate that it has applied for certification before the date it submitted a bid, and that it has not previously sought and been denied certification. For new WOSB or EDWOSB sole-source contracts, a concern must already be certified at the time it seeks to obtain the sole-source contract. In both situations, the concern must be certified prior to award. Concerns that are owned and controlled by one or more women and certified through the 8(a) BD Program, concerns that are third-party certified, and concerns that were subject to a program examination or status protest and received a concomitant positive decision in the three years prior to the rule's effective date will all be considered certified the day the rule is effective. SBA trusts this information will help concerns plan for when and how to apply for certification so that they are ready to compete for new WOSB and EDWOSB set-aside contracts and able to continue working on existing set-aside contracts without interruption.

SBA received one comment on § 127.302, which provides that concerns will apply for certification on *certify.sba.gov* or any successor system. The commenter opposed having an electronic-only application process. SBA believes that an electronic process is the most efficient and timely way to

process the number of applications SBA is expecting once the rule is effective. In today's business environment, SBA believes that every business concern seeking to contract with the Federal Government must have access to a computer and that this is the easiest and best way to transmit and process applications. SBA adopts the proposed language and will remove ''from SBA'' from the heading in the final rule.

SBA did not receive any comments on § 127.303, which outlines what documentation concerns must submit for certification. Based on questions and feedback received on related sections, SBA has expanded § 127.303 in the final rule. This section now refers to the documentation applicants must submit for each of the certification options detailed in § 127.300(a) and (b). This additional information is intended to help applicants better prepare their applications and will hopefully facilitate a more efficient process.

SBA received two comments on § 127.304, which discusses how SBA will process applications. Both commenters opposed the 90-day timeframe for making determinations after receipt of a completed application. Neither commenter offered an alternative timeframe that would better suit the needs of the small business community. This 90-day processing time aligns with that of the 8(a) BD and HUBZone Programs, and SBA believes that is appropriate for the WOSB Programs as well. As such, SBA adopts the proposed language as final.

SBA received eight comments on §§ 127.305 and 127.306, which dealt with how and when applicants could reapply or seek recertification after being declined or decertified. Five commenters opposed the provisions, two were supportive, and one sought clarification. The commenters in opposition vigorously disagreed with the proposed one-year ''cooling-off'' period, during which time a concern could not reapply for Program certification. One commenter noted that not being able to appeal or rectify a negative certification decision until a year has passed was ''the worst of both worlds.'' In response to the comments, SBA has amended these provisions. The final rule removes proposed § 127.305 (reconsideration) and moves the language in proposed § 127.306 to that section. The final rule also amends the language in proposed § 127.306 (now § 127.305) to align with the HUBZone Program regulations, which do not have a reconsideration or appeal process and instead allow concerns to remedy their eligibility deficits and reapply after 90 days. In addition to responding to industry concerns, mirroring the HUBZone Program regulations has the added benefit of furthering SBA's aim of promoting consistency between its programs.

Requirements for Third-Party Certifiers

SBA proposed to amend subpart C of part 127 to establish procedures for Third-Party Certification in the context of a required certification program. In § 127.350, SBA proposed that all Third-Party Certifiers must be approved by SBA. Under this rule, an approved third-party certifier need not be a non-profit entity. SBA also clarified that a third-party certifier is a non-governmental entity, in contrast to the governmental certifications (8(a) BD and VA CVE) that SBA will accept for WOSB/EDWOSB certification purposes. The proposed rule also stipulated what concerns must do to be certified by a third-party certifier.

SBA received five comments on revised §§ 127.350–127.356. One commenter said that new third-party certifiers must be ''credible.'' SBA does not have concerns about the credibility of third-party certifiers. The statutory language stipulates that only SBA-approved third-party certifiers are authorized to certify concerns. There are currently four SBA-approved third-party certifiers. In advance of effectuating the final rule, SBA has focused on providing clarity and guidance on the certification process as a whole and not on third-party certifiers specifically, but foresees expanding the list of authorized third-party certifiers in the future. All third-party certifiers participating in the Program are required to abide by both the regulations in part 127, and their agreements with SBA. SBA communicates regularly with third-party certifiers, collects monthly data about the WOSBs and EDWOSBs they work with, and periodically reviews their application processes. This is all intended to ensure that SBA's eligibility requirements are consistently applied. As such, SBA feels confident the third-party certifiers are, and will continue to be, credible partners in the certification process.

Three other commenters sought clarification on different provisions in this section. In response to § 127.353(b), one commenter suggested SBA provide language that third-party certifiers can use to advise applicants that SBA offers a free certification option. SBA agrees that providing that language would be helpful, but including it in the regulations would preclude the Agency from refining the language in response to feedback from applicants once the certification process is underway. SBA will plan to communicate with third-party certifiers in the coming months on what the advisory language should look like. Similarly, another commenter requested additional detail about what information SBA will require in reports from third-party certifiers under § 127.355(a). The proposed language was drafted deliberately to allow for SBA to make determinations about what third-party certifiers will have to submit regularly once the certification program is underway and it becomes clear what type of information would be helpful. A third commenter asked for clarification on the timeline for periodic compliance reviews, which SBA believes is adequately spelled out in § 127.355(b)(1).

Finally, several commenters opposed this section on the grounds that SBA should not allow for-profit entities to certify concerns, that there will be too many discrepancies between third-party certification and certification via other entities, and that ''SBA's failure to act appropriately in the budgetary process'' deprived the Program of the funds necessary to manage a certification process. On the first point, the authorizing legislation does not limit third-party certifier participation to entities that are non-profit, so going forward, SBA will not require third-party certifiers to maintain non-profit status. In response to the second concern, SBA reiterates that all certifying entities will assess applicants against the same eligibility requirements. The third point, which expressed concern that the certification program was not appropriately funded, was echoed by many commenters. All of these commenters used identical language to urge SBA to, ''act immediately to move budgetary (taxpayer) funds from programs that have not been sanctioned by Congress towards the full and effective implementation of this nearly twenty-year-old Congressionally-mandated program and advise Congress of the full budget needed so that SBA may receive the necessary funding to assure this program is well run.'' SBA appreciates these commenters' sense of urgency about the implementation of the certification program and understands commenters' frustrations. SBA notes, however, that the requirement that a concern must be certified as a WOSB or EDWOSB in order to be awarded a set-aside or sole source contract under the Program was enacted as part of 2015 NDAA. Further, the Agency's ability to spend funds that ''have not been sanctioned by Congress'' is proscribed by law, and its ability to shift money

between unrelated programs is limited. SBA believes Congress is well-apprised of the scope and breadth of the certification program. The plan continues to be to stand up Program certification by leveraging existing resources.

SBA did not receive specific comments on § 127.354, but in light of the broader concerns expressed about discrepancies between third-party certification and certification by a government entity, the final rule revises the heading of this paragraph to emphasize that SBA will require third-party certifiers to follow detailed, uniform guidance to demonstrate capability to certify concerns.

Proposed § 127.357(a) permitted a concern found to be ineligible by a third-party certifier to request reconsideration and a redetermination. Proposed § 127.357(c) prohibited a declined concern from reapplying for WOSB or EDWOSB certification by SBA or a third-party certifier for a one-year period, and proposed § 127.357(d) prohibited concerns from reapplying through another third-party certifier during that time. In light of the changes to § 127.305, which shortens the reapplication timeframe from one year to 90 days, § 127.357 is omitted in the final rule. As discussed, SBA's aim is to ensure consistency and uniformity between the certification options, both as a policy matter and in response to the 168 commenters who stressed the importance of, ''a fair and unified set of requirements and application processes for all participants.'' Allowing concerns that opt for third-party certification to seek reconsideration if they are declined would privilege them over concerns that apply for certification from SBA or another government entity, because the latter groups will not have a reconsideration option. Removing this proposed section better facilitates alignment between the certification options and is responsive to stakeholders' concerns.

SBA received eight comments on proposed § 127.400, which requires that concerns recertify eligibility every three years. Four commenters supported recertification every three years and four opposed. Of the four commenters opposed, three suggested annual recertification because that is what SBA's other programs require. SBA believes that a helpful comparison is to look at the requirements of the HUBZone Program. Per the HUBZone Program regulations at § 126.500, SBA conducts a program examination and recertification of each HUBZone concern every three years, and concerns are required to represent annually that they continue to meet all program criteria. In contrast, proposed § 127.400 would only have required WOSBs and EDWOSBs to recertify every three years. In an effort to more closely align the WOSB Program regulations with other SBA regulations, and in response to the commenters concerned that recertification every three years is insufficient, the final rule revises § 127.400 to require concerns to annually attest to SBA that they meet the Program requirements, and undergo a full program examination and recertification every three years. SBA added two examples to this section to help illustrate the recertification requirements detailed in the final rule.

Proposed § 127.401 provided that all certified concerns have an affirmative duty to notify SBA of any material changes in writing. SBA did not receive any comments on this section and adopts the proposed language as final.

Proposed § 127.402 addressed the failure of a concern to recertify every three years or to notify SBA of a material change. SBA did not receive any comments on this section. In light of the changes to the rest of this subpart, § 127.402 is omitted in the final rule and the subsequent sections have been renumbered. The information detailed in proposed § 127.402 is included in § 127.405 (formerly § 127.406) in the final rule, which discusses the consequences if SBA is unable to determine a concern's eligibility or determines that a concern is no longer eligible for the Program.

Proposed § 127.403 detailed how SBA would conduct program examinations and specifically how program examinations would change after the certification process is implemented. SBA did not receive any comments on this section. To align with the changes discussed above, SBA has renumbered sections §§ 127.403–127.406. Aside from renumbering, SBA adopts as final the language in proposed § 127.403 (now § 127.402).

Proposed § 127.404 detailed when SBA was authorized to conduct program examinations. SBA did not receive any comments on this section. SBA revised this section in the final rule to reflect that concerns will undergo program examinations every three years in accordance with the recertification process set forth in § 127.400. SBA also renumbered this section to § 127.403 in the final rule. SBA adopts as final the revised and renumbered paragraph.

Proposed § 127.405 authorized SBA to request additional information, in addition to material already submitted, when conducting a program examination. SBA did not receive any comments on this section. SBA renumbered this section to § 127.404 in the final rule. SBA adopts as final the proposed language and renumbered paragraph.

Proposed § 127.406 authorized SBA to decertify concerns that fail to provide or maintain the required certifications or documents. SBA did not receive any comments on this section. This section has been renumbered to § 127.405 in the final rule. SBA also revised this provision in the final rule to more clearly lay out the causes for which SBA can propose decertification, including a failure to follow the recertification processes in § 127.400. Paragraph (a) describes the steps SBA will take to propose decertification and how a concern must respond to a notice of proposed decertification. Paragraph (b) states that SBA's decision on decertification is final and cannot be appealed, and paragraph (c) permits concerns to reapply to the Program after decertification. SBA adopts as final the revised and renumbered paragraph.

The final rule revises § 127.503(h)(2) to confirm that if a concern cannot recertify as a WOSB or EDWOSB by the end of the fifth year of a long-term contract, the procuring agency can no longer count awards made pursuant to that contract as WOSB/EDWOSB awards. SBA's rules have long required recertification of size for contracts with a duration of more than five years. If a concern is unable to recertify its size, the contracting officer could no longer consider awards to that concern towards the procuring agency's small business goals. The Agency's intent in drafting § 127.503(h)(2), and its corresponding paragraphs in §§ 124.1015(f), 125.18(f), and 126.601(i), was to mandate that contracting officers must request that a concern recertify its status on long-term contracts, including Multiple Award Contracts. If a concern were unable to recertify its status as a WOSB, for example, the contracting officer could no longer consider awards to that concern towards the procuring agency's WOSB goals. Procuring agencies understood this was SBA's intent in drafting §§ 124.1015, 125.18(e), 126.601(h), and 127.503(h)(2), and have read them accordingly. The revision to these paragraphs in the final rule confirms that agencies correctly deduced SBA's intent and brings the regulatory text into alignment with already-existing practice, which SBA believes will provide helpful clarity to small businesses and contracting officers.

SBA proposed to remove § 127.505, as the pertinent information in this provision was already detailed in

§ 121.406(b). SBA did not receive any comments on this proposed change and finalizes the deletion in the final rule.

SBA proposed to revise § 127.604(f)(4) to clarify that concerns found to be ineligible would need to reapply, rather than request a reexamination. SBA did not receive any comments on this change and adopts the proposed language as final, except for updating a citation to the appropriate regulation for reapplication procedures (formerly at § 127.306 and now at § 127.305).

Compliance With Executive Orders 12866, 13563, 12988, 13132, and 13771, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is a significant regulatory action for the purposes of Executive Order 12866. Accordingly, the next section contains SBA's Regulatory Impact Analysis. This is not a major rule, however, under the Congressional Review Act.

Regulatory Impact Analysis

1. Is there a need for the regulatory action?

The U.S. Small Business Administration (SBA) is required by statute to administer the WOSB Federal Contract Program (WOSB Program). The Small Business Act (Act) sets forth the certification criteria for the WOSB Program. Specifically, the Act states that a WOSB or EDWOSB must, ''be certified by a Federal agency, a State government, the Administrator, or a national certifying entity approved by the SBA Administrator, as a small business concern owned and controlled by women.'' 15 U.S.C. 637(m)(2)(E).

The Federal Acquisition Regulation (FAR) and SBA regulations require that in order to be certified as a WOSB or EDWOSB a small business concern must provide documents supporting its WOSB or EDWOSB status to SBA. *See* 13 CFR 127.300 and FAR 19.1503(b)(3). The specific documents concerns are required to provide are outlined in § 127.303. The Act also states that the SBA is authorized to conduct eligibility examinations of any certified WOSB or EDWOSB, and to handle protests and appeals related to such certifications. 15 U.S.C. 637(m)(5)(A) and (5)(B).

Under the current system, WOSBs and EDWOSBs may be certified by third-party certifiers, or they may essentially self-certify and upload the required documents to *sba.certify.gov.* In order to award a WOSB set-aside or sole source contract, the contracting officer must document that the contracting officer reviewed the concern's certifications and documentation. 13 CFR 127.503(g); FAR 19.1503(b)(3). The lack of required certification, coupled with the requirement that the contracting officer must verify that documents have been uploaded, may contribute to reluctance by procuring agencies to use the program, resulting in the failure to meet the statutory goal of 5% of all prime contract dollars being awarded to WOSBs. In FY 2018, the government-wide WOSB goal of 5% was not met with actual performance at 4.75% ($22.9B). The government has only met the goal once (FY 2015). While the amount of dollars awarded to WOSBs under the set aside program is trending up, they still account for less than 0.016% of dollars awarded to WOSBs. A certification could help entice agencies to set aside more contracts for WOSBs, so that the government can meet the statutory 5% goal.

2. What are the potential benefits and costs of this regulatory action?

The benefit of this regulation is a significant improvement in the confidence of contracting officers to make Federal contract awards to eligible concerns. Under the existing system, the burden of eligibility compliance is placed upon the awarding contracting officer. Contracting officers must review the documentation of the apparent successful offeror on a WOSB or EDWOSB contract. Under this rule, the burden is placed upon SBA and/or third-party certifiers. All that a contracting officer needs to do is to verify that the concern is in fact a certified WOSB or EDWOSB in SAM. A contracting officer would not have to look at any documentation provided by a concern or prepare any internal memorandum memorializing any review. This will encourage more contracting officers to set aside opportunities for WOSB Program participants as the validation process will be controlled by SBA in both SAM and DSBS. Increased procurement awards to WOSB concerns can further close a gap of under-representation of women in industries where in the aggregate WOSB represent 12 percent of all sales in contrast with male-owned businesses that represent 79% of all sales (per SBA Office of Advocacy Issue Brief Number 13, dated May 31, 2017 *https://www.sba.gov/sites/default/files/advocacy/Womens-Business-Ownership-in-the-US.pdf*).

Another benefit of this rule is to reduce the cost associated with the time required for completing WOSB certification by replacing the WOSB Program Repository with *Certify.SBA.gov* (''Certify'') in the regulation. It is also anticipated that the WOSB certification methodology and likely increased use of WOSB/EDWOSB set asides will likely increase program participation levels. Under the prior WOSB Program Repository, SBA determined that the average time required to complete the process required by the WOSB Program Repository was two hours, whereas the use of Certify requires only one hour. Across an estimated 12,347 firms, the total cost savings is significant, as discussed below. Another potential benefit is the reduction of time and costs to WOSB firms through the reduction of program participation costs. By successfully leveraging technology, SBA has reduced the total cost of burden hours substantially.

Based on the calculations below, the total estimated number of respondents (WOSBs and EDWOSBs) for this collection of information varies depending upon the types of certification that a business concern is seeking. For initial certification, the total estimated number of respondents is 9,349. The total number was calculated using the two-year average number of business concerns that have provided information through Certify from March 2016 through February 2018. For annual updates and new certifications, the total number is 12,347. For examinations and protests, the total number is 130.

Type of certification	Number of respondents	Source
Initial certification	9,349	Average annual number of respondents to Certify between March 2016 and February 2018.
New certifications each year	500	Program participation is expected to remain constant after initial year of certification, with 500 new certifications annually.
Annual updates to certification	11,847	Program participation is expected to remain constant after initial year of certification, with a reduction of 500 participants annually through attrition.
Total annual responses	12,347	Annual new certifications plus annual updates.

Each respondent submits one response at the time of initial certification and one at the time of annual update. Estimated burden hours vary depending upon the type of certification that a WOSB or EDWOSB pursues. SBA conducted a survey among a sample of entities that assist WOSBs and EDWOSBs to provide information through Certify. The majority of those surveyed stated that for initial certifications the estimated time for completion is one hour per submission. For annual updates, because of the need to submit little if any additional information, the estimated burden is 0.5 hour per submission. For examinations and protests, the estimated burden is 0.25, which is much lower because firms have already provided the documentation referred to in 13 CFR 127.303 through Certify. It is estimated that the initial certification will involve 9,349 existing participants and 2,998 new respondents in the first year. After the first year, initial certifications are expected for 500 new respondents annually with an additional 11,847 annual certifications for existing participants for a total of 12,347 participants in each succeeding year. The participant level is expected to remain stable at 12,347 participants annually with 500 new respondents and 500 attritions from the program annually. Based on the number of protests and appeals received in years past, 130 respondents are expected to participate in protests and appeals. The respondent's cost of burden hours for a five-year period and average is provided in the following table and detailed below.

COST OF BURDEN HOURS—5 YEAR COST ESTIMATE AND AVERAGE

Year	Initial—existing 1 hour at $164.23 per participant	Initial—new participants 1 hour at $164.23 per participant	Annual updates .5 hour at $164.23 per participant	Protests and appeals .25 hour at $164.23 per participant	Annual totals
Number of Program Participants					
1	9,349	2,998		130	12,477
2		500	11,847	130	12,477
3		500	11,847	130	12,477
4		500	11,847	130	12,477
5		500	11,847	130	12,477
Costs					
1	$1,535,386	$492,362		$5,337	$2,033,085
2		82,115	972,816	5,337	1,060,269
3		82,115	972,816	5,337	1,060,269
4		82,115	972,816	5,337	1,060,269
5		82,115	972,816	5,337	1,060,269
5 Year Total					6,274,161
Annual Cost Avg					1,254,832

Initial certification—transition of existing participants (one-time cost):

Estimated officer's salary = $164.23/hour (based on General Schedule 15 Step 10, Washington-Baltimore-Northern Virginia area, plus an additional 100% to account for the cost of benefits and overhead, which would be equivalent to a senior manager in an average small business firm).

Total estimated burden: 9,349 × 1 hour × $164.23/hour = $1,535,386.

Initial certification—new participants (first year cost):

Estimated officer's salary = $164.23/hour (based on General Schedule 15 Step 10, Washington-Baltimore-Northern Virginia area, plus an additional 100% to account for the costs of benefits and overhead, which would be equivalent to a senior manager in an average small business firm).

Total estimated burden: 2998 × 1 hour × $164.23/hour = $492,362.

Initial certification—new participants (cost for each succeeding year after initial year):

Estimated officer's salary = $164.23/hour (based on General Schedule 15 Step 10, Washington-Baltimore-Northern Virginia area, plus an additional 100% to account for the cost of benefits and overhead, which would be equivalent to a senior manager in an average small business firm).

Total estimated burden: 500 × 1 hour × $164.23/hour = $82,115.

Annual update:

Estimated officer's salary = $164.23/hour (based on General Schedule 15 Step 10, Washington-Baltimore-Northern Virginia area, plus an additional 100% to account for the cost of benefits and overhead, which would

be equivalent to a senior manager in an average small business firm).

Total estimated burden: 11,847 × .5 hour × $164.23/hour = $72,816.

Examinations and Protests (each year):

Estimated officer's salary = $164.23/hour (based on General Schedule 15 Step 10, Washington-Baltimore-Northern Virginia area, plus an additional 100% to account for the cost of benefits and overhead, which would be equivalent to a senior manager in an average small business firm).

Total estimated burden: 130 × .25 hour × $164.23/hour = $5,337.

Previously, the estimated respondents' cost of burden hours was determined to be $4,066,170 for the initial year of certification and $2,120,538 in subsequent years. By successfully leveraging technology, SBA has reduced the cost of burden hours substantially, from $4,066,170 to $2,033,085 in the initial year of certification, and from $2,120,538 to $1,060,269 in subsequent years. This results in annual savings of $2,033,085 initially and $1,060,269 each year thereafter, with a total five-year savings of $6,274,161 for WOSBs to redirect as revenue generating resources to close the noted revenue disparity with male-owned businesses. SBA believes that there are no additional capital or start-up costs or operation and maintenance costs and purchases of services costs to respondents as a result of this rule because there should be no cost in setting up or maintaining systems to collect the required information. As stated previously, the information requested should be collected and retained in the ordinary course of business.

SBA estimates the cost to the government of implementing the certification program to be $3,126,184 in the initial year of certification, and approximately $2,704,140 annually thereafter. SBA is currently working to enhance its existing information technology infrastructure, Certify, to expand its capacity to support SBA's government contracting certification programs. The cost to develop the WOSB and EDWOSB certification processing systems in Certify is $1,654,000. After the initial improvements, Certify should not require a substantial investment of capital. In FY2020, SBA hired a Program Lead, Team Lead, and two Analysts, and brought on via internal transfer a third Analyst and a Marketing and Outreach specialist. The total cost of bringing onboard the new hires and backfilling the positions left vacant by the internal transfers is $1,472,184 (based on General Schedule 13 Step 1 through General Schedule 15 Step 1, Washington-Baltimore-Northern Virginia area plus 100% to account for the cost of benefits and overhead). In the future, the Program hopes to hire an additional six FTEs to further support Program Operations, the cost of which would be $1,231,956 (based on General Schedule 13 Step 1, Washington-Baltimore-Northern Virginia area plus 100% to account for the cost of benefits and overhead).

3. What are the alternatives to this rule?

This rule is required to implement specific statutory provisions which require promulgation of implementing regulations. One alternative considered would be to rely solely on third-party certifiers to certify WOSBs and EDWOSBs. However, there is a cost to small businesses for third-party certifiers. Firms submit the same documentation to third-party certifiers that would submit to SBA, but third-party certifiers charge on average $380 annually. Consequently, the cost of relying completely on third-party certifiers would be $3,552,620 a year (9,349 initial applicants × $380). If third-party certifiers were used for the anticipated increase to 12,477 annual participants, the cost would be $4,741,260. In addition, SBA maintains that certification for Federal procurement purposes is an inherently governmental function. Consequently, even if SBA utilized third-party certifiers for an initial or preliminary review, SBA or a governmental entity would still have to be involved in reviewing those certifications. In addition, there is an intended benefit of certification. The intent is to increase confidence in the eligibility of firms so that contracting officers and activities utilize the sole source authority. Although trending upwards, the government-wide WOSB goal of 5% was not met with actual performance at 4.75%. In addition, WOSB/EDWOSB set-aside and sole-source awards only accounted for 4.1% of total dollars awarded to WOSBs in FY 2018. The Federal Government has met the statutory WOSB goal of 5% of total dollars awarded to WOSBs only once (FY 2015).

Executive Order 13563

A description of the need for this regulatory action and the benefits and costs associated with this action, including possible distributional impacts that relate to Executive Order 13563, are included above in the Regulatory Impact Analysis under Executive Order 12866. As part of its ongoing efforts to engage stakeholders in the development of its regulations, SBA issued an Advance Notice of Proposed Rulemaking (ANPR) on December 18, 2015. 80 FR 78984. The ANPR solicited public comments to assist SBA in drafting a proposed rule to implement a WOSB/EDWOSB certification program. SBA received 122 comments in response to the ANPR. SBA issued a Proposed Rule in the **Federal Register** on May 14, 2019. 84 FR 21256. The Proposed Rule solicited public comments to assist SBA in drafting a final rule to implement a WOSB/EDWOSB certification program. SBA received 898 comments from 307 commenters in response to the Proposed Rule. SBA has reviewed all the comments while drafting this final rule.

Executive Order 12988

For purposes of Executive Order 12988, SBA has drafted this rule, to the extent practicable, in accordance with the standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, to minimize litigation, eliminate ambiguity, and reduce burden. This rule has no preemptive or retroactive effect.

Executive Order 13132

For the purpose of Executive Order 13132, SBA has determined that this rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various layers of government. Therefore, SBA has determined that this rule has no federalism implications warranting preparation of a federalism assessment.

Executive Order 13771

This rule is an Executive Order 13771 regulatory action with annualized net costs of $1,514,179 and a net present value of $21,631,135, both in 2016 dollars. Details on the estimated costs of this rule can be found in the rule's economic analysis. Table 1 summarizes the savings and costs of the first three years of implementation, with the savings and costs in Year 3 expected to continue into perpetuity. Table 2 presents the annualized savings in perpetuity using a 7% discount rate, in 2016 dollars.

TABLE 1—SCHEDULE OF COSTS/(SAVINGS) OVER 3 YEAR HORIZON, CURRENT DOLLARS

	Savings	Costs
Year 1	$(2,033,085)	$3,126,184
Year 2	(1,060,269)	2,704,140
Year 3	(1,060,269)	2,704,140

TABLE 2—ANNUALIZED SAVINGS IN PERPETUITY WITH 7% DISCOUNT RATE, 2016 DOLLARS

	Estimate
Annualized Savings	(1,058,441)
Annualized Costs	2,572,621
Annualized Net Costs	1,514,179

Paperwork Reduction Act, 44 U.S.C. Ch. 35

In carrying out its statutory mandate to provide oversight of certification related to SBA's WOSB Federal Contract Program, SBA is currently approved to collect information from the WOSB applicants or participants through SBA Form 2413, and for EDWOSB applicants or participants, through SBA Form 2414. (OMB Control Number 3245–0374, Certification for the Women-Owned Small Business Federal Contract Program). This collection of information also requires submission or retention of documents that support the applicant's certification. The information collected through Certify includes eligibility documents previously collected in the WOSB Repository, and information collected on SBA Form 2413 (WOSB) and SBA Form 2414 (EDWOSB). SBA revised this information collection in 2018 to establish that the Agency has discontinued these paper forms and will collect the information and supporting documents electronically through Certify, as well as to make minor changes to the requests for information.

As discussed above, this rule will fully implement the statutory requirement for small business concerns to be certified by a Federal agency, a State government, SBA, or a national certifying entity approved by SBA, in order to be awarded a set-aside or sole source contract under the WOSB program. As a result of these changes, the rule eliminates the option to self-certify for WOSB/EDWOSB set-aside and sole source contracts, permits applicants to provide their CVE certification, along with documentation that they meet Program eligibility requirements, as a certification option, and clarifies the third-party certification requirements.

The clarifications for authorized Third-party certifiers impose an additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. Chapter 35. A summary description of the reporting requirement, description of respondents, and estimate of the annual burden is provided below.

Summary Description of Compliance Information: Third-party certifiers will be required to provide SBA with monthly reports that include the number of applications received, number of applications approved and denied, and other information that SBA determines may be helpful for ensuring that third-party certifiers are meeting their obligations or information or data that may be useful for improving the program.

Description of and Estimated Number of Respondents: There are four third-party certifiers authorized by SBA to certify WOSB and EDWOSB applicants. The four third-party certifiers will be required to submit reports to SBA monthly, for a total of 48 reports.

Respondents: 4.

Responses per respondent: 12.

Total annual responses: 48.

Preparation hours per response: 0.5 hour.

Total response burden hours: 24 hours.

Cost per hour: $67.78/hour (based on 2018 Median Pay for accountants and auditors, Bureau of Labor Statistics, plus an additional 100% to account for cost of benefits and overhead).

Total estimated annual cost burden: $1,626.72.

SBA will revise the information collection accordingly and resubmit to OMB for review and approval.

Regulatory Flexibility Act, 5 U.S.C. 601–612

According to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The RFA defines ''small entity'' to include ''small businesses,'' ''small organizations,'' and ''small governmental jurisdictions.'' This rule concerns various aspects of SBA's contracting programs. As such, the rule relates to small business concerns, but would not affect ''small organizations'' or ''small governmental jurisdictions.'' SBA's contracting programs generally apply only to ''business concerns'' as defined by SBA regulations, in other words, to small businesses organized for profit. ''Small organizations'' or ''small governmental jurisdictions'' are non-profits or governmental entities and do not generally qualify as ''business concerns'' within the meaning of SBA's regulations.

As stated in the regulatory impact analysis, this rule will impact approximately 9,000–12,000 women-owned small businesses. These businesses will have to apply to be certified as WOSBs or EDWOSBs to SBA or third-party certifiers in order to be eligible to be awarded any WOSB or EDWOSB set-aside contract. However, SBA has minimized the impact on WOSBs by accepting certifications already conferred by SBA (through the 8(a) BD Program or a positive determination after a status protest or program examination), VA, and third-party certifiers. The costs to WOSBs for certification should be de minimis, because the required documentation (articles of incorporation, bylaws, stock ledgers or certificates, tax records, etc.) already exists. In addition, this information is already required to be provided either to third-party certifiers, governmental certifying entities, or to SBA through Certify. SBA expects WOSBs to see a reduction in burden because under the prior WOSB Program Repository, SBA determined that the average time required to complete the process required by the WOSB Program Repository was two hours, whereas the use of Certify results requires only one hour due to technological improvements. Thus, the Administrator certifies that the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

List of Subjects

13 CFR Part 124

Administrative practice and procedure, Government procurement, Minority businesses, Reporting and recordkeeping requirements, Technical assistance.

13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small business, Technical assistance, Veterans.

13 CFR Part 126

Administrative practice and procedure, Government procurement, Penalties, Reporting and recordkeeping requirements, Small business.

13 CFR Part 127

Government contracts, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, SBA amends 13 CFR parts 124, 125, 126, and 127 as follows:

PART 124—8(a) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

■ 1. The authority citation for part 124 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d), and 644.

■ 2. Amend § 124.104 as follows:
■ a. Remove the first two sentences of paragraph (c)(2) introductory text and add one sentence in their place;
■ b. Revise the first sentence of paragraph (c)(2)(ii);
■ c. Remove the first two sentences of paragraph (c)(3)(i) and add one sentence in their place; and
■ d. Revise the first sentence of paragraph (c)(4).

The additions and revisions read as follows:

§ 124.104 Who is economically disadvantaged?

* * * * *

(c) * * *

(2) * * * The net worth of an individual claiming disadvantage must be less than $750,000. * * *

* * * * *

(ii) Funds invested in an Individual Retirement Account (IRA) or other official retirement account will not be considered in determining an individual's net worth. * * *

* * * * *

(3) * * * (i) SBA will presume that an individual is not economically disadvantaged if his or her adjusted gross income averaged over the three preceding years exceeds $350,000. * * *

* * * * *

(4) * * * An individual will generally not be considered economically disadvantaged if the fair market value of all his or her assets (including his or her primary residence and the value of the applicant/Participant firm) exceeds $6 million. * * *

■ 3. Amend § 124.1015 by adding a sentence at the end of paragraph (f)(2) to read as follows:

§ 124.1015 What are the requirements for representing SDB status, and what are the penalties for misrepresentation?

* * * * *

(f) * * *

(2) * * * If the business is unable to recertify its SDB status, the procuring agency may no longer be able to count the options or orders issued pursuant to the contract, from that point forward, towards its SDB goals.

* * * * *

PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 4. The authority citation for part 125 continues to read as follows:

Authority: 15 U.S.C. 632(p), (q), 634(b)(6), 637, 644, 657(f), and 657r.

■ 5. Amend § 125.18 by adding a sentence at the end of paragraph (e)(2) to read as follows:

§ 125.18 What requirements must an SDVO SBC meet to submit an offer on a contract?

* * * * *

(e) * * *

(2) * * * If the business is unable to recertify its SDVO status, the procuring agency may no longer be able to count the options or orders issued pursuant to the contract, from that point forward, towards its SDVO goals.

* * * * *

PART 126—HUBZONE PROGRAM

■ 6. The authority citation for part 126 continues to read as follows:

Authority: 15 U.S.C. 632(a), 632(j), 632(p), 644 and 657a.

■ 7. Amend § 126.619 by adding a sentence at the end of paragraph (b) introductory text to read as follows:

§ 126.619 When must a certified HUBZone small business concern recertify its status for a HUBZone contract?

* * * * *

(b) * * * If the business is unable to recertify its HUBZone status, the procuring agency may no longer be able to count the options or orders issued pursuant to the contract, from that point forward, towards its HUBZone goals.

* * * * *

PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM

■ 8. The authority citation for part 127 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 637(m), 644 and 657r.

■ 9. Amend § 127.200 by adding paragraphs (c) and (d) to read as follows:

§ 127.200 What are the requirements a concern must meet to qualify as an EDWOSB or WOSB?

* * * * *

(c) *WOSB and EDWOSB certifications.* (1) A concern must be certified as a WOSB or EDWOSB pursuant to § 127.300 in order to be awarded a WOSB or EDWOSB set-aside or sole-source contract.

(2) Other women-owned small business concerns that do not seek WOSB or EDWOSB set-aside or sole-source contracts may continue to self-certify their status, receive contract awards outside the Program, and count toward an agency's goal for awards to WOSBs.

(d) *Suspension and debarment.* In order to be eligible for WOSB and EDWOSB certification and to remain certified, the concern and any of its owners must not have an active exclusion in the System for Award Management at the time of application or recertification.

■ 10. Amend § 127.203 by revising the first sentence of paragraph (b)(3) to read as follows:

§ 127.203 What are the rules governing the requirement that economically disadvantaged women must own EDWOSBs?

* * * * *

(b) * * *

(3) Funds invested in an Individual Retirement Account (IRA) or other official retirement account will not be considered in determining an individual's net worth. * * *

* * * * *

Subpart C—[Amended]

■ 11. Subpart C is amended by adding the undesignated center heading ''Certification'' above § 127.300.

■ 12. Effective October 15, 2020, § 127.300 is revised to read as follows:

§ 127.300 How is a concern certified as an WOSB or EDWOSB?

(a) *WOSB certification.* (1) A concern may apply to SBA for WOSB certification. There is no cost to apply to SBA for certification. SBA will consider the information provided by the concern in order to determine whether the concern qualifies. SBA, in its discretion, may rely solely upon the information submitted to establish eligibility, may request additional information, or may verify the information before making a determination. SBA may draw an adverse inference and deny the certification where the concern fails to cooperate with SBA or submit information requested by SBA.

(2) A concern may submit evidence to SBA that it is a women-owned and controlled small business that is certified by the U.S. Department of Veterans Affairs Center for Verification and Evaluation as a Service-Disabled Veteran Owned Business or Veteran-Owned Business.

(3) A concern may submit evidence that it has been certified as a WOSB by an approved Third-Party Certifier in accordance with this subpart.

(b) *EDWOSB certification.* (1) A concern may apply to SBA for EDWOSB certification. There is no cost to apply to SBA for certification. SBA will consider the information provided by the concern in order to determine whether the concern qualifies. SBA, in its discretion, may rely solely upon the information submitted to establish eligibility, may request additional information, or may verify the information before making a determination. SBA may draw an adverse inference and deny the certification where the concern fails to cooperate with SBA or submit information requested by SBA.

(2) A concern that is a certified participant in the 8(a) BD Program and owned and controlled by one or more women qualifies as an EDWOSB.

(3) A concern may submit evidence to SBA that it is an economically disadvantaged women-owned and controlled small business that is certified by the U.S. Department of Veterans Affairs Center for Verification and Evaluation as a Service-Disabled Veteran Owned Business or Veteran-Owned Business.

(4) A concern may submit evidence that it has been certified as an EDWOSB by a Third-Party Certifier under this subpart.

(c) *SBA notification and designation.* If SBA determines that the concern is a qualified WOSB or EDWOSB, it will issue a letter of certification and designate the concern as a certified WOSB or EDWOSB on the Dynamic Small Business Search (DSBS) system, or successor system.

■ 13. Sections 127.301 through 127.303 are revised to read as follows:

Sec.

* * * * *

127.301 When may a concern apply for certification?

127.302 Where can a concern apply for certification?

127.303 What must a concern submit for certification?

* * * * *

§ 127.301 When may a concern apply for certification?

A concern may apply for WOSB or EDWOSB certification and submit the required information whenever it can represent that it meets the eligibility requirements, subject to the restrictions of § 127.306. All representations and supporting information contained in the application must be complete and accurate as of the date of submission. The application must be signed by an officer of the concern who is authorized to represent the concern.

§ 127.302 Where can a concern apply for certification?

A concern seeking certification as a WOSB or EDWOSB may apply to SBA for certification via *https://certify.sba.gov* or any successor system. Certification pages must be validated electronically or signed by a person authorized to represent the concern.

§ 127.303 What must a concern submit for certification?

(a)(1) *SBA certification.* (i) To be certified by SBA as a WOSB or EDWOSB, a concern must provide documents and information demonstrating that it meets the requirements set forth in part 127, subpart B. SBA maintains a list of the minimum required documents that can be found at *https://certify.sba.gov* or any successor system. A concern may submit additional documents and information to support its eligibility. The required documents must be provided to SBA during the application process electronically. This may include, but is not limited to, corporate records, business and personal financial records, including copies of signed Federal personal and business tax returns, and individual and business bank statements.

(ii) A concern that is certified by the 8(a) BD Program and is owned and controlled by one or more women may use documentation of its most recent annual review, or documentation of its 8(a) acceptance if it has not yet had an annual review, in support of its application for certification.

(iii) A concern that is certified through a program examination or status protest may use the positive determination from SBA as evidence for certification.

(2) *CVE certification.* (i) To be certified as a WOSB, a concern that is certified by the U.S. Department of Veterans Affairs Center for Verification and Evaluation may submit documentation of its most recent certification, along with documentation confirming that it is owned and controlled by one or more women, in support of its application for certification.

(ii) To be certified as an EDWOSB, a concern that is certified by the U.S. Department of Veterans Affairs Center for Verification and Evaluation may submit documentation of its most recent certification, along with documentation confirming that it is owned and controlled by one or more women who are economically disadvantaged in accordance with § 127.203(b)(3), in support of its application for certification.

(3) *Third-Party Certifier certification.* A concern that is certified by a Third-Party Certifier must provide a current, valid certification from an entity designated as an SBA-approved certifier.

(b) In addition to the minimum required documents, SBA may request additional information from applicants in order to verify eligibility.

(c) After submitting the required documentation, an applicant must notify SBA of any changes that could affect its eligibility.

(d) If a concern was decertified or previously denied certification, it must include with its application for certification a full explanation of why it was decertified or denied certification, and what, if any, changes have been made. If SBA is not satisfied with the explanation provided, SBA will decline to certify the concern.

(e) If the concern was decertified for failure to notify SBA of a material change affecting its eligibility pursuant to § 127.401, it must include with its application for certification a full explanation of why it failed to notify SBA of the material change. If SBA is not satisfied with the explanation provided, SBA will decline to certify the concern.

■ 14. Effective October 15, 2020, §§ 127.304 and 127.305 are revised to read as follows:

§ 127.304 How is an application for certification processed?

(a) The SBA's Director of Government Contracting (D/GC) or designee is authorized to approve or decline applications for certification. SBA must receive all required information and supporting documents before it will begin processing a concern's application. SBA will not process incomplete applications. SBA will advise each applicant within 15 calendar days after the receipt of an application whether the application is complete and suitable for evaluation and, if not, what additional information or clarification is required to complete the application. SBA will make its determination within ninety (90) calendar days after receipt of a complete package, whenever practicable.

(b) SBA may request additional information or clarification of information contained in an application or document submission at any time.

(c) The burden of proof to demonstrate eligibility is on the applicant concern. If a concern does not provide requested information within the allotted time provided by SBA, or if it submits incomplete information, SBA may presume that disclosure of the

missing information would adversely affect the business concern's eligibility or demonstrate a lack of eligibility in the area or areas to which the information relates.

(d) The applicant must be eligible as of the date it submitted its application and up until the time the D/GC issues a decision. The decision will be based on the facts contained in the application, any information received in response to SBA's request for clarification, and any changed circumstances since the date of application.

(e) Any changed circumstances occurring after an applicant has submitted an application will be considered and may constitute grounds for decline. After submitting the application and signed representation, an applicant must notify SBA of any changes that could affect its eligibility. The D/GC may propose decertification for any EDWOSB or WOSB that fails to inform SBA of any changed circumstances that affected its eligibility for the program during the processing of the application.

(f) If SBA approves the application, SBA will send a written notice to the concern and update *https://certify.sba.gov* or any successor system, and update DSBS and the System for Award Management (or any successor systems) to indicate the concern has been certified by SBA as a WOSB and/or EDWOSB.

(g) A decision to deny eligibility must be in writing and state the specific reasons for denial.

(h) SBA will send a copy of the decision letter to the electronic mail address provided with the application. SBA will consider any decision sent to this electronic mail address provided to have been received by the applicant concern.

(i) The decision of the D/GC to decline certification is the final agency decision. The concern can reapply for certification after ninety (90) days, as set forth in § 127.305.

§ 127.305 May declined or decertified concerns seek recertification at a later date?

(a) A concern that SBA or a third-party certifier has declined or that SBA has decertified may seek certification after ninety (90) days from the date of decline or decertification if it believes that it has overcome all of the reasons for decline or decertification and is currently eligible. A concern that has been declined may seek certification by any of the certification options listed in § 127.300.

(b) A concern found to be ineligible during a WOSB/EDWOSB status protest or program examination is precluded from applying for certification for ninety (90) days from the date of the final agency decision (the D/GC's decision if no appeal is filed or the decision of SBA's Office of Hearings and Appeals (OHA) where an appeal is filed pursuant to § 127.605).

■ 15. An undesignated center heading and § 127.350 are added to subpart C to read as follows:

Requirements for Third-Party Certifiers

§ 127. 350 What is a third-party certifier?

A third-party certifier is a non-governmental entity that SBA has authorized to certify that an applicant concern is eligible for the WOSB or EDWOSB contracting program. A third-party certifier may be a for-profit or non-profit entity. The list of SBA-approved third-party certifiers may be found on SBA's website at *sba.gov*.

■ 16. Effective October 15, 2020, § 127.351 is added to subpart C to read as follows:

§ 127.351 What third-party certifications may a concern use as evidence of its status as a qualified EDWOSB or WOSB?

In order for SBA to accept a third-party certification that a concern qualifies as a WOSB or EDWOSB, the concern must have a current, valid certification from an entity designated as an SBA-approved certifier. The third-party certification must be submitted to SBA through *https://certify.sba.gov* or a successor system.

■ 17. Sections 127.352 through 127.356 are added to subpart C to read as follows:

Subpart C—Certification of EDWOSB or WOSB Status

* * * * *

Sec.

127.352 What is the process for becoming a third-party certifier?
127.353 May third-party certifiers charge a fee?
127.354 What requirements must a third-party certifier follow to demonstrate capability to certify concerns?
127.355 How will SBA ensure that approved third-party certifiers are meeting the requirements?
127.356 How does a concern obtain certification from an approved certifier?

§ 127.352 What is the process for becoming a third-party certifier?

SBA will periodically hold open solicitations. All entities that believe they meet the criteria to act as a third-party certifier will be free to respond to the solicitation.

§ 127.353 May third-party certifiers charge a fee?

(a) Third-party certifiers may charge a reasonable fee, but must notify applicants first, in writing, that SBA offers certification for free.

(b) The method of notification and the language that will be used for this notification must be approved by SBA. The third-party certifier may not change its method or the language without SBA approval.

§ 127.354 What requirements must a third-party certifier follow to demonstrate capability to certify concerns?

(a) All third-party certifiers must enter into written agreements with SBA. This agreement will detail the requirements that the third-party certifier must meet. SBA may terminate the agreement if SBA subsequently determines that the entity's certification process does not comply with SBA-approved certification standards or is not based on the same program eligibility requirements as set forth in subpart B of this part or if, upon review, SBA determines that the third-party certifier has demonstrated a pattern of certifying concerns that SBA later determines to be ineligible for certification.

(b) Third-party certifiers' certification process must comply with SBA-approved certification standards and track the WOSB or EDWOSB eligibility requirements set forth in subpart B of this part.

(c) In order for SBA to enter into an agreement with a third-party certifier, the entity must establish the following:

(1) It will render fair and impartial WOSB/EDWOSB Federal Contract Program eligibility determinations;

(2) It will provide the approved applicant a valid certificate for entering into the SBA electronic platform, and will retain documents used to determine eligibility for a period of six (6) years to support SBA's responsibility to conduct a status protest, eligibility examination, agency investigation, or audit of the third party determinations;

(3) Its certification process will require applicant concerns to register in SAM (or any successor system) and submit sufficient information as determined by SBA to enable it to determine whether the concern qualifies as a WOSB. This information must include documentation demonstrating whether the concern is:

(i) A small business concern under the SBA size standard corresponding to the concern's primary industry, as defined in § 121.107 of this part;

(ii) At least 51 percent owned and controlled by one or more women who are United States citizens; and

(4) It will not decline to accept a concern's application for WOSB/EDWOSB certification on the basis of race, color, national origin, religion, age, disability, sexual orientation, marital or family status, or political affiliation.

§ 127.355 How will SBA ensure that approved third-party certifiers are meeting the requirements?

(a) SBA will require third-party certifiers to submit monthly reports to SBA. These reports will contain information including the number of applications received, number of applications approved and denied, and other information that SBA determines may be helpful for ensuring that third-party certifiers are meeting their obligations or information or data that may be useful for improving the program.

(b) SBA will conduct periodic compliance reviews of third-party certifiers and their underlying certification determinations to ensure that they are properly applying SBA's WOSB/EDWOSB requirements and certifying concerns in accordance with those requirements.

(1) SBA will conduct a full compliance review on every third-party certifier at least once every three years.

(2) At the conclusion of each compliance review, SBA will provide the third-party certifier with a written report detailing SBA's findings with regard to the third-party certifier's compliance with SBA's requirements. The report will include recommendations for possible improvements, and detailed explanations for any deficiencies identified by SBA.

(c) If SBA determines that a third-party certifier is not properly applying SBA's eligibility requirements, SBA may revoke the approval of that third-party certifier.

§ 127.356 How does a concern obtain certification from an approved certifier?

(a) A concern that seeks WOSB or EDWOSB certification from an SBA-approved third-party certifier must submit its application directly to the approved certifier in accordance with the specific application procedures of the particular certifier.

(b) The concern must register in the System for Award Management (SAM), or any successor system.

(c) The approved certifier must ensure that all documents used to determine that a concern is approved for certification are uploaded in *https://certify.sba.gov* or any successor system.

■ 18. Effective October 15, 2020, §§ 127.400 and 127.401 are revised to read as follows:

§ 127.400 How does a concern maintain its WOSB or EDWOSB certification?

(a) Any concern seeking to remain a certified WOSB or EDWOSB must annually represent to SBA that it continues to meet all WOSB/EDWOSB eligibility criteria.

(1) Except as provided in paragraph (b) of this section, unless SBA has reason to question the concern's representation of its continued eligibility, SBA will accept the representation without requiring the certified WOSB or EDWOSB to submit any supporting information or documentation.

(2) The concern's recertification must be submitted within 30 days of the anniversary date of its original certification. The date of certification is the date specified in the concern's certification letter. If the concern fails to recertify, SBA may propose the concern for decertification pursuant to § 127.405.

(b) Any concern seeking to remain a certified WOSB or EDWOSB must undergo a program examination and recertify its continued eligibility to SBA every three years.

(1) SBA or a third-party certifier will conduct a program examination three years after the concern's initial WOSB or EDWOSB certification (whether by SBA or a third-party certifier) or three years after the date of the concern's last program examination, whichever date is later.

(i) *Example 1.* Concern A is certified by SBA to be eligible for the WOSB program on July 20, 2021. Concern A must recertify its eligibility to SBA between June 20, 2022 and July 19, 2022. Concern A will continue to be a certified WOSB that is eligible to receive WOSB contracts (as long as it is small for the size standard corresponding to the NAICS code assigned to the contract) through July 19, 2023. Concern A must recertify its eligibility to SBA between June 20, 2023 and July 19, 2023. Concern A will continue to be a certified WOSB that is eligible to receive WOSB contracts (as long as it is small for the size standard corresponding to the NAICS code assigned to the contract) through July 19, 2024. Concern A must recertify its eligibility to SBA between June 20, 2024 and July 19, 2024. Because three years have elapsed since its application and original certification, SBA will conduct a program examination of Concern A at that time. In addition to its representation that it continues to be an eligible WOSB, Concern A must provide additional information as requested by SBA to demonstrate that it continues to meet all the eligibility requirements of the WOSB Program.

(ii) *Example 2.* Concern B is certified by a third-party certifier to be eligible for the WOSB program on September 27, 2021. Concern B must recertify its eligibility to SBA between August 28, 2022 and September 26, 2022. Concern B will continue to be a certified WOSB that is eligible to receive WOSB contracts (as long as it is small for the size standard corresponding to the NAICS code assigned to the contract) through September 26, 2023. On March 31, 2023, Concern B is awarded a WOSB set-aside contract. Subsequently, Concern B's status as an eligible WOSB is protested. On June 28, 2023, Concern B receives a positive determination from SBA confirming that it is an eligible WOSB. Concern B's new certification date is June 28, 2023. Concern B must recertify its eligibility to SBA between May 29, 2024 and June 27, 2024. Concern B will continue to be a certified WOSB that is eligible to receive WOSB contracts (as long as it is small for the size standard corresponding to the NAICS code assigned to the contract) through June 27, 2025. Concern B must recertify its eligibility to SBA between May 29, 2025 and June 27, 2025. Concern B will continue to be a certified WOSB that is eligible to receive WOSB contracts (as long as it is small for the size standard corresponding to the NAICS code assigned to the contract) until June 27, 2026. Concern B must recertify its eligibility to SBA between May 29, 2026 and June 27, 2025. Because three years have elapsed since its certification date of June 28, 2022, Concern B must seek a program examination, by SBA or a third-party certifier, between May 29, 2025 and June 27, 2026. In addition to its representation that it continues to be an eligible WOSB, Concern B must provide additional information as requested by SBA or a third-party certifier to demonstrate that it continues to meet all the eligibility requirements of the WOSB Program.

(2) The concern must either request a program examination from SBA or notify SBA that it has requested a program examination by a third-party certifier no later than 30 days prior to its certification anniversary. Failure to do so will result in the concern being decertified.

§ 127.401 What are a WOSB's and EDWOSB's ongoing obligations to SBA?

Once certified, a WOSB or EDWOSB must notify SBA of any material changes that could affect its eligibility within 30 calendar days of any such change. Material change includes, but is not limited to, a change in the ownership, business structure, or

management. The notification must be in writing and must be uploaded into the concern's profile with SBA. The method for notifying SBA can be found on *https://certify.sba.gov.* A concern's failure to notify SBA of such a material change may result in decertification and removal from SAM and DSBS (or any successor system) as a designated certified WOSB/EDWOSB concern. In addition, SBA may seek the imposition of penalties under § 127.700.

■ 19. Section 127.402 is revised to read as follows:

§ 127.402 What is a program examination, who will conduct it, and what will SBA examine?

(a) A program examination is an investigation by SBA officials or authorized third-party certifier that verifies the accuracy of any certification of a concern issued in connection with the concern's WOSB or EDWOSB status. Thus, examiners may verify that the concern currently meets the program's eligibility requirements, and that it met such requirements at the time of its application for certification, its most recent recertification, or its certification in connection with a WOSB or EDWOSB contract.

(b) Examiners may review any information related to the concern's eligibility requirements. SBA may also conduct site visits.

(c) It is the responsibility of program participants to ensure the information provided to SBA is kept up to date and is accurate. SBA considers all required information and documents material to a concern's eligibility and assumes that all information and documentation submitted are up to date and accurate unless SBA has information that indicates otherwise.

■ 20. Effective October 15, 2020, § 127.403 is revised to read as follows:

§ 127.403 When will SBA conduct program examinations?

(a) SBA may conduct a program examination at any time after the concern submits its application, during the processing of the application, and at any time while the concern is a certified WOSB or EDWOSB.

(b) SBA will conduct program examinations periodically as part of the recertification process set forth in § 127.400.

■ 21. Section 127.404 is revised to read as follows:

§ 127.404 May SBA require additional information from a WOSB or EDWOSB during a program examination?

At the discretion of the D/GC, SBA has the right to require that a WOSB or EDWOSB submit additional information at any time during the program examination. SBA may draw an adverse inference from the failure of a concern to cooperate with a program examination or provide requested information.

■ 22. Effective October 15, 2020, § 127.405 is revised to read as follows:

§ 127.405 What happens if SBA determines that the concern is no longer eligible for the program?

If SBA believes that a concern does not meet the program eligibility requirements, the concern fails to recertify in accordance with the requirements in § 127.400, or the concern has failed to notify SBA of a material change, SBA will propose the concern for decertification from the program.

(a) *Proposed decertification.* The D/GC or designee will notify the concern in writing that it has been proposed for decertification. This notice will state the reasons why SBA has proposed decertification, and that the WOSB or EDWOSB must respond to each of the reasons set forth.

(1) The WOSB or EDWOSB must respond in writing to a proposed decertification within 20 calendar days from the date of the proposed decertification.

(2) If the initial certification was done by a third-party certifier, SBA will also notify the third-party certifier of the proposed decertification in writing.

(b) *Decertification.* The D/GC or designee will consider the reasons for proposed decertification and the concern's response before making a written decision whether to decertify. The D/GC may draw an adverse inference where a concern fails to cooperate with SBA or provide the information requested. The D/GC's decision is the final agency decision.

(c) *Reapplication.* A concern decertified pursuant to this section may reapply to the program pursuant to § 127.305.

■ 23. Amend § 127.503 by adding a sentence at the end of paragraph (h)(2) to read as follows:

§ 127.503 When is a contracting officer authorized to restrict competition or award a sole source contract or order under this part?

* * * * *

(h) * * *

(2) * * * If the business is unable to recertify its WOSB/EDWOSB status, the procuring agency may no longer be able to count the options or orders issued pursuant to the contract, from that point forward, towards its women-owned small business goals.

* * * * *

■ 24. Effective October 15, 2020, amend § 127.504 by revising paragraph (a), redesignating paragraphs (b) and (c) as paragraphs (c) and (d) respectively, and adding a new paragraph (b).

The revision and addition read as follows:

§ 127.504 What additional requirements must a concern satisfy to submit an offer on an EDWOSB or WOSB requirement?

(a) In order for a concern to submit an offer on a specific EDWOSB or WOSB set-aside requirement, the concern must qualify as a small business concern under the size standard corresponding to the NAICS code assigned to the contract, and either be a certified EDWOSB or WOSB pursuant to § 127.300, or represent that it has submitted a complete application for WOSB or EDWOSB certification to SBA or a third-party certifier and has not received a negative determination regarding that application from SBA or the third party certifier.

(1) If a concern becomes the apparent successful offeror while its application for WOSB or EDWOSB certification is pending, either at SBA or a third-party certifier, the contracting officer for the particular contract must immediately inform SBA's D/GC. SBA will then prioritize the concern's WOSB or EDWOSB application and make a determination regarding the firm's status as a WOSB or EDWOSB within 15 calendar days from the date that SBA received the contracting officer's notification. Where the application is pending with a third-party certifier, SBA will immediately contact the third-party certifier to require the third-party certifier to complete its determination within 15 calendar days.

(2) If the contracting officer does not receive an SBA or third-party certifier determination within 15 calendar days after the SBA's receipt of the notification, the contracting officer may presume that the apparently successful offeror is not an eligible WOSB or EDWOSB and may make award accordingly, unless the contracting officer grants an extension to the 15-day response period.

(b) In order for a concern to seek a specific sole source EDWOSB or WOSB requirement, the concern must be a certified EDWOSB or WOSB pursuant to § 127.300 and qualify as small under the size standard corresponding to the requirement being sought.

* * * * *

§ 127.505 [Removed and Reserved]

■ 25. Effective October 15, 2020, remove and reserve § 127.505.

§ 127.603 [Amended]

■ 26. Effective October 15, 2020, amend § 127.603 by removing the next to last sentence in paragraph (d).

■ 27. Effective October 15, 2020, amend § 127.604 by revising paragraph (f)(4) to read as follows:

§ 127.604 How will SBA process an EDWOSB or WOSB status protest?

* * * * *

(f) * * *

(4) A concern that has been found to be ineligible will be decertified from the program and may not submit an offer as a WOSB or EDWOSB on another procurement until it is recertified. A concern may be recertified by reapplying to the program pursuant to § 127.305.

Jovita Carranza,

Administrator.

[FR Doc. 2020–09022 Filed 5–8–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0827; Product Identifier 2019–SW–014–AD; Amendment 39–21120; AD 2020–10–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Type Certificate Previously Held by Eurocopter France) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2011–12–07 for Eurocopter France (now Airbus Helicopters) Model SA–365C, SA–365C1, SA–365C2, SA–365N, SA–365N1, AS–365N2, AS 365 N3, and SA–366G1 helicopters. AD 2011–12–07 required repetitively inspecting the adhesive bead between the bushings and the Starflex star (Starflex) arms and the Starflex arm ends. This new AD retains the requirements of AD 2011–12–07 while omitting helicopters with an improved Starflex installed from the applicability. This AD was prompted by the development of the improved Starflex by Airbus Helicopters. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective June 15, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 15, 2020.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0827.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* in Docket No. FAA–2019–0827; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to remove AD 2011–12–07, Amendment 39–16714 (76 FR 35346, June 17, 2011) (''AD 2011–12–07'') and add a new AD. AD 2011–12–07 applied to Eurocopter France (now Airbus Helicopters) Model SA–365C, SA–365C1, SA–365C2, SA–365N, SA–365N1, AS–365N2, AS 365 N3, and SA–366G1 helicopters and required a repetitive inspection of the adhesive bead between the bushing and the Starflex arm for a crack, a gap, or loss of the adhesive bead and the Starflex arm ends for delamination. AD 2011–12–07 was prompted by three cases of deterioration of a Starflex arm end. In two of these cases, the deterioration caused high amplitude vibrations in flight, compelling the pilot to make a precautionary landing.

The NPRM published in the **Federal Register** on November 1, 2019 (84 FR 58638). The NPRM proposed to retain the requirements of AD 2011–12–07 but omit helicopters with an improved Starflex installed from the applicability.

The NPRM was prompted by EASA AD No. 2008–0165R1, dated June 30, 2017 (EASA AD 2008–0165R1), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Model SA 365 N, SA 365 N1, AS 365 N2, AS 365 N3, SA 365 C, SA 365 C1, SA 365 C2, SA 365 C3 and SA 366 G1 helicopters, except helicopters with MOD 0762C37 installed in production. EASA advises that the Airbus Helicopters Starflex manufactured with improved materials make the 10-hour repetitive inspections specified in the original issue of its AD, EASA AD No. 2008–0165, dated August 28, 2008 (EASA AD 2008–0165), unnecessary. EASA AD 2008–0165R1 retains the repetitive inspections from EASA AD 2008–0165 but does not apply to helicopters with the new Starflex installed.

Comments

The FAA gave the public the opportunity to participate in developing this AD, but did not receive any comments on the NPRM.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

The EASA AD uses the word ''check,'' whereas this AD uses the word ''inspect'' instead. In some ADs, the FAA uses the word ''check'' to designate specific actions that may be performed by the owner/operator (pilot). An

''inspection'' is a maintenance action that must be performed by a certificated person as specified in 14 CFR 43.3.

Related Service Information Under 1 CFR Part 51

The FAA reviewed one document that co-publishes four Airbus Helicopters Emergency Alert Service Bulletin (EASB) identification numbers: No. 05.00.51 for Model 365N-series helicopters, No. 05.35 for Model 366G1 helicopters, No. 05.28 for Model 365C-series helicopters, and No. 05.00.21 for non FAA-type certificated military helicopters, all Revision 4 and dated November 20, 2014. EASB Nos. 05.00.51, 05.35, and 05.28 are incorporated by reference in this AD. EASB No. 05.00.21 is not incorporated by reference in this AD.

This service information specifies visually inspecting the adhesive bead on the bushes of the Starflex arm ends for bonding failure of the bushes and distortion of the Starflex arm ends. This service information also specifies inspecting the leading edges and the trailing edges of the Starflex arm ends for delamination.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA reviewed Airbus Helicopters Master Servicing Manual (MSM) AS 365 N for Model SA–365N helicopters, MSM AS 365 N1 for Model SA–365N1 helicopters, MSM AS 365 N2 for Model AS–365N2 helicopters, and MSM AS 365 N3 for Model AS 365 N3 helicopters, all Revision 7 and dated October 9, 2017. This service information provides a schedule of maintenance tasks for the helicopters.

The FAA also reviewed one document that co-publishes four Eurocopter EASB identification numbers: No. 05.00.51 for Model 365N-series helicopters, No. 05.35 for Model 366G1 helicopters, No. 05.28 for Model 365C-series helicopters, and No. 05.00.21 for non FAA-type certificated military helicopters, all Revision 3 and dated August 18, 2008. This service information specifies the same Accomplishment Instructions as Revision 4, which is issued under the name Airbus Helicopters, although Revision 4 excludes helicopters that have MOD 0762C37 installed.

Costs of Compliance

The FAA estimates that this AD affects 35 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Inspecting the Starflex takes about 0.25 work-hour for an estimated cost of $21 per helicopter and $735 for the U.S. fleet per inspection cycle. Replacing the Starflex takes about 10 work-hours and parts cost about $65,900 for an estimated cost of $66,750.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA has determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866,

2. Will not affect intrastate aviation in Alaska, and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–12–07, Amendment 39–16714 (76 FR 35346, June 17, 2011), and adding the following new AD:

2020–10–02 Airbus Helicopters (Type Certificate Previously Held by Eurocopter France): Amendment 39–21120; Docket No. FAA–2019–0827; Product Identifier 2019–SW–014–AD.

(a) Applicability

This AD applies to Airbus Helicopters (Type Certificate previously held by Eurocopter France) Model SA–365C, SA–365C1, SA–365C2, SA–365N, SA–365N1, AS–365N2, AS 365 N3, and SA–366G1 helicopters, certificated in any category, without Airbus Helicopters Modification 0762C37 (Starflex star arm part number (P/N) 365A31–1212–00 or P/N 365A31–1213–00) installed.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of the Starflex star (Starflex) arm. This condition could result in high amplitude vibrations in flight and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD replaces AD 2011–12–07, Amendment 39–16714 (76 FR 35346, June 17, 2011).

(d) Effective Date

This AD becomes effective June 15, 2020.

(e) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(f) Required Actions

Within 10 hours time-in-service (TIS) and thereafter at intervals not to exceed 10 hours TIS:

(1) Visually inspect the adhesive bead between the bushing and the Starflex arm for a crack, a gap, and loss of the adhesive bead, and inspect the Starflex arm ends for delamination in accordance with the Accomplishment Instructions, paragraphs 2.B.1. and 2.B.2. of Airbus Helicopters Emergency Alert Service Bulletin (EASB) No. 05.00.51, Revision 4, dated November 20, 2014 (EASB 05.00.51), EASB No. 05.35, Revision 4, dated November 20, 2014 (EASB 05.35), or EASB No. 05.28, Revision 4, dated November 20, 2014 (EASB 05.28), as applicable to your model helicopter.

(2) If there is a crack in the shockproof paint around the entire adhesive bead where the Starflex arm joins the bushing (as shown in Figure 2 of EASB 05.00.51, EASB 05.35, or EASB 05.28, as applicable to your model

helicopter), a gap between the adhesive bead and the bushing (as shown in Figure 3 of EASB 05.00.51, EASB 05.35, or EASB 05.28, as applicable to your model helicopter), delamination of a Starflex arm end (as shown in Figure 4 of EASB 05.00.51, EASB 05.35, or EASB 05.28, as applicable to your model helicopter), or loss of adhesive bead (as shown in Figure 5 of EASB 05.00.51, EASB 05.35, or EASB 05.28, as applicable to your model helicopter), replace the Starflex before further flight.

(g) Credit for Previous Actions

Actions accomplished before the effective date of this AD in accordance with the procedures specified in Eurocopter Emergency Alert Service Bulletin Nos. 05.00.51, 05.35, or 05.28, all Revision 3 and dated August 18, 2008, as applicable to your model helicopter, are considered acceptable for compliance with the corresponding actions specified in paragraph (f) of this AD as long as the last inspection was accomplished within the prior 10 hours TIS.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(i) Additional Information

(1) Airbus Helicopters Master Servicing Manual (MSM) AS 365 N, MSM AS 365 N1, MSM AS 365 N2, and MSM AS 365 N3, all Revision 7 and dated October 9, 2017; and Eurocopter Emergency Alert Service Bulletin Nos. 05.00.51, 05.35, 05.28, and 05.00.21, all Revision 3 and dated August 18, 2008, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, use the contact information in paragraphs (k)(3) and (4).

(2) The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD No. 2008–0165R1, dated June 30, 2017. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2019–0827.

(j) Subject

Joint Aircraft Service Component (JASC) Code: 6200, Main Rotor System.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Airbus Helicopters Emergency Alert Service Bulletin (EASB) No. 05.00.51, Revision 4, dated November 20, 2014.

(ii) Airbus Helicopters EASB No. 05.28, Revision 4, dated November 20, 2014.

(iii) Airbus Helicopters EASB No. 05.35, Revision 4, dated November 20, 2014.

Note 1 to paragraph (k)(2): Airbus Helicopters EASB Nos. 05.00.51, 05.28, 05.35, all Revision 4 and dated November 20, 2014, are co-published as one document along with Airbus Helicopters EASB No. 05.00.21, Revision 4, dated November 20, 2014, which is not incorporated by reference in this AD.

(3) For Airbus Helicopters service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on May 5, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–09947 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0833; Product Identifier 2018–CE–031–AD; Amendment 39–21121; AD 2020–10–03]

RIN 2120–AA64

Airworthiness Directives; Weatherly Aircraft Company

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Weatherly Aircraft Company (Weatherly) Models 201, 201A, 201B, 201C, 620, 620A, 620B, 620B–TG, and 620TP airplanes. This AD was prompted by reports of fatigue cracking of the center wing and outer wing spar hinge brackets due to corrosion pitting. This AD requires repetitive inspections of the wing hinge brackets, pins, and wing spar structure with repair or replacement of parts as necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 15, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 15, 2020.

ADDRESSES: For service information identified in this final rule, contact Weatherly Aircraft Company, 2034 West Potomac Avenue, Chicago, Illinois 60622–3152; telephone: (424) 772–1812; email: *garybeck@cox.net.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0833.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0833; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Roger Durbin, Senior Engineer, Airframe Section, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd, Suite 100, Lakewood, California, 90712; phone: (562) 627–5233; fax: (562) 627–5210; email: *roger.durbin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Weatherly Models 201, 201A, 201B, 201C, 620, 620A, 620B, 620B–TG, and 620TP airplanes. The NPRM published in the **Federal Register** on September 18, 2018 (83 FR 47116). The

NPRM was prompted by notification the FAA received in 2015 of a fatal accident caused by the in-flight structural failure of a wing on a Weatherly Model 620B airplane. The accident investigation found multiple fatigue cracks in the center wing front spar lower hinge bracket. As a result of operator inspections, a cracked hinge bracket in the center wing to outer wing joint was also reported on a different airplane. The hinge bracket from the second report had completely failed, and the airplane was relying on the second failsafe hinge bracket to carry the wing loads.

To correct this unsafe condition, the FAA issued AD 2016–07–11 (81 FR 18461, March 31, 2016) (''AD 2016–07–11''), which requires a one-time visual inspection of the center and outer wing front spar lower hinge brackets for cracks and corrosion and corrective action as necessary. AD 2016–07–11 also requires sending a report of the inspection results to the FAA.

Since the FAA issued AD 2016–07–11, Weatherly has issued new service information for repetitive visual and detailed inspections. Since the cause of the fatigue cracks were attributed to corrosion pits on the accident airplane, the NPRM proposed to require those repetitive visual and detailed inspection actions. The FAA is issuing this AD to address the unsafe condition on these products.

The NPRM incorrectly stated that Weatherly had developed improved center wing hinge brackets manufactured from corrosion resistant material. The FAA has learned that those improved brackets were not developed or approved. Therefore, improved brackets are not currently available to correct the unsafe condition.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Extend the Inspection Intervals

Two individuals requested that the FAA allow more than 5 years for the follow-up detailed inspection requirement. One commenter stated that removing all fittings and hardware every five years is unnecessary if corrosion preventative measures are taken during the initial detailed inspection. The commenter stated that, for aircraft that are 20–30 years old, if no unacceptable corrosion is found and the aircraft is reassembled with corrosion preventative measures, the detailed inspection/disassembly intervals should be extended to 15 or more years. The other commenter requested the FAA extend the requirement to repeat the detailed inspection from 5 years to 10 years if an aircraft owner proactively replaces the hinge brackets with Weatherly's improved hinge brackets manufactured from corrosion resistant material. A third commenter requested that the AD require a detailed visual inspection within 50 hours of the effective date of the AD or within the next 6 months, whichever is sooner. According to the commenter, Weatherly's 3-month compliance time did not seem well thought out. The commenter further requested the AD allow installation of the Weatherly corrosion-resistant hinge brackets as terminating action for the detailed inspection requirements.

The FAA does not agree with the requests to change the inspection intervals. The hinge brackets are close-tolerance parts that are subject to wear, and neither testing nor analysis has substantiated longer inspection intervals when corrosion inhibiting compounds are used. In addition, as stated earlier, no improved hinge brackets with corrosion resistant material are currently available; therefore, extending the compliance time based on improved brackets is not possible. In determining the inspection intervals, the FAA considered that corrosion growth is highly variable and that the failed parts do not represent average life times. No changes were made to the AD based on these comments.

Request To Change the Inspection Requirements

One commenter requested the FAA reconsider the AD requirements using the total time of the aircraft and the information in an AD issued by the Australian Aviation Authority in 2002 regarding retirement lives of the wing attachment fittings and lower spar cap. The commenter did not identify the 2002 Australian AD by AD number. However, the commenter did include a copy of Civil Aviation Safety Authority AD/W620/2, Wing Hinge Pins, dated October 1996, which requires a one-time inspection of the wing hinge pins for correct length and installation.

The total aircraft time was not a factor in the proposed AD because it is not a reliable predictor of fatigue crack initiation in the presence of corrosion. The FAA has reviewed the 2002 Australian AD and finds that it does not address any contributing factors associated with the Weatherly Model 620B accident on August 26, 2015. No changes were made to the AD based on this comment.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed except for minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Weatherly 201/620 Service Bulletin SB–201/620–18001, Revision C, dated May 21, 2018. The service information describes procedures for initial and repetitive inspections of the wing hinge brackets, pins, and wing spar structure for corrosion and/or cracks with repair or replacement as necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 94 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Detailed inspection for corrosion and cracks with wing removed.	50 work-hours × $85 per hour = $4,250 per inspection cycle.	Not applicable	$4,250 per inspection cycle.	$399,500 per inspection cycle.

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Visual inspection for corrosion with bolts and pin caps removed.	4 work-hours × $85 per hour = $340 per inspection cycle.	Not applicable	$340 per inspection cycle.	$31,960 per inspection cycle.

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the inspection. The FAA has no way of determining the number of airplanes that might need these replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost (includes hardware)	Cost per product
Replacement of the assembly if all parts are found with corrosion.	0 work-hours since part is already removed from airplane.	$10,500	$10,500

The on-condition costs reflects the cost to replace the entire assembly. The scope of damage found in the required inspection and which specific parts need replaced could vary significantly from airplane to airplane. The FAA has no way of determining how much damage may be found on each airplane or the cost to repair damaged parts on each airplane or the number of airplanes that may require repair.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2020–10–03 Weatherly Aircraft Company: Amendment 39–21121; Docket No. FAA–2018–0833; Product Identifier 2018–CE–031–AD.

(a) Effective Date

This AD is effective June 15, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Weatherly Aircraft Company (Weatherly) Models 201, 201A, 201B, 201C, 620, 620A, 620B, 620B–TG, and 620TP airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 5740, Wing Attach Hinge Fitting.

(e) Unsafe Condition

This AD was prompted by reports of cracks found on the center wing front spar lower hinge bracket. The FAA is issuing this AD to detect and correct corrosion and cracks on the wing hinge brackets and pin assemblies. The unsafe condition, if not addressed, could result in failure of the wing front and rear spar lower hinge brackets and lead to in-flight separation of the wing with consequent loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Detailed Inspection

(1) Within 3 months after June 15, 2020 (the effective date of this AD) and thereafter at intervals not to exceed 5 years, inspect each center and outer wing spar and spar cap, wing hinge bracket, and hardware for corrosion and cracks by following paragraphs 7 through 22 under the Detailed Inspection section in Weatherly 201/620 Service Bulletin SB–201/620–18001, Revision C, dated May 21, 2018 (Weatherly SB–201/620–18001, Revision C), except this AD does not require you to contact Weatherly.

(2) Serial numbers (S/N) 1155 and 1558 have already had the initial detailed inspection required by paragraph (g)(1) of this AD and only the 5-year repetitive detailed inspections are required for these airplanes.

(3) Any repair or replacement of parts with corrosion and any replacement of parts with a crack as specified in paragraphs 7 through 13 under the Detailed Inspection section in Weatherly SB–201/620–18001, Revision C, is required before further flight.

(h) Visual Inspection

Within 12 months after the initial detailed inspection required in paragraph (g) of this AD and thereafter at intervals not to exceed 12 months, visually inspect each forward and rear wing hinge bracket attachment pin, bolt, removed cap, spacer, and hardware for corrosion by following paragraphs 4 through 7 under the Visual Inspection section in Weatherly SB–201/620–18001, Revision C. Any additional inspection, repair, and replacement of parts with corrosion as specified in paragraphs 5 and 6 under the Visual Inspection section of Weatherly SB–201/620–18001, Revision C, is required before further flight. You may perform a detailed inspection in accordance with paragraph (g) of this AD instead of any visual inspection required by paragraph (h) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(j) Related Information

For more information about this AD, contact Roger Durbin, Senior Engineer, Airframe Section, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Suite 100, Lakewood, California 90712; phone: (562) 627–5233; fax: (562) 627–5210; email: *roger.durbin@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Weatherly 201/620 Service Bulletin SB–201/620–18001, Revision C, dated May 21, 2018.

(ii) [Reserved]

(3) For Weatherly Aircraft Company service information identified in this AD, contact Weatherly Aircraft Company, 2034 West Potomac Avenue, Chicago, Illinois 60622–3152; telephone: (424) 772–1812; email: *garybeck@cox.net.*

(4) You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on May 1, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–09938 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0349; Product Identifier 2020–NM–027–AD; Amendment 39–19906; AD 2020–09–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2018–25–04, which applied to certain C Series Aircraft Limited Partnership (CSALP) Model BD–500–1A10 and BD–500–1A11 airplanes. AD 2018–25–04 required repetitive inspections for any dislodged blow-out panel in the forward and aft cargo compartments, reporting of the inspection findings, and reinstallation if necessary. This new AD continues to require repetitive inspections, with a revised inspection interval, for affected panels that have not been replaced. This new AD also requires the replacement of affected blow-out panels with redesigned panels, which terminates the inspection requirement. This new AD also revises the applicability by removing certain airplanes. This AD was prompted by reports of dislodged cargo compartment blow-out panels. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 26, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 26, 2020.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of January 14, 2019 (83 FR 63397, December 10, 2018).

The FAA must receive comments on this AD by June 25, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec, J7N 3C6, Canada; telephone 450–476–7676; *email a220_crc@abc.airbus;* internet *http://a220world.airbus.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0349.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0349; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for the Docket Operations office is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer, Mechanical Systems and Admin Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued AD 2018–25–04, Amendment 39–19515 (83 FR 63397, December 10, 2018) (''AD 2018–25–04''), which applied to certain C Series Aircraft Limited Partnership (CSALP) Model BD–500–1A10 and BD–500–1A11 airplanes. AD 2018–25–04 was prompted by reports of dislodged cargo compartment blow-out panels. AD 2018–25–04 required repetitive inspections for any dislodged blow-out panel in the forward and aft cargo compartments, reporting of the inspection findings, and reinstallation if necessary. The FAA issued AD 2018–25–04 to address dislodged cargo compartment blow-out panels, which could result in openings in the forward and aft cargo compartments. In the event of a cargo compartment fire, these unintended openings in the forward and aft cargo compartments would provide a path for smoke, fire, and Halon to enter the adjacent equipment bays, flight deck, and passenger cabin, which could delay smoke detection in the forward and aft cargo compartments and result in the forward and aft cargo compartments not being able to maintain the Halon concentration required for fire suppression. The cargo compartment fire may become uncontrollable if this condition is not addressed, which could result in the loss of controllability of the airplane.

Actions Since AD 2018–25–04 Was Issued

Since the FAA issued AD 2018–25–04, the forward and aft cargo compartment sidewall and bulkhead panels have been redesigned to decrease the likelihood of cargo compartment blow-out panel dislodgement events due to baggage impact. This AD mandates incorporation of this redesign as terminating action to the requirements of AD 2018–25–04, and limits its applicability to airplanes that have not incorporated this redesign in production. This AD also extends the repeat cargo compartment blow-out panel inspection interval to reflect in-service findings. This AD also removes the requirement to report inspection findings.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2018–15R1, dated January 3, 2020 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0349.

This AD was prompted by reports of dislodged cargo compartment blow-out panels. The FAA is issuing this AD to address dislodged cargo compartment blow-out panels, which could, in the event of a cargo compartment fire, result in the loss of controllability of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

Airbus Canada Limited Partnership has issued A220 Service Bulletin BD500–500001, Issue 002, dated October 28, 2019. This service information describes procedures for removing sidewall and bulkhead panel assemblies from the forward and aft cargo compartments, and installing new sidewall and bulkhead panel assemblies and placards.

This AD also requires the following service information, which the Director of the Federal Register approved for incorporation by reference on January 14, 2019 (83 FR 63397, December 10, 2018.)

- C Series (Bombardier) Data Module BD500–A–J50–10–01–00AAA–521A–A, ''Decompression panels dislodging—Return to basic configuration,'' Issue 002, dated May 16, 2018.
- C Series (Bombardier) Data Module BD500–A–J50–10–01–01AAA–310B–A, ''Forward and aft cargo compartment blow-out panels—Visual check,'' Issue 002, dated May 16, 2018.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this AD because the FAA evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Clarification of Affected Airplanes

Although Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes are on the U.S. Register, currently no airplanes operating in the U.S. are equipped with blow-out panel part number D762213–503, D762216–505, or D762209–503.

FAA's Justification and Determination of the Effective Date

Since there are currently no domestic operators of this product with affected parts, notice and opportunity for public comment before issuing this AD are unnecessary. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are unnecessary. In addition, for the reason(s) stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not precede it by notice and opportunity for public comment. The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0349; Product Identifier 2020–NM–027–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this AD. The FAA will consider all comments received by the closing date and may amend this AD because of those comments.

The FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this AD.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product
Retained actions from AD 2018–25–04	1 work-hour × $85 per hour = $85	$0	$85
New actions	8 work-hours × $85 per hour = $680	62,561	63,241

The FAA estimates the following costs to do any necessary on-condition action that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
2 work-hours × $85 per hour = $170	$0	$170

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2018–25–04, Amendment 39–19515 (83 FR 63397, December 10, 2018), and adding the following new AD:

2020–09–10 Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–19906; Docket No. FAA–2020–0349; Product Identifier 2020–NM–027–AD.

(a) Effective Date

This AD is effective May 26, 2020.

(b) Affected ADs

This AD replaces AD 2018–25–04, Amendment 39–19515 (83 FR 63397, December 10, 2018) (''AD 2018–25–04'').

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) airplanes, certificated in any category, identified in paragraphs (c)(1) and (2) of this AD.

(1) Model BD–500–1A10 airplanes, serial numbers 50001 through 50017 inclusive, equipped with blow-out panel part number D762213–503, D762216–505, or D762209–503.

(2) Model BD–500–1A11 airplanes, serial numbers 55001 through 55044 inclusive, equipped with blow-out panel part number D762213–503, D762216–505, or D762209–503.

(d) Subject

Air Transport Association (ATA) of America Code 50, Cargo and accessory compartment.

(e) Reason

This AD was prompted by reports of dislodged cargo compartment blow-out panels. This AD was also prompted by a panel redesign that decreases the likelihood of dislodgement due to baggage impact, and by the determination that the repetitive inspection interval may be extended, based on in-service findings. The FAA is issuing this AD to address dislodged cargo compartment blow-out panels, which could result in openings in the forward and aft cargo compartments. In the event of a cargo compartment fire, these unintended openings in the forward and aft cargo compartments would provide a path for smoke, fire, and Halon to enter the adjacent equipment bays, flight deck, and passenger cabin, which could delay smoke detection in the forward and aft cargo compartments and result in the forward and aft cargo compartments not being able to maintain the Halon concentration required for fire suppression. The cargo compartment fire may become uncontrollable if this condition is not addressed, which could result in the loss of controllability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Repetitive Inspections of the Forward and Aft Cargo Compartment Blow-Out Panels and Re-Installation, With Revised Repetitive Inspection Interval

This paragraph restates the requirements of paragraph (g) of AD 2018–25–04, with a revised repetitive inspection interval. Within 7 days or 50 flight cycles, whichever occurs first, after January 14, 2019 (the effective date of AD 2018–25–04): Do a detailed inspection for any dislodged blow-out panel in the forward and aft cargo compartments, in accordance with C Series (Bombardier) Data

Module BD500–A–J50–10–01–01AAA–310B–A, ''Forward and aft cargo compartment blow-out panels—Visual check,'' Issue 002, dated May 16, 2018. Re-install all dislodged forward and aft cargo compartment blow-out panels before further flight, in accordance with C Series (Bombardier) Data Module BD500–A–J50–10–01–00AAA–521A–A, ''Decompression panels dislodging—Return to basic configuration,'' Issue 002, dated May 16, 2018. Thereafter, at intervals not to exceed 200 flight cycles, repeat the detailed inspection for any dislodged blow-out panel in the forward and aft cargo compartments.

(h) New Requirement of This AD: Blow-Out Panel Replacement

Within 9,350 flight hours or 56 months, whichever occurs first, after the date of issuance of the original airworthiness certificate or date of issuance of the original export certificate of airworthiness: Install new, redesigned sidewall and bulkhead panel assemblies in the forward and aft cargo compartments, in accordance with Airbus Canada Limited Partnership A220 Service Bulletin BD500–500001, Issue 002, dated October 28, 2019.

(i) No Reporting Requirement

Although reporting was required in AD 2018–25–04, this AD does not include that requirement.

(j) New Terminating Action for Repetitive Inspections

Modification of an airplane as required by paragraph (h) of this AD constitutes terminating action for the initial and repetitive inspections required by paragraph (g) of this AD for that airplane.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier C Series Service Bulletin BD500–500001, Issue 001, dated February 18, 2019.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Airbus Canada Limited Partnership's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2018–15R1, dated January 3, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0349.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Admin Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (n)(5) and (6) of this AD.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on May 26, 2020.

(i) Airbus Canada Limited Partnership A220 Service Bulletin BD500–500001, Issue 002, dated October 28, 2019.

(ii) [Reserved]

(4) The following service information was approved for IBR on January 14, 2019 (83 FR 63397, December 10, 2018).

(i) C Series (Bombardier) Data Module BD500–A–J50–10–01–00AAA–521A–A, ''Decompression panels dislodging—Return to basic configuration,'' Issue 002, dated May 16, 2018.

(ii) C Series (Bombardier) Data Module BD500–A–J50–10–01–01AAA–310B–A, ''Forward and aft cargo compartment blow-out panels—Visual check,'' Issue 002, dated May 16, 2018.

(5) For service information identified in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec, J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus;* internet *http://a220world.airbus.com.*

(6) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on April 28, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–09946 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0791; Airspace Docket No. 19–ACE–13]

RIN 2120–AA66

Amendment of Class E Airspace; Shenandoah, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at Shenandoah Municipal Airport, Shenandoah, IA. This action is the result of airspace review caused by the decommissioning of the Shenandoah non-directional radio beacon (NDB), which provided navigation information for the instrument procedures at this airport. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, July 16, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101

Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Shenandoah Municipal Airport, Shenandoah, IA, to support IFR operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 7681; February 11, 2020) for Docket No. FAA–2019–0791 to amend the Class E airspace extending upward from 700 feet above the surface at Shenandoah Municipal Airport, Shenandoah, IA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius (increased from a 6.4 mile radius), of Shenandoah Municipal Airport, Shenandoah, IA; and removing the Shenandoah NDB, and associated extensions from the airspace legal description.

This action is the result due to an airspace review caused by the decommissioning of the Shenandoah NDB, which provided navigation information for the instrument procedures at this airport.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE IA E5 Shenandoah, IA [Amended]

Shenandoah Municipal Airport, IA
(Lat. 40°45′06″ N, long. 95°24′49″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Shenandoah Municipal Airport.

Issued in Fort Worth, Texas, on May 5, 2020.

Steven T. Phillips,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–09892 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038–AE77

Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is amending the margin requirements for uncleared swaps for swap dealers (''SD'') and major swap participants (''MSP'') for which there is no prudential regulator to add the European Stability Mechanism (''ESM'') to the list of entities that are expressly excluded from the definition of financial end user under Commission regulations and to correct an erroneous cross-reference in Commission regulations (''Final Rules'').

DATES: This final rule is effective June 10, 2020.

FOR FURTHER INFORMATION CONTACT: Joshua B. Sterling, Director, 202–418–6056, *jsterling@cftc.gov;* Thomas J. Smith, Deputy Director, 202–418–5495, *tsmith@cftc.gov;* Warren Gorlick, Associate Director, 202–418–5195, *wgorlick@cftc.gov;* Carmen Moncada-Terry, Special Counsel, 202–418–5795, *cmoncada-terry@cftc.gov;* or Rafael Martinez, Senior Financial Risk Analyst, 202–418–5462, *rmartinez@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

In January 2016, the Commission adopted regulation §§ 23.150 through 23.161 (collectively, ''CFTC Margin Rule'') to implement section 4s(e) of the Commodity Exchange Act (''CEA''),[1] which requires SDs and MSPs for which there is not a prudential regulator (''CSEs'') to meet minimum initial and variation margin requirements adopted by the Commission by rule or regulation.[2]

Since adopting the CFTC Margin Rule, the Commission's Division of Swap Dealer and Intermediary Oversight (''DSIO'') has issued staff guidance, including no-action letters, addressing the application of the rule. In July 2017, DSIO issued CFTC Letter No. 17–34 in response to a request for relief submitted by the ESM.[3] The ESM sought relief with respect to uncleared swaps transactions it entered into with SDs, representing that it was similar to multilateral development banks, as the term is defined in Commission regulation § 23.151, which are excluded from the definition of financial end user and whose swaps are exempt from the CFTC Margin Rule.

In October 2019, the Commission proposed to codify CFTC Letter No. 17–34 and amend Commission regulation § 23.151 to exclude the ESM from the definition of financial end user and thus exempt from the CFTC Margin Rule uncleared swaps entered into by the ESM.[4] The Commission also proposed to correct a typographical error in Commission regulation § 23.157.[5]

II. Final Rules

The Commission is adopting the amendments to Commission regulation §§ 23.151 and 23.157 as proposed. The Commission received three comments in the file for the Proposal,[6] only one of which directly addressed the Proposal.[7] The Futures Industry Association (''FIA'') indicated, among other things, that its commodities members generally support the Proposal.[8]

A. Commission Regulation § 23.151—Definition of Financial end user

The CFTC Margin Rule applies to swap transactions between CSEs and counterparties that are SDs, MSPs or financial end users. Commission regulation § 23.151 defines the term ''financial end user,''[9] excluding from the definition sovereign entities, multilateral development banks, the Bank for International Settlements, entities exempt from the definition of financial entity pursuant to section 2(h)(7)(C)(iii) of the Act and implementing regulations, affiliates that qualify for the exemption from clearing pursuant to section 2(h)(7)(D) of the Act, and eligible treasury affiliates that the Commission exempts from the requirements of Commission regulation §§ 23.150 through 23.161 by rule.[10]

The Commission is adopting the proposed amendment to Commission regulation § 23.151. As amended, Commission regulation § 23.151 excludes the ESM from the definition of financial end user, effectively exempting uncleared swaps transactions entered into by the ESM from the CFTC Margin Rule. With respect to the proposed amendment, FIA stated that its commodity members generally support the Commission's efforts to amend its rules to relieve burdens on market participants.

The amendment to Commission regulation § 23.151 codifies the relief provided by CFTC Letter No. 17–34, which extends no-action relief from the CFTC Margin Rule with respect to uncleared swaps between SDs and the ESM. The no-action relief was granted based on the ESM's representations concerning the nature of its operations. The no-action letter stated that the ESM is an intergovernmental financial institution that provides financial assistance for national or regional development to Euro area member states that are in or are threatened by severe financial distress, similar to multilateral development banks, which are excluded from the definition of financial end user in Commission regulation § 23.151. To accomplish its policy goals, the ESM utilizes several financial assistance instruments, including loans in various forms which can be used for multiple purposes and are offered only subject to bespoke specified conditions, including economic reforms. The ESM enters into uncleared swaps with SDs to hedge the interest rate and currency risks it faces as a result of entering into and funding loans and to hedge risks associated with its invested capital. The ESM does not, and will not, enter into uncleared swaps for speculative purposes.

In granting no-action relief, DSIO noted that the ESM, like multilateral development banks excluded from the financial end user definition, has a lower risk profile, posing less counterparty risk to an SD and less systemic risk to the financial system. While not explicitly finding that the ESM was a multilateral development bank, DSIO recognized that its functions and credit profile justified relief.[11]

[1] *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016) (''Final Margin Rule''); Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Cross-Border Application of the Margin Requirements, 81 FR 34818 (May 31, 2016).

[2] *See* 7 U.S.C. 6s(e)(1)(B). SDs and MSPs for which there is a ''Prudential Regulator'' must meet the margin requirements for uncleared swaps established by the applicable ''Prudential Regulator.'' 7 U.S.C. 6s(e)(1)(A). *See also* 7 U.S.C. 1a(39) (defining the term ''Prudential Regulator'' to include the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the Farm Credit Administration; and the Federal Housing Finance Agency, and specifying the entities for which these agencies act as Prudential Regulators). The Prudential Regulators published final margin requirements in November 2015. *See* Margin and Capital Requirements for Covered Swap Entities, 80 FR 74840 (Nov. 30, 2015).

[3] CFTC Letter No. 17–34, Commission regulation §§ 23.150 through 23.159, 23.161; No-Action Position with Respect to Uncleared Swaps with the European Stability Mechanism (July 24, 2017) (''CFTC Letter No. 17–34''), *available at http://www.cftc.gov/idc/groups/public/@lrlettergeneral/documents/letter/17-34.pdf.*

[4] Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 84 FR 56392 (Oct. 22, 2019) (the ''Proposal''), at 56393–4.

[5] *Id.* at 56394.

[6] Comments for the Proposal are available on the Commission website at *https://comments.cftc.gov/PublicComments/CommentList.aspx?id=3038.* Comment letter no. 62275 dated Dec. 23, 2019 from the Asset Management Group of the Securities Industry and Financial Markets Association, available at *https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=62275&SearchText=,* discussed other margin issues outside the scope of the Proposal. In addition, an anonymous commenter submitted a comment addressing issues unrelated to margin. Comment no. 62220 dated Oct. 22, 2019, available at *https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=62220&SearchText=.*

[7] Comment letter no. 62272 dated Dec. 23, 2019 from FIA, available at *https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=62272&SearchText=* (the ''FIA letter''), discussed other margin issues outside the scope of the Proposal.

[8] FIA letter at 2.

[9] 17 CFR 23.151.

[10] *See id.*

[11] The Basel Committee on Banking Supervision ascribes to the ESM a 0% risk weight. The ESM has been included in the list of entities that receive a

Continued

Based on the aforementioned considerations, the Commission amends paragraph (2)(iii) of the definition of *Financial end user* in Commission regulation § 23.151 by adding the ESM to the list of entities that are excluded from the definition of financial end user. As a result of the ESM's exclusion from the definition of financial end user, uncleared swaps entered into between the ESM and CSEs are exempt from the CFTC Margin Rule. The Commission believes that the amendment, as adopted, provides clarity and certainty to CSEs that are counterparties to the ESM that uncleared swaps entered into with the ESM are not subject to the CFTC Margin Rule. The Commission is adopting the amendment because activities conducted by the ESM, like activities conducted by multilateral development banks that are excluded from the financial end user definition, generally have a different purpose in the financial system. These types of entities are established by governments and their financial activities are designed to further governmental purposes, posing less counterparty risk to CSEs and less systemic risk to the financial system.

Furthermore, the Commission believes that the amendment encourages international comity and continued cooperation between the Commission and the European Union (''EU'') authorities. In this regard, the Commission notes that the ESM is exempt from the European Market Infrastructure Regulation or EMIR's margin rules for OTC derivatives contracts not cleared by a central counterparty.[12] By taking this action, the Commission acknowledges the unique interests of the EU authorities in the ESM and recognizes that the principles of international comity counsel mutual respect for the important interests of foreign sovereigns.[13]

B. Amendment of Commission Regulation § 23.157—Correction of Cross-Reference

The Commission is adopting a corrective amendment to Commission regulation § 23.157. In its comment letter, FIA indicated that its commodities members generally support the Commission's efforts to amend its rules when necessary to correct errors.[14]

Commission regulation § 23.157 requires initial margin collected from or posted by a CSE to be held by one or more independent custodians. The CSE must enter into a custodial agreement with each custodian that holds the initial margin collateral. In particular, paragraph (c)(1) of Commission regulation § 23.157 provides that the custodial agreement must prohibit the custodian from rehypothecating, repledging, reusing, or otherwise transferring the collateral except that cash collateral may be held in a general deposit account with the custodian if the funds in the account are used to purchase an asset described in Commission regulation § 23.156(a)(1)(iv) through (xii).

In administering the Commission's regulations, DSIO staff noticed that the cross-reference to ''§ 23.156(a)(1)(iv) through (xii)'' in paragraph (c)(1) of Commission regulation § 23.157 was erroneous. First, the existing cross-reference incorrectly refers to non-existing paragraphs. Second, the existing cross-reference excludes treasury securities and U.S. Government agency securities, which are included in the list of eligible collateral set forth in Commission regulation § 23.156(a)(1), and which the Commission intended to include as eligible assets into which cash collateral can be converted.[15] To administer the CFTC Margin Rule and prevent confusion in its application, the Commission is hereby amending Commission regulation § 23.157(c)(1) to remove the erroneous cross-reference to ''§ 23.156(a)(1)(iv) through (xii)'' and replace it with the corrected cross-reference ''§ 23.156(a)(1)(ii) through (x).''

III. Administrative Compliance

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires Federal agencies, in promulgating regulations, to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis respecting the impact.[16] The Commission certified that the Proposal would not have a significant economic impact on a substantial number of small entities. The Commission requested comments with respect to the RFA and received no comments.

As discussed in the Proposal, the Final Rules only affect SDs and MSPs that are subject to the CFTC Margin Rule and their covered counterparties, all of which are required to be eligible contract participants (''ECPs'').[17] The Commission has previously determined that SDs, MSPs, and ECPs are not small entities for purposes of the RFA.[18] Therefore, the Commission believes that the Final Rules will not have a significant economic impact on a substantial number of small entities, as defined in the RFA.

Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the Final Rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'')[19] imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. The Commission may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number. The Final Rules, as adopted, contain no requirements subject to the PRA.

C. Cost-Benefit Considerations

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before

0% risk weight in the document entitled ''Basel II: International Convergence of Capital Measurement and Capital Standards: A Revised Framework—Comprehensive Version, June 2006.'' *See* BIS, Risk Weight for the European Stability Mechanism (ESM) and European Financial Stability Facility (EFSF), *https://www.bis.org/publ/bcbs_nl17.htm.*

[12] *See* Regulation (EU) No 648/2012 of the European Parliament and the Council of the European Union of July 4, 2012.

[13] *See* Restatement (Third) of Foreign Relations Law of the United States sec. 403 (Am. Law Inst. 2018) (the Restatement). The Restatement provides that even where a country has a basis for jurisdiction, it should not prescribe law with respect to a person or activity in another country when the exercise of such jurisdiction is unreasonable. *See* Restatement section 403(1). Notably, the Restatement recognizes that, in the exercise of international comity, reciprocity is an appropriate consideration in determining whether to exercise jurisdiction extraterritorially.

[14] FIA letter at 2.

[15] In the Final Margin Rule, the Commission explained that its intent was to exclude ''immediately available cash funds,'' which is one form of eligible collateral in Commission regulation § 23.156(a)(1), because allowing such eligible collateral to be held in the form of a deposit liability of the custodian bank would be incompatible with Commission regulation § 23.157(c)'s prohibition against rehypothecation of collateral. *See* Final Margin Rule, 81 FR at 671. However, the Commission expressly stated that the custodian could use cash funds to purchase other forms of eligible collateral. *See id.*

[16] 5 U.S.C. 601 *et seq.*

[17] Each counterparty to an uncleared swap must be an ECP, as the term is defined in section 1a(18) of the CEA, 7 U.S.C. 1a(18) and Commission regulation § 1.3, 17 CFR 1.3. *See* 7 U.S.C. 2(e).

[18] *See* Registration of Swap Dealers and Major Swap Participants, 77 FR 2613, 2620 (Jan. 19, 2012) (SDs and MSPs) and Opting Out of Segregation, 66 FR 20740, 20743 (April 25, 2001) (ECPs).

[19] 44 U.S.C. 3501 *et seq.*

promulgating a regulation under the CEA. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) considerations.

In addition, the Commission notes that the consideration of costs and benefits below is based on the understanding that the markets function internationally, with many transactions involving U.S. firms taking place across international boundaries; with some Commission registrants being organized outside of the United States; with leading industry members typically conducting operations both within and outside the United States; and with industry members commonly following substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, the below discussion of costs and benefits refers to the effects of the Final Rules on all activities subject to the Proposal, whether by virtue of the activity's physical location in the United States or by virtue of the activities' connection with or effect on U.S. commerce under CEA section 2(i).[20]

1. Baseline and Rule Summary

The baseline for the Commission's consideration of the costs and benefits of these Final Rules is the CFTC Margin Rule. The Commission recognizes that to the extent market participants have relied on CFTC Letter No. 17–34, the actual costs and benefits of the amendment to Commission regulation § 23.151, as realized in the market, may not be as significant. The amendment, as adopted, revises the definition of financial end user in Commission regulation § 23.151 to exclude the ESM from the definition. The amendment codifies CFTC Letter No. 17–34 and confirms that uncleared swaps with the ESM as a counterparty are not subject to the CFTC Margin Rule. As a result, CSEs facing the ESM will not be required to exchange margin with the ESM, resulting in the collection of lesser amounts of margin to mitigate the risk of uncleared swaps, which could increase the possibility of a systemic event. Nevertheless, after analyzing the swap data repository (''SDR'') data, the Commission believes that by classifying the ESM as a non-financial end-user and excluding it from the margin requirements, it is unlikely that the Final Rule will result in substantial systemic risk.[21]

The Commission notes that the ESM has a lower risk profile, maintaining high capital levels with ultimate financial backing from the EU, and thus poses less counterparty risk to CSEs and less systemic risk to the financial system. In addition, in the Commission's view, relief from the margin requirements will enable the ESM to fulfill its mission of providing support to member states of the EU in financial distress, in particular, in times of tight liquidity, contributing to the stability of the EU financial system and the reduction of risk.

The Commission is also adopting an amendment to Commission regulation § 23.157(c)(1) to remove the erroneous cross-reference to ''§ 23.156(a)(1)(iv) through (xii)'' and to replace it with the corrected cross-reference ''§ 23.156(a)(1)(ii) through (x).'' The Commission believes that custodial banks will benefit from being able to convert cash posted as initial margin into treasury and U.S. Government agency securities as was originally intended by the Commission.

The Commission sought comment on all aspects of the cost and benefit considerations in the Proposal but received no substantive comments.

2. Section 15(a) Considerations

a. Protection of Market Participants and Public

The amendment to Commission regulation § 23.151, as adopted, codifies CFTC Letter No. 17–34 and confirms that uncleared swaps with the ESM as a counterparty are not subject to the CFTC Margin Rule. As discussed in the Proposal, given the limited activity of the ESM in the swaps markets, the Commission believes that the unmargined exposure resulting from uncleared swaps between CSEs and the ESM is unlikely to result in significant risk to the financial system. Inasmuch as margin is posted to protect counterparties against credit risk, the creditworthiness of the ESM is critical to this analysis. The ESM has maintained high capital levels and has ultimate backing from the EU.[22] Consequently, the Commission is of the view that the ESM does not pose substantial counterparty credit risk. Thus, the Commission believes that there will be no material impact on market participants and the general public relative to the status quo baseline.

b. Efficiency, Competitiveness, and Financial Integrity of Markets

The Commission believes that the efficiency, competitiveness, and financial integrity of markets will not be significantly impacted by amending Commission regulation § 23.151 to exclude the ESM from the definition of financial end user and therefore removing the requirement to post and collect margin in uncleared swap transactions with the ESM.

One of the main functions of the ESM is to provide emergency assistance to members states of the EU in financial distress.[23] The Commission believes that relief from the margin requirements will allow the ESM to meet its mission, in particular, in times of tight liquidity, contributing to the stability of the EU financial system and the reduction of risk. Moreover, given the nature of its operations, the ESM is motivated to choose sensible, creditworthy counterparties and to limit its credit risk exposure.

c. Price Discovery

The amendment to Commission regulation § 23.151 codifies CFTC Letter No. 17–34, relieving the ESM and its counterparties from the CFTC Margin Rule. The codification of the no-action relief as a rule formalizes a no-action position held by DSIO and promotes transparency concerning the applicability of the CFTC Margin Rule. Because there will not be a legal requirement that margin be posted in uncleared swap transactions with the ESM, such transactions will likely be for prices that deviate from similar uncleared swap transactions with financial end users but be in line with swaps with non-financial entities. As a

[20] *See* 7 U.S.C. 2(i).

[21] Recent review of data from the SDRs indicates that the ESM engages in limited swap trading activity.

[22] CFTC Letter No. 17–34 states that ''[w]ith respect to its credit risk, as part of its emergency procedure, the ESM's member states have irrevocably agreed to contribute a total of approximately €624 billion in additional capital should the ESM face financial distress. Further, the ESM is subject to limits on its lending and borrowing, and the ESM's property, funding, and assets in its member states are immune from search, requisition, confiscation, expropriation, or any other form of seizure, taking, or foreclosure. In addition, to the extent necessary to carry out its activities, all property, funding, and assets of the ESM are free from restrictions, regulations, controls, and moratoria of any nature. The combined application of these rules and limits is effective in keeping the ESM's total liabilities well below its available capital.''

[23] *See* CFTC Letter No. 17–34.

result, uncleared swaps entered into with the ESM could increase, which could enhance, or at least not harm, the price discovery process.

d. Sound Risk Management

The ESM is an intergovernmental financial institution established by the EU and its financial activities are designed to advance EU objectives. The ESM's purpose is to manage the potential for systemic risk by providing support to member states that are in distress. The exposures posed by the ESM are therefore relatively unique. Accordingly, the amendment to Commission regulation § 23.151 to exclude the ESM from the definition of financial end user and thereby remove it from the purview of the CFTC Margin Rule may result in CSEs being more inclined to enter into uncleared swaps with the ESM, benefiting from the overall diversification of their swap portfolios, which is consistent with sound risk management. Also, while relief from the margin requirements will result in the ESM collecting lesser amounts of margin to mitigate the risk of uncleared swaps, increasing the possibility of systemic risk, the Commission believes that the ESM's uncleared swaps activity, as reflected in the SDR data, is unlikely to result in substantial systemic risk.[24]

e. Other Public Interest Considerations

As discussed in the Proposal, the Commission believes that the amendment to Commission regulation § 23.151 is also warranted based on the interests of comity and the Commission's continuing cross-border coordination with EU authorities, such as the 2016 EC–CFTC Agreement, which has fostered cooperation and mutual respect between the CFTC and EU authorities.

D. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the CEA, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b) of the CEA), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of the CEA.[25]

[24] *See* supra, n. 21.

[25] 7 U.S.C. 19(b).

The Commission believes that the public interest to be protected by the antitrust laws is generally fair competition. The Commission requested comments on whether the Proposal implicated any other specific public interest to be protected by the antitrust laws and received no comments.

The Commission has considered the Final Rules to determine whether they are anticompetitive and has identified no anticompetitive effects. The Commission requested comments on whether the Proposal was anticompetitive and, if it is, what the anticompetitive effects are, and received no comments.

Because the Commission has determined that the Final Rules are not anticompetitive and have no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the CEA.

List of Subjects in 17 CFR Part 23

Capital and margin requirements, Major swap participants, Swap dealers, Swaps.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 23 as set forth below:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

■ 1. The authority citation for part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b–1, 6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21.

Section 23.160 also issued under 7 U.S.C. 2(i); Sec. 721(b), Pub. L. 111–203, 124 Stat. 1641 (2010).

■ 2. In § 23.151, revise paragraph (2)(iii) of the definition of *Financial end user* to read as follows:

§ 23.151 Definitions applicable to margin requirements.

* * * * *

Financial end user * * *

(2) * * *

(iii) The Bank for International Settlements and the European Stability Mechanism;

* * * * *

■ 3. In § 23.157, revise paragraph (c)(1) to read as follows:

§ 23.157 Custodial arrangements.

* * * * *

(c) * * *

(1) Prohibits the custodian from rehypothecating, repledging, reusing, or otherwise transferring (through securities lending, securities borrowing, repurchase agreement, reverse repurchase agreement or other means) the collateral held by the custodian except that cash collateral may be held in a general deposit account with the custodian if the funds in the account are used to purchase an asset described in § 23.156(a)(1)(ii) through (x), such asset is held in compliance with this section, and such purchase takes place within a time period reasonably necessary to consummate such purchase after the cash collateral is posted as initial margin; and

* * * * *

Issued in Washington, DC, on April 17, 2020, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Commission Voting Summary, Chairman's Statement, and Commissioners' Statements

Appendix 1—Commission Voting Summary

On this matter, Chairman Tarbert and Commissioners Quintenz, Behnam, Stump, and Berkovitz voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Supporting Statement of Chairman Heath P. Tarbert

I am pleased to support today's final rule codifying relief from the Margin Rule for the European Stability Mechanism (''ESM'').[1] The Margin Rule requires the posting of initial and variation margin for uncleared swaps entered into by certain swap dealers, major swap participants, and ''financial end user[s].''[2] Today's final rule will amend the definition of ''financial end user'' in Regulation 23.151 to exclude the ESM from the requirements of the Margin Rule.

As I explained when this amendment was proposed last October,[3] the ESM provides financing and bond purchases to support Eurozone member states, serving similar functions as a multilateral development bank. Given that multilateral development banks and related entities[4] are excluded from

[1] The Margin Rule is codified at Commission Regulations 23.150 through 23.161, 17 CFR 23.150–23.161 (2019).

[2] Regulation 23.151 applies to swap dealers, major swap participants, and financial end users that are not subject to regulation by a ''Prudential Regulator,'' which term our laws use as shorthand to mean what is essentially a banking regulator.

[3] *See* Statement of Chairman Heath P. Tarbert Before the Open Commission Meeting on October 16, 2019 (Oct. 16, 2019), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/heathstatement101619.*

[4] The Margin Rule excludes from the definition of ''financial end user'' sovereign entities, multilateral

the Margin Rule, it makes good sense to codify the same relief for the ESM.[5] This is especially true given the ESM's role in the market. As its name suggests, the ESM is an agent of stability and does not raise concerns about risk in the derivatives markets. Codifying the ESM's relief from the Margin Rule is particularly important as Europe responds to the financial fallout of the global coronavirus pandemic.

Erasmus observed long ago that ''humility is wisdom.'' Keeping that perspective is especially important when it comes to financial regulatory areas where nations have implemented a common set of core principles internationally. Those internationally-shared frameworks serve as a baseline, and national regulators have necessarily tailored their specific rules to the unique attributes of their own domestic markets. But we should be humble, and indeed wise enough, to resist the temptation to insist that a foreign counterpart adopt domestic regulations on a rule-by-rule basis. Cross-border derivatives regulation that utilizes comity and deference can enable the effective implementation of the post-crisis G20 derivatives regulatory reforms.

As I have stated before, were financial regulators to insist that their counterparts overseas import each other's specific rules wholesale, it would lead to an absurd result ad infinitum.[6] Just as the G20, Financial Stability Board, and various standard-setting bodies were established to prevent a global race to the bottom, their work is also meant to prevent nations from forcing the complete strictures of their domestic regimes onto others. For example, the Principles for Financial Markets Infrastructure (''PFMI'') represent international standards for, among other things, central counterparties and trade repositories. All of the G20 nations have adopted the PFMI, providing an opportunity for meaningful dialogue with both the European Commission and the European Securities and Markets Authority regarding the status of American and European central counterparties.

Those discussions are ongoing and have been productive. In particular, we are working toward a potential cooperative framework for the supervision of central counterparties engaged in international markets. With an eye to this progress, I believe today's final amendments to the Margin Rule are appropriate. I am encouraged by the tone of the dialogue and the commitment of our EU counterparts to reach a mutually beneficial arrangement that will stand the test of time. I believe such an arrangement for the supervision of third country central counterparties would entail a great degree of regulatory deference and international comity alongside extensive information sharing and regular communications between supervisory authorities. I look forward to continuing to engage with our European colleagues to advance our shared interests in a robust and resilient transatlantic derivatives market. In that context, I am pleased to support today's final rule to exclude the ESM from the Margin Rule.[7]

development banks, and the Bank for International Settlements, among other entities. *See* Regulation 23.151.

[5] The ESM has had no-action relief from the Margin Rule since July 24, 2017. *See* CFTC Letter 17–34 (July 24, 2017); *see also* CFTC Letter 19–22 (Oct. 16, 2019).

[6] *See* Statement of Chairman Heath P. Tarbert in Support of the Cross-Border Swaps Proposal (Dec. 18, 2019), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/tarbertstatement121819* (''If we impose our regulations on non-U.S. persons whenever they have a remote nexus to the United States, then we should be willing for all other jurisdictions to do the same. The end result would be absurdity, with everyone trying to regulate everyone else. And the duplicative and overlapping regulations would inevitably lead to fragmentation in the global swaps market—itself a potential source of systemic risk.'').

[7] Today the Commission is also voting on a proposal to codify the ESM's relief from the Clearing Requirement under Part 50 of the CFTC's rules.

Appendix 3—Supporting Statement of Commissioner Brian Quintenz

In March 2018, I articulated my approach to our current regulatory relationship with our European counterparts in light of their refusal to stand by or re-affirm their 2016 commitments in the CFTC's and European Commission's common approach to the regulation of cross-border central counterparties (CCPs) (CFTC–EC CCP Agreement).[1] Specifically, I believe that the absence of the agreement's re-affirmation in the European Market Infrastructure Regulation 2.2 (EMIR 2.2) directly implied the agreement's abrogation.[2] I therefore vowed that I would either object to or vote against any relief provided to, or requested by, European Union authorities until the agreement's clarity was restored. Since that time, I have consistently voted against, or objected to, any regulation or relief that provides special accommodations to European entities, including the proposed exemption from margin requirements for the European Stability Mechanism (ESM) that the Commission seeks to finalize today.[3]

However, the unprecedented devastating economic and social impacts of COVID–19 across the globe warrant a reprieve from that position. In the United States, financial regulators have acted swiftly, decisively, and boldly to mitigate economic disruptions and support market liquidity, including providing regulatory relief where necessary. I am very proud of the CFTC's decisive response to the COVID–19 pandemic, which promoted the full functioning of derivatives markets despite the extraordinary challenges facing exchanges, clearinghouses, and market intermediaries as a result of social distancing.[4] I know the Commission, under the strong leadership of Chairman Heath P. Tarbert, is committed to providing any additional relief necessary to ensure that U.S. markets remain accessible.

Our European counterparts are engaged in the same epic struggle as we are to lessen the extraordinary economic and social harms of this pandemic. Although I remain committed to ensuring the terms of the CFTC–EC CCP Agreement are ultimately upheld, I also recognize that issue is one facet of a much broader, deeper bond we share with the European Union—a relationship that has been grounded in goodwill, trust, and partnership. Many of the European institutions affected by the rules and no-action relief before the Commission today are likely to be central to the European Union's COVID–19 economic recovery efforts. As a result, I believe it is appropriate to support the items before the Commission today, which, by providing relief from CFTC clearing and margin requirements, may bolster the ability of EU institutions to provide critical financial assistance to their economies, businesses, and citizens.

For example, the European Commission, ESM, and European Investment Bank (EIB) are working in concert to take unprecedented actions at the European level to complement national measures to mitigate the impacts of COVID–19.[5] The ESM has many economic tools at its disposal, including making loans to Eurozone member states, purchasing the bonds of Eurozone members, providing precautionary credit lines that can be drawn upon if needed, and directly recapitalizing financial institutions.[6]

Similarly, the EIB, the lending arm of the European Union, and the European Investment Fund (EIF), which specializes in finance for small and medium sized businesses, are also working together to respond to COVID–19. Together, the EIB and the EIF have proposed a plan to provide immediate financing to combat the health and economic effects of the pandemic.[7] Each

[1] Keynote Address of Commissioner Brian Quintenz before FIA Annual Meeting, Boca Raton, Florida (March 14, 2018), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opaquintenz9;* and Joint Statement from CFTC Chairman Timothy Massad and European Commissioner Jonathan Hill, CFTC and the European Commission: Common approach for transatlantic CCPs (Feb. 10, 2016), *https://www.cftc.gov/PressRoom/PressReleases/pr7342-16.*

[2] The proposed implementation of EMIR 2.2 by ESMA is available at, *https://www.esma.europa.eu/press-news/esma-news/esma-consults-tiering-comparable-compliance-and-fees-under-emir-22.*

[3] Dissenting Statement by Commissioner Brian Quintenz before the Open Commission Meeting: FBOT Registration (Nov. 5, 2019), *https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement110519;* Dissenting Statement by Commissioner Quintenz to the Proposed Exclusion for the European Stability Mechanism from the Commission's Margin Requirements for Uncleared Swaps (Oct. 16, 2019), *https://www.cftc.gov/PressRoom/SpeechesTestimony/quintentzstatement101619;* Statement of Commissioner Brian Quintenz on Staff No-Action Relief for Eurex Clearing AG (December 20, 2018), *https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement122018.*

[4] Statement of CFTC Commissioner Brian Quintenz on Current Market Dynamics and Commission Actions Related to COVID–19 (March 18, 2020), *https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatment031820.*

[5] *The time for solidarity in Europe is now—a concerted European financial response to the corona-crisis, https://www.esm.europa.eu/blog/time-solidarity-europe-concerted-european-financial-response-corona-crisis* (April 2, 2020).

[6] European Stability Mechanism, Lending Toolkit, *https://www.esm.europa.eu/assistance/lending-toolkit.*

[7] Coronavirus outbreak: EIB Group's response to the pandemic, *https://www.eib.org/en/about/*

Continued

of these EU institutions may seek to enter into swaps subject to the CFTC's clearing or uncleared margin requirements in order to hedge the risks associated with these lending and investment activities. Accordingly, I support today's measures that provide relief from those requirements, thereby freeing up additional capital that can be immediately deployed in the European economy.

When the present hardship caused by COVID–19 abates, I look forward to re-engaging with our European counterparts on the critical issue of the oversight of U.S. CCPs. I believe the possibility still exists for a successful implementation of EMIR 2.2 that fully respects the CFTC's ultimate authority over U.S. CCPs, and I am committed to doing everything in my power to achieve this outcome.

Amendments To Swap Clearing Requirement Exemptions Under Part 50

I am pleased to support this proposal, which codifies existing relief, from the Commission's requirement that certain commonly traded interest rate swaps and credit default swaps be cleared following their execution.[8] The new exemptions could be elected by several classes of counterparties that may enter into these swaps, namely: *Sovereign nations; central banks;* ''*international financial institutions*'' of which sovereign nations are members; *bank holding companies,* and *savings and loan holding companies,* whose assets total no more than $10 billion; and *community development financial institutions* recognized by the U.S. Treasury Department. Today's proposal notes that many of these entities have actually relied on existing relief, electing not to clear swaps that are generally subject to the clearing requirement.

I strongly support the policy of international ''comity'' described in the proposal, recognizing that sovereign nations and their instrumentalities should generally not be subject to the Commission's regulations. I trust that by proposing this relief, the United States, the Federal Reserve, and other U.S. government instrumentalities will receive the same treatment in foreign jurisdictions. As noted above, this policy is timely in light of the current projects the ESM, the EIB, and the EIF are currently undertaking in response to the pandemic. I am pleased that the Commission can provide flexibility to these entities at this time when entering into swaps with U.S. swap dealers. To this end, I also support the decision of the Division of Clearing and Risk to extend the current, time-limited no-action relief provided to the ESM[9] pending the finalization of the amendments to part 50. I note that the EIB, EIF, other international financial institutions, central banks, and sovereign entities currently have relief that is not time-limited.[10]

As for the bank holding companies, savings and loan holding companies, and community development financial institutions that would be provided relief pursuant to this proposal, I am hopeful that the Commission will ultimately finalize this relief, which it first proposed for these entities in 2018.[11] However, I note that these entities currently have relief pursuant to no-action letters issued in 2016 that have no expiration dates.[12]

Final Rule Excluding the European Stability Mechanism From CFTC Margin Requirements for Uncleared Swaps

I support today's final rule that would exempt a swap between the European Stability Mechanism and a swap dealer from the Commission's margin requirements applicable to uncleared swaps. This rule is premised on the same policy of international comity referenced in today's proposed exemption from the swap clearing requirement. I would like to highlight that the EIB, EIF, and the other international financial institutions referenced by the proposed exemption from the swap clearing requirement, as well as sovereign entities and central banks, are already exempted from the Commission's margin requirements for uncleared swaps pursuant to Commission regulations.[13] Finally, I am pleased that the Division of Swap Dealer and Intermediary Oversight is today extending previously granted, time-limited no-action relief to the ESM,[14] pending the effective date of today's final rule.

Appendix 4—Statement of Commissioner Dan M. Berkovitz

I support today's final rule that excludes the European Stability Mechanism (''ESM'') from the definition of financial end user in the Commission's margin rules. The final rule codifies no-action relief that has been in effect since 2017 that exempts the ESM from initial and variation margin requirements for uncleared swaps with swap dealer or major swap participant counterparties. The final rule recognizes the ESM's status as an intergovernmental institution that assists Euro-area members in financial distress and its similarity to multilateral development banks that are excluded from the definition of financial end user. The ESM does not engage in speculative swaps trading and its swaps activities are in furtherance of its financial assistance programs. The final rule provides certainty to both the ESM and its swap dealer counterparties in uncleared swaps, facilitates the ESM's work in mitigating systemic risk, and poses minimal risk to the U.S. financial system.

The final rule also recognizes the importance of international comity in regulating entities established by sovereign governments for governmental purposes. I encourage continued cooperation between the Commission and European authorities in maintaining mutual respect for our corresponding regulatory interests and expertise.

I thank the staff of the Division of Swap Dealer and Intermediary Oversight for their work on this final rule and their responsiveness to suggestions from my office.

[FR Doc. 2020–08601 Filed 5–8–20; 8:45 am]

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initiatives/covid-19-response/index.htm (April 9, 2020).

[8] The swap clearing requirement is codified in part 50 of the Commission's regulations (17 CFR part 50).

[9] CFTC Letter 19–23 (Oct. 16, 2019).

[10] End-User Exception to the Clearing Requirement for Swaps, 77 FR 42,560, 42,561–62 (Jul. 19, 2012).

[11] Amendments to Clearing Exemption for Swaps Entered Into by Certain Bank Holding Companies, Savings and Loan Holding Companies, and Community Development Financial Institutions, 83 FR 44,001 (Aug. 29, 2018).

[12] CFTC Letters 16–01 and –02 (both Jan. 8, 2016).

[13] CFTC regulation 23.151.

[14] CFTC Letter 19–22 (Oct. 16, 2019).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM19–5–001; Order No. 864–A]

Public Utility Transmission Rate Changes To Address Accumulated Deferred Income Taxes

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on rehearing and clarification.

SUMMARY: The Federal Energy Regulatory Commission (Commission) addresses requests for rehearing and clarification and reaffirms its determinations in Order No. 864. In Order No. 864, the Commission required public utilities with transmission formula rates to propose tariff revisions to implement certain excess and deficient accumulated deferred income taxes (ADIT)-related mechanisms in their transmission formula rates as a result of the Tax Cuts and Jobs Act of 2017 (Tax Cuts and Jobs Act). The Commission continued to require public utilities with transmission stated rates to address excess and deficient ADIT resulting from the Tax Cuts and Jobs Act in their next rate cases.

DATES: The effective date of the document published on November 27, 2019 (84 FR 65281), is confirmed: January 27, 2020.

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I. Introduction

1. On November 21, 2019, the Federal Energy Regulatory Commission (Commission) issued Order No. 864, which is a final rule addressing accumulated deferred income taxes (ADIT) for public utilities.[1] On December 23, 2019, American Public Power Association (APPA) requested clarification, or in the alternative, rehearing, and Exelon Corporation and its public utility subsidiaries (collectively, Exelon Companies)[2] requested rehearing of Order No. 864. For the reasons discussed below, we deny the requests for rehearing and grant APPA's request for clarification in part.

A. Background

2. On December 22, 2017, the President signed into law the Tax Cuts and Jobs Act of 2017.[3] The Tax Cuts and Jobs Act, among other things, reduced the federal corporate income tax rate from 35 percent to 21 percent, effective January 1, 2018. This means that, beginning January 1, 2018, companies subject to the Commission's jurisdiction must compute income taxes owed to the Internal Revenue Service (IRS) based on a 21% tax rate. This tax rate reduction will result in a reduction in ADIT liabilities and ADIT assets on the books of public utilities.[4] As a result of the tax rate reduction, a portion of an ADIT liability that was collected from customers will no longer be due from public utilities to the IRS and is considered excess ADIT, which must be returned to customers in a cost of service ratemaking context.[5] Consistent with the Commission's regulations, public utilities are required to adjust their ADIT assets and ADIT liabilities to reflect the effect of the change in tax rates in the period the change is enacted.[6]

[1] *Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes,* Order No. 864, 84 FR 65281, 169 FERC ¶ 61,139 (2019).

[2] Exelon Corporation's public utility subsidiaries include Commonwealth Edison Co., Delmarva Power & Light Co., Atlantic City Electric Co., Baltimore Gas and Electric Co., and Potomac Electric Power Co.

[3] An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Public Law 115–97, 131 Stat. 2054 (2017) (Tax Cuts and Jobs Act).

[4] ADIT balances are accumulated on the regulated books and records of public utilities based on the requirements of the Uniform System of Accounts. ADIT arises from timing differences between the method of computing taxable income for reporting to the IRS and the method of computing income for regulatory accounting and ratemaking purposes. *See* 18 CFR 35.24(d)(2) (''Timing differences means differences between the amounts of expenses or revenues recognized for income tax purposes and amounts of expenses or revenues recognized for ratemaking purposes, which differences arise in one time period and reverse in one or more other time periods so that the total amounts of expenses or revenues recognized for income tax purposes and for ratemaking purposes are equal.'').

[5] The converse is true for public utilities that have ADIT assets.

[6] *See* 18 CFR 35.24 and 18 CFR 154.305; *see also Regulations Implementing Tax Normalization for Certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenues for Ratemaking and Income Tax Purposes,* Order No. 144, 46 FR 26613 (May 14, 1981), FERC Stats. & Regs. ¶ 30,254 (1981) (cross-referenced at 18 FERC ¶ 61,163), *order on reh'g,* Order No. 144–A, 47 FR 8329 (Feb. 26, 1982), FERC Stats. & Regs. ¶ 30,340 (1982) (cross referenced at 15 FERC ¶ 61,142).

B. Notice of Proposed Rulemaking

3. In response to the Tax Cuts and Jobs Act, on November 15, 2018 (83 FR 59331 (Nov. 23, 2018)), the Commission issued a notice of proposed rulemaking (NOPR) to address excess and deficient ADIT for public utility transmission providers with transmission rates under an Open Access Transmission Tariff, a transmission owner tariff, or a rate schedule. For public utilities with transmission formula rates, the Commission found that many, if not most, transmission formula rates do not contain provisions to fully reflect excess or deficient ADIT following a change in tax rates, as required by the Commission's regulations. The Commission explained that a public utility's transmission formula rate should include certain mechanisms that accurately reflect excess or deficient ADIT in a public utility's cost of transmission service during the annual updates of the rest of the revenue requirement, along with a worksheet that tracks excess and deficient ADIT. The Commission proposed to require public utilities to revise their tariffs accordingly.[7]

4. For public utilities with transmission stated rates, the Commission proposed to maintain Order No. 144's requirement that such public utilities reflect any adjustments made to their ADIT balances as a result of the Tax Cuts and Jobs Act in their next rate case.[8] However, to increase the likelihood that the customers that contributed to the related ADIT accounts receive the benefit of the reduced tax rate, the Commission proposed to require public utilities with transmission stated rates to calculate the excess or deficient ADIT as a result of the Tax Cuts and Jobs Act using the ADIT approved in their last rate cases and return or recover this amount to or from customers.[9]

C. Order No. 864

5. In Order No. 864, the Commission required public utilities with transmission formula rates to propose tariff revisions to implement certain excess and deficient ADIT-related mechanisms. Specifically, the Commission required public utilities to include the following in their transmission formula rates: (1) A mechanism to deduct any excess ADIT from or add any deficient ADIT to their rate bases; [10] (2) a mechanism to decrease or increase their income tax allowances by any amortized excess or deficient ADIT, respectively; [11] and (3) a new permanent worksheet that will annually track information related to excess or deficient ADIT.[12] The Commission also required that public utilities with transmission formula rates return the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act to customers.[13]

6. The Commission did not adopt the proposals in the NOPR that were applicable to public utilities with transmission stated rates.[14] Instead, the Commission maintained the status quo that public utilities with transmission stated rates should address any excess or deficient ADIT resulting from the Tax Cuts and Jobs Act in their next rate cases.[15] Recognizing that the Commission will take a case-by-case approach in addressing excess and deficient ADIT for a public utility with a transmission stated rate, the Commission provided guidance that for those public utilities with a prior Commission-approved methodology for returning excess ADIT, they should have begun reducing excess ADIT pursuant to that approved method.[16] For those public utilities that lack a prior-Commission approved methodology for returning excess ADIT, they should use some ratemaking method for returning excess ADIT and accordingly should begin reducing excess ADIT immediately upon a tax rate change.[17]

II. Discussion

A. Transmission Stated Rates

1. Order No. 864

7. As discussed above, the Commission did not adopt any of the proposals in the NOPR for public utilities with transmission stated rates. Rather, the Commission maintained the status quo under Order No. 144, Order No. 475 [18] and 18 CFR 35.24, under which public utilities with transmission stated rates should address any excess or deficient ADIT caused by the Tax Cuts and Jobs Act in their next rate case.[19] The Commission explained that, consistent with prior precedent and the Commission's regulations, the question of how to properly handle excess and deficient ADIT for public utilities with transmission stated rates following a tax rate change continues to raise complex questions that are more properly addressed in a rate case.[20]

8. Because excess and deficient ADIT for a public utility with a transmission stated rate will be addressed in that public utility's next rate case, the Commission provided guidance as to how excess and deficient ADIT should be treated between rate cases. For public utilities with transmission stated rates that have a Commission-approved ratemaking method made specifically applicable to them for returning excess ADIT, the Commission stated that those public utilities should have begun reducing excess ADIT pursuant to that previously Commission-approved method.[21] For public utilities with transmission stated rates that do not have a Commission-approved ratemaking method, the Commission explained that, in accordance with the Commission's regulations, those public utilities must ''use some ratemaking method'' for making a provision for returning excess ADIT and that ''the appropriateness of such method will be subject to a case-by-case determination'' by the Commission.[22]

9. As a general course of action, the Commission provided guidance that public utilities with transmission stated rates that do not have a Commission-approved ratemaking method will begin reducing excess ADIT immediately upon a tax rate change. The Commission noted that its expectation is ''merely intended to provide guidance'' to such public utilities and that the Commission will address issues related to a public utility's method for amortizing excess ADIT based on the specific facts and circumstances in each proceeding.[23] The Commission also stated that nothing in Order No. 864 prevents a public utility with a transmission stated rate that does not have a Commission-approved ratemaking method from proposing to delay amortization of excess ADIT until its next rate case.[24]

[7] Order No. 864, 169 FERC ¶ 61,139 at PP 15–16.

[8] *See* Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,519, 31,560 (requiring public utilities to file adjustments to recover deferred tax amounts in their next rate case following the order, and to begin the process of making up deficiencies or eliminating excesses in their ADIT reserves so that they will be operating under a full normalization policy within a reasonable period of time).

[9] *Id.* P 17.

[10] *Id.* P 28.

[11] *Id.* P 42.

[12] *Id.* P 62.

[13] *Id.* P 45.

[14] *Id.* P 86.

[15] *Id.*

[16] *Id.* P 91.

[17] *Id.* PP 92–93.

[18] *Rate Changes Relating to Federal Corporate Income Tax Rate for Public Utilities,* Order No. 475, 52 FR 24987 (July 2, 1987), FERC Stats. & Regs. ¶ 30,752 (cross-referenced at 39 FERC ¶ 61,357), *order on reh'g,* 52 FR 39907 (Oct. 26, 1987), 41 FERC ¶ 61,029 (1987) (cross-referenced at 41 FERC ¶ 61,029).

[19] Order No. 864, 169 FERC ¶ 61,139 at P 86.

[20] *Id.* PP 87–90.

[21] *Id.* P 91.

[22] *Id.* P 92 (quoting 18 CFR 35.24(c)(3)).

[23] *Id.* P 93.

[24] *Id.*

10. In providing guidance to public utilities with transmission stated rates, the Commission explained why it is reasonable to treat excess ADIT differently for public utilities with transmission stated rates and those with transmission formula rates. The Commission stated that the primary consideration in doing so was the two unique circumstances of transmission formula rates at the time the Tax Cuts and Jobs Act became law. First, the Commission identified that most transmission formula rates lack a mechanism to make provision for excess ADIT in computing the income tax component of a public utility's cost of service as required under the Commission's regulations. The Commission found that it is therefore inappropriate to treat excess ADIT resulting from the Tax Cuts and Jobs Act as reducing immediately as of January 1, 2018, when the transmission formula rate itself lacks a mechanism to accomplish this task. Second, the Commission stated that the rates of public utilities with transmission formula rates increased upon the enactment of the Tax Cuts and Jobs Act (unlike transmission stated rates, which are fixed between rate cases) because transmission formula rates excluded excess ADIT from the calculation of the rates. That is, the excess ADIT resulting from the Tax Cuts and Jobs Act no longer served as a reduction to rate base as it did prior to the tax rate change when it was part of ADIT because the transmission formula rate did not have a mechanism that allowed excess ADIT to reduce rate base. The Commission reasoned that, therefore, it is appropriate to treat excess ADIT as wholly preserved in Account 254 (Other Regulatory Liabilities) until it can be addressed and reinserted into the transmission formula rate.[25] The Commission also noted that the Commission's policy prior to Order No. 864 required a public utility with a transmission formula rate to seek Commission approval prior to returning excess ADIT, which further distinguishes transmission formula rates from transmission stated rates.[26]

2. APPA's Request for Clarification or Rehearing

11. APPA requests that the Commission clarify that public utilities with transmission stated rates must return the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act to customers.[27] APPA asserts that Order No. 864 creates ambiguity regarding whether customers of public utilities with transmission stated rates will receive the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act. Specifically, APPA points to the Commission's guidance in Order No. 864 that the Commission ''will generally apply a policy that public utilities begin reducing excess ADIT immediately upon a tax rate change and not at a later date, such as at the time of a future rate case.'' [28] APPA claims that the Commission's guidance, among other aspects of Order No. 864, potentially raises a concern that the portion of excess ADIT amortized between January 1, 2018, and a public utility's next rate case might not be returned to customers.[29] For example, APPA argues that a public utility might seek to adopt a brief amortization period for unprotected excess ADIT amounts that would amortize fully before that public utility's next rate case, therefore depriving customers of that excess ADIT being returned.[30]

12. APPA contends that failing to require public utilities with transmission stated rates to return excess ADIT would depart from Commission precedent. APPA argues that the Commission acknowledged in Order No. 864 that, under tax normalization, excess ADIT ''must be returned to customers in a cost of service ratemaking context.'' [31] Further, according to APPA, in Order No. 144, the Commission found that ''[a]ny excess or deficiency in [ADIT] does not . . . result in a windfall to either shareholders or ratepayers since the balances will systematically be subject to a reconciliation in future rates.'' [32] APPA argues that excusing public utilities from returning excess ADIT to customers could result in a windfall to public utilities, which contravenes the Commission's findings in Order No. 144.[33]

13. APPA also asserts that the Commission required public utilities with transmission stated rates to ''establish a plan to return any excess [ADIT] in rate applications'' in Order No. 475.[34] APPA claims that Order No. 475 did not contemplate that customers would be deprived of the return of excess ADIT.[35] Finally, APPA contends that the Commission acknowledged in Order No. 864 that public utilities are generally required to obtain specific ratemaking authority prior to amortizing a regulatory asset or liability in rates.[36] APPA argues that public utilities with transmission stated rates should not be allowed to deprive customers of the full excess ADIT regulatory liability by amortizing the excess ADIT in that regulatory liability between rate cases.[37]

14. In the alternative, APPA requests rehearing of Order No. 864. APPA argues that, to the extent the Commission's guidance provided in Order No. 864 would result in any portion of excess ADIT not being returned to customers, the Commission departed from prior Commission policy without adequate explanation by permitting public utilities with transmission stated rates to amortize excess ADIT immediately as of the effective date of the Tax Cuts and Jobs Act. In support of its rehearing request, APPA reiterates its arguments that excess ADIT must be returned to customers in a cost of service ratemaking context and that the Commission's tax normalization regulations are meant to ensure that public utility shareholders do not receive a windfall from excess ADIT. APPA also reiterates its argument that the Commission's accounting guidance prohibits the amortization of regulatory assets or liabilities relating to excess or deficient ADIT until they are included in ratemaking.[38]

15. While APPA does not dispute the unique circumstances surrounding transmission formula rates at the time of the enactment of the Tax Cuts and Jobs Act, APPA claims that such circumstances provide no basis for depriving customers of public utilities with transmission stated rates of the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act. Further, APPA argues that the requirement for public utilities to seek Commission approval prior to including a regulatory asset or liability in rates applies to the Commission's cost-of-service ratemaking generally and is not limited to only transmission formula rates.

3. Commission Determination

16. We grant APPA's request for clarification in part and deny its request for rehearing. APPA requests that the Commission clarify that a public utility with a transmission stated rate must

[25] *Id.* PP 93–94.

[26] *Id.* n.137.

[27] APPA Rehearing at 2.

[28] *Id.* at 4 (quoting Order No. 864, 169 FERC ¶ 61,139 at P 93).

[29] *Id.* at 4–5.

[30] *Id.*

[31] *Id.* at 5 (quoting Order No. 864, 169 FERC ¶ 61,139 at P 8).

[32] *Id.* at 6 (quoting Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,554).

[33] *Id.*

[34] *Id.* (quoting Order No. 475, FERC Stats. & Regs. ¶ FERC Stats. & Regs. ¶ 30,752 at 30,736).

[35] *Id.*

[36] *Id.* at 7.

[37] *Id.*

[38] *Id.* at 9.

return the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act to customers. APPA quotes the guidance provided in Order No. 864 that the Commission ''will generally apply a policy that public utilities begin reducing excess ADIT immediately upon a tax rate change and not at a later date, such as at the time of a future rate case.'' [39] APPA argues that generally applying such a policy for transmission stated rates while requiring public utilities with transmission formula rates to return the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act potentially raises concerns that, for public utilities with transmission stated rates, the portion of excess ADIT amortized between January 1, 2018 and a public utility's next rate case might not be returned to customers. We take this opportunity to further clarify the Commission's guidance in Order No. 864, which addresses the return of excess ADIT resulting from the Tax Cuts and Jobs Act for public utilities with transmission stated rates.

17. We emphasize that there is a critical distinction in applying the Commission's guidance and language quoted by APPA, which turns on whether a public utility with a transmission stated rate has a Commission-approved ratemaking method for addressing excess and deficient ADIT. In Order No. 144, the Commission required public utilities to file adjustments to recover deferred tax amounts in their next rate case following the order, and to begin the process of making up deficiencies or eliminating excesses in their ADIT reserves so that they will be operating under a full normalization policy within a reasonable period of time.[40] To the extent that a public utility with a transmission stated rate complied with Order No. 144 and has a Commission-approved ratemaking method made specifically applicable to it for addressing excess and deficient ADIT, then such a public utility should return excess ADIT or recover deficient ADIT in accordance with that prior Commission-approved method.[41] That is, such a public utility should begin amortizing excess or deficient ADIT immediately upon a tax rate change in accordance with its prior Commission-approved method for doing so.

18. A public utility's transmission stated rate is presumed to recover all its costs during the time the rate is in effect, even if some of those costs change between rate cases.[42] Federal income taxes, including ADIT, are a cost of providing service. If a public utility with a transmission stated rate has a Commission-approved ratemaking method for addressing excess and deficient ADIT, it is presumed that the appropriate amount of excess ADIT is being returned and deficient ADIT is being recovered as part of that transmission stated rate. We therefore clarify, consistent with the presumption discussed in this paragraph, that public utilities with transmission stated rates that have a Commission-approved ratemaking method for addressing excess and deficient ADIT return the appropriate amount of excess ADIT resulting from the Tax Cuts and Jobs Act to customers through their transmission stated rates.[43]

19. For public utilities with transmission stated rates that lack a Commission-approved ratemaking method, the Commission's regulations require that such a public utility use some ratemaking method to make provision for excess and deficient ADIT, and the appropriateness of this method will be subject to case-by-case determination in a later rate proceeding.[44] The Commission provided guidance that a public utility with a transmission stated rate that lacks a Commission-approved ratemaking method for addressing excess and deficient ADIT could begin employing a ratemaking method to amortize excess and deficient ADIT balances immediately upon a tax rate change, subject to the Commission's review of the appropriateness of that method in the public utility's next rate case.[45] This guidance is similarly based on our discussion above that a public utility's transmission stated rate is presumed to recover all its costs during the time the rate is in effect, even if some of those costs change between rate cases.[46]

20. We reiterate, however, that this is merely guidance and that the Commission will address issues related to a public utility's method for amortizing excess ADIT based on the specific facts and circumstances in each proceeding. For this reason, we are unpersuaded by APPA's argument that a public utility with a transmission stated rate might seek to adopt a brief amortization period for unprotected excess ADIT that would amortize fully before that public utility's next rate case.[47] A public utility with transmission stated rates that does not have a Commission-approved ratemaking method is required to support and justify all of its proposed amortization periods for excess and deficient ADIT, including unprotected excess ADIT, in its next rate proceeding. At that time, the Commission has an opportunity to determine whether the amortization of excess and deficient ADIT is just and reasonable.

21. We disagree with APPA that failing to require public utilities with transmission stated rates to return excess ADIT departs from Commission precedent and results in a windfall to public utilities.[48] We are not failing to require public utilities to return excess ADIT resulting from the Tax Cuts and Jobs Act. Rather, consistent with Commission precedent, we are maintaining the status quo that excess and deficient ADIT for a public utility will be addressed in that public utility's next rate case.[49] In doing so, the

[39] Order No. 864, 169 FERC ¶ 61,139 at P 93.

[40] Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,519, 31,560.

[41] Order No. 864, 169 FERC ¶ 61,139 at P 91. *See also* 18 CFR 35.24.

[42] For example, between rate cases, a public utility's operating costs, billing determinants, and cost of capital may increase or decrease. *See SFPP,* Opinion No. 511–B, 150 FERC ¶ 61,096, at P 19 (2015) (As with other items in a pipeline's cost of service, the Commission does not ''track'' or ''true-up'' the difference between the pipeline's actual taxes and the ''income tax allowance'' used in a pipeline's most recent cost-of-service rate case. Although a pipeline's costs may change in the years following a rate case, the pipeline is assumed to recover its costs (including its tax costs) via the rates in effect at the time the cost is incurred. There is no subsequent adjustment for under- or over-recoveries.); *see also Interstate and Intrastate Natural Gas Pipelines; Rate Changes Relating to Federal Income Tax Rate,* Order No. 849, 83 FR 36672 (July 30, 2018), 164 FERC ¶ 61,031, at PP 136–150 (2018) (providing guidance that natural gas pipelines should begin amortizing excess ADIT immediately as of the date the Tax Cuts and Jobs Act was enacted for purposes of the FERC Form No. 501–G informational filing, consistent with § 154.305 of the Commission's regulations).

[43] We note that the Commission has the opportunity to review in the next rate case whether a public utility with a transmission stated rate that has a Commission-approved ratemaking method has correctly applied that approved ratemaking method.

[44] *See* 18 CFR 35.24(c)(3).

[45] Order No. 864, 169 FERC ¶ 61,139 at P 93; *see also Interstate and Intrastate Natural Gas Pipelines; Rate Changes Relating to Federal Income Tax Rate,* Order No. 849, 164 FERC ¶ 61,031, at PP 136–150 (2018) (providing guidance that natural gas pipelines should begin amortizing excess ADIT immediately as of the date the Tax Cuts and Jobs Act was enacted for purposes of the FERC Form No. 501–G informational filing, consistent with § 154.305 of the Commission's regulations).

[46] *See supra* discussion at P 18 and n.42.

[47] *See* APPA Rehearing at 4.

[48] To the extent that an entity believes that a public utility's stated transmission rate is unjust and unreasonable as it pertains to excess or deficient ADIT resulting from the Tax Cuts and Jobs Act, it may file a complaint under section 206 of the FPA. 16 U.S.C. 824e.

[49] *See* 18 CFR 35.24(c)(3) (''If no Commission-approved ratemaking method has been made specifically applicable to the public utility, then the public utility must use some ratemaking method for making such provision, and the appropriateness of this method will be subject to case-by-case determination.''); *see also* 18 CFR 35.24(c)(1)(ii) and (2).

Commission provided guidance that public utilities with transmission stated rates that have a Commission-approved ratemaking method should begin reducing excess ADIT in accordance with that approved method. Public utilities with transmission stated rates that lack a Commission-approved ratemaking method could begin reducing excess ADIT immediately upon a tax rate change, subject to the Commission's review of the appropriateness of that method in the public utility's next rate case.[50] We therefore find that the Commission's rationale in Order No. 144—that ''any excess or deficiency in [ADIT] does not . . . result in a windfall to either shareholders or ratepayers since the balances will systematically be subject to a reconciliation in future rates''—still applies.[51]

22. Finally, we are unpersuaded by APPA's argument that the Commission's accounting guidance prohibits the amortization of regulatory assets or liabilities relating to excess or deficient ADIT prior to approval by the Commission. Public utilities with transmission stated rates that have a Commission-approved method for returning excess ADIT by definition already have prior Commission approval to begin reducing excess ADIT. For public utilities with transmission stated rates that do not have a Commission-approved method for returning excess ADIT, the Commission's regulations require that such public utilities must use some ratemaking method for reducing excess ADIT, and the appropriateness of this method will be subject to case-by-case determination.[52] The appropriateness of that method is ultimately approved by the Commission, which happens in the public utility's next rate case. Customers also have an opportunity to intervene, comment, and protest the method for amortizing excess and deficient ADIT at that time.

B. Transmission Formula Rates

1. Order No. 864

23. As discussed above, the Commission required public utilities with transmission formula rates to propose tariff revisions to implement certain excess and deficient ADIT-related mechanisms in their transmission formula rates. The Commission stated that, on compliance, the Commission expects public utilities with transmission formula rates to make their proposed tariff revisions effective on the effective date of the final rule, January 27, 2020.[53]

24. As relevant to Exelon Companies' request for rehearing, the Commission stated that the full regulatory liability for excess ADIT should be captured in transmission formula rates, beginning on the effective date of any proposed tariff revision. In other words, the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act must be returned to transmission formula rate customers.[54]

25. In addition, the Commission clarified that the requirements adopted in Order No. 864 apply only to excess and deficient ADIT resulting from the Tax Cuts and Jobs Act and any future tax rate changes. The Commission stated that, therefore, the requirements in Order No. 864 do not conflict with the Commission's determination in *Commonwealth Edison,* which is discussed below.[55]

2. Exelon Orders

26. Beginning in December 2016, prior to the issuance of Order No. 864, Exelon Companies submitted multiple filings under section 205 of the Federal Power Act (FPA)[56] that proposed tariff revisions seeking to, among other things, recover past deficient ADIT amounts. While the specific facts of the filings differ, of relevance here, Exelon Companies sought to recover the full amount of past deficient ADIT resulting from prior state corporate income tax rate increases.

27. The Commission rejected Exelon Companies' proposed tariff revisions, finding that Exelon Companies had not shown the proposed tariff revisions allowing for the recovery of the full amount of past deficient ADIT to be just and reasonable because, among other things, Exelon Companies failed to meet the requirement in Order No. 144 to propose recovery in the public utility's next rate case.[57] In rejecting Exelon Companies' proposed tariff revisions, the Commission provided guidance that, due to recent state corporate income tax rate increases, a portion of the deficient ADIT that Exelon Companies sought to recover may still be eligible for recovery. The Commission stated that should Exelon Companies seek recovery of such deficient ADIT amounts, Exelon Companies should support these amounts by providing detailed workpapers, as well as provide for the reduction of the associated ADIT liabilities from rate base.[58]

28. The Commission also announced a limited, one-year compliance period in which a public utility could file to recover past deficient ADIT if the public utility did not file a rate case subsequent to the Commission' issuance of Order No. 144 or if the public utility properly preserved its right to recover past ADIT through settlement terms.[59] Following this limited compliance period, the Commission clarified that public utilities should submit FPA section 205 filings seeking recovery of deficient ADIT amounts within two years of incurring such amounts.[60]

3. Exelon Companies' Request for Rehearing

29. Exelon Companies request rehearing of the Commission's requirement that public utilities with transmission formula rates must return the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act to customers. Exelon Companies contend that the requirement in Order No. 864 that excess ADIT resulting from the Tax Cuts and Jobs Act should be ''wholly preserved'' until a public utility's transmission formula rate contains a mechanism to flow through that ''full amount'' of excess ADIT in rates is inconsistent with the Commission's decisions in the Exelon Orders.[61]

30. Exelon Companies assert that their proposed tariff revisions in the Exelon Orders sought to address various deferred tax adjustments, which according to Exelon Companies are recorded pursuant to the Commission's policies concerning Statement of Financial Accounting Standards No. 109 (FAS 109).[62] Exelon Companies argue that they proposed, among other things, to recover the full amount of past

[50] Nothing here precludes a public utility with transmission stated rates from proposing to delay amortization of excess ADIT to its next rate case.

[51] Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,554.

[52] *See* 18 CFR 35.24(c)(3).

[53] Order No. 864, 169 FERC ¶ 61,139 at P 100.

[54] *Id.* P 45.

[55] *Id.* P 51 (citing *Commonwealth Edison Co.,* 164 FERC ¶ 61,172 (2018) (*Commonwealth Edison*)). *See also infra* n.57.

[56] 16 U.S.C. 824d (2018).

[57] *PJM Interconnection, L.L.C.,* 161 FERC ¶ 61,163 (2017), *reh'g denied,* 164 FERC ¶ 61,173 (2018), *aff'd sub nom. Balt. Gas & Elec. Co.* v. *FERC,* No. 18–1298, 2020 WL 1482394 (D.C. Cir. Mar. 27, 2020) (*BG&E*); *Commonwealth Edison,* 164 FERC ¶ 61,172 (collectively, Exelon Orders).

[58] *Commonwealth Edison,* 164 FERC ¶ 61,172 at P 130.

[59] *Id.* P 132.

[60] *Id.* P 133.

[61] Exelon Companies Rehearing at 8–9.

[62] Exelon Companies' use of the term FAS 109 amounts refers generally to its proposals to flow three items through its formula rate: (1) Excess and deficient ADIT caused by the Tax Cuts and Jobs Act; (2) accumulated tax balances for past allowance for funds used during construction (AFUDC) equity originations that have not flowed through rates and future AFUDC equity originations; and (3) tax account balance differences caused by a switch from the flow-through method to normalization.

deficient ADIT and return the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act. Exelon Companies allege that the Commission rejected the proposed tariff revisions, finding that only a portion of the past deficient ADIT would be available for recovery once the proposed tariff revisions become effective. Exelon Companies therefore argue that no justification has been provided to support treating excess ADIT related to the Tax Cuts and Jobs Act differently from the other FAS 109 amounts addressed in the Exelon Orders, which erode away if the transmission formula rate does not contain a mechanism to reflect those amounts.[63]

31. Exelon Companies allege that the Commission's tax normalization policies should be conducted in an even-handed fashion, meaning that the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act should be treated similarly to other FAS 109 amounts. According to Exelon Companies, the Commission attempts to provide a technical justification for treating excess ADIT for transmission formula rates different than transmission stated rates, explaining that the rates of public utilities with transmission formula rates increased as a result of the Tax Cuts and Jobs Act where those formula rates did not have a mechanism to offset the excess ADIT from rate base. Exelon Companies argue that their formula rates have a mechanism to offset rate base by FAS 109 amounts, so the distinction does not apply to Exelon Companies. Exelon Companies further contend that the Commission acknowledges that Order No. 864 reaches a different result than the Exelon Orders, but provides no explanation for why the different result is justified.[64]

4. Commission Determination

32. We deny Exelon Companies' request for rehearing.[65] We disagree with Exelon Companies' central argument that the Commission is treating the return of excess ADIT (a regulatory liability) resulting from the Tax Cuts and Jobs Act differently than how the Commission treated deficient ADIT (a regulatory asset) resulting from past tax rate increases in the Exelon Orders. Exelon Companies both mischaracterize the Commission's reasons for rejecting full recovery of their past deficient ADIT amounts in the Exelon Orders and the Commission's actions in Order No. 864. Simply, the Commission rejected Exelon Companies' attempt to recover the full amount of past deficient ADIT because Exelon Companies failed to meet the next rate case requirement of Order No. 144.[66] Order No. 864 does not address past deficient ADIT,[67] nor does it change the requirements of Order No. 144.[68]

33. In the Exelon Orders, contrary to Exelon Companies' contention, the Commission did not require Exelon Companies to amortize prior recorded FAS 109 regulatory asset amounts even though Exelon Companies' transmission formula rates contained no mechanism to pass them through.[69] Instead, the Commission did not permit Exelon Companies to recover the full amount of those regulatory assets because Exelon Companies failed the next rate case requirement of Order No. 144. Specifically, the Commission determined that the transmission formula rates that resulted from the settlement of those proceedings accounted for ADIT; the Commission interpreted the Exelon Companies' transmission formula rates to explicitly exclude recovery of this past deficient ADIT. In supporting this conclusion, the Commission found that Exelon Companies' ''initial [f]ormula [r]ate filings included line items that expressly excluded recovery of these [deficient ADIT] items in their [f]ormula [r]ates.'' [70] The Commission therefore determined that Exelon Companies have not sought to recover this past deficient ADIT in their next rate proceedings after Order No. 144 [71] and failed to expressly reserve this issue in the settlements of those proceedings.[72]

34. The Commission also explained that the next rate case requirement in Order No. 144 works in conjunction with the reasonable period of time requirement.[73] Accordingly, the Commission determined that because Exelon Companies failed the next rate case requirement, they also necessarily failed the reasonable period of time requirement.[74] The Commission also rejected Exelon Companies' attempt to recover the full amount of past ADIT because Exelon Companies waited longer than seven years to seek recovery of this past deficient ADIT and failed to offer an adequate reason for the delay.[75]

35. The requirements of Order No. 864 have no bearing on Exelon Companies' efforts to recover past deficient ADIT that pre-dated the existence of their transmission formula rates. The Commission's requirements in Order No. 864 resolve the issue that most public utility transmission formula rates were not designed to properly address excess or deficient ADIT resulting from the Tax Cuts and Jobs Act and future tax rate changes. The original framework adopted in Order No. 144, which was issued when all public utilities used transmission stated rates, required public utilities to address excess and deficient ADIT within a reasonable period of time in their next rate cases.[76] However, public utilities with transmission formula rates no longer file traditional rate cases as contemplated by Order No. 144. Thus, prior to Order No. 864, most public utilities with transmission formula rates were required to make an FPA section 205 filing to seek approval to flow through excess or deficient ADIT in

[63] Exelon Companies Rehearing at 3–6, 8–9.

[64] *Id.* at 9–13.

[65] To the extent Exelon Companies' request for rehearing extends to all FAS 109 amounts, we find that AFUDC equity and flow-through items are beyond the scope of this proceeding. Order No. 864 addresses only the treatment of excess and deficient ADIT resulting from the Tax Cuts and Jobs Act (and future tax rate changes) for public utilities with transmission formula rates, not AFUDC equity and flow-through items.

[66] *See also BG&E,* 2020 WL 1482394, at 2 (finding that ''the 'next rate case following applicability of the rule' is the 'next rate case' after the utility has incurred an item (either a cost or a benefit) requiring 'normalization' under Order No. 144 and [the Commission's 1993 accounting guidance in Docket No. AI93–5–000], not counting periods in which a rate case or settlement had itself normalized the treatment of the item (or adequately addressed its normalization)'').

[67] Order No. 864, 169 FERC ¶ 61,139 at P 51.

[68] *Id.* PP 42, 86, 90.

[69] Exelon Companies Rehearing at 12.

[70] *Commonwealth Edison,* 164 FERC ¶ 61,172 at P 111.

[71] *Id.* (''Exelon Companies thus failed to comply with the requirement in Order No. 144 that recovery should be addressed in the 'next rate case' at the time they initially filed their Formula Rates.'').

[72] *Id.* P 112 (''Moreover, because Exelon Companies did not request recovery of FAS 109 amounts in their initial filings of their Formula Rate cases, Exelon Companies could not have deferred recovery of FAS 109 amounts for the next rate case unless they expressly addressed this issue in the settlements of their Formula Rates.'').

[73] *Id.* P 113.

[74] *Id.* (''Exelon Companies failed to comply with the directive in Order No. 144 to begin the process of adjusting its deferred tax deficiencies and excesses 'so that, within a reasonable period of time to be determined on a case-by-case basis, [it would] be operating under a full normalization policy.' '').

[75] *Id.* (''Exelon Companies still do not explain why they waited an additional nine and a half years to make their February 23, 2018 filings [after the end of the rate moratorium in the settlement agreement]. And Exelon Companies' apparent conclusion that they could hold these amounts in reserve indefinitely conflicts with the language of Order No. 144.''); *see also BG&E,* 2020 WL 1482394, at 6 (finding that the Commission acted reasonably in determining that Baltimore Gas & Electric Company's 12 year delay was ''far longer'' than the four and seven year delays previously accepted by the Commission and that Baltimore Gas & Electric Company ''failed to offer an adequate reason for the delay'').

[76] *See* Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,560.

their transmission formula rates.[77] While this requirement relates to regulatory assets and regulatory liabilities more broadly, in the context of tax rate changes and Order No. 144, it functioned as the way in which public utilities with transmission formula rates complied with Order No. 144 and the Commission's regulations. Specifically, it represented the way that a public utility with transmission formula rates began ''the process of making up deficiencies in or eliminating excesses in their deferred tax so that, within a reasonable period of time . . . they will be operating under a full normalization policy'' following a tax rate change.[78] If the Commission accepted such a filing by a public utility with transmission formula rates, then that public utility would have a Commission-approved ratemaking method for that specific tax rate change consistent with the Commission's regulations. However, this approach generally required such filings to seek approval of a new ratemaking method after each tax rate change by public utilities with transmission formula rates.

36. As a result of Order No. 864, public utilities with transmission formula rates are no longer required to make a filing pursuant to FPA section 205 to obtain Commission approval prior to including excess and deficient ADIT in their transmission formula rates following future changes to tax rates.[79] Instead, the Commission required public utilities with transmission formula rates to implement certain mechanisms that accurately reflect excess or deficient ADIT in their formula rates, which will serve as the ratemaking method for the Tax Cuts and Jobs Act and all future tax rate changes and ensure that excess and deficient ADIT are automatically included in a public utility's transmission formula rate following a tax rate change.

37. The Commission's requirements in Order No. 864 apply equally to Exelon Companies and all other public utilities with transmission formula rates. Similar to most public utilities with transmission formula rates at the time of the Tax Cuts and Jobs Act, Exelon Companies lacked a mechanism in its formula rates and did not have a Commission-approved ratemaking method to address excess and deficient ADIT resulting from the Tax Cuts and Jobs Act.[80] Thus, public utilities with transmission formula rates, including Exelon Companies, are required under Order No. 864 to return the full amount of excess ADIT and recover the full amount deficient ADIT resulting from the Tax Cuts and Jobs Act. It is appropriate to return the full amount of excess and deficient ADIT resulting from the Tax Cuts and Jobs Act because Order No. 144 provides that public utilities will have a reasonable amount of time to begin accounting for excess or deficient ADIT if such public utilities lack a Commission-approved ratemaking method for addressing excess and deficient ADIT. By complying with Order No. 864, all public utilities with transmission formula rates will ''begin the process of making up deficiencies in or eliminating excesses in their deferred tax so that, within a reasonable period of time . . . they will be operating under a full normalization policy'' following the Tax Cuts and Jobs Act in accordance with Order No. 144.[81] These public utilities will also have a Commission-approved ratemaking method, and therefore, will comply with the Commission's regulations.[82] Additionally, because excess and deficient ADIT will be automatically included in transmission formula rates following future tax rate changes pursuant to this Commission-approved ratemaking method, public utilities with transmission formula rates will be able to maintain compliance with Order No. 144 and the Commission's regulations going forward without seeking additional Commission approval through an FPA section 205 filing.

III. Document Availability

38. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page *www.ferc.gov.* At this time, the Commission has suspended access to the Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

39. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits in the docket number field.

40. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

IV. Dates

41. The effective date of the document published on November 27, 2019 (84 FR 65281), is confirmed: January 27, 2020.

By the Commission.

Issued: April 16, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08634 Filed 5–8–20; 8:45 am]

BILLING CODE 6717–01–P

[77] *PJM Interconnection, L.L.C.,* 165 FERC ¶ 61,275, at P 28 (2018).

[78] Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,560.

[79] Order No. 864, 169 FERC ¶ 61,139 at P 48.

[80] In its rehearing request, Exelon Companies argue that the Commission's rate base justification for treating public utilities with transmission formula rates differently than those with transmission stated rates is inapplicable to them because Exelon Companies' formula rates have always contained ''an adjustment to rate base to subtract FAS 109 amounts from the deferred tax calculation.'' Exelon Companies Rehearing at 10–11. To the extent Exelon Companies' assertion is true, we agree that this rate base explanation is inapplicable to Exelon Companies. However, as discussed elsewhere, Exelon Companies failed to seek recovery of past deficient ADIT within a reasonable period of time in its next rate case. It is for this reason that Exelon Companies are unable to recover past deficient ADIT. This is also distinguishable from the circumstances surrounding the Commission's issuance of Order No. 864, as discussed elsewhere. *See supra* at PP 32–37.

[81] Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,560.

[82] 18 CFR 35.24(c)(2) and (3).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 180702602–9400–01]
[RTID 0648 –XW022]

Fisheries Off West Coast States; Modifications of the West Coast Recreational and Commercial Salmon Fisheries; Inseason Actions #1 through #5

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

ACTION: Modification of fishing seasons.

SUMMARY: NMFS announces five inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial and recreational salmon fisheries in the area from Cape Falcon, OR, to the U.S./Mexico border.

DATES: The effective dates for the inseason actions are set out in this document under the heading Inseason Actions.

FOR FURTHER INFORMATION CONTACT: Christina Iverson at 360–753–6038 or Peggy Mundy at 206–526–4323.

SUPPLEMENTARY INFORMATION:

Background

In the 2019 annual management measures for ocean salmon fisheries (84 FR 19729, May 6, 2019), NMFS announced management measures for the commercial and recreational fisheries in the area from Cape Falcon, OR, to the U.S./Mexico border, effective from 0001 hours Pacific Daylight Time (PDT), May 6, 2019, until the effective date of the 2020 management measures, as published in the **Federal Register**. NMFS is authorized to implement inseason management actions to modify fishing seasons and quotas as necessary to provide fishing opportunity while meeting management objectives for the affected species (50 CFR 660.409). Inseason actions in the salmon fishery may be taken directly by NMFS (50 CFR 660.409(a)—Fixed inseason management provisions) or upon consultation with the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)—Flexible inseason management provisions). The state management agencies that participated in the consultations described in this document were: California Department of Fish and Wildlife (CDFW) and Oregon Department of Fish and Wildlife (ODFW).

Inseason Actions

Inseason Action #1

Description of the action: Inseason action #1 postponed the starting date for commercial salmon fisheries in the area from Cape Falcon, OR, to Humbug Mountain, OR, and in the area from Humbug Mountain, OR, to the Oregon/California border, previously scheduled to open on March 15, 2020, to April 15, 2020.

Effective dates: Inseason action #1 took effect on March 15, 2020, and remains in effect until modified by further inseason action or superseded by the 2020 annual management measures.

Reason and authorization for the action: The purpose of inseason action #1 was to limit fishery impacts on Klamath River fall-run Chinook salmon (KRFC) which have a low abundance forecast in 2020. This stock was determined by NMFS in 2018 to be overfished and is being managed in 2020 under the Council's recommended rebuilding plan, which NMFS has proposed to approve (85 FR 6135, February 4, 2020). The NMFS West Coast Regional Administrator (RA) considered Chinook salmon forecasts and anticipated fishery impacts for 2020 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #1 occurred on March 8, 2020. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

Inseason Action #2

Description of the action: Inseason action #2 canceled the commercial salmon fishery from Horse Mountain, CA, to Point Arena, CA, that was previously scheduled to be open April 16, 2020 through April 30, 2020.

Effective dates: Inseason action #2 will take effect April 16, 2020, and remains in effect unless modified by further inseason action or superseded by the 2020 annual management measures.

Reason and authorization for the action: The purpose of inseason action #2 was to limit fishery impacts on KRFC, as described above in inseason action #1. The RA considered Chinook salmon forecasts and anticipated fishery impacts for 2020 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #2 occurred on March 8, 2020. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

Inseason Action #3

Description of the action: Inseason action #3 postponed the starting date for recreational salmon fisheries in the area from Horse Mountain, CA, to Point Arena, CA, and in the area from Point Arena, CA, to Pigeon Point, CA, previously scheduled to open on April 4, 2020, to April 11, 2020.

Effective dates: Inseason action #3 took effect on April 4, 2020, and remains in effect until modified by further inseason action or superseded by the 2020 annual management.

Reason and authorization for the action: The purpose of inseason action #3 was to limit fishery impacts on KRFC, as described above in inseason action #1. The RA considered Chinook salmon forecasts and anticipated fishery impacts for 2020 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #3 occurred on March 8, 2020. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

Inseason Action #4

Description of the action: Inseason action #4 closed the recreational salmon fisheries from Horse Mountain, CA, to the U.S./Mexico border, previously scheduled to open in April 2020.

Effective dates: Inseason action #4 took effect on April 1, 2020, and remains in effect until April 30, 2020, unless modified by further inseason action or superseded by the 2020 annual management.

Reason and authorization for the action: Inseason action #4 was recommended by CDFW in response to restrictions enacted by the State of California and various local jurisdictions to address public health concerns. These restrictions include a statewide mandate for all individuals living in the State of California to stay home or at their place of residence, except as needed to maintain continuity of operation of essential critical infrastructure (State of California Executive Order N–33–20) and the concurrent closure of boat launches and marinas. CDFW recommended that closing these recreational fisheries in April would allow the impacts to be utilized in other time and area fisheries later in the year. The RA considered actions by the State of California and local jurisdictions which restricted access to the fishery by the public and determined that this inseason action was consistent with promoting public health and safety and that re-allocating fishery impacts to later in the season under the 2020 salmon management measures would be consistent with the need to meet fishery management objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Inseason Action #5

Description of the action: Inseason action #5 postponed the commercial salmon fisheries from Cape Falcon, OR, to Humbug Mountain, OR, and from Humbug Mountain, OR, to the Oregon/California border, previously scheduled to open April 15, 2020, to open April 20, 2020, through May 5, 2020.

Effective dates: Inseason action #5 took effect on April 15, 2020, and remains in effect unless modified by further inseason action or superseded by the 2020 annual management.

Reason and authorization for the action: Inseason action #5 was recommended to limit fishery impacts on KRFC, as described above in inseason action #1. The RA considered Chinook salmon forecasts and anticipated fishery impacts for 2020 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #5 occurred on April 8, 2020. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

All other restrictions and regulations remain in effect as announced for the 2019 ocean salmon fisheries and 2020 salmon fisheries opening prior to May 6, 2020 (84 FR 19729, May 6, 2019), and as modified by prior inseason actions.

The RA determined that the above inseason actions recommended by the states of Oregon and California were warranted and based on the best available information, as represented by the 2020 Chinook salmon abundance forecasts and expected fishery effort in 2020, and supported concerns regarding public health and safety, as described above. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone consistent with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory action was given, prior to the time the action was effective, by telephone hotline numbers 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 kHz.

Classification

NOAA's Assistant Administrator (AA) for NMFS finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (84 FR 19729, May 6, 2019), the Pacific Coast Salmon Fishery Management Plan (FMP), and regulations implementing the FMP under 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS had insufficient time to provide for prior notice and the opportunity for public comment between the time Chinook salmon catch and effort projections and abundance forecasts were developed and fisheries impacts were calculated, and the time the fishery modifications had to be implemented to ensure that conservation objectives and limits for impacts to salmon species listed under the ESA are not exceeded. The AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3), as a delay in effectiveness of this action would allow fishing at levels inconsistent with the goals of the FMP and the current management measures.

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

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

Dated: May 6, 2020.

Hélène M.N. Scalliet,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2020–10029 Filed 5–8–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 91
Monday, May 11, 2020

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 1217

[Document Number AMS–SC–20–0031]

Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order; Change to the Board Membership Eligibility Requirements

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on a change to the eligibility requirements for nominees representing domestic manufacturers on the Softwood Lumber Board (Board) established under the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order). The Board administers the Order with oversight by the U.S. Department of Agriculture (USDA).

DATES: Comments must be received by June 10, 2020.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. All comments must be submitted through the Federal e-rulemaking portal at *http://www.regulations.gov* and should reference the document number and the date and page number of this issue of the **Federal Register**. All comments submitted in response to this proposed rule will be included in the rulemaking record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Andrea Ricci, Marketing Specialist, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 572–1442; facsimile: (202) 205–2800; or electronic mail: *Andrea.Ricci@usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal affecting 7 CFR part 1217 (herein the ''Order'') is authorized by the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12988

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act (7 U.S.C. 7423) provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Section 519 of the 1996 Act (7 U.S.C. 7418) provides that a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, must be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

This proposal invites comments on a change to the eligibility requirements for nominees representing domestic manufacturers on the Board. The Board administers the Order with oversight by the USDA. Pursuant to the Order, assessments are collected from domestic manufacturers and importers, and used for research and promotion projects designed to strengthen the position of softwood lumber in the marketplace. This proposed change was recommended to the Secretary by the Board at its February 26, 2020, meeting, and will contribute to the effective administration of the program.

Section 1217.40 provides for the establishment of the Board. The Board is comprised of manufacturers for the U.S. market who manufacture and domestically ship or import 15 million board feet or more of softwood lumber in the United States during a fiscal period. In November 2018, the Board recommended revising the Board composition from 19 to 14 members over a three-year period. The Board took into consideration the consolidation of the softwood lumber industry since the inception of the program, along with the number of companies eligible to be represented on the Board. Additionally, the Board recommended that U.S. Board members reside in the region they represent. This was intended to ensure that entities from outside the U.S. that

own softwood lumber entities within the U.S. could only represent a U.S. region on the Board. The recommendation was finalized in a rule that was published in the **Federal Register** on September 25, 2019 (84 FR 50294). The 2021 Board and each subsequent Board shall be comprised of 14 members, 10 of whom shall represent domestic manufacturers and four shall represent importers. Domestic manufacturer Board members represent three regions: U.S. South Region, U.S. West Region; and Northeast and Lake States Region. The Order prescribes that domestic manufacturer representatives reside in the region they represent.

Board Recommendation

The Board met on February 26, 2020, and recommended the Order be revised to allow a domestic manufacturer's representative to seek nomination in any of the regions where the manufacturer they represent has manufacturing operations. The current Order limits manufacturer representatives to seek nomination only in the region where he or she resides. The Board conducted nominations under the newly implemented provisions and found that clarification in the Order was needed to reflect the multi-regional nature of manufacturers rather than the individual nominee. Several domestic manufacturers have operations in multiple U.S. regions. Revising the Order to allow a person to seek nomination in one of the regions where the manufacturer they represent has operations would provide flexibility to the Order, while maintaining the intent that Board members representing domestic manufacturers reside in the U.S. This proposal is will help facilitate program operations. Therefore, § 1217.40 (b)(1), (b)(1)(i), (b)(1)(ii), and (b)(1)(iii) would be revised accordingly.

Initial Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) is required to examine the impact of the action on small entities. Accordingly, AMS has considered the economic impact of this action on such entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to the actions so that small businesses will not be disproportionately burdened. The Small Business Administration (SBA) defines, in 13 CFR part 121, small agricultural service firms (domestic softwood lumber manufacturers and importers) as those having annual receipts of no more than $8 million.[1]

The Random Lengths Publications, Inc.'s yearly average framing lumber composite price was $356 per thousand board feet (mbf) in 2019. Dividing the $8 million threshold that defines an agricultural service firm as small by this price results in a maximum threshold of 22.5 million board feet (mmbf) of softwood lumber per year that a domestic manufacturer or importer may ship to be considered a small entity for purposes of the RFA. Table 1 shows the number of entities and the amount of volume they represent that may be categorized as small or large based on the SBA definition.

TABLE 1—DOMESTIC MANUFACTURERS AND IMPORTERS BY SBA SIZE STANDARDS, 2019

	Domestic manufacturers		Importers		Totals	
	Entities	Volume (MMBF)	Entities	Volume (MMBF)	Entities	Volume (MMBF)
Small	226	1,991	774	1,257	1,000	3,248
Large	290	32,229	106	32,582	396	64,811
Total	516	34,220	880	33,839	1,396	68,059

Sources: Forest Economic Advisors; Customs and Border Protection.

As shown in Table 1, there are a total of 1,396 domestic manufacturers and importers of softwood lumber based on 2019 data. Of these, 1,000 entities, or 72 percent, shipped or imported less than 22.5 mmbf and would be considered small based on the SBA definition. These 1,000 entities domestically manufactured or imported 3.25 billion board feet (bbf) in 2019, less than 5 percent of total volume. The proposed revision to the Board eligibility requirements would not disproportionately burden small domestic manufacturers and importers of softwood lumber.

This proposal would revise § 1217.40 (b)(1), (b)(1)(i), (b)(1)(ii), and (b)(1)(iii) to allow domestic softwood lumber manufacturer representatives to seek nomination in any of the regions where the manufacturer they represent has manufacturing operations. The Order is administered by the Board with oversight by the USDA. In accordance with the program requirements, assessments are collected from domestic manufacturers and importers, and used for research and promotion projects designed to strengthen the position of softwood lumber in the marketplace. Revising the Order to allow a person to seek nomination in one of the regions where the softwood lumber manufacturer has operations would provide flexibility to the Order, while maintaining the intent that Board members representing domestic manufacturers reside in the U.S.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB control number 0581–0093. This proposed rule would not result in a change to the information collection and recordkeeping requirements previously approved and would impose no additional reporting and recordkeeping burden on domestic manufacturers and importers of softwood lumber.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not

[1] SBA does have a small business size standard for ''Sawmills'' of 500 employees (see *https://www.sba.gov/sites/default/files/2019-08/SBA%20Table%20of%20Size%20Standards_Effective%20Aug%2019%2C%202019_Rev.pdf*). Based on USDA's understanding of the lumber industry, using this criterion would be impractical as sawmills often use contractors rather than employees to operate and, therefore, many mills would fall under this criterion while being, in reality, a large business. Therefore, USDA used agricultural service firm as a more appropriate criterion for this analysis.

identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

Regarding alternatives, the Board considered not changing the nominee eligibility requirements, however, the entire Board determined that making this proposed change would better align the Order provisions with industry practices and would help facilitate Board operations. This proposal was discussed at the Industry Relations and Governance Committee meeting on February 18, 2020, and at the Board meeting on February 26, 2020.

AMS has performed this initial RFA analysis regarding the impact of this action on small entities and invites comments concerning potential effects of this action.

USDA has determined that this proposed rule is consistent with and would effectuate the purposes of the 1996 Act.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments received in response to this proposed rule by the date specified will be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1217

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Softwood Lumber promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1217, is proposed to be amended as follows:

PART 1217—SOFTWOOD LUMBER RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

■ 1. The authority citation for 7 CFR part 1217 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

■ 2. In § 1217.40, revise paragraphs (b)(1) introductory text, (b)(1)(i), (ii), and iii), to read as follows:

§ 1217.40 Establishment and membership.

* * * * *

(b) * * *

(1) *Domestic manufacturers.* Domestic manufacturers must reside in the United States. For the 2020 Board, 11 members shall represent domestic manufacturers and for the 2021 Board and each subsequent Board, ten members shall represent domestic manufacturers who reside in the following three regions:

(i) Five members shall represent manufacturers of softwood lumber in the U.S. South Region, which consists of the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. For the 2020 Board, of these five members, two must represent large and three must represent small domestic manufacturers. For the 2021 Board and each subsequent Board of these five members, two must represent large, two must represent small, and one may represent domestic manufacturers of any size;

(ii) Five members shall represent manufacturers of softwood lumber in the U.S. West Region for the 2020 Board, and for the 2021 Board and each subsequent Board, four members shall manufacture softwood lumber in the U.S. West Region, which consists of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. For the 2020 Board, of these five members, four must represent large and one must represent small domestic manufacturers. For the 2021 Board and each subsequent Board, of the four members, two must represent large, one must represent small, and one may represent domestic manufacturers of any size; and

(iii) One member shall represent a manufacturer of softwood lumber in the Northeast and Lake States Region, which consists of the states of Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin and all other parts of the United States not listed in paragraph (b)(1)(i), (ii), or (iii) of this section. This member may represent domestic manufacturers of any size.

* * * * *

Bruce Summers,

Administrator.

[FR Doc. 2020–09726 Filed 5–8–20; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2020–F–1289]

Adisseo France S.A.S.; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that Adisseo France S.A.S. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of selenomethionine hydroxy analogue as a source of selenium in feed for beef and dairy cattle.

DATES: The food additive petition was filed on March 27, 2020.

ADDRESSES: For access to the docket, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts; and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Chelsea Cerrito, Center for Veterinary Medicine, Food and Drug Administration,7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *Chelsea.Cerrito@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2312) has been filed by Adisseo France S.A.S.; Immeuble Antony Parc II, 10 Place du Général de Gaulle, 92160 Antony, France. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 (21 CFR part 573) *Food Additives Permitted in Feed and Drinking Water of Animals* to provide for the safe use of selenomethionine hydroxy analogue as a source of selenium in feed for beef and dairy cattle.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that, to their knowledge, no extraordinary circumstances exist. If FDA determines a categorical exclusion applies, neither

an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: April 24, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–09186 Filed 5–8–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–113295–18]

RIN 1545–BO87

Effect of Section 67(g) on Trusts and Estates

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations clarifying that the following deductions allowed to an estate or non-grantor trust are not miscellaneous itemized deductions: Costs paid or incurred in connection with the administration of an estate or non-grantor trust that would not have been incurred if the property were not held in the estate or trust, the personal exemption of an estate or non-grantor trust, the distribution deduction for trusts distributing current income, and the distribution deduction for estates and trusts accumulating income. Therefore, these deductions are not affected by the suspension of the deductibility of miscellaneous itemized deductions for taxable years beginning after December 31, 2017, and before January 1, 2026. The proposed regulations also provide guidance on determining the character, amount, and allocation of deductions in excess of gross income succeeded to by a beneficiary on the termination of an estate or non-grantor trust. These proposed regulations affect estates, non-grantor trusts (including the S portion of an electing small business trust), and their beneficiaries.

DATES: Written or electronic comments and requests for a public hearing must be received by June 25, 2020.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–113295–18) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The IRS expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically, and to the extent practicable on paper, to its public docket.

Send paper submissions to: CC:PA:LPD:PR (REG–113295–18), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

Requests for a public hearing must be submitted as prescribed in the ''Comments and Requests for a Public Hearing'' section.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Margaret Burow, (202) 317–5279; concerning submissions of comments and/or requests for a public hearing, Regina Johnson, (202) 317–5177 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under sections 67 and 642 of the Internal Revenue Code (Code).

I. Section 67(g)

Section 67(g) was added to the Code on December 22, 2017, by section 11045(a) of the Tax Cuts and Jobs Act, Public Law 115–97, 131 Stat. 2054, 2088 (2017) (Act). Section 67(g) prohibits individual taxpayers from claiming miscellaneous itemized deductions for any taxable year beginning after December 31, 2017, and before January 1, 2026.

For purposes of subtitle A of the Code, an individual's *adjusted gross income* is defined in section 62(a) as gross income minus the deductions listed in section 62(a)(1) through (21). Individuals then may subtract itemized deductions from adjusted gross income to arrive at taxable income. *See* section 63(a). Section 63(d) defines *itemized deductions* as deductions allowable under chapter 1 of subtitle A of the Code, other than (1) deductions allowable in arriving at adjusted gross income, (2) deductions for personal exemptions provided by section 151, and (3) the deduction under section 199A. A subset of these itemized deductions, identified as miscellaneous itemized deductions, are subject to special rules. Prior to the Act, miscellaneous itemized deductions were allowable for any taxable year only if the sum of such deductions exceeded two percent of adjusted gross income. *See* section 67(a). Section 67(b) defines *miscellaneous itemized deductions* as itemized deductions other than those listed in section 67(b)(1) through (12).

II. Section 67(e)

Section 67(e) provides that an estate or trust computes its adjusted gross income in the same manner as that of an individual, except that the following additional deductions are treated as allowable in arriving at adjusted gross income: (1) The deductions for costs which are paid or incurred in connection with the administration of the estate or trust and which would not have been incurred if the property were not held in such estate or trust, and (2) deductions allowable under section 642(b) (concerning the personal exemption of an estate or non-grantor trust), section 651 (concerning the deduction for trusts distributing current income), and section 661 (concerning the deduction for trusts accumulating income). Accordingly, section 67(e) removes the deductions in section 67(e)(1) and (2) from the definition of itemized deductions under section 63(d), and thus from the definition of miscellaneous itemized deductions under section 67(b), and treats them as deductions allowable in arriving at adjusted gross income under section 62(a). Section 67(e) further provides regulatory authority to make appropriate adjustments in the application of part I of subchapter J of chapter 1 of the Code to take into account the provisions of section 67.

On July 13, 2018, the Treasury Department and the IRS issued Notice 2018–61, 2018–31 I.R.B. 278, announcing that proposed regulations would be issued concerning the effect of section 67(g) on the deductibility of certain expenses described in section 67(b) and (e) incurred by estates and non-grantor trusts. The notice states that regulations would clarify that expenses described in section 67(e) remain deductible in determining the adjusted gross income of an estate or non-grantor trust during the taxable years in which section 67(g) applies.

III. Section 642(h)

Section 642(h) provides that if, on the termination of an estate or trust, the estate or trust has: (1) A net operating loss carryover under section 172 or a capital loss carryover under section 1212, or (2) for the last taxable year of the estate or trust, deductions (other than the deductions allowed under section 642(b) (relating to the personal exemption) or section 642(c) (relating to charitable contributions)) in excess of gross income for such year, then such carryover or such excess shall be allowed as a deduction, in accordance with the regulations prescribed by the Secretary of the Treasury or his delegate, to the beneficiaries succeeding to the property of the estate or trust.

Net operating loss and capital loss carryovers under section 642(h)(1) are used to compute adjusted gross income on the return of a beneficiary, formerly referred to as an above-the-line deduction. *See* § 1.642(h)–1. The excess deduction under section 642(h)(2) is not, however, used to compute adjusted gross income on the return of a beneficiary. Instead, § 1.642(h)–2(a) provides that the section 642(h)(2) excess deduction is ''allowed only in computing taxable income and must be taken into account in computing the items of tax preference of beneficiaries; it is not allowed in computing adjusted gross income.'' As a result, under the existing regulations, excess deductions on termination of an estate or trust are treated as a single miscellaneous itemized deduction (section 642(h)(2) excess deduction) of the beneficiary subject to disallowance under section 67(g). *See also* sections 63(d) and 67(b).

The section 642(h)(2) excess deduction may be comprised of several types of deductions including: (1) Those deductions allowable in arriving at adjusted gross income under sections 62 and 67(e); (2) itemized deductions under section 63(d) allowable in computing taxable income; and (3) miscellaneous itemized deductions currently disallowed under section 67(g). *See* section 67(b). Notice 2018–61 explained that the Treasury Department and the IRS were studying whether section 67(e) deductions, as well as other deductions not subject to the limitations imposed by sections 67(a) and (g) in the hands of the estate or trust, should continue to be treated as miscellaneous itemized deductions when included as a section 642(h)(2) excess deduction.

Notice 2018–61 requested comments regarding the effect of section 67(g) on the ability of the beneficiary to deduct amounts comprising the section 642(h)(2) excess deduction on the termination of an estate or trust considering section 642(h) and § 1.642(h)–2(a) and expressed the intent to address this issue in regulations. The Treasury Department and the IRS requested comments regarding whether the separate deductions comprising the section 642(h)(2) excess deduction, such as section 67(e) deductions, should be analyzed separately when applying section 67.

The Treasury Department and the IRS received comments addressing issues concerning section 67(e), as well as excess deductions on termination of an estate or trust under section 642(h), as discussed in more detail in the Explanation of Provisions section of this preamble. All comments were considered and are available for public inspection. The Treasury Department and the IRS continue to study issues related to sections 67 and 642 that are beyond the scope of these proposed regulations and may discuss those comments in future guidance.

Explanation of Provisions

I. Section 1.67–4

Commenters agreed with the statements in Notice 2018–61 that deductions described in section 67(e)(1) and (2) are not miscellaneous itemized deductions subject to disallowance by section 67(g) and asked that the language in § 1.67–4 be amended to clarify this position. This document contains proposed regulations amending § 1.67–4 to clarify that section 67(g) does not deny an estate or non-grantor trust (including the S portion of an electing small business trust) a deduction for expenses described in section 67(e)(1) and (2) because such deductions are allowable in arriving at adjusted gross income and are not miscellaneous itemized deductions under section 67(b).

One commenter asked that the regulations address the treatment of expenses and deductions described in section 67(e)(1) and (2) in determining an estate or non-grantor trust's income for alternative minimum tax (AMT) purposes. The commenter requested that regulations provide that such expenses and deductions continue to be deductible for AMT purposes. The treatment of expenses and deductions described in section 67(e) for purposes of determining AMT is outside the scope of these proposed regulations concerning the effects of section 67(g); therefore, these proposed regulations do not address the AMT.

II. Regulations Under Section 642(h)

A. Character and Amount of the Excess Deductions

Commenters opined that the Treasury Department and the IRS have and should exercise their regulatory authority not to treat the section 642(h)(2) excess deduction as a single miscellaneous itemized deduction. Commenters noted that the regulations under § 1.642(h)–2 were written before the concept of miscellaneous itemized deductions was added to the Code and need to be updated.

In response to the request for comments in Notice 2018–61 concerning analysis of the separate deductions that comprise the section 642(h)(2) excess deduction, commenters stated that the Treasury Department and the IRS should provide regulations for the segregation of the section 642(h)(2) excess deduction into its components to determine the character, computation, and deductibility of costs. One commenter said that failure to provide for such segregation could result in either the prolonged administration of estates or trusts, or the sale of assets, to fully utilize deductible costs at the estate or trust level. Another commenter stated that the portion of the section 642(h)(2) excess deduction that qualifies as section 67(e)(1) expenses should remain deductible in arriving at a beneficiary's adjusted gross income and that the remaining section 642(h)(2) excess deduction should be treated as a single itemized deduction, which would avoid having to further separate out the individual costs comprising the excess deduction to determine deductibility at the beneficiary level. Other commenters proposed treating the section 642(h)(2) excess deduction as allowable in full in arriving at the beneficiary's adjusted gross income similar to the treatment of a section 67(e) deduction.

Another commenter requested more specific guidance on the character of the excess deductions. The commenter recommended that the fiduciary be required to separate deductions into at least three categories: (1) Deductions allowed in arriving at adjusted gross income, (2) non-miscellaneous itemized deductions, and (3) miscellaneous itemized deductions. This commenter stated that the character of the deductions should not change when succeeded to by the beneficiaries on termination of the estate or trust. Further, the commenter suggested that regulations require that deductions subject to limitation when claimed by a beneficiary be separately identified (for example, the limitation on state and local property and income tax

deductions under section 164(b)(6)). The commenter also requested guidance on how each item of deduction offsets items of income of the estate or trust in the final year of administration for purposes of determining the character of the excess deductions. The character of the excess deductions will vary based on how an executor or trustee allocates deductions against the income of the estate or trust. The same commenter suggested that the rules under § 1.652(b)–3, which are used for determining the character of distributable net income to beneficiaries under sections 652 and 662, be used as a model to determine how deductions are allocated to offset income in the final year of administration of the estate or trust for purposes of determining the character of the section 642(h)(2) excess deduction.

The Treasury Department and the IRS adopt the more specific suggestion from commenters of preserving the tax character of the three categories of expenses, rather than the suggestion of grouping all non-section 67(e) expenses together, to allow for such expenses to be separately stated and to facilitate reporting to beneficiaries. Thus, under these proposed regulations, each deduction comprising the section 642(h)(2) excess deduction retains its separate character, specifically: As an amount allowed in arriving at adjusted gross income; a non-miscellaneous itemized deduction; or a miscellaneous itemized deduction. The character of these deductions does not change when succeeded to by a beneficiary on termination of the estate or trust. Further, these proposed regulations require that the fiduciary separately state (that is, separately identify) deductions that may be limited when claimed by the beneficiary as provided in the instructions to Form 1041, *U.S. Income Tax Return for Estates and Trusts* and the Schedule K–1 (Form 1041), *Beneficiary's Share of Income, Deductions, Credit, etc.*

The proposed regulations adopt the suggestion that the principles under § 1.652(b)–3 be used to allocate each item of deduction among the classes of income in the year of termination for purposes of determining the character and amount of the excess deductions under section 642(h)(2). Section 1.652(b)–3(a) provides that deductions directly attributable to one class of income are allocated to that income. Any remaining deductions that are not directly attributable to a specific class of income, as well as any deductions that exceed the amount of directly attributable income, may be allocated to any item of income (including capital gains), but a portion must be allocated to tax-exempt income, if any. *See* § 1.652(b)–3(b) and (d). The proposed regulations provide that the character and amount of each deduction remaining after application of § 1.652(b)–3 comprises the excess deductions available to the beneficiaries succeeding to the property as provided under section 642(h)(2).

These proposed regulations incorporate a new example to illustrate the rule for determining the character of excess deductions in proposed § 1.642(h)–2. The proposed regulations also update the current example in § 1.642(h)–5 to account for changes in the Code since this example was last modified on June 16, 1965, in T.D. 6828, 1965–2 C.B. 264.

B. Allocation of the Excess Deduction Among Beneficiaries

One commenter requested guidance on allocating the excess deductions among multiple beneficiaries and suggested that the allocation could be made generally, in proportion to the entire amount of deductions, or specifically, based on the burden the beneficiary bears as to each deduction. The commenter noted, however, that a specific allocation may increase fiduciary reporting and IRS administrative burdens and may not be worth the added complexity.

Existing regulations under § 1.642(h)–4 provide that carryovers and excess deductions to which section 642(h) applies are allocated among the beneficiaries succeeding to the property of an estate or trust proportionately according to the share of each in the burden of the loss or deduction. A person who qualifies as a beneficiary succeeding to the property of an estate or trust with respect to one amount and who does not qualify with respect to another amount is a beneficiary succeeding to the property of the estate or trust as to the amount with respect to which the beneficiary qualifies. These proposed regulations do not change the allocation method among beneficiaries set forth in § 1.642(h)–4.

One commenter asked that the Treasury Department and the IRS address the treatment of suspended deductions on the termination of a trust, such as those under section 163(d) for investment interest, and asked that such suspended deductions be treated in the same manner as the excess deduction under section 642(h). While the Treasury Department and the IRS acknowledge the comment, addressing suspended deductions under section 163(d) and other Code sections is beyond the scope of these proposed regulations.

Proposed Applicability Date

These proposed regulations apply to taxable years beginning after the date these regulations are published as final regulations in the **Federal Register**. However, estates, non-grantor trusts, and their beneficiaries may rely on these proposed regulations under section 67 for taxable years beginning after December 31, 2017, and on or before the date these regulations are published as final regulations in the **Federal Register**. Taxpayers may also rely on the proposed regulations under section 642(h) for taxable years of beneficiaries beginning after December 31, 2017, and on or before the date these regulations are published as final regulations in the **Federal Register** in which an estate or trust terminates.

One commenter asked that the Treasury Department and the IRS clarify that expenses incurred during an estate's fiscal year beginning before January 1, 2018, which properly are characterized as miscellaneous itemized deductions, remain deductible as such even if some of the costs were paid after January 1, 2018. Section 67(g) applies to taxable years beginning after December 31, 2017; therefore section 67(g) would not apply to an estate's or trust's taxable years beginning before that date.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. Therefore, a regulatory impact assessment is not required.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the amount of time necessary to report the required information will be minimal in that it requires fiduciaries of estates and trusts to provide information already maintained and reported to the IRS on Form 1041, on the Schedule K–1 (Form 1041) issued to beneficiaries. Moreover, it should take an estate or trust no more than 2 hours to satisfy the information requirement in these regulations. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Paperwork Reduction Act

The collection of information related to these proposed regulations under section 642(h) is reported on Schedule K–1 (Form 1041), Beneficiary's Share of Income, Deductions, Credits, etc., and has been reviewed in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) and approved by the Office of Management and Budget under control number 1545–0092. Comments concerning the collection of information and the accuracy of estimated average annual burden and suggestions for reducing this burden should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the burden associated with this collection of information must be received by July 10, 2020.

The collection of information in these proposed regulations is in proposed § 1.642(h)–2(b)(1). The IRS requires this information to ensure that excess deductions on an estate's or trust's termination that are subject to additional applicable limitations retain their character when taken into account by beneficiaries on their returns. The respondents will be estates, trusts and their fiduciaries.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

Comments and Requests for Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any electronic comments submitted, and to the extent practicable any paper comments submitted, will be made available at *www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**. Announcement 2020–4, 2020–17 IRB 1, provides that until further notice, public hearings conducted by the IRS will be held telephonically. Any telephonic hearing will be made accessible to people with disabilities.

Drafting Information

The principal author of these proposed regulations is Margaret Burow of the Office of Associate Chief Counsel (Passthroughs and Special Industries). Other personnel from the Treasury Department and the IRS, however, participated in their development.

Statement of Availability of IRS Documents

The IRS notice cited in this document is published in the Internal Revenue Bulletin and available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry for § 1.67–4 and an entry for §§ 1.642(h)–2 and 1.642(h)–5 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.67–4 also issued under 26 U.S.C. 67(e).

* * * * *

Sections 1.642(h)–2 and 1.642(h)–5 also issued under 26 U.S.C. 642(h).

* * * * *

■ **Par. 2.** Section 1.67–4 is amended by revising paragraph (a) and the heading of paragraph (d) and adding a sentence at the end of paragraph (d) to read as follows:

§ 1.67–4 Costs paid or incurred by estates or non-grantor trusts.

(a) *In general*—(1) *Section 67(e) deductions.* (i) An estate or trust (including the S portion of an electing small business trust) not described in § 1.67–2T(g)(1)(i) (a non-grantor trust) shall compute its adjusted gross income in the same manner as an individual, except that the following deductions (*Section 67(e) deductions*) are allowed in arriving at adjusted gross income:

(A) Costs that are paid or incurred in connection with the administration of the estate or trust, which would not have been incurred if the property were not held in such estate or trust; and

(B) Deductions allowable under section 642(b) (relating to the personal exemption) and sections 651 and 661 (relating to distributions).

(ii) Section 67(e) deductions are not itemized deductions under section 63(d) and are not miscellaneous itemized deductions under section 67(b). Therefore, section 67(e) deductions are not disallowed under section 67(g).

(2) *Deductions subject to 2-percent floor.* A cost is not a section 67(e) deduction and thus is subject to both the 2-percent floor in section 67(a) and section 67(g) to the extent that it is included in the definition of miscellaneous itemized deductions under section 67(b), is incurred by an estate or non-grantor trust (including the S portion of an electing small business trust), and commonly or customarily would be incurred by a hypothetical individual holding the same property.

* * * * *

(d) *Applicability date.* * * * Paragraph (a) of this section applies to taxable years beginning after [*date these regulations are published as final in the* ***Federal Register***].

■ **Par. 3.** Section 1.642(h)–2 is amended by:

■ 1. Revising paragraph (a).

■ 2. Redesignating paragraph (b) as paragraph (d) and adding a heading for newly redesignated paragraph (d).

■ 3. Redesignating paragraph (c) as paragraph (e) and adding a heading for newly redesignated paragraph (e).

■ 4. Adding new paragraphs (b), (c), and (f).

The revisions and additions read as follows:

§ 1.642(h)–2 Excess deductions on termination of an estate or trust.

(a) *In general.* If, on the termination of an estate or trust, the estate or trust has for its last taxable year deductions (other than the deductions allowed under section 642(b) (relating to the personal exemption) or section 642(c) (relating to charitable contributions)) in excess of gross income, the excess deductions are allowed under section 642(h)(2) as items of deduction to the beneficiaries succeeding to the property of the estate or trust.

(b) *Character and amount of excess deductions*—(1) *Character.* The character and amount of the excess deductions on termination of an estate or trust will be determined as provided in this paragraph (b). Each deduction comprising the excess deductions under section 642(h)(2) retains, in the hands of the beneficiary, its character (specifically, as allowable in arriving at adjusted gross income, as a non-miscellaneous itemized deduction, or as a miscellaneous itemized deduction) while in the estate or trust. An item of deduction succeeded to by a beneficiary remains subject to any additional applicable limitation under the Code and must be separately stated if it could be so limited, as provided in the instructions to Form 1041, *U.S. Income Tax Return for Estates and Trusts* and the Schedule K–1 (Form 1041), *Beneficiary's Share of Income, Deductions, Credit, etc.,* or successor forms.

(2) *Amount.* The amount of the excess deductions in the final year is determined as follows:

(i) Each deduction directly attributable to a class of income is allocated in accordance with the provisions in § 1.652(b)–3(a);

(ii) To the extent of any remaining income after application of paragraph (b)(2)(i) of this section, deductions are allocated in accordance with the provisions in § 1.652(b)–3(b) and (d); and

(iii) Deductions remaining after the application of paragraph (b)(2)(i) and (ii) of this section comprise the excess deductions on termination of the estate or trust. These deductions are allocated to the beneficiaries succeeding to the property of the estate of or trust in accordance with § 1.642(h)–4.

(c) *Year of termination*—(1) *In general.* The deductions provided for in paragraph (a) of this section are allowable only in the taxable year of the beneficiary in which or with which the estate or trust terminates, whether the year of termination of the estate or trust is of normal duration or is a short taxable year.

(2) *Example.* Assume that a trust distributes all its assets to B and terminates on December 31, Year X. As of that date, it has excess deductions of $18,000, all characterized as allowable in arriving at adjusted gross income under section 67(e). B, who reports on the calendar year basis, could claim the $18,000 as a deduction allowable in arriving at B's adjusted gross income for Year X. However, if the deduction (when added to B's other deductions) exceeds B's gross income, the excess may not be carried over to any year subsequent to Year X.

(d) *Net operating loss carryovers.* * * *

(e) *Items included in net operating loss or capital loss carryovers.* * * *

(f) *Applicability date.* Paragraphs (a) and (b) of this section apply to taxable years beginning after [*date these regulations are published as final in the* ***Federal Register***].

Par. 4. Section 1.642(h)–5 is revised to read as follows:

§ 1.642(h)–5 Examples.

The following examples illustrate the application of section 642(h).

(a) *Example 1. Computations under section 642(h) when an estate has a net operating loss*—(1) *Facts.* On January 31, 2020, A dies leaving a will that provides for the distribution of all of A's estate equally to B and an existing trust for C. The period of administration of the estate terminates on December 31, 2020, at which time all the property of the estate is distributed to B and the trust. For tax purposes, B and the trust report income on a calendar year basis. During the period of administration, the estate has the following items of income and deductions:

TABLE 1 TO PARAGRAPH (a)(1)

Income	
Taxable interest	$2,500
Business income	3,000
Total income	5,500

TABLE 2 TO PARAGRAPH (a)(1)

Deductions		
Business expenses (including administrative expense allocable to business income)	5,000	
Administrative expenses not allocable to business income that would not have been incurred if property had not been held in a trust or estate (section 67(e) deductions)	9,800	
Total deductions		14,800

(2) *Computation of net operating loss.* (i) Under section 642(h)(1), B and the trust are each allocated $1,000 of the $2,000 unused net operating loss carryover of the terminated estate in the taxable year, with the allowance of any net operating loss and loss carryover to B and the trust determined under section 172. The amount of the net operating loss carryover is computed as follows:

TABLE 3 TO PARAGRAPH (a)(2)(i)

Gross income		$5,500
Total deductions	14,800	
Less adjustment under section 172(d)(4) (allowable non-business expenses ($9,800) limited to non-business income ($2,500))	7,300	
Deductions as adjusted		7,500
Net operating loss		2,000

(ii) Neither B nor the trust can carry back any of the net operating loss of A's estate made available to them under section 642(h)(1).

(3) *Section 642(h)(2) excess deductions.* The $7,300 of deductions not taken into account in determining the net operating loss of the estate are excess deductions on termination of the estate under section 642(h)(2). Under § 1.642(h)–2(b)(1), such deductions retain their character as section 67(e) deductions. Under § 1.642(h)–4, B and the trust each are allocated $3,650 of excess deductions based on B's and the trust's respective shares of the burden of each cost.

(4) *Consequences for C.* The net operating loss carryovers and excess deductions are not allowable directly to C, the trust beneficiary. To the extent the distributable net income of the trust is reduced by the carryovers and excess deductions, however, C may receive an indirect benefit from the carryovers and excess deductions.

(b) *Example 2. Computations under section 642(h)(2)*—(1) *Facts.* D dies in 2019 leaving an estate of which the residuary legatees are E (75%) and F (25%). The estate's income and deductions in its final year are as follows:

TABLE 4 TO PARAGRAPH (b)(1)

Income		
Dividends	$3,000	
Taxable Interest	500	
Rents	2,000	
Capital Gain	1,000	
Total Income		6,500

TABLE 5 TO PARAGRAPH (b)(1)

Deductions		
Section 67(e) deductions:		
Probate fees	1,500	
Estate tax preparation fees	8,000	
Legal fees	4,500	
Total Section 67(e) deductions	14,000	
Itemized deductions:		
Real estate taxes on rental property	3,500	
Total deductions		17,500

(2) *Determination of character.* Pursuant to § 1.642(h)–2(b)(2), the character and amount of the excess deductions is determined by allocating the deductions among the estate's items of income as provided under

§ 1.652(b)–3. Under § 1.652(b)–3(a), $2,000 of real estate taxes is allocated to the $2,000 of rental income. In the exercise of the executor's discretion pursuant to § 1.652(b)–3(b) and (d), D's executor allocates $4,500 of section 67(e) deductions to the remaining $4,500 of income. As a result, the excess deductions on termination of the estate are $11,000, consisting of $9,500 of section 67(e) deductions and $1,500 of itemized deductions.

(3) *Allocations among beneficiaries.* Pursuant to § 1.642(h)–4, the excess deductions are allocated in accordance with E's (75 percent) and F's (25 percent) interests in the residuary estate. E's share of the excess deductions is $8,250, consisting of $7,125 of section 67(e) deductions and $1,125 of real estate taxes. F's share of the excess deductions is $2,750, consisting of $2,375 of section 67(e) deductions and $375 of real estate taxes. The real estate taxes on rental property must be separately stated as provided in § 1.642(h)–2(b)(1).

(c) *Applicability date.* This section is applicable to taxable years beginning after [*date these regulations are published as final in the* ***Federal Register***].

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2020–09801 Filed 5–7–20; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2020–0022; FXMB12610700000–201–FF07M01000]

RIN 1018–BF12

Migratory Bird Subsistence Harvest in Alaska; Updates to the Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is proposing changes to the migratory bird subsistence harvest regulations in Alaska. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. The proposed changes would update the regulations to incorporate revisions requested by these partners.

DATES: We will accept comments received or postmarked on or before June 10, 2020.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–R7–MB–2020–0022.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R7–MB–2020–0022; U.S. Fish and Wildlife Service, MS: JAO/1N, 5275 Leesburg Place, Falls Church, VA 22041–3803.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comment Procedures section, below, for more information).

FOR FURTHER INFORMATION CONTACT: Cheryl Graves, U.S. Fish and Wildlife Service, 1011 E Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 786–3887.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

To ensure that any action resulting from this proposed rule will be as accurate and as effective as possible, we request that you send relevant information for our consideration. The comments that will be most useful and likely to influence our decisions are those that you support by quantitative information or studies and those that include citations to, and analyses of, the applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

You must submit your comments and materials concerning this proposed rule by one of the methods listed above in **ADDRESSES**. We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information, such as your address, telephone number, or email address—will be posted on the website. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail or hand-carry a hardcopy comment directly to us that includes personal information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. All comments and materials we receive will be available for public inspection in two ways:

(1) Via *http://www.regulations.gov.* Search for FWS–R7–MB–2020–0022, which is the docket number for this rulemaking.

(2) You can make an appointment, during normal business hours, to view the comments and materials in person at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–1714.

Background

The Migratory Bird Treaty Act of 1918 (MBTA, 16 U.S.C. 703 *et seq.*) was enacted to conserve certain species of migratory birds and gives the Secretary of the Interior the authority to regulate the harvest of these birds. The law further authorizes the Secretary to issue regulations to ensure that the indigenous inhabitants of the State of Alaska may take migratory birds and collect their eggs for nutritional and other essential needs during seasons established by the Secretary ''so as to provide for the preservation and maintenance of stocks of migratory birds'' (16 U.S.C. 712(1)).

The take of migratory birds for subsistence uses in Alaska occurs during the spring and summer, during which timeframe the sport harvest of migratory birds is not allowed. Regulations governing the subsistence harvest of migratory birds in Alaska are located in title 50 of the Code of Federal Regulations (CFR) in part 92. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds and prescribe regional information on when and where the harvesting of birds in Alaska may occur.

The migratory bird subsistence harvest regulations are developed cooperatively. The Alaska Migratory Bird Co-Management Council (Council) consists of the U.S. Fish and Wildlife Service, the Alaska Department of Fish and Game (ADFG), and representatives of Alaska's Native population. The Council's primary purpose is to develop recommendations pertaining to the subsistence harvest of migratory birds.

The Council generally holds an annual spring meeting to develop recommendations for migratory bird subsistence-harvest regulations in Alaska that would take effect in the spring of the next year. In 2018, the in-person spring meeting did not occur due to funding delays associated with a new

Federal review and approval process for financial assistance. Instead, the Council voted via teleconference and email in spring 2018 to approve subsistence harvest regulations that would take effect during the 2019 harvest season. The Council's recommendations were presented to the Pacific Flyway Council (PFC) for review and subsequent submission to the Service Regulations Committee (SRC) for approval at the SRC meeting on October 16–17, 2018. Because development of a proposed rule incorporating changes to subsistence harvest regulations for the 2019 season was delayed, we issued an interim rule that allowed subsistence hunting to begin on April 2, 2019, with the same harvest regulations from the 2018 season.

In 2019, the Council held meetings on April 4–5, to develop recommendations for migratory bird subsistence-harvest regulations in Alaska that would take effect during the 2020 harvest season. The Council's recommendations were presented to the PFC for review and subsequent submission to the SRC for approval at the SRC meeting on October 8–9, 2019.

This proposed rule contains changes to the subsistence harvest regulations recommended by the Council in 2018 and 2019, as described below.

Proposed Revisions to the Regulations

Per the collaborative process described above, this document proposes updates to the regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer. This rule also sets forth a list of migratory bird season openings and closures in Alaska by region.

We are proposing the same subsistence harvest regulations in subpart D, Annual Regulations Governing Subsistence Harvest, as those from the 2018 and 2019 subsistence harvest seasons (see 83 FR 13684, March 30, 2018, and 84 FR 12946, April 3, 2019) for the 2020 season with the following five exceptions:

(1) Yukon/Kuskokwim Delta Region 30-Day Closure Period

The Yukon Delta National Wildlife Refuge proposed in 2018 to extend the date range for the 30-day primary nesting period closure from June 1–August 15 to May 15–August 15 for the Yukon/Kuskokwim Delta Region of Alaska. The current date range (June 1–August 15) to set the 30-day closure does not sufficiently protect many nesting waterbird species during early nesting in years that allow early nesting. The proposal extends the date range for the 30-day primary nesting period closure by 2 weeks on the front end to provide Yukon Delta National Wildlife Refuge managers the flexibility to begin the 30-day closure period in May in years that allow early nesting. The proposal was approved by the Council, reviewed by the PFC, and adopted by the SRC in 2018 for implementation beginning with the 2019 subsistence harvest season. However, as described above, the proposed rule incorporating changes to subsistence harvest regulations for the 2019 season was delayed.

(2) North Slope Region Unit Boundary Change

The North Slope Borough Fish and Game Management Committee proposed in 2019 to adjust the boundary between the Northern and Southern Units of the North Slope Region in Alaska to move the communities of Atqasuk and Wainwright from the Southern Unit to the Northern Unit. The North Slope Region is divided into three units (Northern, Southern, and Eastern) due to its large geographic extent. Each of the units is defined by a unique set of season dates, including a 30-day primary nesting period closure, to accommodate high variation in snowmelt patterns, species composition, egg availability, and hunter access across the region. Currently, season dates in the Northern Unit better align with the timing of hunting activities in Atqasuk and Wainwright, relative to spring break-up patterns and the phenology of migratory birds, than those of the Southern Unit. Accordingly, the proposed change will result in season dates that more effectively balance the opportunity for hunters to harvest birds and eggs with an appropriate 30-day closure period to protect birds during the primary nesting period. This change in unit boundaries is not expected to result in increased harvest of birds and eggs in the North Slope Region. The proposed boundary descriptions for the Northern and Southern Units are as follows:

Northern Unit: From Icy Cape, everything east of longitude line 161°55′ W and north of latitude line 69°45′ N to the west bank of Sagavanirktok River and north to 71°.

Southern Unit: Southwestern North Slope Borough boundary northeast to Icy Cape, and everything west of longitude line 161°55′ W and south of latitude line 69°45′ N to the west bank of the Sagavanirktok River and south along the west bank to the North Slope Borough boundary, then west to the beginning.

(3) North Slope Region 30-Day Closure Period

The North Slope Borough Fish and Game Management Committee proposed in 2019 to allow flexible dates for the 30-day primary nesting period closure in the North Slope Region of Alaska. All Alaska subsistence harvest regions, except the Yukon/Kuskokwim Delta (YKD) Region, use fixed dates for the mandatory 30-day primary nesting period closure when bird and egg take is prohibited. The North Slope Region varies annually in multiple environmental and biological factors (*e.g.,* timing of snowmelt, ambient temperature, and birds' body condition). Arctic-nesting geese show wide fluctuations in nesting from year to year in response to annual environmental variations; however, over the past 30 years, studies on several species have demonstrated a consistent trend toward earlier nest initiation. Thus, in some years, the fixed dates of the 30-day closure do not align well with the primary nesting period. This proposal would allow the dates for the 30-day closure period in the North Slope Region to be changed from fixed dates published in the **Federal Register** to variable, annually derived dates if environmental and biological conditions warrant such a change. If a change in dates is unwarranted, the dates published in the **Federal Register** would apply.

A North Slope Region working group was established in fall 2019 that includes members from the North Slope Borough Fish and Game Management Committee, North Slope Borough Department of Wildlife, Yukon Delta National Wildlife Refuge (YDNWR), Service Alaska Region–Division of Migratory Bird Management, ADFG, and local villagers to develop a protocol for determining the annual process of establishing the 30-day closure dates, and communicating that information to hunters across the North Slope Region. The protocol will be modeled similarly to that used by the YKD Region, where the YDNWR and the Association of Village Council Presidents (AVCP) annually agree on the 30-day closure dates based on reports of when most birds have initiated nesting from field biologists and local villagers. Upon agreeing to closure dates, the YDNWR and AVCP prepare and distribute outreach materials to announce the closure dates.

(4) North Slope Region Special Brant Hunting Season Boundary

The North Slope Borough Fish and Game Management Committee proposed

in 2019 to change the southern boundary of the Special Brant Hunting Season on the North Slope Region of Alaska. Non-breeding and failed-breeding brant annually migrate from the Yukon/Kuskokwim Delta northward along the western coast of Alaska to the Teshekpuk Lake area on the North Slope to undergo molt of primary flight feathers. The Special Black Brant Hunting Season regulations currently allow harvest of migrating brant from June 20 through July 5 along the coastline and in open water around the village of Wainwright. The proposed change would extend the boundary associated with the Special Black Brant Hunting Season south and west to include the entirety of Kasegaluk Lagoon to provide hunters from the village of Point Lay the opportunity to harvest migrating brant. This boundary change may increase brant harvest slightly in the North Slope Region, but any additional harvest is expected to have negligible impact to brant population status.

The proposed boundary description for the North Slope Region's Special Black Brant Hunting Season is as follows:

Special Black Brant Hunting Season: June 20–July 5. The open area consists of the coastline from the mean high-water line outward to the North Slope Borough boundary to include open water and barrier islands from southern Kasegaluk Lagoon from latitude line 69°16′ N to the north and east to longitude line 158°30′ W.

(5) Kodiak Archipelago Region Kodiak Island Roaded Area Closure

In 2019, the Kodiak Archipelago Regional Management Body proposed in the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska to allow migratory bird hunting and egg gathering by registration permit only for a 3-year trial period (2020–2022) after which the regulation would sunset. The Roaded Area would remain closed to hunting and egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese. The purpose of the proposed regulation is to allow all residents of the Kodiak Archipelago Region the opportunity to participate in subsistence hunting activities without the need for a boat. Current regulations close the Roaded Area to all subsistence migratory bird hunting and egg gathering, but allow these activities in adjacent marine waters beyond 500 feet from shore, including offshore islands where access requires a watercraft.

The proposed subsistence hunt in the Roaded Area will be administered as a registration permit hunt with a harvest reporting requirement for a 3-year trial period. Following the 3-year trial period, the Roaded Area would close in 2023 to migratory bird hunting and egg gathering. Reopening the Roaded Area would require a new proposal and approval in 2022. The Roaded Area has been closed to subsistence hunting since spring 2003 when spring-summer subsistence hunting and egg gathering was legalized, so there is a lack of subsistence harvest information for this area. The registration permit hunt with mandatory reporting of hunter activity and harvest will allow estimation of hunter participation, bird and egg harvest, and harvest composition during the 3-year trial period. These data will inform a proposal and decision to reopen the Roaded Area to subsistence hunting in the future. The Roaded Area registration permit will be administered by the ADFG Division of Subsistence in cooperation with the Sun'aq Tribe of Kodiak. Administration of the registration permit will be similar to that of the registration permit for subsistence hunting administered successfully in Cordova, Alaska, that has a reporting rate of 93 percent.

The Council recognized the necessity to protect species of conservation concern if a registration permit for subsistence hunting is approved for the Roaded Area; thus, spring-summer subsistence hunting and egg gathering in the Roaded Area would remain closed for Arctic terns, Aleutian terns, mew gulls, and emperor geese. Arctic and Aleutian tern nesting colonies have declined by greater than 80 percent in Alaska over the last 20 years, and only a few colonies remain on Kodiak Island, the largest of which are within the Roaded Area. Thus, protecting these tern species from further decline is a high priority of multiple stakeholders including the Council. Furthermore, the Roaded Area would remain closed to take of mew gulls and eggs because colony-level disturbance from targeted mew gull harvest could be detrimental to nesting terns and mew gull nests, and eggs may be confused with those of terns resulting in incidental harvest of tern eggs. Also, the Roaded Area would remain closed to take of emperor geese out of concern that it would provide unrestricted hunter access to a relatively small wintering population of emperor geese that utilize several bays near the road system, potentially increasing harvest vulnerability of a carefully managed species.

Compliance With the MBTA and the Endangered Species Act

The Service has dual objectives and responsibilities for authorizing a subsistence harvest while protecting migratory birds and endangered and threatened species. Although these objectives continue to be challenging, they are not irreconcilable, provided that: (1) Regulations continue to protect endangered and threatened species; (2) measures to address documented threats are implemented; and (3) the subsistence community and other conservation partners commit to working together.

Mortality, sickness, and poisoning from lead exposure have been documented in many waterfowl species, including threatened spectacled and Steller's eiders. While lead shot has been banned nationally for waterfowl hunting since 1991, Service staff have documented significant availability of lead shot in waterfowl rounds for sale in communities on the Yukon-Kuskokwim Delta and North Slope. The Service will work with partners to increase our education, outreach, and enforcement efforts to ensure that subsistence waterfowl hunting is conducted using nontoxic shot.

Conservation Under the MBTA

We have monitored subsistence harvest for more than 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon-Kuskokwim Delta. Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this rule will provide for the preservation and maintenance of migratory bird stocks as required by the MBTA. Communication and coordination between the Service, the Co-management Council, and the Pacific Flyway Council have allowed us to set harvest regulations to ensure the long-term viability of the migratory bird stocks. In addition, Alaska migratory bird subsistence harvest rates have continued to decline since the inception of the subsistence-harvest program, reducing concerns about the program's consistency with the preservation and maintenance of stocks of migratory birds.

Endangered Species Act Consideration

Spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) are listed as threatened species under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Neither species is included in the list of subsistence migratory bird species at 50

CFR 92.22; therefore, both species are closed to subsistence harvest. The Service notes that progress is being made with other eider conservation measures, including partnering with the North Slope Migratory Bird Task Force, for increased waterfowl-hunter awareness, continued enforcement of the regulations, and in-season verification of the harvest. Moreover, under 50 CFR 92.21 and 92.32, the Service may implement emergency closures, if necessary, to protect Steller's eiders or any other endangered or threatened species or migratory bird population.

Section 7 of the ESA requires the Secretary of the Interior to review other programs administered by the Department of the Interior and utilize such programs in furtherance of the purposes of the ESA. The Secretary is further required to insure that any action authorized, funded, or carried out by the Department of the Interior is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat.

The Alaska Division of Migratory Bird Management conducted an intra-agency consultation with the Service's Fairbanks Fish and Wildlife Field Office on this proposed and a related interim rule. The consultation was completed with a biological opinion that concluded these rulemaking actions are not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. Therefore, we have determined that this rule complies with the ESA.

Comment Period

Implementation of the Service's 2013 supplemental environmental impact statement on the hunting of migratory birds resulted in changes to the overall timing of the annual regulatory schedule for the establishment of migratory bird hunting regulations and the Alaska migratory bird subsistence harvest regulations. The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses compliance with the National Environmental Policy Act by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376).

Moving the annual SRC meeting from July to October has greatly shortened our period to publish the proposed regulations and solicit comments. We are further bounded by a subsistence harvest start date of April 2, 2020. Thus, we have established a 30-day comment period for this proposed rule (see **DATES**, above), and we will be conducting tribal consultations within Alaska simultaneously. We believe a 30-day comment period gives the public adequate time to provide meaningful comments.

Required Determinations

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This proposed rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, February 3, 2017) because this proposed rule would establish annual harvest limits related to routine hunting or fishing.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this proposed rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Department of the Interior certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. This proposed rule would legalize a preexisting subsistence activity, and the resources harvested will be consumed.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

(a) Would not have an annual effect on the economy of $100 million or more. It legalizes and regulates a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities that will be regulated under this rule are migratory birds. This proposed rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska qualify as small businesses. We have no reason to believe that this proposed rule would lead to a disproportionate distribution of benefits.

(b) Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This proposed rule does not deal with traded commodities and, therefore, would not have an impact on prices for consumers.

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This proposed rule deals with the harvesting of wildlife for personal consumption. It would not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, State, or tribal governments or private entities. The proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required. Participation on regional management bodies and the Co-management Council requires travel

expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. In a notice of decision (65 FR 16405; March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The ADFG also incurs expenses for travel to Council and regional management body meetings. In addition, the State of Alaska would be required to provide technical staff support to each of the regional management bodies and to the Council. Expenses for the State's involvement may exceed $100,000 per year, but should not exceed $150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the ADFG to help offset their expenses.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this proposed rule would not have significant takings implications. This proposed rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. We discuss effects of this rule on the State of Alaska in the *Unfunded Mandates Reform Act* section, above. We worked with the State of Alaska to develop these proposed regulations. Therefore, a federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

The Department, in promulgating this proposed rule, has determined that it would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Government-to-Government Relations With Native American Tribal Governments

Consistent with Executive Order 13175 (65 FR 67249; November 6, 2000), ''Consultation and Coordination with Indian Tribal Governments,'' and Department of Interior policy on Consultation with Indian Tribes (December 1, 2011), we will send letters via electronic mail to all 229 Alaska Federally recognized Indian tribes. Consistent with Congressional direction (Pub. L. 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267), we also will send letters to approximately 200 Alaska Native corporations and other tribal entities in Alaska soliciting their input as to whether or not they would like the Service to consult with them on the proposed migratory bird subsistence harvest regulations.

We implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They develop recommendations for, among other things: Seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat protection. The management bodies involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we required each of the 11 participating regions to create regional management bodies consisting of at least one representative from the participating villages. The regional management bodies meet twice annually to review and/or submit proposals to the statewide body.

Paperwork Reduction Act of 1995 (PRA)

This rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved our collection of information associated with voluntary annual household surveys that we use to determine levels of subsistence take (OMB Control Number 1018–0124, expires August 31, 2022).

National Environmental Policy Act Consideration (42 U.S.C. 4321 et seq.)

The annual regulations and options are considered in a February 2020 environmental assessment, ''Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2020 Spring/Summer Harvest.'' Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at *http://www.regulations.gov.*

Energy Supply, Distribution, or Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This is not a significant regulatory action under this Executive Order; it allows only for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest. Further, this proposed rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, a Statement of Energy Effects is not required.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, we propose to amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

■ 1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

■ 2. Amend § 92.31 by:
■ a. Revising paragraph (b)(2);
■ b. Revising the first sentence of paragraph (e) and adding a new sentence to follow the newly revised first sentence;
■ c. Revising the introductory text of paragraph (g)(1) and paragraphs (g)(1)(iii) and (g)(2); and
■ d. Redesignating paragraphs (g)(4) and (g)(5) as paragraphs (g)(5) and (g)(6) and adding a new paragraph (g)(4).

The revisions and additions read as follows:

§ 92.31 Region-specific regulations.

* * * * *

(b) * * *

(2) Closure: 30-day closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. This 30-day period will occur between May 15 and August 15 of each year. A press release announcing the actual closure dates will be

forwarded to regional newspapers and radio and television stations.

* * * * *

(e) *Kodiak Archipelago region.* The Kodiak Island Roaded Area is open to the harvesting of migratory birds and their eggs by registration permit only as administered by the Alaska Department of Fish and Game, Division of Subsistence, in cooperation with the Sun'aq Tribe of Kodiak. No hunting or egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese is allowed for the Kodiak Island Roaded Area Registration Permit Hunt. * * *

(g) * * *

(1) Southern Unit (Southwestern North Slope Borough boundary northeast to Icy Cape, and everything west of longitude line 161°55′ W and south of latitude line 69°45′ N to the west bank of the Sagavanirktok River and south along the west bank to the North Slope Borough boundary, then west to the beginning):

* * * * *

(iii) Special Black Brant Hunting Season: June 20–July 5. The open area consists of the coastline from the mean high-water line outward to the North Slope Borough boundary to include open water and barrier islands from southern Kasegaluk Lagoon from latitude line 69°16′ N to the north and east to longitude line 158°30′ W.

(2) Northern Unit (From Icy Cape, everything east of longitude line 161°55′ W and north of latitude line 69°45′ N to the west bank of Sagavanirktok River and north to 71°):

* * * * *

(4) Annual 30-day closure periods in the Southern, Northern, and Eastern Units of the North Slope Region may differ from fixed dates (see unit-specific closure dates in paragraphs (g)(1) through (3) of this section) if environmental and biological conditions warrant such a change. After consultation with Service field biologists, the North Slope Borough (NSB) Department of Wildlife Management, and the NSB Fish and Game Management Committee, the Service's Alaska Regional Director or his/her designee may announce closure dates that differ from those fixed dates. The 30-day period closure period will occur between June 7 and July 29 of each year.

* * * * *

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020–09368 Filed 5–8–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200428–0123]

RIN 0648–BJ61

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Revised 2020 and Projected 2021 Specifications and Recreational Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes revised specifications for the 2020 Atlantic bluefish fishery and projected specifications for fishing year 2021, as recommended by the Mid-Atlantic Fishery Management Council. This action is necessary to establish allowable harvest levels and other management measures to prevent overfishing, consistent with the most recent scientific information. This action also informs the public of the proposed fishery specifications and provides an opportunity for comment.

DATES: Comments must be received by May 26, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0020, by either of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *https://www.regulations.gov/docket?D=NOAA-NMFS-2020-0020,*
2. Click the ''Comment Now!'' icon, complete the required fields, and
3. Enter or attach your comments.

or

Mail: Submit written comments to Michael Pentony, Regional Administrator, National Marine Fisheries Service, Greater Atlantic Region, 55 Great Republic Drive, Gloucester, MA, 01930–2276. Mark the outside of the envelope: ''Comments on the Proposed Rule for Bluefish Specifications and Recreational Management Measures.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

The Mid-Atlantic Fishery Management Council prepared a draft environmental assessment (EA) for this action that describes the proposed measures and other considered alternatives. The EA also provides an economic analysis, as well as an analysis of the biological, economic, and social impacts of the proposed measures and other considered alternatives. Copies of the specifications document, including the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the internet at *http://www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Management Specialist, (978) 281–9180.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission jointly manage the Atlantic Bluefish Fishery Management Plan (FMP). The FMP requires the specification of the acceptable biological catch (ABC), annual catch limit (ACL), annual catch targets (ACT), commercial quota, recreational harvest limit, and other management measures for up to 3 years at a time. This action proposes specifications and recreational management measures for the 2020 and 2021 bluefish fishery.

The August 2019 bluefish operational stock assessment incorporated revised Marine Recreational Information Program (MRIP) estimates into its analyses and reference points. This assessment determined that the bluefish stock is overfished but not subject to overfishing. Although the overall biomass of the stock increased after incorporating revised MRIP data, the biomass threshold also nearly doubled, resulting in the overfished determination. The Council received formal notification of the stock status change on November 12, 2019, and is developing a rebuilding plan to be

implemented by 2022. The final assessment results became available in late 2019, and additional analysis was required to incorporate the new MRIP data into development of revised catch limits. To ensure catch limits would be in place for the start of the fishing year on January 1, 2020, NMFS published interim 2020 specifications (84 FR 54041; October 9, 2019) until new measures could be developed. However, these interim catch limits and measures were developed before the revised MRIP data, assessment information, and new stock status were available. The interim specifications are substantially more liberal than what the best available science indicates is necessary to constrain catch in 2020 and prevent overfishing. This action would revise the 2020 specifications to reflect the assessment results, and project similar specifications for 2021.

On September 9, 2019, the Council's Scientific and Statistical Committee (SSC) reviewed the operational assessment, and recommended a reduced ABC for bluefish using the Council's risk policy with an overfishing limit coefficient of variation (CV) equal to 100 percent due to some increased uncertainty with the new MRIP data. In previous years, the SSC used a less conservative 60-percent CV because there was more confidence in the data. The Bluefish Monitoring Committee met on September 18, 2019, to develop and recommend full specifications based on the SSC's ABC recommendation. The Bluefish FMP has a prescriptive process for deriving specifications from the ABC. The FMP sets the ACL equal to the ABC, and the ACL is allocated 17 percent to the commercial ACT and 83 percent to the recreational ACT. The most recent fishing year discards from each sector are subtracted from each applicable ACT to calculate the sector's total allowable landings (TAL). Commercial discards are assumed to be negligible, and recreational discards are estimated from MRIP data. If the recreational fishery is not projected to land its harvest limit, then quota may be transferred from the recreational to the commercial sector. The maximum amount that may be transferred can result in a commercial quota of up to 10.5 million lb (4,763 mt). The final commercial quota is then allocated to the coastal states from Maine to Florida based on percent shares specified in the FMP.

The Council and the Commission's Bluefish Board jointly approved catch specifications for fishing years 2020 and 2021 at a joint meeting in October 2019, based on the assessment and recommendations from the SSC and Monitoring Committee. In these revised specifications, the Council recommended a 25-percent reduction in the overall ABC and ACL in comparison to the current interim 2020 values, a 25-percent reduction in initial commercial quota, and an 18-percent reduction in the recreational harvest limit (RHL). Because recreational landings are expected to fully achieve the RHL, no sector transfer to the commercial fishery is permitted. Thus, these recommended specifications would reduce the final commercial quota a total of a 64-percent from the reduced commercial quota and the lack of a quota transfer from the recreational sector. Given the substantial difference in expected 2020 recreational harvest compared to the reduced 2020 RHL, the Council and Board chose to delay development of recreational management measures until December 2019. This delay was intended to provide additional time to develop and analyze measures necessary to constrain recreational catch to the recommended 2020 RHL.

Based on projected recreational landings for the 2020 bluefish fishery (13.27 million lb; 6,020 mt), the Monitoring Committee determined that a 28.65-percent reduction in recreational harvest is necessary to constrain catch to the new RHL of 9.48 million lb (4,301 mt). The Council and Board took final action in December 2019 to recommend a mode-specific reduction in the daily recreational bag limit from 15 to 3 fish per person for private anglers and to 5 fish per person for for-hire (party/charter) vessels. No changes were recommended to recreational seasons or size limits because there is substantial variability in seasonal availability and recreational fish sizes taken from Florida to Maine. The change in bag limit is expected to sufficiently constrain recreational catch to the 9.48 million-lb (6,020-mt) RHL when applied to the entire fishing year. In an effort to prevent overfishing in the early months of the fishing year (which began on January 1, 2020), NMFS implemented interim measures to temporarily establish this reduced bag limit (85 FR 11863; February 28, 2020). However, this proposed action is necessary to permanently implement these recreational measures.

Proposed Specifications

This action proposes the Council's recommendations for revised 2020 and projected 2021 bluefish catch specifications, as well as the recreational management measures to constrain harvest the new limits. A comparison of the interim 2020 and the proposed revised 2020–21 specifications is summarized below in Table 1.

TABLE 1—COMPARISON OF CURRENT 2020 AND PROPOSED 2020–21 BLUEFISH SPECIFICATIONS

	Interim 2020 (current)		Revised 2020–2021 (proposed)		Percent change
	Metric tons	Million lb	Million lb	Metric tons	
Overfishing Limit	*27.97	12,688	2020: 32.97 2021: 37.98	2020: 14,955 2021: 17,227	2020: 18 2021: 36
ABC = ACL	21.81	9,895	16.28	7,385	−25
Commercial ACT	3.71	1,682	2.77	1,255	−25
Recreational ACT	18.11	8,213	13.51	6,130	−25
Recreational Discards †	2.49	1,129	4.03	1,829	+162
Commercial TAL	3.71	1,682	2.77	1,255	−25
Recreational TAL	15.62	7,085	9.48	4,301	−39
Sector Transfer	4.00	1,814	0.00	0	−100
Commercial Quota	7.71	3,497	2.77	1,255	−64
RHL	11.62	5,271	9.48	4,301	−18

*This value was incorrectly published as 29.97 million pounds in the interim final specifications (84 FR 54041; October 9, 2019). This was the result of an inadvertent conversion error, and the value in metric tons was correct. This pound value was published correctly in the prior 2019 specifications rule (84 FR 8826; March 12, 2019), and this error has not directly affected bluefish fishery operations or stock status in any way.

† The terminal year of MRIP data used to project discard estimates for the interim (current) specifications was 2017, and the terminal year used to project the discards for the revised (proposed) specifications was 2018.

Table 2 provides the proposed commercial state allocations based on the Council-recommended coastwide commercial quota for 2020 and 2021. No states exceeded their state allocated quota in 2019; therefore, no accountability measures are necessary for the 2020 commercial fishery.

TABLE 2—PROPOSED 2020–21 BLUEFISH STATE COMMERCIAL QUOTA ALLOCATIONS

State	Percent share	Proposed quota (lb)	Proposed quota (kg)
Maine	0.67	18,496	8,388
New Hampshire	0.41	11,468	5,201
Massachusetts	6.72	185,838	84,280
Rhode Island	6.81	188,366	85,427
Connecticut	1.27	35,036	15,889
New York	10.39	287,335	130,311
New Jersey	14.82	409,934	185,911
Delaware	1.88	51,966	23,567
Maryland	3.00	83,054	37,666
Virginia	11.88	328,682	149,062
North Carolina	32.06	887,058	402,294
South Carolina	0.04	974	442
Georgia	0.01	263	119
Florida	10.06	278,332	126,228
Total	100.00	2,766,801	1,254,785

As previously mentioned, this action would also change the recreational management measures by reducing the Federal bluefish recreational daily bag limit from 15 to 3 fish per person for private anglers and to 5 fish per person for for-hire (charter/party) vessels. All other Federal management measures, including commercial management measures, and recreational season (open all year) and minimum fish size (none), would remain unchanged.

The Council will review the specifications for fishing year 2021 to determine if any changes need to be made prior to their implementation. Changes may occur if 2020 quota overages trigger accountability measures, or if new stock information results in changes to the ABC recommendations. NMFS will publish a notice prior to or early in 2021 to confirm or announce any necessary changes. The Council is developing a rebuilding plan for the bluefish stock that will be implemented by 2022. NMFS expects the rebuilding plan to inform development of the next set of specifications beginning in 2022.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Council reviewed the proposed regulations for this action and deemed them necessary and appropriate to implement consistent with section 303(c) of the Magnuson-Stevens Act.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

The Mid-Atlantic Council prepared a draft EA for this action that analyzes the impacts of this proposed rule. The EA includes an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), which is supplemented by information contained in the preamble of this proposed rule. The IRFA was prepared to examine the economic impact of this proposed rule, if adopted, on small business entities, as well as the possible economic impact of the other alternatives presented in the EA/specifications document. A copy of the detailed RFA analysis is available from the Council (see **ADDRESSES**). A summary of the 2020–2021 bluefish specifications IRFA analysis follows.

Description of the Reasons Why Action by the Agency Is Being Considered, and the Statement of the Objectives of, and Legal Basis for, This Proposed Rule

This action is taken under the authority of the Magnuson-Stevens Act and regulations at 50 CFR part 648. This proposed rule revises 2020 catch limits and recreational management measures, and projects 2021 specifications for the Atlantic bluefish fishery. A complete description of the action, why it is being considered, and its legal basis are contained in the draft EA and in this rule's preamble, and are not repeated here.

Description and Estimate of the Number of Small Entities to Which This Proposed Rule Would Apply

This proposed rule affects those small entities engaged in commercial fishing operations in the Atlantic bluefish fishery (those with commercial bluefish permits), and those with Federal party/charter recreational permits for bluefish. Private recreational anglers are not considered ''entities'' under the RFA, thus economic impacts on private anglers are not considered here. For the purposes of the RFA analysis, the ownership entities (or firms), not the individual vessels, are considered to be the regulated entities. Ownership entities are defined as those entities or firms with common ownership personnel as listed on the permit application. Because of this, some vessels with bluefish permits may be considered to be part of the same firm because they may have the same owners. To identify these small and large firms, vessel ownership data from the permit database were grouped according to common owners and sorted by size. In terms of RFA, a business primarily engaged in commercial fishing is classified as a small business if it has combined annual receipts not in excess of $11 million, for all its affiliated operations worldwide. A business primarily engaged in for-hire (party/charter) fishing is classified as small business if it has combined annual receipts not in excess of $8 million.

In the commercial fishery, 735 firms reported commercial bluefish revenue from 2016–2018. According to the vessel ownership database, based on 2018 revenues, 728 of those 735 total firms are categorized as small businesses, and 7 are categorized as large businesses. For the recreational for-hire (party/charter) fishery, 389 affiliate firms reported revenue from recreational fishing from 2016–2018. All 389 of those firms are categorized as small businesses based on their 2018 revenues. It is not possible to derive what proportion of the overall revenues for these for-hire firms came from fishing activities for an individual species. Nevertheless, given the popularity of bluefish as a recreational species in the Mid-Atlantic and New England, revenues generated from this species are likely somewhat important for many of these firms at certain times of the year. The 3-year average (2016–2018) combined gross receipts (all for-hire fishing activity combined) for these small entities was $52,156,152, ranging from less than $10,000 for 119 entities (lowest value $124) to over $1,000,000 for 8 entities (highest value $2.9 million).

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

There are no new reporting, record-keeping, or other compliance requirements contained in this proposed rule, or any of the alternatives considered for this action.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The measures proposed revise 2020 and outline projected 2021 catch specifications and recreational management measures for the bluefish fishery based on the most recent stock assessment and the application of the Council's Risk Policy to prevent overfishing. Revenues in 2020 and 2021 are uncertain and will depend not only on the quota, but also on availability of bluefish, market factors (*e.g.,* price of bluefish compared to alternative species), weather, and other factors. These proposed specifications would decrease the coastwide commercial quota by 64 percent, and the recreational harvest limit by 18 percent. Although these are substantial reductions, especially for the commercial fishery due to the lack of quota transfer from the recreational sector, commercial bluefish entities may not be substantially negatively impacted. Preliminary reports indicate that the commercial bluefish fishery only landed 2.61 million lb (1,185 mt) in 2019, which is below the proposed commercial quota of 2.77 million lb (1,255 mt). Therefore, the commercial fishery overall is not expected to experience substantial negative impacts from the quota reduction. However, commercial entities in certain states that more actively target bluefish may still be affected as the allocated state quotas proportionately decrease. Compared to the average receipts for 2016–2018, the proposed 2020–2021 commercial quotas are expected to result in an overall revenue reduction of 0.38 percent and 0.01 percent for small and large entities.

In the recreational fishery (for-hire or party/charter entities), impacts to entities are more likely to be driven by the change in recreational management measures than the reduction in RHL. In the development of the proposed measures, a mode-specific bag limit was chosen specifically to mitigate the negative impacts on for-hire entities fishing for bluefish. To achieve the required reduction in the RHL, these measures propose a reduction in the daily recreational bag limit from 15 to 3 fish per person for private anglers and to 5 fish per person for for-hire (charter/party) vessels. Because for-hire vessels are responsible for less than 5 percent of overall bluefish recreational catch, but the bag limit can affect demand for mixed-catch trips and general business revenues, the proposed action allowed the for-hire mode two additional fish per-person than the initially determined 3-fish bag limit for the entire recreational fishery. Even with this extra allowance, it can be difficult to predict with certainty how the preferred alternative will affect demand for party/charter boat trips. Anglers may shift effort away from species with more restrictive measures towards those with more liberal measures, resulting in little change in overall fishing effort or demand for party/charter trips where multiple species can be caught together.

The Council also considered maintaining status quo specifications, where the same catch limits and management measures from 2019 would continue through 2020 and beyond; and a most-restrictive alternative, which would further reduce catch limits for a 64-percent reduction in commercial quota and a 69-percent reduction in the RHL. Maintaining status quo would be expected to maintain revenues in the short term, but would likely have negative long term impacts due to the increased risk of overfishing and low contribution to stock health and recovery. The most-restrictive alternative is expected to have similar impacts as the preferred alternative, but is more drastic in the short term and may have a more substantial negative short term impact on affected entities.

The Council recommended the specifications in this proposed rule over the other two alternatives to satisfy the Magnuson-Stevens Act requirements to ensure fish stocks are not subject to overfishing, while minimizing the impact on the industry (including small entities) and private anglers. This also increases the likelihood that the fishery will remain a viable source of fishing revenues for bluefish fishing entities in the long term, and makes it the better sustainable economic choice. The status quo alternative was not recommended by the Council because it would exceed the catch level recommendations of the Council's SSC, put the bluefish stock at risk of overfishing, and would be inconsistent with the requirements of the Magnuson-Stevens Act. The most restrictive alternative was not recommended because it would impose substantial restrictions on the fishery too quickly without time to adjust, creating a more negative impact than the preferred alternative. Overall, the proposed specifications are expected to have slightly negative (short-term) to slightly positive (long-term) impacts on the affected entities; which could vary depending on the firm's reliance on bluefish as a target species. NMFS agrees with the Council's IRFA analysis and rationale for recommending these catch limits. As such, NMFS is proposing to implement the Council's preferred specifications and management measures, as presented in this proposed rule's preamble.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 29, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.164,
■ a. Remove paragraphs (c) and (d),
■ b. Lift the suspension on paragraphs (a) and (b), and
■ c. Revise paragraphs (a) and (b).

The revisions read as follows:

§ 648.164 Bluefish possession restrictions.

(a) *Recreational possession limits.* Any person fishing from a vessel in the EEZ that is not fishing under a bluefish commercial permit shall observe the applicable recreational possession limit. The owner, operator, and crew of a charter or party boat issued a bluefish commercial permit are not subject to the recreational possession limit when not carrying passengers for hire and when the crew size does not exceed five for a party boat and three for a charter boat.

(1) *Private recreational vessels.* Any person fishing from a vessel that is not fishing under a bluefish commercial or charter/party vessel permit issued pursuant to § 648.4(a)(8), may land up to three bluefish per day.

(2) *For-hire vessels.* Anglers fishing onboard a for-hire vessel under a bluefish charter/party vessel permit issued pursuant to § 648.4(a)(8), may land up to five bluefish per person per day.

(b) *Pooling Catch.* Bluefish harvested by vessels subject to the possession limit with more than one person on board may be pooled in one or more containers. Compliance with the daily possession limit will be determined by dividing the number of bluefish on board by the number of persons on board, other than the captain and the crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator of the vessel.

[FR Doc. 2020–09572 Filed 5–8–20; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 85, No. 91
Monday, May 11, 2020

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: U.S. Agency for International Development.

ACTION: Notice of information collection.

SUMMARY: U.S. Agency for International Development (USAID), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on this information collection. Comments are requested concerning whether the continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information collected; and ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Send comments via email to the COVID–19 Task Force to United States Agency for International Development at *covidtask_coop@usaid.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 0412–0605.

Form Number: XXXX.

Title: USAID Partner Survey: Operating in the COVID–19 Environment.

Type of Review: Emergency.

Purpose

In response to COVID–19, USAID's top priority is to protect the safety, health, and security of our global workforce—including our Implementing Partners, in order to ensure that we can continue our life-saving mission across the world, and support partner countries in their response to COVID–19.

The purpose of this survey is to help USAID's COVID–19 Task Force to get an expansive view of our programs and the challenges being faced by our implementing partners. With this information, USAID hopes to identify opportunities to support implementing partners, programs, and partner countries during COVID–19.

Annual Reporting Burden

Respondents: 4,000.

Total Annual Response: 4,000.

Estimated Total Annual Burden Hours: 0.

Kenneth William Staley,

U.S. Global Malaria Coordinator.

[FR Doc. 2020–10051 Filed 5–8–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 5, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by June 10, 2020 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Voluntary Destruction of Imported Meat, Poultry, and Egg Products.

OMB Control Number: 0583–New.

Summary of Collection: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

Imported meat, poultry, and egg products that do not comply with U.S. requirements are not allowed to enter U.S. commerce and are identified as ''U.S. Refused Entry'' product. Inspection Program Personnel (IPP) are required to verify that U.S. refused entry product is stored and segregated from other product at an official import inspection establishment until final disposition occurs, or permission to move the shipment is granted by a FSIS Office of Field Operations (OFO) District Office (DO).

Need and Use of the Information: FSIS IPP will use the information during the observation of the product destruction to verify that the product being destroyed is the same product that was refused entry and that the product is controlled by the import establishment until destruction is completed. The Importer/Broker/Agent will complete FSIS Form 9840–4, Voluntary Destruction of Imported Meat (Including Siluriformes), Poultry, and

Egg Product, for product that will be destroyed under FSIS supervision.

Description of Respondents: Business or other for-profit.

Number of Respondents: 151.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 17,818.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–09951 Filed 5–8–20; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0037]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Phytophthora Ramorum; Quarantine and Regulations

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the interstate movement of regulated articles to prevent the spread of *Phytophthora ramorum.*

DATES: We will consider all comments that we receive on or before July 10, 2020.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2020-0037.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0037, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docket Detail;D=APHIS-2020-0037* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on reporting sightings of plant pests and diseases, contact Mr. William Wesela, National Policy Manager, PPQ, APHIS USDA, 4700 River Road, Unit 137, Riverdale, MD 20737–1231; (301) 851–2229. For information on the information collection process, contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Phytophthora Ramorum; Quarantine and Regulations.

OMB Control Number: 0579–0310.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States.

In accordance with the regulations in ''Subpart X-Phytophthora Ramorum'' (§§ 301.92 through 301.92–12), the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture restricts the interstate movement of certain articles to prevent the spread of *Phytophthora ramorum,* the plant pathogen that causes the disease commonly known as sudden oak death. The regulations contain requirements for the interstate movement of regulated articles, such as nursery stock and certain trees, from both quarantined areas and regulated establishments and involve information collection activities including compliance agreements, annual inspections of nurseries and certification of nurseries, issuance and cancellation of certificates, sampling labels for testing, records of fungicide applications, recordkeeping of incoming and outgoing shipments of plants, notification of high risk *P. ramorum* genera, and emergency action notifications.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.3 hours per response.

Respondents: Plant growers, nursery operators, and State plant regulatory officials.

Estimated annual number of respondents: 43.

Estimated annual number of responses per respondent: 15.

Estimated annual number of responses: 622.

Estimated total annual burden on respondents: 181 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 6th day of May 2020.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–10030 Filed 5–8–20; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Supplemental Nutrition Assistance Program (SNAP)—Waiver Requests To Offer Incentives to SNAP Recipients at SNAP Authorized Stores

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is an existing collection in use without an OMB Control Number in which we are seeking approval to establish a process for SNAP authorized

retailers to request a waiver from the Food and Nutrition Service (FNS) to offer SNAP recipients incentives that encourage them to purchase healthier foods. This collection burden only affects SNAP retailers and non-profit organizations or governmental entities who partner with SNAP-authorized stores. There is no data collection activities for SNAP households in this request.

DATES: Written comments must be received on or before July 10, 2020.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this information collection. Comments may be submitted in writing by one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Comments should be addressed to Vicky Robinson, Chief, Retailer Management and Issuance Branch, Retailer Policy and Management Division, 1320 Braddock Place, Alexandria, Virginia 22314.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Vicky Robinson at 703–305–2476.

SUPPLEMENTARY INFORMATION:

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: SNAP Retailer Incentive Waiver Request.

Form Number: Not Applicable.

OMB Number: 0584–NEW.

Expiration Date: Not Yet Determined.

Type of Request: Existing collection in use without an OMB Control Number.

Abstract: SNAP equal treatment provisions at 7 CFR 278.2(b) and 7 CFR 274.7(f) require that SNAP recipients receive treatment equal to that received by other customers at all stores authorized to participate in SNAP with the exception that sales tax may not be charged on eligible foods purchased with SNAP benefits. This equal treatment provision prohibits both negative treatment (such as discriminatory practices) as well as preferential treatment (such as incentive programs). Pursuant to Section 4008 of the Agriculture Improvement Act of 2018, Public Law 115–334 (2018 Farm Bill), individual SNAP authorized retailers (or non-profit organizations or governmental entities, which partner with authorized stores) may request that FNS waive the SNAP equal treatment provisions in order to be allowed to implement an incentive program the meets the requirements under 7 U.S.C. 2018(j) to encourage SNAP recipients to purchase healthier foods.

Most SNAP authorized stores that offer incentives to SNAP recipients are either farmers' markets or part of the statutorily-authorized Gus Schumacher Nutrition Incentive Program (GusNIP), which is administered by the USDA's National Institute of Food and Agriculture (NIFA).

Farmer's markets are already authorized to provide incentives to SNAP recipients under a blanket FNS waiver of the SNAP equal treatment provision, specifically for farmers' markets. GusNIP grantees are authorized to provide incentives to SNAP recipients through GusNIP grant projects under 7 U.S.C. 7517 and, therefore, do not require a waiver to implement a SNAP incentive program. Only SNAP retailers that are not farmers' markets or that are not offering incentives under a GusNIP grant are required to obtain individual waivers from FNS to provide incentives at authorized SNAP retailer locations to SNAP households. FNS has been providing incentive waivers to SNAP retailers prior to passage of the 2018 Farm Bill under FNS' regular waiver process. To date, FNS has been receiving an average of four incentive waiver requests per year. Waivers provided to non-profit institutions or State/local/Tribal governments generally cover multiple retailer locations. With this new streamlined process, the Department estimates that out of 245,000 authorized retailers that participate in our program, approximately 18 different retailers would be covered under 10 different incentive waiver requests annually. In general, the waivers are granted for one year.

The new streamlined process for requesting a waiver would involve emailing information to a specified FNS email box. The information a retailer must submit would include:

1. FNS number, name, and address of each participating retailer;

2. A description of the incentive program;

3. The incentive program start and end dates; and

4. A brief description of any data collection/analysis the store would be conducting on its own behalf to measure program impact if applicable.

The Department has identified and outlined the activity and the estimated burden hours associated with submitting a SNAP Retailer Incentive Waiver Request.

SNAP Retailer Incentive Waiver Request

Affected Public: (a) Business or other for-profit, (b) Not-for-profit institution, and (c) State, local or Tribal Government. Respondent groups identified include: Up to a total of three SNAP authorized stores, five not-for-profit institutions, and two State, local or Tribal governments, which are neither farmers' markets nor operating an incentive program under a GusNIP grant.

Business or Other For-Profit/Not-For-Profit Institution/State, Local or Tribal Government Annual Burden

Estimated Annual Number of Respondents: 10.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 10.

Estimated Annual Time per Response: 30 minutes or 0.5 hours.

Estimated Total Annual Burden on Respondents: 5 hours.

Respondent	CFR citation	Activity	Estimated annual # respondent	Responses annually per respondent	Total annual responses	Estimated avg. # of hours per response annually	Estimated annual total hours
Business or other for-profit	7 CFR 274.7(f) and 278.2(b).	SNAP Retailer Incentive Waiver Request.	3	1	3	0.5	1.5
Business-not-for-profit institution	7 CFR 274.7(f) and 278.2(b).	SNAP Retailer Incentive Waiver Request.	5	1	5	0.5	2.5
Sub-total Business-for-not-for-profit.			8	1	8	0.5	4.0
State, local or Tribal Government	7 CFR 274.7(f) and 278.2(b).	SNAP Retailer Incentive Waiver Request.	2	1	2	0.5	1.0
Grand-Total for Business-for-not-for-profit and State, Local and Tribal.			10	1	10	0.5	5.0

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2020–09993 Filed 5–8–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

West Virginia Resource Advisory Committee; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The West Virginia Resource Advisory Committee (RAC) will hold a virtual meeting. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act. RAC information can be found at the following website: *https://cloudapps-usda-gov.secure.force.com/FSSRS/RAC_Page?id=001t0000002JcuqAAC.*

DATES: The meeting will be held on June 9, 2020, at 9:00 a.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held with virtual attendance only. For virtual meeting information, please reach out to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Monongahela National Forest Headquarters Building. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Julie Fosbender, RAC Coordinator, by phone at 304–635–4446 or via email at *julie.fosbender@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review and discuss Title II projects;
2. Decide which project proponents to invite to June meetings to present their project and answer questions from the committee.
3. Decide which projects, if any, the RAC will not recommend to the Forest Supervisor for Title II funding.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by May 15, 2020, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Julie Fosbender, RAC Coordinator, Monongahela National Forest Headquarters Building, 200 Sycamore Street, Elkins, West Virginia 26241; by email to *julie.fosbender@usda.gov;* or via facsimile to 304–637–0582.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: May 6, 2020.

Cikena Reid,

Committee Management Officer.

[FR Doc. 2020–09994 Filed 5–8–20; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Pennsylvania Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Pennsylvania Advisory Committee to the Commission will convene by conference call at 11:30 a.m. (ET) on Tuesday, May 19, 2020. The purpose of the project planning meeting is to discuss the Committee's draft report on its civil rights project titled, *School Discipline and the School-to-Prison Pipeline in Pennsylvania.*

Public Call-In Information: Conference call-in number: 800–353–6461 and conference call ID number: 6813288.

FOR FURTHER INFORMATION CONTACT: Ivy Davis at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 800–353–6461 and conference call ID number: 6813288. Please be advised that before placing them into the conference call, the conference call operator will

ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 800–353–6461 and conference call ID number: 6813288.

Members of the public are invited to make brief statements during the Public Comment section of the meeting or submit written comments. The written comments must be received in the regional office approximately 30 days after the scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Corrine Sanders at *ero@usccr.gov.* Persons who desire additional information may phone the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjZAAQ;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda: Tuesday, May 19, 2020

I. Rollcall
II. Welcome
III. Project Planning
—Discuss draft Committee report on its civil rights project
IV. Other Business
V. Next Meetings
VI. Public Comments
VII. Adjourn

Dated: May 6, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–10009 Filed 5–8–20; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Nebraska Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Nebraska Advisory Committee (Committee) will hold a meeting on Monday May 18, 2020 at 12:30 p.m. Central time. The Committee will discuss on civil rights concerns in Nebraska.

DATES: The meeting will take place on Monday May 18, 2020 at 12:30 p.m. Central.

Public Call Information: Dial: 800–458–4121, Conference ID: 7283315.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Nebraska Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights in Nebraska
Future Plans and Actions
Public Comment
Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given fewer than 15 calendar days prior to the meeting because of the exceptional circumstances of discussing time sensitive post report activities.

Dated: May 5, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–09952 Filed 5–8–20; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Maryland Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that meetings of the Maryland Advisory Committee to the Commission will convene by conference call at 12:00 p.m. (EDT) on the following dates: Tuesday, June 2, 2020 and Tuesday, July 7, 2020. The purpose of the meetings is to continue working on its project on health care disparities during the COVID–19 pandemic. The Committee may hear from advocates and others on the topic.

DATES:

- Tuesday, June 2, 2020, at 12:00 p.m. (EDT)
- Tuesday, July 7, 2020, at 12:00 p.m. (EDT)

Public Call-In Information: Conference call-in number: 1–866–575–6539 and conference ID: 3918108.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–866–575–6539 and conference ID: 3918108. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 1–866–575–6539 and conference ID: 3918108.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact Evelyn Bohor at 202–376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzloAAA,* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda

Tuesday, June 2, 2020; 12:00 p.m. (EDT) and Tuesday, July 7, 2020; 12:00 p.m. (EDT)

- Rollcall
- Project Planning
- Other Business
- Open Comment
- Adjournment

Dated: May 5, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–09965 Filed 5–8–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Certain Activated Carbon From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On April 23, 2020, the Court of International Trade (the Court) issued final judgment in *Jacobi Carbons AB et al.* v. *United States,* Consol. Court No. 16–00185, sustaining the Department of Commerce's (Commerce's) final results of redetermination pursuant to remand pertaining to the eighth administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China (China) covering the period of April 1, 2014 through March 31, 2015. Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co.* v. *United States* (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States* (Fed. Cir. 2010) (*Diamond Sawblades*), Commerce is notifying the public that the final judgment in this case is not in harmony with the final results of the administrative review, and that Commerce is amending the final results.

DATES: Applicable April 23, 2020.

FOR FURTHER INFORMATION CONTACT: Robert Palmer, AD/CVD Operations Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC, 20230; telephone: (202) 482–9068.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 2016, Commerce issued its decision in *Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 62088 (September 8, 2016) (*AR8 Final Results*) and accompanying Issues and Decisions Memorandum (IDM). Jacobi Carbons AB (Jacobi),[1] a mandatory respondent, and Jacobi Carbons, Inc., its affiliated U.S. importer of subject merchandise, challenged certain aspects of the *AR8 Final Results.* On June 20, 2017, the Court in *Jacobi AR8 I* granted Commerce's request for a voluntary remand of *AR8 Final Results* to reconsider its determinations regarding the economic comparability and significant producer aspects of its surrogate country selection methodology (specifically, its determinations regarding economic comparability generally and significant production of comparable merchandise by Thailand in particular).[2] In granting this remand, the Court also directed Commerce to reconsider the separate rate assigned to the non-mandatory respondents in accordance with any redetermination of the antidumping margin assigned to the mandatory respondent Jacobi.[3]

On September 1, 2017, Commerce filed Remand I with the Court.[4] Based on *Jacobi AR8 I,* which had ordered Commerce to: (1) Further explain Commerce's determination regarding Thailand's economic comparability with China; and (2) reconsider and further explain Commerce's determination that Thailand is a significant producer of activated carbon, Commerce addressed and clarified these issues without making any changes to the margin calculations for Jacobi.[5]

On April 19, 2018, the Court in *Jacobi AR8 II*[6] remanded six issues to

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[1] In the third administrative review of the *Order,* Commerce found that Jacobi, Tianjin Jacobi International Trading Co. Ltd., and Jacobi Carbons Industry (Tianjin) are a single entity and, because there were no changes to the facts which supported that decision since that determination was made, we continued to find these companies part of a single entity for this administrative review. *See Certain Activated Carbon from the People's Republic of China: Final Results and Partial Rescission of Third Antidumping Duty Administrative Review,* 76 FR 67142 (October 31, 2011); *Certain Activated Carbon from the People's Republic of China; 2010–2011; Final Results of Antidumping Duty Administrative Review,* 77 FR 67337 (November 9, 2012); *Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 70533 (November 26, 2013); and *Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 70163 (November 25, 2014).

[2] *See Jacobi Carbons AB et al.* v. *United States,* Consol. Court No. 16–00185 (June 20, 2017), ECF 77 (*Jacobi AR8 I*).

[3] *Id.* at 6.

[4] *See Jacobi Carbons AB et al.* v. *United States,* Consol. Court No. 16–00185, Final Results of Redetermination Pursuant to Court Remand, dated September 1, 2017 (Remand I).

[5] *See* Remand I at 1–2, 39–40.

[6] *See Jacobi Carbons AB et al.* v. *United States et al.,* 313 F. Supp. 3d 1344 (CIT 2018) (*Jacobi AR8 II*).

Commerce: (1) To further explain or reconsider Commerce's determination that Thailand is a significant producer of activated carbon;[7] (2) to reconsider or further explain Commerce's position with respect to whether the proposed carbonized material surrogate value (SV) represents commercial quantities and, if appropriate, to reconsider its carbonized material SV selection;[8] (3) to reconsider or further explain Commerce's position with respect to proposed hydrochloric acid (HCl) benchmarks and, if appropriate, to reconsider its HCl SV selection;[9] (4) to reconsider or further explain Commerce's position with respect to proposed coal tar benchmarks and, if appropriate, to reconsider its coal tar SV selection;[10] (5) to further explain or reconsider Commerce's determination that the Thai financial statements used in the final results contain evidence of a countervailable subsidy or otherwise provide suitable surrogate financial data, and to reevaluate the relative merits of each proposed source of financial ratios;[11] and (6) to further explain and reconsider Commerce's value-added tax (VAT) methodology and calculation with respect to Jacobi, including addressing evidence suggesting Jacobi's ability to offset input VAT against output VAT collected from foreign customers, whether the VAT adjustment is properly made on the basis of an estimated customs value instead of a reported free-on-board (FOB) value, and the evidence supporting the rejection of the calculation methodology proposed by Datong Juqiang Activated Carbon Co., Ltd. (Datong Juqiang).[12] The Court also directed Commerce to reconsider the separate rate assigned to the non-mandatory respondents in accordance with any redetermination of the antidumping margin assigned to Jacobi.[13] Further, on August 22, 2018, the Court also directed Commerce to consider CIT Slip Opinion No. 18–97 entered in *Aristocraft of America LLC* v. *United States,* CIT 15–00307, 2018 WL 3816781 (not reported in Fed Reporter) (CIT August 9, 2018) as it relates to the Chinese irrecoverable VAT.[14]

On October 23, 2018, Commerce filed Remand II with the Court.[15] Commerce affirmed its determination that Thailand is a significant producer of comparable merchandise and its carbonized material and HCl SV selections. Additionally, Commerce reconsidered its selection of surrogate financial statements, the coal tar SV, and the VAT calculation methodology. Consequently, Commerce made changes to the margin calculations for Jacobi, as well as to the margin calculations for the separate rate companies. Accordingly, Jacobi's final margin was revised to $0.44/kg. The separate rate was revised to $0.34/kg for: (1) Beijing Pacific Activated Carbon Products Co., Ltd.; (2) Datong Municipal Yunguang Activated Carbon Co., Ltd.; (3) Jilin Bright Future Chemicals Co., Ltd.; (4) Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.; (5) Ningxia Huahui Activated Carbon Co., Ltd.; (6) Ningxia Mineral and Chemical Ltd.; (7) Shanxi DMD Corp.; (8) Shanxi Industry Technology Trading Co., Ltd.; (9) Shanxi Sincere Industrial Co., Ltd.; (10) Tianjin Channel Filters Co., Ltd.; and (11) Tianjin Maijin Industries Co., Ltd. Commerce used the same methodology for calculating the separate rate that was used in *AR8 Final Results.*[16]

On March 5, 2019, the Court in *Jacobi AR8 III* remanded to Commerce its determination that Thailand is a significant producer of comparable merchandise and directed Commerce to reconsider its selection of a primary surrogate country.[17] The Court further ordered that Commerce must identify a surrogate country, whether from its list of countries at the same level of economic development as the People's Republic of China (China) or another country at a comparable level of economic development not on the list, which meets the statutory criteria and is supported by substantial evidence.[18] Further, the Court instructed that Commerce must revisit the SVs for carbonized materials and HCL because Commerce justified the selection of these SVs substantially on the basis that they are from Thailand, the primary surrogate country.[19] The Court also directed Commerce to reconsider the separate rate assigned to the non-mandatory respondents in accordance with any redetermination of the antidumping margin assigned to Jacobi.[20] In accordance with *Jacobi AR8 III,* Commerce reconsidered its selection of the primary surrogate country, and selected a new primary surrogate country (Malaysia).[21] As a result of selecting a new primary surrogate country, Commerce revisited the SV selection for all inputs, including the SVs for carbonized materials and HCl that the Court specifically directed Commerce to reconsider.[22] Consequently, Commerce made changes to the margin calculations for Jacobi, as well as to the margin calculations for the separate rate companies. Therefore, Jacobi's final margin was revised to $0.51/kg. The separate rate was revised to $0.40/kg for: (1) Beijing Pacific Activated Carbon Products Co., Ltd.; (2) Datong Municipal Yunguang Activated Carbon Co., Ltd.; (3) Jilin Bright Future Chemicals Co., Ltd.; (4) Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.; (5) Ningxia Huahui Activated Carbon Co., Ltd.; (6) Ningxia Mineral and Chemical Ltd.; (7) Shanxi DMD Corp.; (8) Shanxi Industry Technology Trading Co., Ltd.; (9) Shanxi Sincere Industrial Co., Ltd.; (10) Tianjin Channel Filters Co., Ltd.; and (11) Tianjin Maijin Industries Co., Ltd. Commerce used the same methodology for calculating the separate rate that was used in *AR8 Final Results.*[23]

On December 17, 2019, the Court in *Jacobi AR8 IV* remanded to Commerce its Remand III redetermination to reconsider or further address the inconsistencies between its statements in the third draft results of redetermination and those in its third final results of redetermination regarding the viability of the various carbonized material data sources on the record.[24] The Court ordered Commerce to more fully address arguments that it did not directly or fully analyze the commercial significance of the Malaysian import quantity or account for Commerce's preference for selecting SVs from a single surrogate country and address arguments made by parties based on *Luoyang Bearing.*[25] In accordance with *Jacobi AR8 IV,* Commerce reconciled inconsistencies between the third draft and final results of redetermination regarding Commerce's selection of the carbonized materials SV, without making any

[7] *See Jacobi AR8 II* at 23–24.

[8] *Id.* at 29–31.

[9] *Id.* at 36.

[10] *Id.* at 42–44.

[11] *Id.* at 47–48.

[12] *Id.* at 50–51.

[13] *Id.* at 52.

[14] S*ee Jacobi Carbons AB et al.* v. *United States et al.,* Ct. No. 16–00185, ECF No. 120 (August 22, 2018).

[15] *See Jacobi Carbons AB et al.* v. *United States,* Consol. Court No. 16–00185, Slip Op. 18–47, Final Results of Redetermination Pursuant to Court Remand, dated October 23, 2018 (Remand II).

[16] *See* Remand II at 52.

[17] *Jacobi Carbons AB et al.* v. *United States et al.,* 365 F.Supp.3d 1344 (CIT 2018) (*Jacobi AR8 III*) at 6.

[18] *Id.* at 16.

[19] *Id.* at 6, 16.

[20] *Id.* at 36.

[21] *See Jacobi Carbons AB et al.* v. *United States,* Consol. Court No. 16–00185, Slip Op. 19–28, Final Results of Redetermination Pursuant to Court Remand, dated June 17, 2019 (Remand III) at 2.

[22] *Id.* at 2, 3.

[23] *See* Remand III at 28.

[24] *Jacobi Carbons AB et al.* v. *United States et al.,* Consol. Court No. 16–00185, Slip Op. 19–160 (CIT December 17, 2019) (*Jacobi AR8 IV*) at 10.

[25] *Id.; see also Luoyang Bearing Corp. (Grp.)* v. *United States,* 358 F. Supp. 2d 1296 (CIT 2005) (*Luoyang Bearing*).

changes to the determination in Remand III as a result of this further analysis.

On March 20, 2020, Commerce filed Remand IV with the Court.[26] On April 23, 2020, the Court sustained Remand IV in *Jacobi AR8 V.*[27]

Timken Notice

In its decision in *Timken,*[28] as clarified by *Diamond Sawblades,*[29] the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's April 23, 2020 judgment in *Jacobi AR8 IV* constitutes a final decision of the Court that is not in harmony with Commerce's *AR8 Final Results.* This notice is published in fulfillment of the publication requirement of *Timken.*

Amended Final Results

Because there is now a final court decision, Commerce amends the *AR8 Final Results* with respect to the companies identified below. Based on Remand III, as affirmed by the Court in *Jacobi AR8 IV,* the revised weighted-average dumping margins for the companies listed below during the period April 1, 2014 through March 31, 2015 are as follows:

Exporter	Margin (dollars per kilogram)[30]
Jacobi Carbons AB	0.51
Beijing Pacific Activated Carbon Products Co., Ltd	0.40
Datong Municipal Yunguang Activated Carbon Co., Ltd	0.40
Jilin Bright Future Chemicals Company, Ltd	0.40
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd	0.40
Ningxia Huahui Activated Carbon Co., Ltd	0.40
Ningxia Mineral and Chemical Limited	0.40
Shanxi DMD Corporation	0.40
Shanxi Industry Technology Trading Co., Ltd	0.40
Shanxi Sincere Industrial Co., Ltd	0.40
Tianjin Channel Filters Co., Ltd	0.40
Tianjin Maijin Industries Co., Ltd	0.40

Accordingly, Commerce will continue the suspension of liquidation of the subject merchandise at issue pending expiration of the period to appeal or, if appealed, a final and conclusive court decision. In the event that the Court's ruling is not appealed or, if appealed, is upheld by a final and conclusive court decision, Commerce will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise based on the revised dumping margins listed above.

Cash Deposit Requirements

Because there have been subsequent administrative reviews for the companies identified above, the cash deposit rates will remain the rates established in the most recently-completed *AR11 Final Results,* which is $0.89/kg for Jacobi, and $0.89/kg for Beijing Pacific Activated Carbon Products Co., Ltd. Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd., Ningxia Huahui Activated Carbon Co., Ltd., Ningxia Mineral & Chemical Limited, and Shanxi Sincere Industrial Co., Ltd.[31] For the companies that Commerce determined had no shipments in *AR11 Final Results,* the cash deposit rates will remain the rates established in the most recently-completed *AR9 Final Results,*[32] which is $0.22/Kg for Datong Municipal Yunguang Activated Carbon Co., Ltd., Jilin Bright Future Chemicals Company, Ltd., Shanxi Industry Technology Trading Co., Ltd., and Tianjin Channel Filters Co., Ltd. For the companies determined not to be eligible for a separate rate in subsequent reviews, *i.e.,* Shanxi DMD Corporation[33] and Tianjin Maijin Industries Co., Ltd.,[34] the cash deposit rate will remain the rate established for the China-wide entity.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 4, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–10071 Filed 5–7–20; 11:15 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–802]

Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Rescission of Antidumping Duty Administrative Review; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam (Vietnam)

[26] *See Jacobi Carbons AB et al.* v. *United States,* Consol. Court No. 16–00185, Slip Op. 19–160, Final Results of Redetermination Pursuant to Court Remand, dated March 20, 2020 (Remand IV).

[27] *See Jacobi Carbons AB* v. *United States,* Consol. Court No. 16–00815, Slip Op. 20–55 (CIT 2020) (*Jacobi AR8 V*).

[28] *See Timken Co.* v. *United States,* 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

[29] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[30] In the second administrative review, Commerce determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Activated Carbon from the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review,* 75 FR 70208, 70211 (November 17, 2010); *see also AR7 Final Results,* 80 FR at 61174 n.21.

[31] *See Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 68881 (December 17, 2019) (*AR11 Final Results*).

[32] *See Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 51607 (November 7, 2017) (*AR9 Final Results*).

[33] *See AR9 Final Results,* 82 FR at 51611.

[34] *See Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015–2016,* 83 FR 58229, 58231 (November 19, 2018) (*AR10 Final Results*).

for the period February 1, 2019 through January 31, 2020.

DATES: Applicable May 11, 2020.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6905.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 2020, Commerce published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on certain frozen warmwater shrimp from Vietnam covering the period February 1, 2019 through January 31, 2020.[1] Commerce initiated the administrative review for a single exporter, Blue Bay Seafood Co., Ltd., based on timely requests for review filed by Blue Bay Seafood Co., Ltd., Ad Hoc Shrimp Trade Action Committee (the petitioner), and the American Shrimp Processors Association (ASPA).[2]

On April 27, 2020, Blue Bay Seafood Co., Ltd. withdrew its request for review.[3] On May 1, 2020, the petitioner and ASPA withdrew their respective requests for review of Blue Bay Seafood Co., Ltd.[4] Thus, all review requests for the only company under review have been timely withdrawn.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. The petitioner, ASPA, and Blue Bay Seafood Co., Ltd. withdrew their requests for administrative review within 90 days of the date of publication of the *Initiation Notice,* and no other interested party requested a review of Blue Bay Seafood Co., Ltd. Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review, in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period February 1, 2019, through January 31, 2020, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protection Order

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 5, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–09973 Filed 5–8–20; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 18777 (May 2, 2019) (*Initiation Notice*).

[2] *See* ASPA Letter, ''Request for Administrative Reviews,'' dated February 27, 2020; Petitioner Letter, ''Request for Administrative Reviews,'' dated February 28, 2020; and Blue Bay Seafood Co., Ltd. Letter, ''Request for Antidumping Duty Administrative Review,'' dated February 28, 2020.

[3] *See* Blue Bay Seafood Co., Ltd. Letter, ''Withdrawal of Review Request,'' dated April 27, 2020.

[4] *See* Petitioner Letter, ''Withdrawal of Review Request,'' dated May 1, 2020; and ASPA Letter, ''Withdrawal of Review Request for Blue Bay,'' dated May 1, 2020.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–868]

Welded Stainless Pressure Pipe From India: Rescission of Countervailing Duty Administrative Review: 2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty (CVD) order on certain welded stainless pressure pipes (WSPP) from India for the period of review (POR) January 1, 2018 through December 31, 2018, based on the timely withdrawal of the request for review.

DATES: Applicable May 11, 2020.

FOR FURTHER INFORMATION CONTACT: Shanah Lee, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230; telephone: (202) 482–6386.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2019, Commerce published a notice of opportunity to request an administrative review of the CVD order on WSPP from India for the POR of January 1, 2018 through December 31, 2018.[1] On November 29, 2019, Commerce received a timely-filed request from Sunrise Stainless Private Limited, Sun Mark Stainless Pvt. Ltd., and Shah Foils Ltd. (collectively, Sunrise Group) for an administrative review of its exports of subject merchandise to the United States during the POR, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).[2]

On January 17, 2020, pursuant to this request, and in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice initiating an administrative review of the CVD order on WSPP from India for Sunrise Group.[3] On February 12, 2020, Sunrise Group withdrew the

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 58690 (November 1, 2019).

[2] *See* Sunrise Group's Letter, ''Welded Stainless Pressure Pipe from India: Request for Administrative Review of Countervailing Duty of Sunrise Private Limited, Sun Mark Stainless Pvt. Ltd., and Shah Foils Ltd.,'' dated November 29, 2019.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 3014 (January 17, 2020).

request for an administrative review of its exports of subject merchandise.[4] On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these results until September 21, 2020.[5]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. Sunrise Group timely submitted a request to withdraw its request for administrative review. No other parties requested an administrative review of the order. Therefore, in accordance 19 CFR 351.213(d)(1), we are rescinding this review, in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of WSPP from India. Countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: May 4, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–09981 Filed 5–8–20; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See* Sunrise Group's Letter, ''Welded Stainless Pressure Pipes from India: Withdrawal Request for Countervailing Duty Administrative Review,'' dated February 12, 2020.

[5] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–846]

Refillable Stainless Steel Kegs From the Federal Republic of Germany: Initiation and Preliminary Results of Changed Circumstances Review and Intent To Revoke Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) of the antidumping duty (AD) order on refillable stainless steel kegs (kegs) from the Federal Republic of Germany (Germany) based upon a request from American Keg Company (the petitioner), as well as issuing preliminary results in that CCR. We preliminarily determine that the AD order on kegs from Germany should be revoked, in whole, with respect to products subject to the order entered, or withdrawn from warehouse, for consumption on or after December 13, 2019. Interested parties are invited to comment on these preliminary results.

DATES: Applicable May 11, 2020.

FOR FURTHER INFORMATION CONTACT: Allison Hollander, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230; telephone: (202) 482–2805.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 2019, Commerce published the *AD Order.*[1] On January 30, 2020, the petitioner requested that Commerce conduct an expedited CCR for this *AD Order,* pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216 (b). The petitioner expressed a lack of interest in the continuation of this *AD Order* and requested the revocation of the *AD Order.* In its request, the petitioner addressed the conditions under which Commerce may revoke an order in whole or in part pursuant to 19 CFR 351.222(g). On March 12, 2020, Commerce extended the deadline for initiation to April 29, 2020, and issued supplemental questions to the petitioner.[2] On March 19, 2020, the petitioner responded to Commerce's supplemental questions.[3]

Scope of the AD Order

The merchandise covered by the order are kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel (*i.e.,* steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a ''D Sankey'' extractor (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered by or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.

''Unassembled'' or ''unfinished'' refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and attached to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.

Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope refillable stainless steel keg.

[1] *See Refillable Stainless Steel Kegs from the Federal Republic of Germany and the People's Republic of China: Antidumping Duty Orders,* 84 FR 68405 (December 16, 2019) (*AD Order*).

[2] *See* Commerce's Letter, ''Request for a Changed Circumstances Review of the Antidumping Duty Order on Refillable Stainless Steel Kegs from the Federal Republic of Germany: Extension of Initiation Deadline,'' dated March 12, 2020.

[3] *See* Petitioner's Letter, ''Refillable Stainless Steel Kegs from the Federal Republic of Germany: Response to Extension of Initiation Deadline,'' dated March 19, 2020.

Specifically excluded are the following: (1) Vessels or containers that are not approximately cylindrical in nature (*e.g.,* box, ''hopper'' or ''cone'' shaped vessels); (2) stainless steel kegs, vessels, or containers that have either a ''ball lock'' valve system or a ''pin lock'' valve system (commonly known as ''Cornelius,'' ''corny'' or ''ball lock'' kegs); (3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and (4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the Act.

The merchandise covered by the order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050.

These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the order is dispositive.

Initiation of Changed Circumstances Review

Section 751(d)(1) of the Act and 19 CFR 351.222(g)(1)(i) provide that Commerce may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part.[4] Further, 19 CFR 351.222(g)(2) provides that Commerce will conduct a CCR under 19 CFR 351.216, and may revoke an order, in whole or in part, if it determines that revocation is warranted.

Under 19 CFR 351.216(c), Commerce will not review a final determination of an investigation less than 24 months after the date of publication of notice of the final determination unless it finds that good cause exists. However, 19 CFR 351.216(d) provides that if Commerce determines that good cause exists and the changed circumstances are sufficient to warrant a review exist, it will conduct a CCR, in accordance with 19 CFR 351.221.

Based on record information, Commerce has determined that, pursuant to 19 CFR 351.216(c), good cause exists to conduct a CCR. The petitioner, the sole American manufacturer of kegs, announced on January 15, 2020 that the German producer and sole respondent in the underlying investigation, Blefa Kegs, Inc. (Blefa), acquired a major stake in the American Keg Company. As part of this investment, Blefa committed substantial resources to expanding the petitioner's domestic operations by tripling production within three years, which will allow the petitioner to at least double its domestic employment during that time. As a result of this change in ownership, because the petitioner is the only American manufacturer of the domestic merchandise at issue, the total amount of American production will increase and the commercial situation of the American Keg Company will improve. We therefore find that the petitioner's affirmative statement of no interest in the *AD Order,* coupled with the circumstances described above, constitute good cause for the conduct of this review.[5]

Both the Act and Commerce's regulations require that ''substantially all'' domestic producers express a lack of interest in the *AD Order* for Commerce to revoke the *AD Order.*[6] Commerce has interpreted ''substantially all'' to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.[7] The petitioner's request indicated that it is the sole producer of the domestic like product and, therefore, accounts for at least 85 percent of domestic production.

In accordance with section 751(b)(1) of the Act, 19 CFR 351.216, 19 CFR 351.221, and 351.222(g), we are initiating this CCR.

Preliminary Results of Changed Circumstances Review

If we conclude that expedited action is warranted, we may concurrently publish the notices of initiation and preliminary results of a CCR.[8] Commerce has combined the notice of initiation and preliminary results in CCRs when sufficient documentation has been provided supporting the request to make a preliminary determination.[9]

In this instance, we have determined that there is significant information on the record to support a finding of changed circumstances. Indeed, the petitioner has provided us, we believe, with sufficient information to have a clear understanding of the change in the commercial situation of the American Keg Company, as well as its revised relationship with imports of subject merchandise from Germany (and Blefa, in particular). Accordingly, we find that expedited action is warranted and we are combining the notice of initiation and the notice of preliminary results, in accordance with 19 CFR 351.221(c)(3)(ii).

In accordance with 19 CFR 351.222(g), Commerce preliminarily determines that there is a reasonable basis to believe that changed circumstances exist sufficient to warrant revocation of the *AD Order.* Therefore, Commerce is notifying the public of its preliminary intent to revoke the *AD Order* in whole.

If we make a final determination to revoke, we will instruct U.S. Customs and Border Protection (CBP) to discontinue the suspension of liquidation and the collection of cash deposits of estimated AD duties, to liquidate all unliquidated entries that were entered on or after December 13, 2019, without regard to AD duties, and to refund all AD cash deposits on all such merchandise, with applicable interest. Because the International Trade Commission (ITC) found material retardation of the establishment of an industry in the United States, as opposed to finding material injury, Commerce instructed CBP in accordance with section 736(b)(2) of the Act to terminate any retroactive suspension of liquidation and refund any cash deposits required to secure the payment of AD duties with respect to entries of kegs entered, or withdrawn from warehouse, for consumption before the date of publication of the ITC's final affirmative determination, *i.e.,* December 13, 2019. We therefore intend to revoke the *AD Order* retroactively as of that date, should we determine in the final CCR that revocation is warranted.

[4] *See* section 782(h) of the Act.

[5] *See* 19 CFR 351.216(d); *see also Carbon and Certain Alloy Steel Wire Rod from Canada: Initiation of Countervailing Duty Changed Circumstances Review,* 68 FR 62282, 62283–84 (November 3, 2003) (that ''no further interest . . . in continuing the order . . . serves as good cause'' sufficient to review a determination made less than 24 months after the date of publication an order).

[6] *See* section 782(h) of the Act; 19 CFR 351.222(g).

[7] *See, e.g., Certain Cased Pencils from the People's Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review, and Intent to Revoke Order in Part,* 77 FR 42276 (July 18, 2012), unchanged in *Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review, and Determination To Revoke Order, in Part,* 77 FR 53176 (August 31, 2012).

[8] *See* 19 CFR 351.221(c)(3)(ii).

[9] *See, e.g., Multilayered Wood Flooring from the People's Republic of China: Initiation and Preliminary Results of Antidumping and Countervailing Duty Changed Circumstances Reviews,* 82 FR 9561 (February 7, 2017), unchanged in *Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Reviews,* 82 FR 14691 (March 22, 2017).

Public Comment

Any interested party may request a hearing within 14 days of publication of this notice, in accordance with 19 CFR 351.310(c). Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.[10] Rebuttal comments, limited to issues raised in the case briefs, may be filed by no later than three days after the deadline for filing case briefs.[11] Any hearing, if requested, will normally be held two days after rebuttal briefs/comments are due, in accordance with 19 CFR 351.310(d)(1). Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[12] Parties who submit case or rebuttal briefs in this CCR are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[13] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.[14]

Unless extended, consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days of publication of these preliminary results if all parties agree to our preliminary findings.

Notification to Interested Parties

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b) and 777(i) of the Act, and 19 CFR 351.216, 351.221(b)(1), (b)(4), and (c)(3), and 351.222(f)(2)(iv).

Dated: April 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–10025 Filed 5–8–20; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See* 19 CFR 321.309(c)(1)(ii).

[11] *See* 19 CFR 351.309(d)(1).

[12] *See* 19 CFR 351.310(c).

[13] *See* 19 CFR 351.309(c)(2) and (d)(2).

[14] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA089]

Draft Supplemental Programmatic Environmental Assessment for Fisheries Research Conducted and Funded by the Southwest Fisheries Science Center

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

ACTION: Notice of availability of a Draft Supplemental Programmatic Environmental Assessment; request for comments.

SUMMARY: NMFS announces the availability of the ''Draft Supplemental Programmatic Environmental Assessment (SPEA) for Fisheries Research Conducted and Funded by the Southwest Fisheries Science Center.'' Publication of this notice begins the official public comment period for this SPEA. The purpose of this Draft SPEA is to evaluate potential direct, indirect, and cumulative effects of unforeseen changes in research that were not analyzed in the 2015 SWFSC Programmatic Environmental Assessment (PEA), or new research activities along the U.S. West Coast, throughout the Eastern Tropical Pacific Ocean, and in the Scotia Sea area off Antarctica. Where necessary, updates to certain information on species, stock status or other components of the affected environment that may result in different conclusions from the 2015 PEA are presented in this analysis.

DATES: Comments and information must be received no later than June 10, 2020.

ADDRESSES: Comments on the Draft SPEA should be addressed to Elise Kohli, Environmental Compliance Specialist, 8901 La Jolla Shores Drive, La Jolla, CA 92307. The mailbox address for providing email comments is: *nmfs.swfsc.spea@noaa.gov*. NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size. A copy of the Draft SPEA may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *fisheries.noaa.gov.* Documents cited in this notice may also be viewed, by appointment, during regular business hours at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Elise Kohli, email: *Elise.Kohli@noaa.gov,* phone: (858) 334–2863.

SUPPLEMENTARY INFORMATION: The SWFSC is the research arm of NMFS in the Southwest Region. The purpose of SWFSC fisheries research is to produce scientific information necessary for the management and conservation of living marine resources along the U.S. West Coast in the California Current Ecosystem (CCE), throughout the Eastern Tropical Pacific (ETP) Ocean, and in the Scotia Sea area off Antarctica. SWFSC's research is needed to promote both the long-term sustainability of the resource and the recovery of certain species, while generating social and economic opportunities and benefits from their use. Primary research activities include: Mid-water trawl surveys to support assessments of coastal pelagic species, salmon and groundfish in the CCE; longline surveys for life history studies in the CCE and highly migratory species tagging in the CCE; deep-set buoy surveys for tagging highly migratory species in the CCE; ecosystem surveys using active acoustic systems, other oceanographic equipment in the CCE and ETP; and surveys using unmanned systems in the Antarctic Research Area (ARA) and CCE.

NMFS has prepared the Draft SPEA under NEPA to evaluate several alternatives for conducting and funding fisheries and ecosystem research activities as the primary federal action. Additionally in the Draft SPEA, NMFS evaluates a related action—also called a ''connected action'' under 40 CFR 1508.25 of the Council on Environmental Quality's regulations for implementing the procedural provisions of NEPA (42 U.S.C. 4321 *et seq.*)—which is the proposed promulgation of regulations and authorization of the take of marine mammals incidental to the fisheries research under the Marine Mammal Protection Act (MMPA). Additionally, because the proposed research activities occur in areas inhabited by species of marine mammals, birds, sea turtles and fish listed under the Endangered Species Act (ESA) as threatened or endangered, this Draft SPEA evaluates activities that could result in unintentional takes of ESA-listed marine species.

The following (2) alternatives are currently evaluated in the Draft SPEA:

- No-Action/Status Quo Alternative—Conduct Federal Fisheries and Ecosystem Research with Scope and Protocols Similar to Past Efforts
- Preferred Alternative—Conduct Federal Fisheries and Ecosystem

Research (New or Modified Research) with Mitigation for MMPA and ESA Compliance

The alternatives include a program of fisheries and ecosystem research projects conducted or funded by the SWFSC as the primary federal action. Because this primary action is connected to a secondary federal action (also called a connected action under NEPA), to consider authorizing incidental take of marine mammals under the MMPA, NMFS must identify as part of this evaluation ''(t)he means of effecting the least practicable adverse impact on the species or stock and its habitat.'' (Section 101(a)(5)(A) of the MMPA [16 U.S.C. 1361 *et seq.*]) NMFS must therefore identify and evaluate a reasonable range of mitigation measures to minimize impacts to protected species that occur in SWFSC research areas. These mitigation measures are considered as part of the identified alternatives in order to evaluate their effectiveness to minimize potential adverse environmental impacts. The three action alternatives also include mitigation measures intended to minimize potentially adverse interaction with other protected species that occur within the action area. Protected species include all marine mammals, which are covered under the MMPA, all species listed under the ESA, and bird species protected under the Migratory Bird Treaty Act.

Potential direct and indirect effects on the environment are evaluated under each alternative in the Draft SPEA. The environmental effects on the following resources are considered: Physical environment, special resource areas, fish, marine mammals, birds, sea turtles, invertebrates, and the social and economic environment. Cumulative effects of external actions and the contribution of fisheries research activities to the overall cumulative impact on the aforementioned resources is also evaluated in the Draft SPEA for the three main geographic regions in which SWFSC surveys are conducted.

NMFS requests comments on the Draft SPEA for Fisheries Research Conducted and Funded by the National Marine Fisheries Service, Southwest Fisheries Science Center. Please include, with your comments, any supporting data or literature citations that may be informative in substantiating your comment.

Authority: 16 U.S.C. 1361 *et seq.*

Dated: May 5, 2020.

Kristen Koch,

Director, Southwest Fisheries Science Center, National Marine Fisheries Service.

[FR Doc. 2020–09942 Filed 5–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XV181]

Council Coordination Committee Meeting

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

ACTION: Notice of a public meeting; information regarding the agenda.

SUMMARY: The Western Pacific Fishery Management Council (WPFMC) will host a virtual meeting of the Council Coordination Committee (CCC), consisting of the Regional Fishery Management Council chairs, vice chairs, and executive directors on May 27 to May 28, 2020. The intent of this meeting is to discuss issues of relevance to the Councils and NMFS, including issues related to the implementation of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act. All sessions are open to the public and time will be set aside for public comments at the end of each session.

DATES: The meeting will begin at 1:30 p.m. Eastern on Wednesday, May 27, 2020, recess at 5:30 p.m. Eastern, reconvene at 1:30 p.m. Eastern on Wednesday, May 28, 2018, and adjourn by 5:30 p.m. Eastern.

ADDRESSES: The meeting will be held online via WebEx. A link to the conference and instructions for submitting public comment will be available at *https://www.fisheries.noaa.gov/national/partners/council-coordination-committee* and *http://www.fisherycouncils.org/.*

FOR FURTHER INFORMATION CONTACT: Nicholas Pieper by email at *Nicholas.Pieper@noaa.gov* or at (301) 427–8500.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act established the CCC. The CCC consists of the chairs, vice chairs, and executive directors of each of the eight Regional Fishery Management Councils or other Council members or staff. Updates to this meeting and additional information will be posted on *https://www.fisheries.noaa.gov/national/partners/council-coordination-committee* and *http://www.fisherycouncils.org/* when available.

Proposed Agenda

Wednesday, May 27, 2020—1:30 p.m.–5:30 p.m. Eastern

1. Welcome/Introductions
2. Recent issues with Council Operations and NMFS Rulemaking
3. CARES Act—$300M stimulus package for fisheries and aquaculture
4. NMFS Updates
   a. Priorities
   b. NS1 Technical Guidance Workgroups
   c. Status of NMFS Policy Directives/Prioritization development
   d. NEPA Policy Update including Functional Equivalency
   e. Status of Bycatch Initiatives
   f. NMFS Guidance on Changing Stock Status from Known to Unknown
   g. Offshore Wind Issues
5. Public Comment

Thursday, May 28, 2020—1:30 p.m.–5:30 p.m. Eastern

1. Management and Budget Update
2. Legislative Issues
3. CCC Committees/Working Groups
   a. Scientific Coordination Subcommittee
   b. Habitat Working Group
4. Administrative
   a. Update on Voting Recusals
   b. Freedom of Information Act
5. Other Business
6. Public Comment

The order in which the agenda items are addressed may change. The CCC will meet as late as necessary to complete scheduled business.

Special Accommodations

If you have particular access needs please contact Nicholas Pieper at *Nicholas.pieper@noaa.gov* prior to the meeting for accommodation.

Dated: May 6, 2020.

Hélène Scalliet,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2020–10023 Filed 5–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0068]

Agency Information Collection Activities; Comment Request; Consolidated State Plan

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 10, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0068. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W–208D, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Melissa Siry, 202–260–0926.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Consolidated State Plan.

OMB Control Number: 1810–0576.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 52.

Total Estimated Number of Annual Burden Hours: 108,155.

Abstract: This collection, currently approved by OMB under control number 1810–0576, covers the consolidated State plan (previously known as the consolidated State application), as well as assessment peer review guidance. Section 8302 of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA), permits each State Education Agency (SEA), in consultation with the Governor, to apply for program funds through submission of a consolidated State plan (in lieu of individual program State plans). The purpose of consolidated State plans as defined in ESEA is to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery; to enhance program integration; and to provide greater flexibility and less burden for State educational agencies.

Dated: May 6, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer.

[FR Doc. 2020–10013 Filed 5–8–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Well-Rounded Education Through Student-Centered Funding Demonstration Grants

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2020 for Well-Rounded Education through Student-Centered Funding Demonstration Grants, Catalog of Federal Domestic Assistance (CFDA) number 84.424E. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: May 11, 2020.

Deadline for Transmittal of Applications: July 10, 2020.

Deadline for Intergovernmental Review: September 8, 2020.

Pre-Application Webinar Information: The Department will hold a pre-application meeting via webinar for prospective applicants. Please refer to the Department's website for specific details about the pre-application webinar, which we expect to hold approximately two weeks after applications are available: *https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/student-centered-funding-pilot/.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Denise Joseph, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W105, Washington, DC 20202–5970. Telephone: (202) 453–6702. Email: *WeightedFundingPilot@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Well-Rounded Education through Student-

Centered Funding Demonstration Grants program provides competitive grants to local educational agencies (LEAs) to demonstrate model programs for providing well-rounded education opportunities through the development and implementation of student-centered funding (SCF) systems based on weighted per-pupil allocations under section 1501 of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

Background: Most LEAs allocate school-level resources in the form of staff, equipment, and instructional materials, rather than allocating specific dollar amounts to individual schools. Typically, such traditional resource-allocation systems determine the number of teachers, school administrators, and other types of staff for each school based on its total student enrollment, with additional support for particular groups of students (*e.g.,* students from low-income families, English learners (ELs), and students with disabilities) often provided through Federal- and State-funded categorical funding programs. School leaders and other stakeholders such as teachers, parents, and community members often have little influence over how dollars are spent at their school and are thus unable to tailor the school's education program to meet the needs of its specific students. The lack of transparency, predictability, and autonomy in the typical school resource allocation system means students in a given school may not have access to an enriched curriculum and educational experience tailored to their needs—that is, the very essence of a well-rounded education.

Section 1501 of the ESEA offers an alternative to such traditional resource-allocation systems. An LEA approved under section 1501 has flexibility to consolidate eligible Federal funds with its State and local funds to create a single student-centered school funding system based on weighted per-pupil allocations for students from low-income families, ELs, and otherwise disadvantaged students. The Secretary is prepared to waive most Federal fiscal requirements that apply to the Federal funds the LEA allocates through such a system that meets the requirements of section 1501, thereby affording each school in the LEA considerable flexibility to use its Federal funds alongside its State and local funds to create a well-rounded education program that best meets the specific needs of students in the school.

Opportunities to provide a more well-rounded education program, tailored to the specific needs of students in each school and consistent with section 4107 of the ESEA, increase when school leaders and stakeholders have flexibility to combine Federal with State and local funds. The Well-Rounded Education through Student-Centered Funding Demonstration Grants program is intended to help build the capacity of LEAs to provide well-rounded education by utilizing the SCF flexibility agreements under ESEA section 1501 in order to demonstrate models for expanding and enhancing delivery of such opportunities for educationally disadvantaged students. This program is being established with funds from the two percent reservation for technical assistance and capacity building under section 4103(a)(3) of the ESEA, which is designed to support States and LEAs in carrying out activities authorized under the Student Support and Academic Enrichment Grants program in title IV, part A of the ESEA, including activities that support access to a well-rounded education. Grants are available to LEAs that commit to applying for an SCF flexibility agreement under ESEA section 1501 to assist them in developing, preparing, and implementing an SCF system that enhances and expands the provision of well-rounded education opportunities to educationally disadvantaged students.

Priority: We are establishing this priority for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priority: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Absolute Priority: Developing and Implementing a Student-Centered Funding System to Provide Well-Rounded Education Opportunities to Educationally Disadvantaged Students.

Under this priority, we will consider an application from an LEA that assures it will—

(a) Within 12 months of receiving a grant, submit an application to the Department to implement an SCF flexibility agreement consistent with ESEA section 1501;

(b) Use its SCF system to enhance and expand the provision of well-rounded education opportunities to educationally disadvantaged students; and

(c) Participate in the program evaluation required for LEAs that receive an SCF flexibility agreement consistent with ESEA section 1501(j).

Requirements: We are establishing these application requirements for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1).

Application Requirements: An LEA must include the following in its application:

(a) A plan, including a timeline, for—

(1) Developing, within 12 months of receiving an award under this program, and preparing to implement, an SCF system that is designed to meet requirements for receiving an SCF flexibility agreement under ESEA section 1501, which may include building the capacity of the LEA and school staff to implement the system;

(2) Applying, within 12 months of receiving an award under this program, to the Department for an SCF flexibility agreement under ESEA section 1501 (information about ESEA section 1501 is found at *https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/student-centered-funding-pilot/*); and

(3) Disseminating widely to other LEAs no later than the end of the grant period, information on—

(i) The development and implementation of the LEA's SCF system;

(ii) How the SCF system enhances schools' abilities to provide well-rounded education opportunities to educationally disadvantaged students; and

(iii) Related academic and other outcomes for those students, which, at the LEA's discretion, could be based on one or more indicators from the statewide accountability system (*e.g.,* the other academic indicator for public elementary and secondary schools that are not high schools, a school quality or student success indicator, or another indicator), or any other valid and reliable measure.

(b) A description of how the LEA will—

(1) Implement and continuously improve its SCF system during each year of the award, including through an approved SCF flexibility agreement. This may include addressing the estimated impact of system implementation on schools that receive less funding than under the previous funding model; and

(2) Use its SCF system to expand and enhance the provision of well-rounded education opportunities to educationally disadvantaged students.

(c) A detailed project budget, which includes a budget narrative that addresses the following and a proposed budget with funding sufficient to—

(1) For the first year of the project, support LEA work to develop and submit an application to the Department for an SCF flexibility agreement under ESEA section 1501 within the first 12 months of the project, and prepare to implement its SCF system;

(2) For the second year of the project, if the LEA's SCF flexibility agreement is not yet approved under ESEA section 1501, support LEA work to plan for implementation of its SCF system and train staff according to their roles and responsibilities on well-rounded education activities aligned with SCF implementation, such as training school leaders on budgeting under an SCF system and training central office staff on supporting school leaders in implementing an SCF system;

(3) Support LEA work, once approved to implement an SCF flexibility agreement under ESEA section 1501, to implement its SCF system for the duration of the grant period and develop a plan for sustainability to continue to implement its SCF system in the years following the grant period; and

(4) Annually travel to project directors' meetings in Washington, DC.

Third through Fifth Years of the Project: A grantee must receive approval, or an extension if a grantee's initial three-year approval expired, from the Department to implement an SCF flexibility agreement under ESEA section 1501 to continue to receive funding for the third through fifth years. In determining whether to continue funding, the Secretary will also consider the requirements of 34 CFR 75.253(a), as well as—

(a) The timeliness with which the requirements of the grant have been or are being met by the project and how well they are being met; and

(b) Readiness to implement an approved SCF flexibility agreement under ESEA section 1501, as demonstrated through local commitment and staff capacity, and the likelihood that approval of an agreement will enhance a well-rounded education in the LEA.

Definitions: Based on the requirements in section 1501, we are establishing the definitions of ''educationally disadvantaged students'' and ''students from low-income families'' for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). The definition of ''English learner'' is from ESEA section 8101(20), ''high-poverty school'' is from ESEA section 1501(l)(2), and the definition of ''well-rounded education'' is from ESEA section 8101(52).

Educationally disadvantaged students means, consistent with ESEA section 1501(d)(2)(A)(ii), ELs, students from low-income families, and students with any other characteristics associated with educational disadvantage chosen by the LEA.

English learner means an individual who is an English learner as defined in ESEA section 8101(20).

High-poverty school means a school that is in the highest two quartiles of schools served by an LEA, based on the percentage of enrolled students from low-income families.

Students from low-income families means low-income students as determined by the LEA for the purpose of implementing an SCF flexibility agreement under section 1501 of the ESEA.

Well-rounded education means courses, activities, and programming in subjects such as English, reading or language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other subject, as determined by the State or LEA with the purpose of providing all students access to an enriched curriculum and educational experience.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities, definitions, and requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under section 4103(a)(3) of the ESEA (20 U.S.C. 7113) and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priority, requirements, and definitions under section 437(d)(1) of GEPA. The priority, requirements, and definitions will apply to the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition.

Program Authority: Section 4103(a)(3) of the ESEA (20 U.S.C. 7113).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $3,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $500,000 per year prior to implementation of the SCF system; $1,000,000–$3,000,000 per year for implementation.

Estimated Average Size of Awards: $1,500,000 per year.

Estimated Number of Awards: 1–4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* LEAs.

2.a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements.

3. *Equitable Services for Children and Educators in Private Schools:* A grantee under this program is required to provide for the equitable participation of private school children, in accordance with section 8501 of the ESEA (20 U.S.C. 7881). For purposes of this program, this means that a grantee that receives approval from the Department to implement an SCF flexibility agreement under section 1501 of the ESEA (20 U.S.C. 6491) must provide for the equitable participation of private school children as required by sections 1501(d)(1)(I), 1117, and 8501 of the ESEA (20 U.S.C. 6491(d)(1)(I), 6320, and 7881).

4. *Subgrantees:* A grantee under this competition may not award subgrants to

entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application. *Grants.gov* has relaxed the requirement for applicants to have an active registration in the System for Award Management (SAM) in order to apply for funding during the COVID–19 pandemic. An applicant that does not have an active SAM registration can still register with *grants.gov*, but must contact the *Grants.gov* Support Desk, toll-free, at 1–800–518–4726, in order to take advantage of this flexibility.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* A grantee may use grant funds only for activities related to—

(a) For a period of up to 24 months, developing and preparing to implement an SCF system through an SCF flexibility agreement under ESEA section 1501, which may include staff capacity building; and

(b) Once implementing an SCF flexibility agreement—

(1) Implementing and continuously improving an SCF system, which may include assisting schools in transitioning to a new system, including temporary payments to schools that receive less funding than under the previous funding model so the LEA as a whole can implement the SCF system and increase opportunities for a well-rounded education across schools in the LEA;

(2) Using an SCF system to provide enhanced and expanded well-rounded education opportunities to educationally disadvantaged students; and

(3) Disseminating information on its project.

We reference regulations outlining other funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 40 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section (including the narrative budget justification); the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

V. Application Review Information

1. *Selection Criteria:* In general, the selection criteria for this program are from 34 CFR 75.210. The selection criterion in paragraph (a)(1) is based on applicable program statute in accordance with 34 CFR 75.209. The selection criteria are as follows:

(a) *Quality of the project design* (up to 30 points).

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of educationally disadvantaged students through a well-rounded education (up to 10 points).

(2) The extent to which the applicant demonstrates that it has the resources to operate the project beyond the length of the grant, including a multi-year financial and operating model and accompanying plan; the demonstrated commitment of any partners; evidence of broad support from stakeholders (*e.g.,* State educational agencies, teachers' unions) critical to the project's long-term success; or more than one of these types of evidence (up to 10 points).

(3) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings (up to 5 points).

(4) The extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies (up to 5 points).

(b) *Quality of project services* (up to 20 points).

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the following factors:

(1) The quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (up to 10 points).

(2) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services (up to 10 points).

(c) *Adequacy of resources* (up to 20 points).

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The extent to which the budget is adequate to support the proposed project (up to 10 points).

(2) The qualifications, including relevant training and experience, of key project personnel (up to 10 points).

(d) *Quality of the management plan* (up to 30 points).

The Secretary considers the quality of the management plan for, and the evaluation to be conducted of, the proposed project. In determining the quality of the management plan and the project evaluation, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (up to 10 points).

(2) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project (up to 10 points).

(3) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional

fields, recipients or beneficiaries of services, or others, as appropriate (up to 10 points).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:*

(a) *Program Performance Measures.* The performance measures for this program are—

(1) The total student enrollment in each participating LEA;

(2) The total funds that the participating LEA received for schools from any source (*i.e.,* Federal, State, and local funds);

(3) The total funds that the participating LEA received for schools from any source (*i.e.,* Federal, State, and local funds) and expended using an SCF system; and

(4) The ratio of the total amount of per-pupil funding from any source expended in high-poverty schools (as defined in this notice) as compared with the total amount of per-pupil funding expended in schools that are not high-poverty schools in each participating LEA.

(b) *Project-Specific Performance Measures.* Applicants must propose project-specific performance measures and performance targets consistent with the objectives of the proposed project, including measures to address how the SCF system will enhance and expand the provision of well-rounded education opportunities to educationally disadvantaged students. Applicants must provide the following information as directed under 34 CFR 75.110(b) and (c):

(1) *Performance measures.* How each proposed performance measure would accurately measure the performance of the project and how the proposed performance measure would be consistent with the performance measures established for the program funding the competition.

(2) *Baseline data.* (i) Why each proposed baseline is valid; or (ii) if the applicant has determined that there are no established baseline data for a particular performance measure, an explanation of why there is no established baseline and of how and when, during the project period, the

applicant would establish a valid baseline for the performance measure.

(3) *Performance targets.* Why each proposed performance target is ambitious yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

(4) *Data collection and reporting.* (i) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and (ii) the applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

All grantees must submit annual performance reports with information that is responsive to these performance measures.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the program; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020–09999 Filed 5–8–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Transition Programs for Students With Intellectual Disabilities Into Higher Education

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications (NIA) for new awards for fiscal year (FY) 2020 for the Transition Programs for Students with Intellectual Disabilities into Higher Education (TPSID)—Model Comprehensive Transition and Postsecondary Programs for Students with Intellectual Disabilities Program, Catalog of Federal Domestic Assistance (CFDA) number 84.407A. This notice relates to the approved information collection under OMB control number 1840–0006.

DATES: *Applications Available:* May 11, 2020.

Deadline for Transmittal of Applications: July 10, 2020.

Deadline for Intergovernmental Review: September 8, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Shedita Alston, U.S. Department of Education, 400 Maryland Avenue SW, Room 260–24, Washington, DC 20202–4260. Telephone: (202) 453–7090. Email: *Shedita.Alston@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the TPSID program is to support model demonstration programs that promote the successful transition of students with intellectual disabilities into higher education and to enable institutions of higher education (IHEs), or consortia of IHEs, to create or expand high-quality, inclusive model comprehensive transition and postsecondary programs for students with intellectual disabilities.

Background: Historically, in this country, the education, employment, and independent living outcomes for individuals with intellectual disabilities have been unpromising. Like their non-disabled peers, individuals with intellectual disabilities desire to live as self-reliant, valued contributors to their communities. However, individuals with intellectual disabilities have a more difficult time accessing high-quality postsecondary education and training designed to meet their unique needs, often leading to lower quality outcomes, such as higher unemployment, lower wages, and less independence. Over time, IHEs have improved services for students with intellectual disabilities, including more frequently offering specially designed instruction in inclusive settings to support improved academic, functional, and social outcomes, which, in turn, lead to improved employment and independent living outcomes.[1]

The Department is particularly interested in leveraging the resources of the TPSID program to promote competitive integrated employment and independent living outcomes for individuals with intellectual disabilities. Specifically, we believe that this program and its grantees present a unique opportunity to expand the availability of high-quality transition and postsecondary education programs, increasing the number of individuals with intellectual disabilities who are academically, functionally, and socially prepared to obtain and retain competitive employment in integrated settings. Further, we believe that those same skills and opportunities will prepare them to live independently as full and active members of their communities. To that end, this notice includes three competitive preference priorities that we believe will help applicants focus on the ways in which their proposed projects will lead to lasting, long-term benefits for individuals with intellectual

disabilities, including those in the most under-resourced communities.

Eligible IHEs or consortia of eligible IHEs that are interested in applying for grants under this program must propose to create or expand high-quality, inclusive model comprehensive transition and postsecondary (CTP) programs for students with intellectual disabilities.

TPSID program participants must meet the statutory definition of a ''student with an intellectual disability,'' participate on not less than a half-time basis as determined by the IHE, and be socially and academically integrated with their non-disabled peers.

TPSID projects use structured academic and advising curricula, coupled with person-centered plans of study (developed for each individual project participant), as the basis for building needed skills and competencies for each participant. As TPSID program projects provide support and services to their project participants, the projects concurrently monitor and assess the progress of their participants. Incorporating adjustments to such support as needed helps to ensure that each TPSID program participant earns a meaningful credential and reaches his or her employment or career goals.

Priorities: This notice contains one absolute priority and three competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(v), the absolute priority is from allowable activities specified in the statute (see section 767 of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1140g). Competitive Preference Priorities 1 and 2 are from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on March 2, 2018 (83 FR 9096) (Supplemental Priorities). Competitive Preference Priority 3 is from the notice of final priority published in the **Federal Register** on November 27, 2019 (84 FR 65300) (Opportunity Zones NFP).

Absolute Priority: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

A grant recipient must use grant funds to establish a model comprehensive transition and postsecondary program for students with intellectual disabilities that—

(1) Serves students with intellectual disabilities;

(2) Provides individual supports and services for the academic and social inclusion of students with intellectual disabilities in academic courses, extracurricular activities, and other aspects of the IHE's regular postsecondary program;

(3) Provides a focus on academic enrichment, socialization, independent living skills, including self-advocacy, and integrated work experiences and career skills that lead to gainful employment;

(4) Integrates person-centered planning in the development of the course of study for each student with an intellectual disability participating in the model program;

(5) Participates with the coordinating center established under section 777(b) of the HEA in the evaluation of the components of the model program;

(6) Partners with one or more local educational agencies to support students with intellectual disabilities participating in the model program who are still eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA), including the use of funds available under part B of IDEA to support the participation of such students in the model program;

(7) Plans for the sustainability of the model program after the end of the grant period; and

(8) Creates and offers a meaningful credential for students with intellectual disabilities upon the completion of the model program.

Competitive Preference Priorities: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional five points to an application, depending on how well the application meets Competitive Preference Priority 1; up to an additional five points to an application, depending on how well the application meets Competitive Preference Priority 2; and an additional one point to an application that meets Competitive Preference Priority 3. Applicants may respond to one or more of these priorities, for a total of up to 11 additional points.

These priorities are:

Competitive Preference Priority 1—Meeting the Unique Needs of Students and Children with Disabilities and/or Those with Unique Gifts and Talents (up to 5 points).

Projects that are designed to address ensuring children or students with disabilities (as defined in this notice) are offered the opportunity to meet challenging objectives and receive educational programs that are both meaningful and appropriately ambitious in light of each child's or student's circumstances by improving development of skills leading to postsecondary education, competitive integrated employment, or independent living.

Competitive Preference Priority 2—Fostering Knowledge and Promoting the Development of Skills That Prepare Students To Be Informed, Thoughtful, and Productive Individuals and Citizens (up to 5 points).

Projects that are designed to address one of the following priority areas:

(a) Supporting projects likely to improve student academic performance and better prepare students for employment, responsible citizenship, and fulfilling lives, including by preparing children or students to develop problem-solving skills.

(b) Supporting instruction in time management, job-seeking, personal organization, public and interpersonal communication, or other practical skills needed for successful career outcomes.

Competitive Preference Priority 3—Spurring Investment in Qualified Opportunity Zones (1 point).

Under this priority, an applicant must demonstrate that the area in which the applicant proposes to provide services overlaps with a Qualified Opportunity Zone, as designated by the Secretary of the Treasury under section 1400Z–1 of the Internal Revenue Code (IRC). An applicant must—

(a) Provide the census tract number of the Qualified Opportunity Zone(s) in which it proposes to provide services; and

(b) Describe how the applicant will provide services in the Qualified Opportunity Zone(s).

Definitions: The following definitions are from section 760 of the HEA (20 U.S.C. 1140) and from the Supplemental Priorities and apply to the priorities in this notice:

Comprehensive transition and postsecondary program for students with intellectual disabilities means a degree, certificate, or nondegree program that—

(A) Is offered by an IHE;

(B) Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an IHE in order to prepare for gainful employment;

(C) Includes an advising and curriculum structure;

(D) Requires students with intellectual disabilities to participate on

not less than a half-time basis as determined by the institution, with such participation focusing on academic components, and occurring through one or more of the following activities:

(i) Regular enrollment in credit-bearing courses with nondisabled students offered by the institution.

(ii) Auditing or participating in courses with nondisabled students offered by the institution for which the student does not receive regular academic credit.

(iii) Enrollment in noncredit-bearing, nondegree courses with nondisabled students.

(iv) Participation in internships or work-based training in settings with nondisabled individuals; and

(E) Requires students with intellectual disabilities to be socially and academically integrated with non-disabled students to the maximum extent possible.

Student with an intellectual disability means a student—

(A) With a cognitive impairment, characterized by significant limitations in—

(i) Intellectual and cognitive functioning; and

(ii) Adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and

(B) Who is currently, or was formerly, eligible for a free appropriate public education under the IDEA.

Children or students with disabilities means children with disabilities as defined in the IDEA or individuals defined as having a disability under Section 504 of the Rehabilitation Act of 1973 (Section 504) (or children or students who are eligible under both laws).

Program Authority: Title VII, part D, subpart 2 of the HEA (20 U.S.C. 1140f, *et seq.*).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted in 2 CFR part 3474. (d) The Supplemental Priorities. (e) The Opportunity Zones NFP.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $9,700,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent fiscal years from the list of unfunded applications from this competition.

Estimated Range of Awards: $100,000–$500,000.

Estimated Average Size of Awards: $388,000.

Maximum Awards: We will not make an award exceeding $500,000 for a single budget period of 12 months.

Estimated Number of Awards: 25.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs, as defined in section 101 of the HEA, or consortia of IHEs are eligible to apply for funding.

2. *Cost Sharing or Matching:* The grantee must provide, from non-Federal funds, a matching contribution equal to at least 25 percent of the cost of the project.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 58 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, and no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit applies to the application narrative. However, the recommended page limit does not apply to the Application for Federal Assistance form (SF–424); the ED SF–424 Supplement form; the Budget Information—Non-Construction Programs form (ED 524); the assurances and certifications; or the one-page project abstract, the program profile form, and supporting budget narrative. Please include a separate heading when responding to the absolute priority and each of the competitive preference priorities.

V. Application Review Information

1. *Selection Criteria:* The following selection criteria for this program are from 34 CFR 75.210. The points assigned to each criterion are indicated in parentheses. Applicants may earn up to a total of 100 points for the selection criteria.

(a) *Need for project (up to 10 points).*

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project.

(ii) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(iii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Significance (up to 15 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services

that address the needs of the target population.

(ii) The likely utility of the products (such as information, materials, processes, or techniques) that will result from the proposed project, including the potential for their being used effectively in a variety of other settings.

(iii) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(c) *Quality of the project design (up to 20 points).*

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(ii) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives.

(iii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(iv) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(d) *Quality of project services (up to 15 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(ii) The likelihood that the services to be provided by the proposed project will lead to improvements in the skills necessary to gain employment or build capacity for independent living.

(e) *Quality of project personnel (up to 10 points).*

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(f) *Adequacy of resources (up to 15 points).*

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The extent to which the budget is adequate to support the proposed project.

(iii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(iv) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

(g) *Quality of the project evaluation (up to 15 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iv) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

If a tie remains after applying any additional points from the competitive preference priorities, we will apply section 767(c)(1) and (2) of the HEA in support of our intent to ensure an equitable geographic distribution of grants, and provide grant funds to projects that will serve areas that are underserved by programs of this type.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program, the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed

by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements, please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measure:* The Secretary has established the following key performance measure for assessing the effectiveness of the TPSID program: The percentage of students with intellectual disabilities who are enrolled in programs funded under TPSID who complete the programs and obtain a meaningful credential, as defined by the TPSID Program Coordinating Center established under section 777(b) of HEA and approved by the Department.

Additionally, grantees will be required to participate in evaluation activities conducted by the coordinating center established under section 777(b) of the HEA. As part of these reports and evaluation activities, grantees will be expected to work closely with the coordinating center to develop performance measures most closely aligned with activities that promote the successful transition of students with disabilities into higher education. Grantees will be asked to provide to the coordinating center information such as: (1) A description of the population of students targeted to receive assistance under the grant; (2) evidence of academic and social inclusion of students with intellectual disabilities in academic courses, extracurricular activities, and other aspects of the IHE's regular postsecondary program; (3) a description of how the model program addresses individualized student needs and improvement through person-centered planning, academic enrichment, socialization, independent living skills, and integrated work experiences and career skills; (4) a description of how the model program's partnership with one or more LEAs supports students with intellectual disabilities participating in the model program who are still eligible for funds under the IDEA; (5) plans for program sustainability beyond the grant period; (6) a detailed description of the credential offered to students with intellectual disabilities; (7) data regarding the change in enrollment of students with intellectual disabilities at the IHE; (8) data regarding persistence and completion of students with intellectual disabilities; (9) a detailed description of measurable goals for the individual project, planned methods of achieving those goals, and progress towards meeting the goals; and (10) as applicable, a description of how the grantee continues to address Competitive Preference Priorities 1 and 2.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site, you can view this document, as well as all other

documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Robert L. King,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2020–10022 Filed 5–8–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Coordinating Center for Transition Programs for Students With Intellectual Disabilities Into Higher Education

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications (NIA) for new awards for fiscal year (FY) 2020 for the Coordinating Center for Transition Programs for Students with Intellectual Disabilities into Higher Education—Model Comprehensive Transition and Postsecondary Programs for Students with Intellectual Disabilities Program-Coordinating Center (TPSID–CC), Catalog of Federal Domestic Assistance (CFDA) number 84.407B. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: May 11, 2020.

Deadline for Transmittal of Applications: July 10, 2020.

Deadline for Intergovernmental Review: September 8, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Shedita Alston, U.S. Department of Education, 400 Maryland Avenue SW, Room 260–24, Washington, DC 20202–4260. Telephone: (202) 453–7090. Email: *Shedita.Alston@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the TPSID program is to support a national coordinating center charged with conducting and disseminating research on strategies to promote positive academic, social, employment, and independent living outcomes for students with intellectual disabilities. The TPSID–CC will establish a comprehensive research and evaluation protocol for TPSID programs; administer a mentoring program matching current and new TPSID grantees based on areas of expertise; and coordinate longitudinal follow-up data collection and technical assistance to TPSID grantees on programmatic components and evidence-based practices. The TPSID–CC will also provide technical assistance to build the capacity of kindergarten through grade 12 transition services and support postsecondary education inclusive practices, among other activities.

Background: As part of the Higher Education Opportunity Act of 2008, Congress authorized the TPSID–CC for institutions of higher education (IHEs) that offer inclusive comprehensive transition and postsecondary programs for students with intellectual disabilities, including institutions funded under the Transition Programs for Students with Intellectual Disabilities (TPSID) program. Since that time, the TPSID–CC has played a vital role in supporting the work of TPSID grantees, including identifying and disseminating best practices, promoting the development of high-quality performance measures, and collecting valuable information about the provision of postsecondary education for students with intellectual disabilities.

Priority: This notice contains one absolute priority. In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 777(b) of the HEA (20 U.S.C. 1140q(b)).

Absolute Priority: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

A grant recipient must use grant funds to establish a coordinating center for IHEs that offer inclusive comprehensive transition and postsecondary programs for students with intellectual disabilities, including IHEs participating in grants authorized by the TPSID program. The TPSID–CC must provide such programs recommendations related to the development of standards for such programs, technical assistance for such programs, and evaluations for such programs. The TPSID–CC must establish and maintain a coordinating center that must—

(1) Serve as the technical assistance entity for all comprehensive transition and postsecondary programs for students with intellectual disabilities;

(2) Provide technical assistance regarding the development, evaluation, and continuous improvement of such programs;

(3) Develop an evaluation protocol for such programs that includes qualitative and quantitative methodologies for measuring student outcomes and program strengths in the areas of academic enrichment, socialization, independent living, and competitive or supported employment;

(4) Assist recipients of grants under the TPSID program in efforts to award a meaningful credential to students with intellectual disabilities upon the completion of such programs, which credential must take into consideration unique State factors;

(5) Develop recommendations for the necessary components of such programs, such as—

(i) Academic, vocational, social, and independent living skills;

(ii) Evaluation of student progress;

(iii) Program administration and evaluation;

(iv) Student eligibility; and

(v) Issues regarding the equivalency of a student's participation in such programs to semester, trimester, quarter, credit, or clock hours at an IHE, as the case may be;

(6) Analyze possible funding streams for such programs and provide recommendations regarding the funding streams;

(7) Develop model memoranda of agreement for use between or among IHEs and State and local agencies providing funding for such programs;

(8) Develop mechanisms for regular communication, outreach, and dissemination of information about comprehensive transition and postsecondary programs for students with intellectual disabilities to those

institutions that have grants authorized under the TPSID program and to families and prospective students;

(9) Host a meeting of all recipients of grants authorized under the TPSID program not less often than once each year; and

(10) Convene a workgroup to develop and recommend model criteria, standards, and components of such programs as described in paragraph (5) that are appropriate for the development of accreditation standards, which workgroup must include—

(i) An expert in higher education;

(ii) An expert in special education;

(iii) A disability organization that represents students with intellectual disabilities;

(iv) A representative from the National Advisory Committee on Institutional Quality and Integrity; and

(v) A representative of a regional or national accreditation agency or association.

Definitions: The definition of ''comprehensive transition and postsecondary program for students with intellectual disabilities'' is from section 760(1) of the HEA (20 U.S.C. 1140(1)). The definition of ''student with an intellectual disability'' is from section 760(2) of the HEA (20 U.S.C. 1140(2)).

Comprehensive transition and postsecondary program for students with intellectual disabilities means a degree, certificate, or nondegree program that—

(A) Is offered by an IHE;

(B) Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an IHE in order to prepare for gainful employment;

(C) Includes an advising and curriculum structure;

(D) Requires students with intellectual disabilities to participate on not less than a half-time basis as determined by the institution, with such participation focusing on academic components, and occurring through one or more of the following activities:

(i) Regular enrollment in credit-bearing courses with nondisabled students offered by the institution.

(ii) Auditing or participating in courses with nondisabled students offered by the institution for which the student does not receive regular academic credit.

(iii) Enrollment in noncredit-bearing, nondegree courses with nondisabled students.

(iv) Participation in internships or work-based training in settings with nondisabled individuals; and

(E) Requires students with intellectual disabilities to be socially and academically integrated with nondisabled students to the maximum extent possible.

Student with an intellectual disability means a student—

(A) With a cognitive impairment, characterized by significant limitations in—

(i) Intellectual and cognitive functioning; and

(ii) Adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and

(B) Who is currently, or was formerly, eligible for a free appropriate public education under the Individuals with Disabilities Education Act.

Program Authority: 20 U.S.C. 1140q(b).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: Up to $2,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent fiscal years from the list of unfunded applications from this competition.

Maximum Awards: We will not make an award exceeding $2,000,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Under section 777(b)(1) of the HEA, an ''eligible entity'' means an entity, or a partnership of entities, that has demonstrated expertise in the fields of—

(1) Higher education;

(2) The education of students with intellectual disabilities;

(3) The development of comprehensive transition and postsecondary programs for students with intellectual disabilities; and

(4) Evaluation and technical assistance.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, and no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit applies to the application narrative. However, the recommended page limit does not apply to the Application for Federal Assistance form (SF–424); the ED SF–424 Supplement form; the Budget Information—Non-Construction

Programs form (ED 524); the assurances and certifications; or the one-page project abstract, the program profile form, and supporting budget narrative. Please include a separate heading when responding to the absolute priority.

V. Application Review Information

1. *Selection Criteria:* The following selection criteria for this program are from 34 CFR 75.210. The points assigned to each criterion are indicated in parentheses. Applicants may earn up to a total of 100 points for the selection criteria.

(a) *Need for project (up to 10 points).*

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project.

(ii) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(iii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Quality of the project design (up to 20 points).*

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(ii) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives.

(iii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(iv) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(c) *Quality of project services (up to 20 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(ii) The likelihood that the services to be provided by the proposed project will lead to improvements in the skills necessary to gain employment or build capacity for independent living.

(d) *Quality of project personnel (up to 15 points).*

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(2) The qualifications, including relevant training and experience, of key project personnel.

(e) *Adequacy of resources (up to 15 points).*

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The extent to which the budget is adequate to support the proposed project.

(iii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(iv) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

(f) *Quality of the project evaluation (up to 20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the project evaluation to be conducted of the proposed project, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress towards achieving intended outcomes.

(iv) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program, the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2

CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements, please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case, the Secretary establishes a data collection period.

5. *Performance Measures:*

The Government Performance and Results Act of 1993 directs Federal departments and agencies to improve the effectiveness of their programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals. The goal of the TPSID–CC Program is to provide—(a) recommendations related to the development of standards for inclusive comprehensive transition and postsecondary programs for students with intellectual disabilities; (b) technical assistance for such programs; and (c) evaluations for such programs. To assess the success of the grantee in meeting these goals, in addition to other information, the grantee's annual performance report must include—

(a) The percentage of inclusive comprehensive transition and postsecondary programs assisted by the TPSID–CC that meet evidence-based, center-developed standards for necessary program components, reported across each standard; and

(b) The percentage of students with intellectual disabilities who are enrolled in programs assisted by the TPSID–CC who complete the programs and obtain a meaningful credential, as defined by the TPSID–CC and supported through empirical evidence.

In addition, the TPSID–CC will work closely with the Federal project officer to develop additional performance measures, performance targets, and data collection methodologies that are aligned with this work. Data must be collected by the TPSID–CC on accreditation standards and communications with recognized accrediting agencies, descriptions and analyses of funding streams, and the impact of the TPSID–CC's technical assistance activities related to outreach and dissemination. These additional performance measures will capture formative data about the quality, usefulness, relevance, and efficiency of the TPSID–CC's technical assistance and evaluation services.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person

listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site, you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Robert L. King,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2020–10021 Filed 5–8–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1754–000]

Assembly Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Assembly Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First 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). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 25, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: May 5, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–10004 Filed 5–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–54–000.

Applicants: Mankato Energy Center, LLC, Mankato Energy Center II, LLC, SWG Minnesota Holdings, LLC.

Description: Supplement to April 21, 2020 Application for Authorization Under Section 203 of the Federal Power Act, et al. of Mankato Energy Center, LLC, et al.

Filed Date: 5/4/20.

Accession Number: 20200504–5211.

Comments Due: 5 p.m. ET 5/21/20.

Docket Numbers: EC20–60–000.

Applicants: NextEra Energy, Inc., Florida Power & Light Company, Gulf Power Company.

Description: Application for Approval of Internal Corporate Reorganization under Section 203 of the Federal Power Act of NextEra Energy, Inc., et al.

Filed Date: 5/1/20.

Accession Number: 20200501–5492.

Comments Due: 5 p.m. ET 6/15/20.

Docket Numbers: EC20–61–000.

Applicants: Energy Harbor LLC, Energy Harbor Generation LLC, Energy Harbor Nuclear Generation LLC, Pleasants Corp., Pleasants LLC, Avenue Capital Management II, L.P., Nuveen Asset Management, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Energy Harbor LLC, et al.

Filed Date: 5/4/20.

Accession Number: 20200504–5179.

Comments Due: 5 p.m. ET 5/26/20.

Docket Numbers: EC20–62–000.

Applicants: DTE Electric Company, Isabella Wind, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of DTE Electric Company, et al.

Filed Date: 5/5/20.

Accession Number: 20200505–5160.

Comments Due: 5 p.m. ET 5/26/20.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–146–000.

Applicants: Harmony Florida Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Harmony Florida Solar, LLC.

Filed Date: 5/4/20.

Accession Number: 20200504–5153.

Comments Due: 5 p.m. ET 5/26/20.

Docket Numbers: EG20–147–000.

Applicants: Taylor Creek Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Taylor Creek Solar, LLC.

Filed Date: 5/4/20.

Accession Number: 20200504–5154.

Comments Due: 5 p.m. ET 5/26/20.

Docket Numbers: EG20–148–000.

Applicants: Chicot Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Chicot Solar, LLC.

Filed Date: 5/5/20.
Accession Number: 20200505–5158.
Comments Due: 5 p.m. ET 5/26/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–432–000.
Applicants: The Empire District Electric Company.
Description: Second Supplement and Amendment to November 30, 2019 Application for Waiver of Affiliate Rules, et al. of The Empire District Electric Company.
Filed Date: 5/1/20.
Accession Number: 20200501–5368.
Comments Due: 5 p.m. ET 5/11/20.

Docket Numbers: ER20–703–001.
Applicants: 41MB 8me, LLC.
Description: Compliance filing: 41MB 8me, LLC—Market-Based Rate Tariff Update to be effective 5/5/2020.
Filed Date: 5/4/20.
Accession Number: 20200504–5137.
Comments Due: 5 p.m. ET 5/26/20.

Docket Numbers: ER20–703–002
Applicants: 41MB 8me, LLC.
Description: Notice of Non-Material Change in Status of 41MB 8me, LLC.
Filed Date: 5/4/20.
Accession Number: 20200504–5197.
Comments Due: 5 p.m. ET 5/26/20.

Docket Numbers: ER20–1237–000.
Applicants: Ameren Illinois Company.
Description: Motion to Intervene, Formal Challenge, et al. of Southwestern Electric Cooperative, Inc. to March 10, 2020 Annual Informational Filing by Ameren Illinois Company.
Filed Date: 4/15/20.
Accession Number: 20200415–5215.
Comments Due: 5 p.m. ET 5/26/20.

Docket Numbers: ER20–1604–001.
Applicants: EF Oxnard LLC.
Description: Tariff Amendment: Amendment to Market-Based Rates Application to be effective 6/14/2020.
Filed Date: 5/5/20.
Accession Number: 20200505–5101.
Comments Due: 5 p.m. ET 5/26/20.

Docket Numbers: ER20–1760–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Errata: Amendment to ISA & ICSA, SA Nos. 4501 & 4502; Queue No. AA2–061 to be effective 6/30/2016.
Filed Date: 5/5/20.
Accession Number: 20200505–5154.
Comments Due: 5 p.m. ET 5/26/20.

Docket Numbers: ER20–1765–000.
Applicants: Portland General Electric Company.
Description: Report on Interconnection Study Metrics of Portland General Electric Company.
Filed Date: 5/1/20.
Accession Number: 20200501–5535.
Comments Due: 5 p.m. ET 5/22/20.

Docket Numbers: ER20–1766–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2041R9 Kansas City Board of Public Utilities PTP Service Agreement Cancellation to be effective 1/1/2020.
Filed Date: 5/5/20.
Accession Number: 20200505–5053.
Comments Due: 5 p.m. ET 5/26/20.

Docket Numbers: ER20–1767–000.
Applicants: New York Independent System Operator, Inc.
Description: Request for Waiver, et al. of New York Independent System Operator, Inc.
Filed Date: 5/4/20.
Accession Number: 20200504–5223.
Comments Due: 5 p.m. ET 5/11/20.

Docket Numbers: ER20–1768–000.
Applicants: Southwest Power Pool, Inc.
Description: Notice of Cancellation of Firm Point-To-Point Transmission Service Agreement of Southwest Power Pool, Inc.
Filed Date: 5/5/20.
Accession Number: 20200505–5145.
Comments Due: 5 p.m. ET 5/26/20.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH20–11–000.
Applicants: American States Water Company.
Description: American States Water Company submits FERC 65–B Waiver Notification.
Filed Date: 5/4/20.
Accession Number: 20200504–5170.
Comments Due: 5 p.m. ET 5/26/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 5, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–10001 Filed 5–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD20–16–000]

Shortening Comment Period for Federal Power Act Section 204 Filings; Notice Shortening Comment Period

On March 13, 2020, the President issued a proclamation declaring a National Emergency due to the COVID–19 pandemic. Entities regulated by the Commission have had to take unprecedented actions in response to the emergency conditions, including directing staff to work remotely for an extended period, which may disrupt, complicate, or otherwise change their normal course of business operations.

To expedite the Commission's review of filings that may be necessary to ensure regulated entities' liquidity in the face of the COVID–19 pandemic, the period for filing interventions and protests to filings submitted pursuant to the Federal Power Act, section 204, 16 U.S.C. 824c (2018), is hereby shortened from 21 days to 5 business days.[1] This shortened comment period will be in effect up to and including September 1, 2020.

Dated: May 5, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–09997 Filed 5–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP17–495–003; CP17–494–003]

Jordan Cove Energy Project, L.P., Pacific Connector Gas Pipeline, LP; Notice of Petition for Declaratory Order

Take notice that on April 21, 2020, pursuant to section 385.207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207 (2019), Jordan Cove Energy Project, L.P. (Jordan Cove) and Pacific Connector Gas

[1] The Office of the Secretary will indicate such shortened comment periods in the notices it issues to process those filings.

Pipeline, LP (Pacific Connector) filed a Petition for Declaratory Order (Petition) finding that the Oregon Department of Environmental Quality waived its authority to issue certification for the Jordan Cove LNG Terminal and Pacific Connector Pipeline under Section 401 of the Clean Water Act, 33 U.S.C. 1341(a)(1) (2018), as more fully explained in the petition.

Any person wishing to comment on Jordan Cove and Pacific Connector's petition may do so.[1] The deadline for filing comments is 30 days from the issuance of this notice. The Commission encourages electronic submission of comments in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should send comments to the following address: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852. Be sure to reference the docket numbers (CP17–495–003 and CP17–494–003) with your submission.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission' s Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on June 4, 2020.

Dated: May 5, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–10003 Filed 5–8–20; 8:45 am]

BILLING CODE 6717–01–P

[1] Jordan Cove and Pacific Connector's request is related to their NGA section 3 and 7 proceedings in Docket Nos. CP17–494 and CP17–495. Thus, any person that intervened in those proceedings is already a party. The filing of the petition in this case does not trigger a new opportunity to intervene.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: CP18–525–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: Gulf South Pipeline Company, LLC's waiver of Request Regarding Ordering Paragraph F. Willis Lateral Project.
Filed Date: 4/30/20
Accession Number: 20200430–5452.
Comments Due: 5 p.m. ET 5/21/20.

Docket Numbers: RP20–621–001.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Compliance filing Implementation of Firm Flexible Storage Service FS–F to be effective 6/1/2020.
Filed Date: 5/4/20.
Accession Number: 20200504–5058.
Comments Due: 5 p.m. ET 5/18/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 5, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–10002 Filed 5–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–194–000]

Kinetica Energy Express, LLC; Notice of Application

Take notice that on April 21, 2020, Kinetica Energy Express, LLC (Kinetica Energy), 1001 McKinney, Suite 900, Houston, Texas 77002, filed in Docket No. CP20–194–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) requesting authorization to: (1) Abandon in-place approximately 20.6 miles of 16-inch-diameter Pipeline Segment Number (PSN) 5140 and 20.7 miles of 12-inch-diameter PSN 3761 from onshore in Vermillion Parish, Louisiana to South Marsh Island Block 220 in the federal waters of the Gulf of Mexico; and (2) abandon by removal the remaining 12.9 miles of PSN 5140 and 12.6 miles of PSN 3761 from Marsh Island Block 220 to Marsh Island Blocks 243 and 249, respectively, all located in the federal waters of the Gulf of Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Bill Prentice, Kinetica Energy Express, LLC, 1001 McKinney, Suite 90, Houston, Texas 77002, by phone (713) 228–3347.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing

for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16–4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new NGA section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to show good cause why the time limitation should be waived, and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Standard Time on May 26, 2020.

Dated: May 5, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–09996 Filed 5–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC20–9–000]

Commission Information Collection Activities (FERC–549D); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–549D (Quarterly Transportation and Storage Report for Intrastate Natural Gas and Hinshaw Pipelines) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below.

DATES: Comments on the collection of information are due June 10, 2020.

ADDRESSES: Send written comments on FERC–549D to OMB through *www.reginfo.gov/public/do/PRAMain,* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB control number (1902–0253) in the subject line. Your comments should be sent within 30 days of publication of this notice in the **Federal Register**.

Please submit copies of your comments to the Commission (identified by Docket No. IC20–10–000) by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, at Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain;* Using the search function under the Currently Under Review field, select Federal Energy Regulatory Commission; click submit and select comment to the right of the subject collection. *FERC submissions* must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–549D, Quarterly Transportation and Storage Report for Intrastate Natural Gas and Hinshaw Pipelines.

OMB Control No.: 1902–0253.

Form No.: FERC Form 549D.

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[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC 61,167 at 50 (2018).

[2] 18 CFR 385.214(d)(1).

Type of Request: Three-year extension of the FERC–549D information collection requirements with no changes to the current reporting requirements.

Abstract: On March 2, 2020, the Commission published a Notice in the **Federal Register** in Docket No. IC20–9–000 requesting public comments (85 FR 12281). The Commission received no public comments and is indicating that in the related submittal to OMB. The reporting requirements under FERC–549D are required to carry out the Commission's policies in accordance with the general authority in Section 1(c) of the Natural Gas Act (NGA) [1] and Section 311 of the Natural Gas Policy Act of 1978 (NGPA).[2] This collection promotes transparency by collecting and making available intrastate and Hinshaw pipeline transactional information. The Commission collects the data upon a standardized form with all requirements outlined in 18 CFR 284.126.

The FERC–549D collects the following information:

- Full legal name and identification number of the shipper receiving service, including whether the pipeline and the shipper are affiliated;
- Type of service performed;
- The rate charged under each contract;
- The primary receipt and delivery points for each contract;
- The quantity of natural gas the shipper is entitled to transport, store, or deliver for each transaction;
- The duration of the contract, specifying the beginning and (for firm contracts only) ending month and year of current agreement;
- Total volumes transported, stored, injected or withdrawn for the shipper; and
- Annual revenues received for each shipper, excluding revenues from storage services.

Filers submit the Form-549D on a quarterly basis.

Type of Respondents: Intrastate natural gas under NGPA Section 311 authority and Hinshaw pipelines.

Estimate of Annual Burden: [3] The Commission estimates the annual public reporting burden and cost for the information collection as follows:

FERC–549D: QUARTERLY TRANSPORTATION AND STORAGE REPORT FOR INTRASTATE NATURAL GAS AND HINSHAW PIPELINES

	Average annual number of respondents (1)	Average annual number of responses per respondent (2)	Average annual total number of responses (1) * (2) = (3)	Average burden hrs. & cost ($) per response (4)	Total annual burden hours & total annual cost ($) (rounded) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
PDF filings	120	4	480	12.5 hrs.; $1,133	6,000 hrs.; $543,840	$4,532
Total			480		6,000 hrs.; $543,840	

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 5, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–09998 Filed 5–8–20; 8:45 am]

BILLING CODE 6717–01–P

[1] 15 U.S.C. 717(c).

[2] 15 U.S.C. 3211.

[3] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10009–35–Region 1]

Notice of Availability of Draft NPDES Aquaculture General Permit (AQUAGP) for Concentrated Aquatic Animal Production (CAAP) Facilities and Other Related Facilities in Massachusetts, New Hampshire, and Vermont

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Draft NPDES General Permit MAG130000, NHG130000, and VTG130000.

SUMMARY: The Director of the Water Division, U.S. Environmental Protection Agency—Region 1 (EPA), is providing a Notice of Availability for the Draft National Pollutant Discharge Elimination System (NPDES) Aquaculture General Permit (AQUAGP) for discharges from Concentrated Aquatic Animal Production (CAAP) facilities and other related facilities to certain waters of the Commonwealth of Massachusetts, State of New Hampshire, and State of Vermont (federal facilities only). This Draft NPDES AQUAGP (''Draft General Permit'') establishes effluent limitations and requirements, effluent and ambient monitoring requirements, reporting requirements, and standard conditions for 14 eligible industrial facilities currently covered by individual NPDES permits, 7 in Massachusetts, 5 in New Hampshire, and 2 in Vermont. The Draft General Permit is available on EPA Region 1's website at *https://www.epa.gov/npdes-permits/region-1-draft-aquaculture-general-permit.* The Fact Sheet for the Draft General Permit sets forth principal facts and the significant factual, legal, methodological, and policy questions considered in the development of the Draft General Permit and is also available at this website.

DATES: Public comments must be received by June 10, 2020.

ADDRESSES: Written comments on the Draft General Permit may be mailed to U.S. EPA Region 1, Water Division, Attn: Nathan Chien, 5 Post Office Square, Suite 100, Mail Code 06–1, Boston, Massachusetts 02109–3912, or

sent via email to: *Chien.Nathan@epa.gov.* No facsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Draft General Permit may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday, excluding holidays from Nathan Chien, U.S. EPA Region 1, Water Division, 5 Post Office Square, Suite 100, Mail Code 06–1, Boston, MA 02109–3912; telephone: 617–918–1649; email: *Chien.Nathan@epa.gov.* The Draft General Permit is based on an administrative record available for review at U.S. EPA Region 1, Water Division, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109–3912. A reasonable fee may be charged for copying requests.

SUPPLEMENTARY INFORMATION:

Public Comment Information: Interested persons may submit written comments on the Draft General Permit to EPA Region 1 at the address listed above. In reaching a final decision on this Draft General Permit, the Regional Administrator will respond to all significant comments and make responses available to the public at EPA's Boston office. All comments must be postmarked or delivered by the close of the public comment period.

General Information: The Draft General Permit includes effluent limitations and requirements for CAAP facilities and related dischargers based on technology and/or water quality considerations of the unique discharges from these facilities. The effluent limits established in the Draft General Permit ensure that the surface water quality standards of the receiving water(s) will be attained and/or maintained.

Obtaining Authorization: To obtain coverage under the Draft General Permit, facilities meeting the eligibility requirements outlined in Part 4 of this General Permit may submit a notice of intent (NOI) in accordance with 40 CFR 122.28(b)(2)(i) & (ii). The contents of the NOI shall include at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, the receiving stream(s) and be signed by the operator in accordance with the signatory requirements of 40 CFR 122.22. Alternately, based on 40 CFR 122.28(b)(2)(vi), the Director may notify a discharger that it is covered by a general permit, even if the discharger has not submitted an NOI to be covered. EPA has determined that the 14 facilities identified in Part 1 of the Fact Sheet all meet the eligibility requirements for coverage under the Draft General Permit and may be authorized to discharge under the General Permit by this type of notification.

Other Legal Requirements: In accordance with the Endangered Species Act (ESA), EPA has updated the provisions and necessary actions and documentation related to potential impacts to endangered species from sites seeking coverage under the Draft General Permit. Concurrently with the public notice of the Draft General Permit, EPA has submitted a letter to the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries) summarizing the results of EPA's assessment of the potential effects to endangered and threatened species and their critical habitats as a result of EPA's issuance of the Draft General Permit. In this document, EPA has preliminarily concluded that the proposed issuance of the Draft General Permit is not likely to adversely affect the shortnose sturgeon, Atlantic sturgeon, or designated critical habitat for Atlantic sturgeon, as well as coastal protected whales and sea turtles and the North Atlantic right whale critical habitat. EPA has requested that NOAA Fisheries review this submittal and inform EPA whether it concurs with this preliminary finding.

In the Fact Sheet accompanying the Draft AQUAGP, EPA has preliminarily concluded that the Draft AQUAGP will have ''no effect'' on endangered species under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS). The reason for this determination is because each NOI submission must assess site specific endangered species impacts using USFWS' Information, Planning, and Conservation (IPaC) website, available at *https://ecos.fws.gov/ipac/.* By using this website, the applicant can either make a determination of impacts or if there are questions, seek input from the USFWS directly. Since each NOI is individually screened prior to submission, EPA has tentatively determined that the Draft AQUAGP will have ''no effect.'' EPA requests that USFWS review this submittal and inform EPA whether it concurs with this preliminary finding.

Under the 1996 Amendments (Pub. L. 104–267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.* (1998)), EPA is required to consult with NOAA Fisheries if EPA's actions or proposed actions that it funds, permits or undertakes ''may adversely impact any essential fish habitat'' (EFH). 16 U.S.C. 1855(b). In the Fact Sheet accompanying the Draft AQUAGP, EPA notes that the general permit action minimizes adverse effects to aquatic organisms, including those with designated EFH in the receiving waters, including Atlantic salmon and the life stages of a number of coastal EFH designated species. EPA has made the determination that additional mitigation is not warranted under Section 305(b)(2) of the Magnuson-Stevens Act and has provided this determination to NOAA Fisheries for their review.

National Historic Preservation Act (NHPA): Facilities which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the NHPA are not authorized to discharge under the Draft General Permit. Based on the nature and location of the discharges, EPA has determined that the 14 facilities eligible for authorization under the Draft General Permit do not have the potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

Authority: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: May 4, 2020.

Dennis Deziel,

Regional Administrator.

[FR Doc. 2020–10011 Filed 5–8–20; 8:45 a.m.]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the ad hoc clearance for Surveys of Consumer and Community Affairs Publications and Resources (FR 1378; OMB No. 7100–0358).

DATES: Comments must be submitted on or before July 10, 2020.

ADDRESSES: You may submit comments, identified by FR 1378, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Surveys of Consumer and Community Affairs Publications and Resources.

Agency form number: FR 1378.

OMB control number: 7100–0358.

Frequency: As needed.

Respondents: Individuals, businesses, non-profit institutions, government entities, and other Board stakeholders.

Estimated number of respondents: Consumer surveys, quantitative: 1,000; consumer surveys, qualitative: 50; stakeholder surveys, quantitative: 800; stakeholder surveys, qualitative: 50.

Estimated average hours per response: Consumer surveys, quantitative: 0.25; consumer surveys, qualitative: 1.5; stakeholder surveys, quantitative: 0.25; stakeholder surveys, qualitative: 1.5.

Estimated annual burden hours: Consumer surveys, quantitative: 500; consumer surveys, qualitative: 300; stakeholder surveys, quantitative: 1,200; stakeholder surveys, qualitative: 300; total: 2,300.

General description of report: The Board uses this collection to seek input from users or potential users of the Board's publications, resources, and conference materials to understand their interests and needs; to inform decisions concerning content, design, and dissemination strategies; to gauge public awareness of the Board's publications, resources, and conferences; and to assess the effectiveness of the Board's communications with various respondents.

The surveys in this collection are used to gather qualitative and quantitative information directly from users or potential users of Board publications, resources, and conference materials, such as consumers (consumer surveys) and stakeholders (stakeholder surveys). Stakeholders may include, but are not limited to, nonprofits, community development organizations, consumer groups, conference attendees, financial institutions and other financial companies offering consumer financial products and services, other for profit companies, state or local agencies, and researchers from academic, government, policy, and other institutions.

The frequency of the survey and content of the questions will vary as needs arise for feedback on different resources and from different audiences.

Legal authorization and confidentiality: The FR 1378 is authorized by sections 2A and 12A of the Federal Reserve Act (FRA). Section 2A of the FRA requires that the Board and the Federal Open Market Committee (FOMC) ''maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of the maximum employment, stable prices, and moderate long-term interest rates.'' Under section 12A of the FRA, the FOMC is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks ''with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.'' The information collection under the FR 1378 is used to fulfill these obligations.

In addition, the Board is responsible for implementing and drafting regulations and interpretations for various consumer protection laws. The information obtained from the FR 1378 may be used in support of the Board's development and implementation of regulatory provisions for these laws. Therefore, depending on the survey questions asked, the FR 1378 may be authorized pursuant to the Board's authority under one or more of those consumer protection statutes.

The information collected under FR 1378 is not confidential.

Board of Governors of the Federal Reserve System, May 5, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–09939 Filed 5–8–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 9, 2020.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Tri Valley Bancshares, Inc., Talmage, Nebraska;* to acquire Eagle Bancshares, Inc., and thereby indirectly acquire Eagle State Bank, both of Eagle, Nebraska.

Board of Governors of the Federal Reserve System, May 5, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–09934 Filed 5–8–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend, for three years, with revision, the ad hoc clearance for the Survey of Household Economics and Decisionmaking (SHED) (FR 3077; OMB No. 7100–0374).

DATES: Comments must be submitted on or before July 10, 2020.

ADDRESSES: You may submit comments, identified by FR 3077, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine

the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Report title: Survey of Household Economics and Decisionmaking (SHED).

Agency form number: FR 3077.

OMB control number: 7100–0374.

Frequency: Annually; On occasion.

Respondents: The Board expects that the respondents would include a nationally representative sample of non-institutionalized individuals [1] who are 18 years of age and older. Due to the nature of the third-party vendor's respondent pool, this sample naturally includes repeat respondents, which allows for evaluating changes in respondents' economic conditions, as well as time series analysis.

In 2019, the Board changed how respondents were selected to participate in the SHED questionnaire to more closely reflect a nationally representative sample. Thus, effective with the 2019 questionnaire, the respondent panel no longer contained a low- and moderate-income oversample. Instead, the same number of respondents were interviewed but those respondents were drawn as a random sample of adults, rather than by attempting to sample a disproportionate share of low- and moderate-income adults. This change was made to obtain a respondent sample that more closely reflects the overall adult population and to reflect that these deviations from a nationally representative sample were no longer necessary for analyses of these populations given the current size of the SHED respondent pool.

Effective with the 2018 SHED questionnaire, the respondent panel also no longer included an explicit sample of repeat respondents. Because approximately one-fifth of the vendor's total online respondent pool for the questionnaire is already comprised of repeat respondents, a substantial fraction of questionnaire respondents are repeat respondents without the need to have an explicit repeat sample.

The Board plans to continue to sample a nationally representative pool of respondents without an oversample of low- and moderate-income individuals and without an explicit repeat sample group.

Estimated number of respondents: Quantitative survey, 21,500 respondents; qualitative survey, 30 respondents.

Estimated average hours per response: Quantitative survey, 0.35 hours; qualitative survey, 2 hours.

Estimated annual burden hours: Quantitative survey, 7,525 hours; qualitative survey, 180 hours.

General description of report: The FR 3077 questionnaire is used to collect insightful information from consumers concerning the well-being of U.S. households and how individuals and their families are faring in the economy. The collected information could be used for the Board's Report on the Economic Well-Being of U.S. Households; Board studies or working papers; professional journals; the Federal Reserve Bulletin; testimony and reports to the Congress; or other vehicles. The SHED questionnaire includes such topics as individuals' overall financial well-being, employment experiences, income and savings behaviors, economic preparedness, access to banking and credit, housing and living arrangement decisions, education and human capital, student loans, and retirement planning. The overall content of the SHED questionnaire depends on changing economic, regulatory, or legislative developments as well as changes in the financial services industry.

Proposed revisions: The ad hoc SHED questionnaire has undergone numerous revisions in order to both minimize respondent burden and capture new and emerging topics. For example, beginning with the 2017 SHED questionnaire, the questionnaire asked about exposure to opioids under the ''Health and Insurance'' component; the 2018 questionnaire included a question on willingness to take financial risks; and the 2019 questionnaire included several questions on exposure to the criminal justice system and new aspects of employment in the gig economy. The Board also annually reviews existing survey questions to identify those that no longer need to be included or could be included only periodically. Examples of questions cycled off of the questionnaire include asking homeowners why they own their home, questions on auto-lending, and questions on expectations for the financial well-being of the respondents' children. The Board proposes to maintain the 2019 questionnaire, which includes these changes, as the core content. The Board also proposes to continue to add or remove a limited number of questions annually to reflect new areas of interest on an ad hoc basis. However, the time necessary to respond to the newer questions on the questionnaire, which were added in recent years, has taken respondents less time than it took to respond to the older questions that were removed, thereby reducing the overall respondent burden. Additionally, as the Board's understanding of the time necessary to complete the questionnaire has improved with additional years of data collection, it has been determined that the completion time is lower than initially estimated. This improvement in the time estimates led to a reduction in the expected respondent burden for the questionnaire.

Legal authorization and confidentiality: Section 2A of the Federal Reserve Act requires that the Board maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates (12 U.S.C. 225a). The Board uses the information obtained from the FR 3077 to help fulfill these obligations. The FR 3077 is a voluntary information collection.

Personally identifiable information collected on the SHED questionnaire, which would identify individual respondents, will be withheld under exemption 6 of the Freedom of Information Act (FOIA). Exemption 6 of the FOIA protects information from being disclosed that would result in an unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). In the event cognitive interviews are conducted with select individuals to obtain qualitative feedback regarding an individual respondent's thoughts or reflections on the questions posed in the SHED questionnaire, both the questions posed to the individual respondent and their responses would be protected by exemption 6 of the FOIA (5 U.S.C. 552(b)(6)).

Board of Governors of the Federal Reserve System, May 5, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–09940 Filed 5–8–20; 8:45 am]

BILLING CODE 6210–01–P

[1] Non-institutionalized individuals refers to individuals who are not inmates of institutions, such as those who are incarcerated or live in a retirement home, hospital, or other medical institution, as well as active duty military.

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank

holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than June 10, 2020.

A. Federal Reserve Bank of San Francisco (Sebastian Astrada, Director, Applications) 101 Market Street, San Francisco, California 94105–1579:

1. *Varo Money, Inc., San Francisco, California;* to become a bank holding company by acquiring Varo Bank, National Association, Draper, Utah.

Board of Governors of the Federal Reserve System, May 6, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–10020 Filed 5–8–20; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Registration of Mortgage Loan Originators (CFPB G; OMB No. 7100–0328).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Registration of Mortgage Loan Originators.

Agency form number: CFPB G.

OMB control number: 7100–0328.

Frequency: Annually.

Respondents: State member banks (SMBs) with $10 billion or less in total assets that are not affiliates of insured depository institutions with total assets of more than $10 billion; subsidiaries of such SMBs that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act; branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks); and commercial lending companies owned or controlled by foreign banks (collectively, ''banking organizations''), as well as employees of banking organizations who act as residential mortgage loan originators (MLOs).

Estimated number of respondents: MLO's (new)—initial set up, 396 respondents; MLO's (new)—disclosure, 396 respondents; MLO's (existing)—updates for changes, 11,422 respondents; MLO's (existing)—maintenance and disclosures, 22,844 respondents; Banking organizations, 674 respondents.

Estimated average hours per response: MLO's (new)—initial set up, 2.5 hours; MLO's (new)—disclosure, 1 hour; MLO's (existing)—updates for changes, 0.25 hour; MLO's (existing)—maintenance and disclosures, 0.85 hour; Banking organizations, 118 hours.

Estimated annual burden hours: MLO's (new)—initial set up, 990 hours; MLO's (new)—disclosure, 396 hours; MLO's (existing)—updates for changes, 2,856 hours; MLO's (existing)—maintenance and disclosures, 19,417 hours; Banking organizations, 79,532 hours.

General description of report: In accordance with the Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act), the Consumer Financial Protection Bureau's (CFPB) Regulation G requires MLOs to register with the Nationwide Mortgage Licensing System and Registry (NMLS or Registry),[1] maintain this registration, obtain a unique identifier, and disclose to consumers upon request and through the Registry their unique identifier and the MLO's employment history and publicly adjudicated disciplinary and enforcement actions. The CFPB's regulation also requires the institutions employing MLOs to adopt and follow written policies and procedures to ensure that their employees comply with these requirements and to conduct annual independent compliance tests.

Legal authorization and confidentiality: The CFPB's Regulation G is authorized pursuant to the S.A.F.E. Act and the Dodd-Frank Act, which transferred to the CFPB the ''consumer financial protection functions,'' including the S.A.F.E. Act, previously vested in certain other Federal agencies.[2] The Board is authorized to enforce consumer financial protection functions, including the CFPB's Regulation G, with respect to SMBs with $10 billion or less in total assets that are not affiliates of insured depository institutions with total assets of more than $10 billion and the subsidiaries of such SMBs that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act (see 12 U.S.C. 1844(c)(5)) under section 1061 of the Dodd Frank Act.[3] The International Banking Act (IBA) requires ''every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks . . . [to] conduct its operations in the United States in full compliance with provisions of any law of the United States . . . which impose requirements that protect the rights of

[1] *https://mortgage.nationwidelicensingsystem.org/Pages/default.aspx.*

[2] 12 U.S.C. 5101 *et seq;* 12 U.S.C. 5581.

[3] 12 U.S.C. 5581(c).

consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws.'' [4] The Board has authority to examine branches and agencies of foreign banks and commercial lending companies owned or controlled by foreign banks and to enforce the provisions of the IBA pursuant to sections 7 and 13 of the IBA.[5] The CFPB G is mandatory.

The unique identifier of MLOs must be made public and is not considered confidential. In addition, most of the information that MLOs submit in order to register with the NMLS will be publicly available. However, certain identifying data about individuals who act as MLOs may be treated as confidential pursuant to exemption 6 of the Freedom of Information Act (FOIA), which protects from disclosure information that ''would constitute a clearly unwarranted invasion of personal privacy.'' [6]

With respect to the information collection requirements imposed on banking organizations, because banking organizations are required to retain their own records and make certain disclosures to customers, the FOIA would only be implicated if the Board's examiners obtained a copy of these records as part of the examination or supervision of a financial institution. Records obtained in this manner may be exempt from disclosure under FOIA exemption 8, regarding examination-related materials.[7]

Current actions: On January 16, 2020, the Board published an initial notice in the **Federal Register** (85 FR 2742) requesting public comment for 60 days on the extension, without revision, of the CFPB G. The comment period for this notice expired on March 16, 2020. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, May 5, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–09937 Filed 5–8–20; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Information Comparison With Insurance Data (OMB #0970–0342)

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families' (ACF) Office of Child Support Enforcement (OCSE) is requesting a 3-year extension of the currently approved Information Comparison with Insurance Data (OMB #0970–0342; Expires 1/31/2021).

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Deficit Reduction Act of 2005 amended Section 452 of the Social Security Act to authorize the Secretary, through the Federal Parent Locator Service (FPLS), to conduct comparisons of information concerning individuals owing past-due child support with information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments. The two options to participate in the Information Comparison with Insurance Data program are (1) insurers submit information concerning claims, settlements, awards, and payments to the federal OCSE. OCSE compares it to information pertaining to parents who owe past-due support. (2) OCSE will send a file containing information about parents who owe past-due support to the insurer, or their agent, to compare with their claims, settlements, awards, and payments. The insurer or their agent sends any resulting insurance data matches to OCSE. On a daily basis, OCSE sends the results of the insurance data match in an ''Insurance Match Response Record'' to child support agencies responsible for collecting past-due support. The child support agencies use the insurance data matches to collect past-due support from the insurance proceeds.

Respondents: Insurers or their agents, including the U.S. Department of Labor and state agencies administering workers' compensation programs, and the Insurance Services Office.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents annually	Total number of annual responses per respondent	Average annual burden hours per response	Total annual burden hours
Insurance Match File: Monthly Reporting Electronically	26	12	0.083	25.90
Insurance Match File: Weekly Reporting Electronically	9	52	0.083	38.84
Insurance Match File: Daily Reporting Electronically	2	251	0.083	41.67
Match File: Daily Reporting Manually	108	251	0.1	2,710.80

Estimated Total Annual Burden Hours: 2,817.21.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

[4] 12 U.S.C. 3106a(1).

[5] 12 U.S.C. 3105(c) and 3108(b).

[6] 5 U.S.C. 552(b)(6).

[7] 5 U.S.C. 552(b)(8).

technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 42 U.S.C. 652(a)(9), which requires OCSE to operate the FPLS established by 42 U.S.C. 653(a)(1) and 42 U.S.C. 652(m), which authorizes OCSE, through the FPLS, to compare information concerning individuals owing past-due support with information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments, and to furnish information resulting from the data matches to the state child support agencies responsible for collecting child support from the individuals.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–09933 Filed 5–8–20; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Shortage Designation Management System

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30 day comment period for this Notice has closed.

DATES: Comments on this ICR should be received no later than June 10, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Shortage Designation Management System OMB No. 0906-0029—Revision.

Abstract: HRSA's Bureau of Health Workforce is committed to improving the health of the Nation's underserved communities and vulnerable populations by developing, implementing, evaluating, and refining programs that strengthen the nation's health workforce. The Department of Health and Human Services relies on two federal shortage designations to identify and dedicate resources to areas and populations in greatest need of providers: Health Professional Shortage Area (HPSA) designations and Medically Underserved Area/Medically Underserved Population (MUA/P) designations. HPSA designations are geographic areas, population groups, and facilities that are experiencing a shortage of health professionals. The authorizing statute for the National Health Service Corps (NHSC) created HPSAs to fulfill the statutory requirement that NHSC personnel be directed to areas of greatest need. To further differentiate areas of greatest need, HRSA calculates a score for each HPSA. There are three categories of HPSAs based on health discipline: Primary care, dental health, and mental health. Scores range from 1 to 25 for primary care and mental health and from 1 to 26 for dental, with higher scores indicating greater need. They are used to prioritize applications for NHSC Loan Repayment Program award funding, and determine service sites eligible to receive NHSC Scholarship and Students-to-Service participants.

MUA/P designations are geographic areas, or population groups within geographic areas, that are experiencing a shortage of primary care health care services based on the Index of Medical Underservice (IMU). MUAs are designated for the entire population of a particular geographic area. MUA/P designations are limited to particular subset of the population within a geographic area. Both designations were created to aid the federal government in identifying areas with healthcare workforce shortages.

As part of HRSA's cooperative agreement with the State Primary Care Offices (PCOs), the State PCOs conduct needs assessment in their states, determine what areas are eligible for designations, and submit designation applications for HRSA review via the Shortage Designation Management System (SDMS). Requests that come from other sources are referred to the PCOs for their review, concurrence, and submission via SDMS. In order to obtain a federal shortage designation for an area, population, or facility, PCOs must submit a shortage designation application through SDMS for review and approval by HRSA. Both the HPSA and MUA/P application request local, state, and national data on the population that is experiencing a shortage of health professionals and the number of health professionals relative to the population covered by the proposed designation. The information collected on the applications is used to determine which areas, populations, and facilities have qualifying shortages.

In addition, interested parties, including the Governor, the State Primary Care Association, state professional associations, etc. are notified of each designation request submitted via SDMS for their comments and recommendations.

HRSA reviews the HPSA applications submitted by the State PCOs, and—if they meet the designation eligibility criteria for the type of HPSA or MUA/P the application is for—designates the HPSA or MUA/P on behalf of the Secretary. HPSAs are statutorily required to be annually reviewed and revised as necessary after initial designation to reflect current data. HPSAs scores, therefore may and do change from time to time. Currently, MUA/Ps do not gave a statutorily mandated review period.

The lists of designated HPSAs are published annually in the **Federal Register**. In addition, lists of HPSAs are updated on the HRSA website, *https://data.hrsa.gov/tools/shortage-area,* so that interested parties can access the information.

A 60-day notice published in the **Federal Register** on February 26, 2020, vol. 85, No. 38; pp. 11094–95. There was one public comment.

Need and Proposed Use of the Information: In 2014, SDMS was launched to facilitate the collection of information needed to designate HPSAs and MUA/Ps. The information obtained from the SDMS Application is used to determine which areas, populations, and facilities have critical shortages of health professionals per PCO application submission. The SDMS

HPSA application and SDMS MUA/P Application are used for these designation determinations. Applicants must submit a SDMS application to HRSA to obtain a federal shortage designation. The application asks for local, state, and national data required to determine the application's eligibility to obtain a federal shortage designation. In addition, applicants must enter in detailed information explaining how the area, population, or facility faces a critical shortage of health professionals.

Likely Respondents: State Primary Care Offices interested in obtaining a primary care, dental, or mental HPSA designation or a MUA/P in their state.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Designation Planning and Preparation	54	48	2,592	8.00	20,736
SDMS Application	54	83	4,482	4.00	17,928
Total	54		7,074		38,664

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–09987 Filed 5–8–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct; Correction

AGENCY: Office of the Secretary, HHS.

ACTION: Correction of notice.

SUMMARY: This document corrects errors that appeared in the notice published in the April 29, 2020, **Federal Register** entitled ''Findings of Research Misconduct.'' The document contained an incorrect title and signature date.

DATES:

Applicable Date: May 11, 2020.

Applicability Date: The correction notice is applicable for the Findings of Research Misconduct notice published on April 29, 2020.

FOR FURTHER INFORMATION CONTACT: Elisabeth A. Handley at 240–453–8200.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2020–09086 of April 29, 2020 (85 FR 23834–23835), there were errors involving the title and signature date of the document. The errors are identified and corrected in the Correction of Errors section below.

II. Correction of Errors

In FR Doc. 2020–09086 of April 29, 2020 (85 FR 23834–23835), make the following corrections:

1. On page 23834, third column, in FR Doc. 2020–09086, Title section, correct line 33 to read ''Request for Information and Comments on the Sequestration of Evidence during Research Misconduct Proceedings.''

2. On page 23835, third column, in FR Doc. 2020–09086, **SUPPLEMENTARY INFORMATION** section, correct line 44 to read ''Dated: April 22, 2020.''

Dated: May 5, 2020.

Elisabeth A. Handley,

Director, Office of Research Integrity, Office of the Assistant Secretary for Health.

[FR Doc. 2020–09945 Filed 5–8–20; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Redesignation of the Delivery Area for the Havasupai Tribe

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Indian Health Service has decided to expand the geographic boundaries of the Purchased/Referred Care (PRC) Delivery Area for the Havasupai Tribe in the State of Arizona to include Mohave County in the State of Arizona. The final PRC delivery area for the Havasupai Tribe is now the counties of Coconino and Mohave in the State of Arizona. The sole purpose of this expansion is to authorize Havasupai to cover additional Tribal members and beneficiaries under Havasupai's PRC.

DATES: This expansion is effective as of the publication date of this notice.

ADRESSES: This notice can be found at *https://www.federalregister.gov.* Written requests for information should be delivered to: CDR John Rael, Director, Office of Resource Access and Partnerships, Indian Health Service, 5600 Fishers Lane, Mail Stop 10E85C, Rockville, MD 20857, (301) 443–0609 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background: The IHS currently provides services under regulations in effect on September 15, 1987, and republished in the Code of Federal Regulations (CFR) at 42 CFR part 136, subparts A–C. Subpart C defines a Contract Health Service Delivery Area (CHSDA), now referred to as a Purchased/Referred Care delivery area (PRCDA), as the geographic area within which PRC will be made available by the IHS to members of an identified Indian community who reside in the area. Residence in a PRCDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR

136.12, creates no legal entitlement to PRC but only potential eligibility for services. Services needed but not available at an IHS or Tribal facility are provided under the PRC program depending on the availability of funds, the relative medical priority of the services to be provided, and the actual availability and accessibility of alternate resources in accordance with the regulations.

As applicable to the Tribes, these regulations provide that, unless otherwise designated, a PRCDA shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation (42 CFR 136.22(a)(6)). The regulations also provide that after consultation with the Tribal governing body or bodies on those reservations included within the PRCDA, the Secretary may from time to time, redesignate areas within the United States (U.S.) for inclusion in or exclusion from a PRCDA. The regulations require that certain criteria must be considered before any redesignation is made. The criteria are as follows:

(1) The number of Indians residing in the area proposed to be so included or excluded;

(2) Whether the Tribal governing body has determined that Indians residing in the area near the reservation are socially and economically affiliated with the Tribe;

(3) The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

(4) The level of funding which would be available for the provision of PRC, 42 CFR 136.22(b),

Additionally, the regulations require that any redesignation of a PRCDA must be made in accordance with the Administrative Procedures Act (5 U.S.C. 553). In compliance with this requirement, IHS published a proposed notice of redesignation and requested public comments on March 5, 2019 (84 FR 7910). IHS did not receive any public comments in response to the proposed notice of redesignation.

In support of this expansion, IHS adopts the following findings of the Havasupai Tribe, which had requested that IHS expand the Havasupai PRCDA to include Coconino and Mohave Counties in the State of Arizona:

1. By expanding, the IHS estimates the current eligible population will be increased by 122.

2. The Havasupai Tribe has determined that these 122 individuals are members of the Havasupai Tribe and they are socially and economically affiliated with the Havasupai Tribe.

3. Mohave County in the State of Arizona maintains a common boundary with Coconino County.

4. The Havasupai Tribal members located in Mohave County in the State of Arizona currently do not use the Indian health system for their PRC health care needs.

The Havasupai Tribe will use its existing Federal allocation for PRC funds to provide health care services to the expanded population. No additional financial resources will be allocated by the IHS to the Havasupai Tribe to provide services to Tribal members residing in Mohave County in the State of Arizona.

PURCHASED/REFERRED CARE DELIVERY AREAS

Tribe/reservation	County/state
Ak Chin Indian Community	Pinal, AZ.
Alabama-Coushatta Tribes of Texas	Polk, TX.[1]
Alaska	Entire State.[2]
Arapahoe Tribe of the Wind River Reservation, Wyoming	Hot Springs, WY, Fremont, WY, Sublette, WY.
Aroostook Band of Micmacs	Aroostook, ME.[3]
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana.	Daniels, MT, McCone, MT, Richland, MT, Roosevelt, MT, Sheridan, MT, Valley, MT.
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin.	Ashland, WI, Iron, WI.
Bay Mills Indian Community, Michigan	Chippewa, MI.
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana	Glacier, MT, Pondera, MT.
Brigham City Intermountain School Health Center, Utah	Permanently closed on May 17, 1984.[4]
Burns Paiute Tribe	Harney, OR.
California	Entire State, except for the counties listed in the footnote.[5]
Catawba Indian Nation (AKA Catawba Tribe of South Carolina)	All Counties in SC,[6] Cabarrus, NC, Cleveland, NC, Gaston, NC, Mecklenburg, NC, Rutherford, NC, Union, NC.
Cayuga Nation	Alleghany, NY,[7] Cattaraugus, NY, Chautauqua, NY, Erie, NY, Warren, PA.
Chickahominy Indian Tribe	New Kent, VA, James City, VA, Charles City, VA, Henrico, VA.[8]
Chickahominy Indian Tribe—Eastern Division	New Kent, VA, James City, VA, Charles City, VA, Henrico, VA.[9]
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota.	Corson, SD, Dewey, SD, Haakon, SD, Meade, SD, Perkins, SD, Potter, SD, Stanley, SD, Sully, SD, Walworth, SD, Ziebach, SD.
Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana	Chouteau, MT, Hill, MT, Liberty, MT.
Chitimacha Tribe of Louisiana	St. Mary Parish, LA.
Cocopah Tribe of Arizona	Yuma, AZ, Imperial, CA.
Coeur D'Alene Tribe	Benewah, ID, Kootenai, ID, Latah, ID, Spokane, WA, Whitman, WA.
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California.	La Paz, AZ, Riverside, CA, San Bernardino, CA, Yuma, AZ.
Confederated Salish and Kootenai Tribes of the Flathead Reservation	Flathead, MT, Lake, MT, Missoula, MT, Sanders, MT.
Confederated Tribes and Bands of the Yakama Nation	Klickitat, WA, Lewis, WA, Skamania, WA,[10] Yakima, WA.
Confederated Tribes of Siletz Indians of Oregon	Benton, OR,[11] Clackamas, OR, Lane, OR, Lincoln, OR, Linn, OR, Marion, OR, Multnomah, OR, Polk, OR, Tillamook, OR, Washington, OR, Yamhill, OR.
Confederated Tribes of the Chehalis Reservation	Grays Harbor, WA, Lewis, WA, Thurston, WA.
Confederated Tribes of the Colville Reservation	Chelan, WA,[12] Douglas, WA, Ferry, WA, Grant, WA, Lincoln, WA, Okanogan, WA, Stevens, WA.
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians	Coos, OR,[13] Curry, OR, Douglas, OR, Lane, OR, Lincoln, OR.
Confederated Tribes of the Goshute Reservation, Nevada and Utah	Nevada, Juab, UT, Toole, UT.

PURCHASED/REFERRED CARE DELIVERY AREAS—Continued

Tribe/reservation	County/state
Confederated Tribes of the Grand Ronde Community of Oregon	Marion, OR, Multnomah, OR, Polk, OR,[14] Tillamook, OR, Washington, OR, Yamhill, OR.
Confederated Tribes of the Umatilla Indian Reservation	Umatilla, OR, Union, OR.
Confederated Tribes of the Warm Springs Reservation of Oregon	Clackamas, OR, Jefferson, OR, Linn, OR, Marion, OR, Wasco, OR.
Coquille Indian Tribe	Coos, OR, Curry, OR, Douglas, OR, Jackson, OR, Lane, OR.
Coushatta Tribe of Louisiana	Allen Parish, LA, the city limits of Elton, LA.[15]
Cow Creek Band of Umpqua Tribe of Indians	Coos, OR,[16] Deshutes, OR, Douglas, OR, Jackson, OR, Josephine, OR, Klamath, OR, Lane, OR.
Cowlitz Indian Tribe	Clark, WA, Cowlitz, WA, King, WA, Lewis, WA, Peirce, WA, Skamania, WA, Thurston, WA, Columbia, OR,[17] Kittitas, WA, Wahkiakum, WA.
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota	Brule, SD, Buffalo, SD, Hand, SD, Hughes, SD, Hyde, SD, Lyman, SD, Stanley, SD.
Crow Tribe of Montana	Big Horn, MT, Carbon, MT, Treasure, MT,[18] Yellowstone, MT, Big Horn, WY, Sheridan, WY.
Eastern Band of Cherokee Indians	Cherokee, NC, Graham, NC, Haywood, NC, Jackson, NC, Swain, NC.
Eastern Shoshone Tribe of the Wind River Reservation, Wyoming	Hot Springs, WY, Fremont, WY, Sublette, WY.
Flandreau Santee Sioux Tribe of South Dakota	Moody, SD.
Forest County Potawatomi Community, Wisconsin	Forest, WI, Marinette, WI, Oconto, WI.
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana.	Blaine, MT, Phillips, MT.
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon.	The entire State of Nevada, Malheur, OR.
Fort McDowell Yavapai Nation, Arizona	Maricopa, AZ.
Fort Mojave Indian Tribe of Arizona, California and Nevada	The entire State of Nevada, Mohave, AZ, San Bernardino, CA.
Gila River Indian Community of the Gila River Indian Reservation, Arizona.	Maricopa, AZ, Pinal, AZ.
Grand Traverse Band of Ottawa and Chippewa Indians, Michigan	Antrim, MI,[19] Benzie, MI, Charlevoix, MI, Grand Traverse, MI, Leelanau, MI, Manistee, MI.
Hannahville Indian Community, Michigan	Delta, MI, Menominee, MI.
Haskell Indian Health Center	Douglas, KS.[20]
Havasupai Tribe of the Havasupai Reservation, Arizona	Coconino, AZ, Mohave, AZ.[21]
Ho-Chunk Nation of Wisconsin	Adams, WI,[22] Clark, WI, Columbia, WI, Crawford, WI, Dane, WI, Eau Claire, WI, Houston, MN, Jackson, WI, Juneau, WI, La Crosse, WI, Marathon, WI, Monroe, WI, Sauk, WI, Shawano, WI, Vernon, WI, Wood, WI.
Hoh Indian Tribe	Jefferson, WA.
Hopi Tribe of Arizona	Apache, AZ, Coconino, AZ, Navajo, AZ.
Houlton Band of Maliseet Indians	Aroostook, ME.[23]
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona	Coconino, AZ, Mohave, AZ, Yavapai, AZ.
Iowa Tribe of Kansas and Nebraska	Brown, KS, Doniphan, KS, Richardson, NE.
Jamestown S'Klallam Tribe	Clallam, WA, Jefferson, WA.
Jena Band of Choctaw Indians	Grand Parish, LA,[24] LaSalle Parish, LA, Rapides, LA.
Jicarilla Apache Nation, New Mexico	Archuleta, CO, Rio Arriba, NM, Sandoval, NM.
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona.	Coconino, AZ, Mohave, AZ, Kane, UT.
Kalispel Indian Community of the Kalispel Reservation	Pend Oreille, WA, Spokane, WA.
Kewa Pueblo, New Mexico (previously listed as the Pueblo of Santo Domingo).	Sandoval, NM, Santa Fe, NM.
Keweenaw Bay Indian Community, Michigan	Baraga, MI, Houghton, MI, Ontonagon, MI.
Kickapoo Traditional Tribe of Texas	Maverick, TX.[25]
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas	Brown, KS, Jackson, KS.
Klamath Tribes	Klamath, OR.[26]
Koi Nation of Northern California (formerly known as Lower Lake Rancheria, California).	Lake, CA, Sonoma, CA.[27]
Kootenai Tribe of Idaho	Boundary, ID.
Lac Courte Oreilles Band of Superior Chippewa Indians of Wisconsin	Sawyer, WI.
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin.	Iron, WI, Oneida, WI, Vilas, WI.
Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan	Gogebic, MI.
Little River Band of Ottawa Indians, Michigan	Kent, MI,[28] Muskegon, MI, Newaygo, MI, Oceana, MI, Ottawa, MI, Manistee, MI, Mason, MI, Wexford, MI, Lake, MI.
Little Traverse Bay Bands of Odawa Indians, Michigan	Alcona, MI,[29] Alger, MI, Alpena, MI, Antrim, MI, Benzie, MI, Charlevoix, MI, Cheboygan, MI, Chippewa, MI, Crawford, MI, Delta, MI, Emmet, MI, Grand Traverse, MI, Iosco, MI, Kalkaska, MI, Leelanau, MI, Luce, MI, Mackinac, MI, Manistee, MI, Missaukee, MI, Montmorency, MI, Ogemaw, MI, Oscoda, MI, Otsego, MI, Presque Isle, MI, Schoolcraft, MI, Roscommon, MI, Wexford, MI.
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota	Brule, SD, Buffalo, SD, Hughes, SD, Lyman, SD, Stanley, SD.
Lower Elwha Tribal Community	Clallam, WA.
Lower Sioux Indian Community in the State of Minnesota	Redwood, MN, Renville, MN.
Lummi Tribe of the Lummi Reservation	Whatcom, WA.
Makah Indian Tribe of the Makah Indian Reservation	Clallam, WA.

PURCHASED/REFERRED CARE DELIVERY AREAS—Continued

Tribe/reservation	County/state
Mashantucket Pequot Indian Tribe	New London, CT.[30]
Mashpee Wampanoag Tribe	Barnstable, MA, Bristol, MA, Norfolk, MA, Plymouth, MA, Suffolk, MA.[31]
Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan	Allegan, MI,[32] Barry, MI, Kalamazoo, MI, Kent, MI, Ottawa, MI.
Menominee Indian Tribe of Wisconsin	Langlade, WI, Menominee, WI, Oconto, WI, Shawano, WI.
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico	Chaves, NM, Lincoln, NM, Otero, NM.
Miccosukee Tribe of Indians	Broward, FL, Collier, FL, Miami-Dade, FL, Hendry, FL.
Minnesota Chippewa Tribe, Minnesota, Bois Forte Band (Nett Lake)	Itasca, MN, Koochiching, MN, St. Louis, MN.
Minnesota Chippewa Tribe, Minnesota, Fond du Lac Band	Carlton, MN, St. Louis, MN.
Tribe/Reservation	County/State.
Minnesota Chippewa Tribe, Minnesota, Grand Portage Band	Cook, MN.
Minnesota Chippewa Tribe, Minnesota, Leech Lake Band	Beltrami, MN, Cass, MN, Hubbard, MN, Itasca, MN.
Minnesota Chippewa Tribe, Minnesota, Mille Lacs Band	Aitkin, MN, Kanebec, MN, Mille Lacs, MN, Pine, MN.
Minnesota Chippewa Tribe, Minnesota, White Earth Band	Becker, MN, Clearwater, MN, Mahnomen, MN, Norman, MN, Polk, MN.
Mississippi Band of Choctaw Indians	Attala, MS, Jasper, MS,[33] Jones, MS, Kemper, MS, Leake, MS, Neshoba, MS, Newton, MS, Noxubee, MS,[34] Scott, MS,[35] Winston, MS.
Mohegan Tribe of Indians of Connecticut	Fairfield, CT, Hartford, CT, Litchfield, CT, Middlesex, CT, New Haven, CT, New London, CT, Tolland, CT, Windham, CT.
Monacan Indian Nation	Amherst, VA, Nelson, VA, Albemarle, VA, Buckingham, VA, Appomattox, VA, Campbell, VA, Bedford, VA, Botetourt, VA, Rockbridge, VA, Augusta, VA, and the independent cities of Lynchburg, VA, Lexington, VA, Buena Vista, VA, Staunton, VA, Waynesboro, VA, and Charlottesville, VA.[36]
Muckleshoot Indian Tribe	King, WA, Pierce, WA.
Nansemond Indian Tribe	The independent cities of Chesapeake, VA, Hampton, VA, Newport News, VA, Norfolk, VA, Portsmouth, VA, Suffolk, VA, and Virginia Beach, VA.[37]
Narragansett Indian Tribe	Washington, RI.[38]
Navajo Nation, Arizona, New Mexico, & Utah	Apache, AZ, Bernalillo, NM, Cibola, NM, Coconino, AZ, Kane, UT, McKinley, NM, Montezuma, CO, Navajo, AZ, Rio Arriba, NM, Sandoval, NM, San Juan, NM, San Juan, UT, Socorro, NM, Valencia, NM.
Nevada	Entire State.[39]
Nez Perce Tribe	Clearwater, ID, Idaho, ID, Latah, ID, Lewis, ID, Nez Perce, ID.
Nisqually Indian Tribe	Pierce, WA, Thurston, WA.
Nooksack Indian Tribe	Whatcom, WA.
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana.	Big Horn, MT, Carter, MT,[40] Rosebud, MT.
Northwestern Band of Shoshone Nation	Box Elder, UT.[41]
Nottawaseppi Huron Band of the Pottawatomi, Michigan	Allegan, MI,[42] Barry, MI, Branch, MI, Calhoun, MI, Kalamazoo, MI, Kent, MI, Ottawa, MI.
Oglala Sioux Tribe	Bennett, SD, Cherry, NE, Custer, SD, Dawes, NE, Fall River, SD, Jackson, SD,[43] Mellette, SD, Pennington, SD, Shannon, SD, Sheridan, NE, Todd, SD.
Ohkay Owingeh, New Mexico	Rio Arriba, NM.
Oklahoma	Entire State.[44]
Omaha Tribe of Nebraska	Burt, NE, Cuming, NE, Monona, IA, Thurston, NE, Wayne, NE.
Oneida Nation (previously listed as the Oneida Tribe of Indians of Wisconsin).	Brown, WI, Outagamie, WI.
Oneida Indian Nation (previously listed as the Oneida Nation of New York).	Chenango, NY, Cortland, NY, Herkimer, NY, Madison, NY, Oneida, NY, Onondaga, NY.
Onondaga Nation	Onondaga, NY.
Paiute Indian Tribe of Utah	Iron, UT,[45] Millard, UT, Sevier, UT, Washington, UT.
Pamunkey Indian Tribe	Caroline, VA, Hanover, VA, Henrico, VA, King William, VA, King and Queen, VA, New Kent, VA, and the independent city of Richmond, VA.[46]
Pascua Yaqui Tribe of Arizona	Pima, AZ.[47]
Passamaquoddy Tribe	Aroostook, ME,[48 49] Hancock, ME,[50] Washington, ME.
Penobscot Nation	Aroostook, ME,[51] Penobscot, ME.
Poarch Band of Creeks	Baldwin, AL,[52] Elmore, AL, Escambia, AL, Mobile, AL, Monroe, AL, Escambia, FL.
Pokagon Band of Pottawatomi Indians, Michigan and Indiana	Allegan, MI,[53] Berrien, MI, Cass, MI, Elkhart, IN, Kosciusko, IN, La Porte, IN, Marshall, IN, St. Joseph, IN, Starke, IN, Van Buren, MI.
Ponca Tribe of Nebraska	Boyd, NE,[54] Burt, NE, Charles Mix, SD, Douglas, NE, Hall, NE, Holt, NE, Knox, NE, Lancaster, NE, Madison, NE, Platte, NE, Pottawatomie, IA, Sarpy, NE, Stanton, NE, Wayne, NE, Woodbury, IA.
Port Gamble S'Klallam Tribe	Kitsap, WA.
Prairie Band of Pottawatomi Nation	Jackson, KS.
Prairie Island Indian Community in the State of Minnesota	Goodhue, MN.
Pueblo of Acoma, New Mexico	Cibola, NM.

PURCHASED/REFERRED CARE DELIVERY AREAS—Continued

Tribe/reservation	County/state
Pueblo of Cochiti, New Mexico	Sandoval, NM, Santa Fe, NM.
Pueblo of Isleta, New Mexico	Bernalillo, NM, Torrance, NM, Valencia, NM.
Pueblo of Jemez, New Mexico	Sandoval, NM.
Pueblo of Laguna, New Mexico	Bernalillo, NM, Cibola, NM, Sandoval, NM, Valencia, NM.
Pueblo of Nambe, New Mexico	Santa Fe, NM.
Pueblo of Picuris, New Mexico	Taos, NM.
Pueblo of Pojoaque, New Mexico	Rio Arriba, NM, Santa Fe, NM.
Pueblo of San Felipe, New Mexico	Sandoval, NM.
Pueblo of San Ildefonso, New Mexico	Los Alamos, NM, Rio Arriba, NM, Sandoval, NM, Santa Fe, NM.
Pueblo of Sandia, New Mexico	Bernalillo, NM, Sandoval, NM.
Pueblo of Santa Ana, New Mexico	Sandoval, NM.
Pueblo of Santa Clara, New Mexico	Los Alamos, NM, Sandoval, NM, Santa Fe, NM.
Pueblo of Taos, New Mexico	Colfax, NM, Taos, NM.
Pueblo of Tesuque, Mexico	Santa Fe, NM.
Pueblo of Zia, New Mexico	Sandoval, NM.
Puyallup Tribe of the Puyallup Reservation	King, WA, Pierce, WA, Thurston, WA.
Quechan Tribe of the Fort Yuma Indian Reservation, Arizona and California.	Yuma, AZ, Imperial, CA.
Quileute Tribe of the Quileute Reservation	Clallam, WA, Jefferson, WA.
Quinault Indian Nation	Grays Harbor, WA, Jefferson, WA.
Rapid City, South Dakota	Pennington, SD.[55]
Rappahannock Tribe, Inc.	King and Queen County, VA, Caroline County, VA, Essex County, VA, King William County, VA.[56]
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin	Bayfield, WI.
Red Lake Band of Chippewa Indians, Minnesota	Beltrami, MN, Clearwater, MN, Koochiching, MN, Lake of the Woods, MN, Marshall, MN, Pennington, MN, Polk, MN, Roseau, MN.
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota	Bennett, SD, Cherry, NE, Gregory, SD, Lyman, SD, Mellette, SD, Todd, SD, Tripp, SD.
Sac & Fox Nation of Missouri in Kansas and Nebraska	Brown, KS, Richardson, NE.
Sac & Fox Tribe of the Mississippi in Iowa	Tama, IA.
Saginaw Chippewa Indian Tribe of Michigan	Arenac, MI,[57] Clare, MI, Isabella, MI, Midland, MI, Missaukee, MI.
Saint Regis Mohawk Tribe	Franklin, NY, St. Lawrence, NY.
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona.	Maricopa, AZ.
Samish Indian Nation	Clallam, WA,[58] Island, WA, Jefferson, WA, King, WA, Kitsap, WA, Pierce, WA, San Juan, WA, Skagit, WA, Snohomish, WA, Whatcom, WA.
San Carlos Apache Tribe of the San Carlos Reservation, Arizona	Apache, AZ, Cochise, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Pinal, AZ.
San Juan Southern Paiute Tribe of Arizona	Coconino, AZ, San Juan, UT.
Santee Sioux Nation, Nebraska	Bon Homme, SD, Knox, NE.
Sauk-Suiattle Indian Tribe	Snohomish, WA, Skagit, WA.
Sault Ste. Marie Tribe of Chippewa Indians, Michigan	Alger, MI,[59] Chippewa, MI, Delta, MI, Luce, MI, Mackinac, MI, Marquette, MI, Schoolcraft, MI.
Seminole Tribe of Florida	Broward, FL, Collier, FL, Miami-Dade, FL, Glades, FL, Hendry, FL.
Seneca Nation of Indians	Alleghany, NY, Cattaraugus, NY, Chautauqua, NY, Erie, NY, Warren, PA.
Shakopee Mdewakanton Sioux Community of Minnesota	Scott, MN.
Shinnecock Indian Nation	Nassau, NY,[60] Suffolk, NY.
Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation	Pacific, WA.
Shoshone-Bannock Tribes of the Fort Hall Reservation	Bannock, ID, Bingham, ID, Caribou, ID, Lemhi, ID,[61] Power, ID.
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada	The entire state of Nevada, Owyhee, ID.
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota.	Codington, SD, Day, SD, Grant, SD, Marshall, SD, Richland, ND, Roberts, SD, Sargent, ND, Traverse, MN.
Skokomish Indian Tribe	Mason, WA.
Skull Valley Band of Goshute Indians of Utah	Tooele, UT.
Snoqualmie Indian Tribe	King, WA,[62] Snohomish, WA, Pierce, WA, Island, WA, Mason, WA.
Sokaogon Chippewa Community, Wisconsin	Forest, WI.
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado	Archuleta, CO, La Plata, CO, Montezuma, CO, Rio Arriba, NM, San Juan, NM.
Spirit Lake Tribe, North Dakota	Benson, ND, Eddy, ND, Nelson, ND, Ramsey, ND.
Spokane Tribe of the Spokane Reservation	Ferry, WA, Lincoln, WA, Stevens, WA.
Squaxin Island Tribe of the Squaxin Island Reservation	Mason, WA.
St. Croix Chippewa Indians of Wisconsin	Barron, WI, Burnett, WI, Pine, MN, Polk, WI, Washburn, WI.
Standing Rock Sioux Tribe of North & South Dakota	Adams, ND, Campbell, SD, Corson, SD, Dewey, SD, Emmons, ND, Grant, ND, Morton, ND, Perkins, SD, Sioux, ND, Walworth, SD, Ziebach, SD.
Stillaguamish Tribe of Indians of Washington	Snohomish, WA.
Stockbridge Munsee Community, Wisconsin	Menominee, WI, Shawano, WI.
Suquamish Indian Tribe of the Port Madison Reservation	Kitsap, WA.
Swinomish Indian Tribal Community	Skagit, WA.
Tejon Indian Tribe	Kern, CA.[63]

PURCHASED/REFERRED CARE DELIVERY AREAS—Continued

Tribe/reservation	County/state
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota	Dunn, ND, Mercer, ND, McKenzie, ND, McLean, ND, Mountrail, ND, Ward, ND.
Tohono O'odham Nation of Arizona	Maricopa, AZ, Pima, AZ, Pinal, AZ.
Tolowa Dee-ni' Nation (formerly known as Smith River Rancheria of California).	California, Curry, OR.[64]
Tonawanda Band of Seneca	Genesee, NY, Erie, NY, Niagara, NY.
Tonto Apache Tribe of Arizona	Gila, AZ.
Trenton Service Unit, North Dakota and Montana	Divide, ND,[65] McKenzie, ND, Williams, ND, Richland, MT, Roosevelt, MT, Sheridan, MT.
Tulalip Tribes of Washington	Snohomish, WA.
Tunica-Biloxi Indian Tribe	Avoyelles, LA, Rapides, LA.[66]
Turtle Mountain Band of Chippewa Indians of North Dakota	Rolette, ND.
Tuscarora Nation	Niagara, NY.
Upper Mattaponi Tribe	Caroline, VA, Charles City, VA, Essex, VA, Hanover, VA, Henrico, VA, James City, VA, King and Queen, VA, King William, VA, Middlesex, VA, New Kent, VA, Richmond, VA and the independent city of Richmond, VA.[67]
Upper Sioux Community, Minnesota	Chippewa, MN, Yellow Medicine, MN.
Upper Skagit Indian Tribe	Skagit, WA.
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah	Carbon, UT, Daggett, UT, Duchesne, UT, Emery, UT, Grand, UT, Rio Blanco, CO, Summit, UT, Uintah, UT, Utah, UT, Wasatch, UT.
Ute Mountain Ute Tribe	Apache, AZ, La Plata, CO, Montezuma, CO, San Juan, NM, San Juan, UT.
Wampanoag Tribe of Gay Head (Aquinnah)	Dukes, MA,[68] Barnstable, MA, Bristol, MA, Norfolk, MA, Plymouth, MA, Suffolk, MA.[69]
Washoe Tribe of Nevada & California	Nevada, California except for the counties listed in footnote.
White Mountain Apache Tribe of the Fort Apache Reservation, Arizona	Apache, AZ, Coconino, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Navajo, AZ.
Wilton Rancheria, California	Sacramento, CA.[70]
Winnebago Tribe of Nebraska	Dakota, NE, Dixon, NE, Monona, IA, Thurston, NE, Wayne, NE, Woodbury, IA.
Yankton Sioux Tribe of South Dakota	Bon Homme, SD, Boyd, NE, Charles Mix, SD, Douglas, SD, Gregory, SD, Hutchinson, SD, Knox, NE.
Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona.	Yavapai, AZ.
Yavapai-Prescott Indian Tribe	Yavapai, AZ.
Ysleta Del Sur Pueblo of Texas	El Paso, TX.[71]
Zuni Tribe of the Zuni Reservation, New Mexico	Apache, AZ, Cibola, NM, McKinley, NM, Valencia, NM.

[1] Public Law 100–89, Restoration Act for Ysleta Del Sur and Alabama and Coushatta Tribes of Texas establishes service areas for ''members of the Tribe'' by sections 101(3) and 105(a) for the Pueblo and sections 201(3) and 206(a) respectively.

[2] Entire State of Alaska is included as a CHSDA by regulation (42 CFR 136.22(a)(1)).

[3] Aroostook Band of Micmacs was recognized by Congress on November 26, 1991, through the Aroostook Band of Micmac Settlement Act. Aroostook County, ME, was defined as the SDA.

[4] Special programs have been established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility rather than the eligibility regulations. Historically services have been provided at Brigham City Intermountain School Health Center, Utah (Pub. L. 88–358).

[5] Entire State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, is designated a CHSDA (25 U.S.C. 1680).

[6] The counties were recognized after the January 1984 CHSDA FRN was published, in accordance with Public Law 103–116, Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993, dated October 27, 1993.

[7] There is no reservation for the Cayuga Nation; the service delivery area consists of those counties identified by the Cayuga Nation.

[8] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Chickahominy Indian Tribe as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[9] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Chickahominy Indian Tribe—Eastern Division as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[10] Skamania County, WA, has historically been a part of the Yakama Service Unit population since 1979.

[11] In order to carry out the Congressional intent of the Siletz Restoration Act, Public Law 95–195, as expressed in H. Report No. 95–623, at page 4, members of the Confederated Tribes of Siletz Indians of Oregon residing in these counties are eligible for contract health services.

[12] Chelan County, WA, has historically been a part of the Colville Service Unit population since 1970.

[13] Pursuant to Public Law 98–481 (H. Rept. No. 98–904), Coos, Lower Umpqua and Siuslaw Restoration Act, members of the Tribe residing in these counties were specified as eligible for Federal services and benefits without regard to the existence of a Federal Indian reservation.

[14] The Confederated Tribes of Grand Ronde Community of Oregon were recognized by Public Law 98–165 which was signed into law on November 22, 1983, and provides for eligibility in these six counties without regard to the existence of a reservation.

[15] The CHSDA for the Coushatta Tribe of Louisiana was expanded administratively by the Director, IHS, through regulation (42 CFR 136.22(6)) to include city limits of Elton, LA.

[16] Cow Creek Band of Umpqua Tribe of Indians recognized by Public Law 97–391, signed into law on December 29, 1983. House Rept. No. 97–862 designates Douglas, Jackson, and Josephine Counties as a service area without regard to the existence of a reservation. The IHS later administratively expanded the CHSDA to include the counties of Coos, OR, Deschutes, OR, Klamath, OR, and Lane, OR.

[17] The Cowlitz Indian Tribe was recognized in July 2002 as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638. The CHSDA was administratively expanded to included Columbia County, OR, Kittitas, WA, and Wahkiakum County, WA, as published at 67884 FR December 21, 2009.

[18] Treasure County, MT, has historically been a part of the Crow Service Unit population.

[19] The counties listed have historically been a part of the Grand Traverse Service Unit population since 1980.

[20] Haskell Indian Health Center has historically been a part of Kansas Service Unit since 1979. Special programs have been established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility rather than the eligibility regulations. Historically services have been provided at Haskell Indian Health Center (H. Rept. No. 95–392).

[21] The PRCDA for the Havasupai Tribe of Arizona was expanded administratively by the Director, IHS, through regulation (42 CFR 136.22(6)) to include Mohave County in the State of Arizona.

[22] CHSDA counties for the Ho-Chunk Nation of Wisconsin were designated by regulation (42 CFR 136.22(a)(5)). Dane County, WI, was added to the reservation by the Bureau of Indian Affairs in 1986.

[23] Public Law 97–428 provides that any member of the Houlton Band of Maliseet Indians in or around the Town of Houlton shall be eligible without regard to existence of a reservation.

[24] The Jena Band of Choctaw Indian was Federally acknowledged as documented at 60 FR 28480, May 31, 1995. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[25] Kickapoo Traditional Tribe of Texas, formerly known as the Texas Band of Kickapoo, was recognized by Public Law 97–429, signed into law on January 8, 1983. The Act provides for eligibility for Kickapoo Tribal members residing in Maverick County without regard to the existence of a reservation.

[26] The Klamath Indian Tribe Restoration Act (Pub. L. 99–398, Sec. 2(2)) states that for the purpose of Federal services and benefits ''members of the tribe residing in Klamath County shall be deemed to be residing in or near a reservation''.

[27] The Koi Nation of Northern California, formerly known as the Lower Lake Rancheria, was reaffirmed by the Secretary of the Bureau of Indian Affairs on December 29, 2000. The counties listed were designated administratively as the SDA, to function as a PRCDA, for the purposes of operating a PRC program pursuant to the ISDEAA, Public Law 93–638.

[28] The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act recognized the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians. Pursuant to Public Law 103–324, Sec.4(b) the counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[29] The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act recognized the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians. Pursuant to Public Law 103–324, Sec.4(b) the counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[30] Mashantucket Pequot Indian Claims Settlement Act, Public Law 98–134, signed into law on October 18, 1983, provides a reservation for the Mashantucket Pequot Indian Tribe in New London County, CT.

[31] The Mashpee Wampanoag Tribe was recognized in February 2007, as documented at 72 FR 8007, February 22, 2007. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[32] The Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan was recognized in October 1998, as documented at 63 FR 56936, October 23, 1998. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[33] Members of the Mississippi Band of Choctaw Indians residing in Jasper and Noxubee Counties, MS, are eligible for contract health services; these two counties were inadvertently omitted from 42 CFR 136.22.

[34] Members of the Mississippi Band of Choctaw Indians residing in Jasper and Noxubee Counties, MS, are eligible for contract health services; these two counties were inadvertently omitted from 42 CFR 136.22.

[35] Scott County, MS, has historically been a part of the Choctaw Service Unit population since 1970.

[36] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Monacan Indian Nation as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[37] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Nansemond Indian Tribe as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[38] The Narragansett Indian Tribe was recognized by Public Law 95–395, signed into law September 30, 1978. Lands in Washington County, RI, are now Federally restricted and the Bureau of Indian Affairs considers them as the Narragansett Indian Reservation.

[39] Entire State of Nevada is included as a CHSDA by regulation (42 CFR 136.22 (a)(2)).

[40] Carter County, MT, has historically been a part of the Northern Cheyenne Service Unit population since 1979.

[41] Land of Box Elder County, Utah, was taken into trust for the Northwestern Band of Shoshoni Nation in 1986.

[42] The Nottawaseppi Huron Band of the Potawatomi, Michigan, formerly known as the Huron Band of Potawatomi, Inc., was recognized in December 1995, as documented at 60 FR 66315, December 21, 1995. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[43] Washabaugh County, SD, merged and became part of Jackson County, SD, in 1983; both were/are CHSDA counties for the Oglala Sioux Tribe.

[44] Entire State of Oklahoma is included as a CHSDA by regulation (42 CFR 136.22(a)(3)).

[45] Paiute Indian Tribe of Utah Restoration Act, Public Law 96–227, provides for the extension of services for the Paiute Indian Tribe of Utah to these four counties without regard to the existence of a reservation.

[46] In the **Federal Register** on July 8, 2015 (80 FR 39144), the Pamunkey Indian Tribe was officially recognized as an Indian Tribe within the meaning of Federal law. The counties listed were designated administratively as the PRCDA, for the purposes of operating a PRC program.

[47] Legislative history (H.R. Report No. 95–1021) to Public Law 95–375, Extension of Federal Benefits to Pascua Yaqui Indians, Arizona, expresses congressional intent that lands conveyed to the Pascua Yaqui Tribe of Arizona pursuant to Act of October 8, 1964. (Pub. L. 88–350) shall be deemed a Federal Indian Reservation.

[48] The Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420; H. Rept. 96–1353) includes the intent of Congress to fund and provide contract health services to the Passamaquoddy Tribe and the Penobscot Nation.

[49] The Passamaquoddy Tribe has two reservations: Indian Township and Pleasant Point. The PRCDA for the Passamaquoddy Tribe at Indian Township, ME, is Aroostook County, ME, Washington County, ME, and Hancock County, ME. The PRCDA for the Passamaquoddy Tribe at Pleasant Point, ME, is Washington County, ME, south of State Route 9, and Aroostook County, ME.

[50] The Passamaquoddy Tribe's counties listed are designated administratively as the SDA, to function as a PRCDA, for the purposes of operating a PRC program pursuant to the ISDEAA, Public Law 93–638.

[51] The Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420; H. Rept. 96–1353) includes the intent of Congress to fund and provide PRC to the Passamaquoddy Tribe and the Penobscot Nation.

[52] Counties in the Service Unit designated by Congress for the Poarch Band of Creek Indians (see H. Rept. 98–886, June 29, 1984; Cong. Record, October 10, 1984, Pg. H11929).

[53] Public Law 103–323 restored Federal recognition to the Pokagon Band of Potawatomi Indians, Michigan and Indiana, in 1994 and identified counties to serve as the SDA.

[54] The Ponca Restoration Act, Public Law 101–484, recognized members of the Ponca Tribe of Nebraska in Boyd, Douglas, Knox, Madison or Lancaster counties of Nebraska or Charles Mix county of South Dakota as residing on or near a reservation. Public Law 104–109 made technical corrections to laws relating to Native Americans and added Burt, Hall, Holt, Platte, Sarpy, Stanton, and Wayne counties of Nebraska and Pottawatomie and Woodbury counties of Iowa to the Ponca Tribe of Nebraska SDA.

[55] Special programs have been established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility, rather than the eligibility regulations. Historically services have been provided at Rapid City (S. Rept. No. 1154, FY 1967 Interior Approp. 89th Cong. 2d Sess.).

[56] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Rappahannock Tribe, Inc. as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[57] Historically part of Isabella Reservation Area for the Saginaw Chippewa Indian Tribe of Michigan and the Eastern Michigan Service Unit population since 1979.

[58] The Samish Indian Tribe Nation was Federally acknowledged in April 1996 as documented at 61 FR 15825, April 9, 1996. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[59] CHSDA counties for the Sault Ste. Marie Tribe of Chippewa Indians, Michigan, were designated by regulation (42 CFR 136.22(a)(4)).

[60] The Shinnecock Indian Nation was Federally acknowledged in June 2010 as documented at 75 FR 34760, June 18, 2010. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[61] Lemhi County, ID, has historically been a part of the Fort Hall Service Unit population since 1979.

[62] The Snoqualmie Indian Tribe was Federally acknowledged in August 1997 as documented at 62 FR 45864, August 29, 1997. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[63] On December 30, 2011 the Office of Assistant Secretary-Indian Affairs reaffirmed the Federal recognition of the Tejon Indian Tribe. The county listed was designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[64] The counties listed are designated administratively as the SDA, to function as a PRC SDA, for the purposes of operating a PRC program pursuant to the ISDEAA, Public Law 93–638.

[65] The Secretary acting through the Service is directed to provide contract health services to Turtle Mountain Band of Chippewa Indians that reside in Trenton Service Unit, North Dakota and Montana, in Divide, Mackenzie, and Williams counties in the state of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the state of Montana (Sec. 815, Pub. L. 94–437).

[66] Rapides County, LA, has historically been a part of the Tunica Biloxi Service Unit population since 1982.

[67] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Upper Mattaponi Tribe as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[68] According to Public Law 100–95, Sec. 12, members of the Wampanoag Tribe of Gay Head (Aquinnah) residing on Martha's Vineyard are deemed to be living on or near an Indian reservation for the purposes of eligibility for Federal services.

[69] The counties listed are designated administratively as the SDA, to function as a PRCDA, for the purposes of operating a PRC program pursuant to the ISDEAA, Public Law 93–638.

[70] The Wilton Rancheria, California had Federal recognition restored in July 2009 as documented at 74 FR 33468, July 13, 2009. Sacramento County, CA, was designated administratively as the SDA, to function as a CHSDA. Sacramento County was not covered when Congress originally established the State of California as a CHSDA excluding certain counties including Sacramento County (25 U.S.C. 1680).

[71] Public Law 100–89, Restoration Act for Ysleta Del Sur and Alabama and Coushatta Tribes of Texas establishes service areas for "members of the Tribe" by sections 101(3) and 105(a) for the Pueblo and sections 201(3) and 206(a) respectively.

Public Comments: The Agency did not receive any public comments.

Michael D. Weahkee,

Assistant Surgeon General, RADM, U.S. Public Health Service Director, Indian Health Service.

[FR Doc. 2020–09992 Filed 5–8–20; 8:45 a.m.]

BILLING CODE 4160–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, HIV AIDS CTU Review SEP 2.

Date: June 5, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G21, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities,National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G21, Rockville, MD 20852, 240–669–5035, *unferrc@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 5, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–09976 Filed 5–8–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Comparative Effectiveness Studies.

Date: May 14, 2020.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health/NINDS, Neuroscience Center, 6001 Executive Blvd., Rockville, MD 20852 (Video Assisted Meeting).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 435–6033, *rajarams@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 5, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–09980 Filed 5–8–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Microbiology and Infectious Diseases Research Committee, June 04, 2020, 09:00 a.m. to June 05, 2020, 06:00 p.m., National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G51 (Teleconference) which was published in the **Federal Register** on April 03, 2020, 85 FR 19000.

This meeting notice is amended to change the meeting date from June 4–5, 2020 to July 28–30, 2020 at the National Institutes of Health, 5601 Fishers Lane, Room 3G51 (Teleconference). The meeting is closed to the public.

Dated: May 5, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–09974 Filed 5–8–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Investigator Initiated Program Project Applications (P01).

Date: June 17, 2020.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Margaret A. Morris Fears, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52, Rockville, MD 20852, *maggie.morrisfears@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 5, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–09978 Filed 5–8–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; HIV AIDS CTU Review.

Date: May 28, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40, Rockville, MD 20892–9823, 240–669–5035, *unferrc@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 5, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–09975 Filed 5–8–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, RFP 75N93019R00024, ''Chemistry Center for Combating Antibiotic-Resistant Bacteria (CC4CARB)''.

Date: June 9–10, 2020.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, 3G13, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Brenda Lange-Gustafson, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, 3G13, Rockville, MD 20852, 240–669–5047, *bgustafson@niaid.nih.gov*,

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 5, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–09977 Filed 5–8–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, HIV/AIDS Clinical Trial Units.

Date: June 5–8, 2020.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G31, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Cynthia Louise De La Fuente, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G31, Rockville, MD 20852, 240–669–2740, *delafuentecl@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 5, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–09979 Filed 5–8–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, email or call the SAMHSA Reports Clearance Officer at *carlos.graham@samhsa.hhs.gov* or (240) 276–0361.

Proposed Project: Program Evaluation for Prevention Contract (PEPC)—Strategic Prevention Framework for Prescription Drugs (SPF–Rx) Evaluation (OMB No. 0930–0377)—Revision

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Behavioral Health Statistics and Quality (CBHSQ) aims to complete a cross-site evaluation of SAMHSA's Strategic Prevention Framework for Prescription Drugs (SPF–Rx). SPF–Rx is designed to address nonmedical use of prescription drugs as well as opioid overdoses by raising awareness about the dangers of sharing medications and by working with pharmaceutical and medical communities on the risks of overprescribing. The SPF–Rx program aims to promote collaboration between states/tribes and pharmaceutical and medical communities to understand the risks of overprescribing to youth ages 12–17 and adults 18 years of age and older. The program also aims to enhance capacity for, and access to, Prescription Drug Monitoring Program (PDMP) data for prevention purposes. This request for data collection includes a revision from previously approved OMB instruments.

The SPF–Rx program's indicators of success are reductions in opioid overdoses, reductions in prescription drug misuse, and improved use of PDMP data. Data collected through the tools described in this statement will be used for the national cross-site evaluation of SAMHSA's SPF–Rx program. This package covers continued data collection through 2023. The PEPC team will systematically collect and maintain an Annual Implementation Instrument (AII) and Grantee and Community Level Outcomes data modules submitted by SPF–Rx grantees through the online Data Management System (DMS).

SAMHSA is requesting approval for data collection for the SPF–Rx cross-site evaluation with the following instruments:

- *Annual Implementation Instrument (AII)*—The AII is a survey instrument collected yearly to monitor state, tribal entity, and community-level performance, and to evaluate the effectiveness of the SPF–Rx program. This tool is completed by grantees and subrecipient community project directors, and provides process data related to funding use and effectiveness, organizational capacity, collaboration with community partners, data infrastructure, planned intervention targets, intervention implementation, evaluation, contextual factors, training and technical assistance (T/TA) needs, and sustainability.
- *Grantee-and Community-Level Outcomes Modules*—These modules collect data on key SPF–Rx program outcomes, including opioid prescribing patterns and provider use of PDMP. Grantees will provide outcomes data at the grantee level for their state, tribal area, or jurisdiction, as well as at the community level for each of their subrecipient communities.
- *Grantee-Level Interview*—This qualitative interview will be

administered at the end of the evaluation to obtain information from the grantee project directors on their programs, staffing, populations of focus, infrastructure, capacity, lessons learned, and collaboration.

ANNUALIZED DATA COLLECTION BURDEN BY YEAR

Instrument	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total burden hours
Annual implementation instrument	148	1	148	4	592
Grantee-Level Outcomes Module	25	1	25	2.5	62.5
Community-Level Outcomes Module	25	4.92	123	1.25	153.75
Grantee-Level Interview	25	1	25	1.5	37.5
FY2021	223		321		845.75
Annual Implementation Instrument	148	1	148	4	592
Grantee-Level Outcomes Module	25	1	25	2.5	62.5
Community-Level Outcomes Module	25	4.92	123	1.25	154.75
FY2022	198		296		808.25
Annual Implementation Instrument	39	1	39	4	156
Grantee-Level Outcomes Module	7	1	7	2.5	17.5
Community-Level Outcomes Module	7	4.57	32	1.25	40
FY2023	53		78		213.5

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Carlos Graham,

Social Science Analyst.

[FR Doc. 2020–09961 Filed 5–8–20; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0010]

Board of Visitors for the National Fire Academy; Meeting

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Open Federal Advisory Committee Meeting.

SUMMARY: The Board of Visitors for the National Fire Academy (Board) will meet via teleconference on Tuesday, June 9, 2020. The meeting will be open to the public.

DATES: The meeting will take place on Tuesday, June 9, 2020, 1:30 to 3:30 p.m. EDT. Please note that the meeting may close early if the Board has completed its business.

ADDRESSES: Members of the public who wish to participate in the teleconference should contact Deborah Gartrell-Kemp as listed in the **FOR FURTHER INFORMATION CONTACT** section by close of business June 1, 2020, to obtain the call-in number and access code for the June 9 teleconference meeting. For more information on services for individuals with disabilities or to request special assistance, contact Deborah Gartrell-Kemp as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Board as listed in the **SUPPLEMENTARY INFORMATION** section. Participants seeking to have their comments considered during the meeting should submit them in advance or during the public comment segment. Comments submitted up to 30 days after the meeting will be included in the public record and may be considered at the next meeting. Comments submitted in advance must be identified by Docket ID FEMA–2008–0010 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery:* Deborah Gartrell-Kemp, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, post-marked no later than May 23, 2020, for consideration at the June 9, 2020, meeting.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the Docket ID for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Fire Academy Board of Visitors, go to *http://www.regulations.gov,* click on ''Advanced Search,'' then enter ''FEMA–2008–0010'' in the ''By Docket ID'' box, then select ''FEMA'' under ''By Agency,'' and then click ''Search.''

FOR FURTHER INFORMATION CONTACT: *Alternate Designated Federal Officer:* Kirby E. Kiefer, telephone (301) 447–1117, email *Kirby.Kiefer@fema.dhs.gov.*

Logistical Information: Deborah Gartrell-Kemp, telephone (301) 447–7230, email *Deborah.GartrellKemp@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Board will meet via teleconference on Tuesday, June 9, 2020. The meeting will be open to the public. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

Purpose of the Board

The purpose of the Board is to review annually the programs of the National Fire Academy (Academy) and advise the Administrator of the Federal Emergency Management Agency (FEMA), through the United States Fire Administrator, on the operation of the Academy and any improvements therein that the Board deems appropriate. In carrying out its responsibilities, the Board examines Academy programs to determine whether these programs further the basic missions that are approved by the Administrator of FEMA, examines the physical plant of the Academy to

determine the adequacy of the Academy's facilities, and examines the funding levels for Academy programs. The Board submits a written annual report through the United States Fire Administrator to the Administrator of FEMA. The report provides detailed comments and recommendations regarding the operation of the Academy.

Agenda

On Tuesday, June 9, 2020, there will be one session, with deliberations and voting at the end of each session as necessary. The Board will discuss the options and challenges facing National Fire Academy restarting classes at the National Emergency Training Center campus.

There will be a 10-minute comment period after each agenda item and each speaker will be given no more than 2 minutes to speak. Please note that the public

comment period may end before the time indicated following the last call for comments. Contact Deborah Gartrell-Kemp to register as a speaker. Meeting materials will be posted at *https://www.usfa.fema.gov/training/nfa/about/bov.html* by June 2, 2020.

Tonya L. Hoover,

Superintendent, National Fire Academy, United States Fire Administration, Federal Emergency Management Agency.

[FR Doc. 2020–09962 Filed 5–8–20; 8:45 am]

BILLING CODE 9111–74–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–FAC–2019–N074; FX.IA167209TRG00–201]

Call for Nominations for the Theodore Roosevelt Genius Prize Advisory Council and Advisory Boards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior (Department) is seeking nominations for the Theodore Roosevelt Genius Prize Advisory Council (Council) to advise the Secretary of the Interior regarding the Theodore Roosevelt Genius Prize competitions. In addition, the Department is seeking nominations for the five Advisory Boards (Boards) to help implement the Prizes.

DATES: Nominations for the Council and Boards must be submitted no later than June 10, 2020.

ADDRESSES: You may submit nominations by any of the following methods:

- *Email: TRGenius@fws.gov;* or
- *U.S. mail or hand-delivery:* Stephanie Rickabaugh, U.S. Fish and Wildlife Service, MS: WSFR, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Stephanie Rickabaugh, Wildlife and Sport Fish Restoration Program, by telephone at 703–358–2214, by email at *stephanie_rickabaugh@fws.gov,* or via the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: The Council and Boards are established under the John D. Dingell, Jr., Conservation, Management, and Recreation Act, March 12, 2019 (Pub. L. 116–9).

The Theodore Roosevelt Genius Prize Advisory Council (Council) advises the Secretary of the Interior (Secretary) regarding the five Theodore Roosevelt Genius Prize competitions. The Council is regulated by the Federal Advisory Committee Act (FACA).

The Prize competitions encourage technological innovation with the potential to advance the mission of the Fish and Wildlife Service in the following areas of concern: (1) Preventing wildlife poaching and trafficking, (2) promoting wildlife conservation, (3) managing invasive species, (4) protecting endangered species, and (5) managing nonlethal human-wildlife conflict. The enabling legislation calls for annual cash prizes up to $100,000 for each of the five competitions; potential awards could total $500,000.

The Act establishes five Boards to help implement the Prizes. These Boards are responsible for selecting topics; issuing problem statements, consulting with Federal stakeholders, and advising prize winners regarding opportunities to pilot and implement winning technologies. Each Board must be made up of no fewer than nine members, appointed by the Secretary, including at least one member who is expert in the area of concern for that Board and other members expert in wildlife conservation and management, biology, technology development, engineering, economics, and business development and management.

The five Boards are established to focus on technology innovation related to (1) the prevention of poaching and wildlife trafficking, (2) the promotion of wildlife conservation, (3) the management of invasive species, (4) the protection of endangered species, and (5) the nonlethal management of human-wildlife conflicts.

Additionally, under the Act, the Boards have an advisory duty: To develop recommendations for the Secretary regarding opportunities for technological innovation to assist in addressing the statute's five areas of concern. Establishment of the Council facilitates FACA compliance for the performance of the Boards' role advising the Secretary.

The Secretary will appoint Council members to serve until the Council is terminated on December 31, 2023, as is required by the Act. The Council will have at least 12 members, and each Board will have at least 9 members who may be members of the Council or experts from outside the Council. The Council and Boards will meet approximately two times per year and will minimize the administrative costs by encouraging remote participation.

Membership Expertise

We are seeking nominations for membership of individuals with the following types of expertise:

- Wildlife trafficking and trade,
- Wildlife conservation and management,
- Invasive species,
- Endangered species,
- Nonlethal wildlife management,
- Social aspects of human-wildlife conflict management,
- Biology,
- Technology development,
- Engineering,
- Economics,
- Business development and management, and
- Any other discipline that the Secretary determines to be necessary to achieve the purposes of the Act.

Individuals who are federally registered lobbyist are ineligible to serve on all FACA and non-FACA boards, committees, or councils in an individual capacity. The term ''individual capacity'' refers to individuals who are appointed to exercise their own individual best judgment on behalf of the Government, such as when they are designated as Special Government Employees (SGE), rather than being appointed to represent a particular interest.

Members of the Council and Boards appointed as SGEs are subject to applicable Federal ethics statutes and regulations, to include applicable exceptions and exemptions. The Department will provide materials to those members serving as SGEs, explaining their ethical obligations.

Submitting Nominations

Individuals may nominate themselves or be nominated by others. Nominations should include the following:

- The area(s) of expertise of the nominee(s), as required under Membership Expertise, above; and
- A resume providing an adequate description of the nominee's qualifications, including information that would enable the Service to make an informed decision regarding the nominee's potential to meet the membership requirements of the Council and Boards, and contact information for the potential member.

(Authority: 5 U.S.C. Appendix 2)

Aurelia Skipwith,

Director—U.S. Fish and Wildlife Service.

[FR Doc. 2020–10008 Filed 5–8–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14400000.BJ0000 20X]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the official filing of the survey plat listed below. The survey, which was executed at the request of the U.S. Forest Service, is necessary for the management of these lands. The plat is available for viewing in the BLM Colorado State Office.

DATES: The plat described in this notice was filed on April 30, 2020.

ADDRESSES: You may submit written protests to the BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856; *rbloom@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1–800–877–8339 to contact the above individual during normal business hours. The Service is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat incorporating the field notes of the dependent resurvey and survey in Township 40 North, Range 13 West, New Mexico Principal Meridian, Colorado, was accepted on April 28, 2020, and filed on April 30, 2020.

A person or party who wishes to protest the above survey must file a written notice of protest within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. A statement of reasons for the protest may be filed with the notice of protest and must be filed within 30 calendar days after the protest is filed.

Before including your address, phone number, email address, or other personal identifying information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Randy A. Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2020–10032 Filed 5–8–20; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK940000.L14100000.BX0000.20X. LXSS001L0100]

Filing of Plats of Survey: Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of lands described in this notice are scheduled to be officially filed in the Bureau of Land Management (BLM), Alaska State Office, Anchorage, Alaska. These surveys were executed at the request of Ahtna, Incorporated and the BLM, are necessary for the management of these lands.

DATES: The BLM must receive protests by June 10, 2020.

ADDRESSES: You may buy a copy of the plats from the BLM Alaska Public Information Center, 222 W. 7th Avenue, Mailstop 13, Anchorage, AK 99513. Please use this address when filing written protests. You may also view the plats at the BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 W. 8th Avenue, Anchorage, Alaska, at no cost.

FOR FURTHER INFORMATION CONTACT: Douglas N. Haywood, Chief, Branch of Cadastral Survey, Alaska State Office, Bureau of Land Management, 222 W. 7th Avenue, Anchorage, AK 99513; 907–271–5481; *dhaywood@blm.gov.* People who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the BLM during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lands surveyed are:

Copper River Meridian, Alaska

U.S. Survey No. 14476, accepted May 5, 2020, situated within:
Tps. 29 S., Rs. 56 and 57 E.
U.S. Survey No. 14505, accepted May 5, 2020, situated within:
Tps. 55 and 56 S., R. 63 E.
T. 77 S., R. 88 E., accepted April 24, 2020

Fairbanks Meridian, Alaska

T. 17 S., R. 7 W., accepted March 20, 2020

Kateel River Meridian, Alaska

T. 2 N., R. 23 E., accepted April 29, 2020
T. 2 N., R. 24 E., accepted April 29, 2020
T. 2 N., R. 25 E., accepted April 29, 2020
T. 3 N., R. 25 E., accepted April 29, 2020
T. 2 N., R. 26 E., accepted April 30, 2020
T. 3 N., R. 26 E., accepted April 29, 2020
T. 3 N., R. 27 E., accepted April 29, 2020
T. 3 N., R. 28 E., accepted April 29, 2020
T. 6 S., R. 17 E., accepted April 24, 2020
T. 4 S., R. 18 E., accepted April 27, 2020
T. 5 S., R. 18 E., accepted April 21, 2020
T. 6 S., R. 18 E., accepted April 21, 2020
T. 4 S., R. 19 E., accepted April 21, 2020
T. 5 S., R. 19 E., accepted April 21, 2020
T. 5 S., R. 21 E., accepted April 29, 2020
T. 6 S., R. 21 E., accepted April 29, 2020
T. 5 S., R. 22 E., accepted April 29, 2020
T. 5 S., R. 23 E., accepted April 29, 2020
T. 5 S., R. 24 E., accepted April 29, 2020
T. 6 S., R. 22 E., accepted April 29, 2020
T. 6 S., R. 23 E., accepted April 29, 2020
T. 27 S., R. 24 E., accepted April 20, 2020

Seward Meridian, Alaska

T. 25 N., R. 40 W., accepted April 20, 2020
T. 26 N., R. 40 W., accepted April 20, 2020
T. 27 N., R. 40 W., accepted April 20, 2020
T. 25 N., R. 41 W., accepted April 20, 2020
T. 26 N., R. 41 W., accepted April 20, 2020
T. 27 N., R. 41 W., accepted April 20, 2020
T. 25 N., R. 42 W., accepted April 20, 2020
T. 26 N., R. 42 W., accepted April 20, 2020
T. 27 N., R. 42 W., accepted April 20, 2020
T. 25 N., R. 43 W., accepted April 20, 2020
T. 26 N., R. 43 W., accepted April 20, 2020
T. 27 N., R. 43 W., accepted April 20, 2020
T. 25 N., R. 44 W., accepted April 20, 2020
T. 24 N., R. 45 W., accepted April 20, 2020
T. 25 N., R. 46 W., accepted April 12, 2019
T. 24 N., R. 47 W., accepted May 1, 2020
T. 25 N., R. 47 W., accepted April 12, 2019
T. 24 N., R. 48 W., accepted April 12, 2019
T. 25 N., R. 48 W., accepted April 12, 2019
T. 26 N., R. 48 W., accepted April 12, 2019

T. 27 N., R. 48 W., accepted April 12, 2019
T. 28 N., R. 48 W., accepted April 12, 2019
T. 24 N., R. 49 W., accepted April 12, 2019
T. 25 N., R. 49 W., accepted April 12, 2019
T. 24 N., R. 50 W., accepted April 12, 2019
T. 25 N., R. 52 W., accepted April 12, 2019
T. 24 N., R. 53 W., accepted April 12, 2019
T. 1 N., R. 55 W., accepted April 30, 2020
T. 1 S., R. 55 W., accepted April 7, 2020
T. 49 S., R. 78 W., officially filed October 12, 1982, Amended Field Notes, dated April 7, 2020.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the State Director for the BLM in Alaska. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. You must file the notice of protest before the scheduled date of official filing for the plat(s) of survey being protested. The BLM will not consider any notice of protest filed after the scheduled date of official filing. A notice of protest is considered filed on the date it is received by the State Director for the BLM in Alaska during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director for the BLM in Alaska within 30 calendar days after the notice of protest is filed.

If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personally identifiable information in a notice of protest or statement of reasons, you should be aware that the documents you submit, including your personally identifiable information, may be made publicly available in their entirety at any time. While you can ask the BLM to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Douglas N. Haywood,

Chief Cadastral Surveyor, Alaska.

[FR Doc. 2020–10031 Filed 5–8–20; 8:45 am]

BILLING CODE 4310–JA–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1144]

Certain Dental and Orthodontic Scanners and Software; Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (''ALJ'') has issued a recommended determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended limited exclusion order and cease and desist orders against certain dental and orthodontic scanners and software. This notice is soliciting comments from the public only.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4). Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

> Unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(g)(1)(E).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's recommended determination on remedy and bonding issued in this investigation on April 30, 2020. Comments should address whether issuance of the recommended limited exclusion order and cease and desist orders in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

> (i) Explain how the articles potentially subject to the recommended limited exclusion order and cease and desist orders are used in the United States;
> (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended limited exclusion order and cease and desist orders;
> (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
> (iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended limited exclusion order and cease and desist orders within a commercially reasonable time; and
> (v) explain how the recommended limited exclusion order and cease and desist orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on May 28, 2020.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the

Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 6, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–10017 Filed 5–8–20; 8:45 am]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

INTERNATIONAL TRADE COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Renewal of Generic Clearance; Comment Request

AGENCY: United States International Trade Commission.

ACTION: Notice and comment request.

SUMMARY: Consistent with the Paperwork Reduction Act of 1995, the U.S. International Trade Commission (Commission) has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for approval. The proposed information collection is a three-year extension of the current generic clearance (approved by OMB under Control No. 3117–0016) under which the Commission can issue information collections for import injury investigations and reviews that it is required to conduct under the Tariff Act of 1930, the Trade Act of 1974, and other trade remedy statutes that require or authorize the Commission to make findings or determinations. These investigations and reviews include: Antidumping duty, countervailing duty, global safeguard, United States-Mexico-Canada Agreement safeguard, market disruption, interference with programs of the U.S. Department of Agriculture, and bilateral safeguard. Any comments submitted to OMB on the proposed information collection should be specific, indicating which part of the questionnaires or study plan are objectionable, describing the issue in detail, and including specific revisions or language changes.

The Commission did not receive any comments in response to the 60-day notice that it published in the **Federal Register** on January 29, 2020.

DATES: Comments must be submitted on or before June 10, 2020.

ADDRESSES: Commenters are encouraged to submit comments by email. Submit any comments about the proposal to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Sam Wice, Desk Officer for U.S. International Trade Commission at *Samuel.L.Wice@omb.eop.gov.* Provide copies of any comments that you submit to OMB to Jeremy Wise, Director, Office of Analysis and Research Services, U.S. International Trade Commission at *Jeremy.Wise@usitc.gov.*

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed collection of information and supporting documentation from Nathanael Comly, Supervisory Investigator, U.S. International Trade Commission at *Nathanael.Comly@usitc.gov* or 202–205–3174. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. You may obtain general information about the Commission at *http://www.usitc.gov.*

SUPPLEMENTARY INFORMATION:

(1) The proposed information collection consists of six forms, namely the *Sample Producers', Sample Importers', Sample Purchasers', and Sample Foreign Producers' questionnaires* (separate forms are provided for questionnaires issued for the five-year reviews), *Sample Administrative Protective Order Application Form,* and *Sample Notice of Institution for Five-Year Reviews.*

(2) The types of items contained within the sample questionnaires, administrative protective order application, and institution notice are largely determined by statute. Actual questions formulated for use in a specific investigation depend upon such factors as the nature of the industry, the relevant issues, the ability of respondents to supply the data, and the availability of data from secondary sources.

(3) Commission staff consolidates the information collected through questionnaires issued under the generic clearance for trade remedy investigations, and this information forms much of the statistical base for the Commission's determinations. Affirmative Commission determinations in antidumping and countervailing duty investigations result in the imposition of duties on imports entering the United States, as determined by the U.S. Department of Commerce, which are in addition to any normal customs duties. If the Commission makes an affirmative determination in a five-year review, the existing antidumping or countervailing duty order remains in place. The president or the U.S. Trade Representative use the data developed in global safeguard, market disruption, and interference with U.S. Department of Agriculture program investigations (if the Commission finds affirmatively) to determine the type of relief, if any, to be provided to domestic industries.

The submissions made to the Commission of the administrative protective order application form is the basis on which parties are granted disclosure of business proprietary information. The submissions made to the Commission in response to the notices of institution of five-year reviews are the basis for the Commission's determination whether to conduct a full or expedited review.

(4) Likely respondents are businesses (including foreign businesses) or farms that produce, import, or purchase products under investigation. The Commission estimates that information collections issued under the requested generic clearance will impose an average annual burden of 409,250 hours on 12,935 respondents (*i.e.,* recipients that provide a response to the Commission's questionnaires, notices of institution of five-year reviews, and other investigations and forms).

(5) No record keeping burden is known to result from the proposed collection of information.

By order of the Commission.

Issued: May 5, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–09986 Filed 5–8–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1198]

Certain Spa Pumps, Jet Pump Housings, Pedicure Spas, Components Thereof, and Products Containing Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a second amended complaint was filed with the U.S. International Trade Commission on April 6, 2020, under section 337 of the Tariff Act of 1930 on behalf of Luraco Health & Beauty, LLC of Arlington, Texas. A supplement was filed on April 21, 2020. The second amended complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain spa pumps, jet pump housings, pedicure spas, components thereof, and products containing same by reason of infringement of certain claims in U.S. Patent No. 9,926,933 (''the '933 patent''); U.S. Patent No. D622,736 (''the '736 patent''); U.S. Patent No. D751,723 (''the '723 patent''); and U.S. Patent No. 10,451,071 (''the '071 patent''). The second amended complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The second amended complaint, as amended, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3He1p@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia Proctor, Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2019).

Scope of Investigation: Having considered the second amended complaint, the U.S. International Trade Commission, on May 5, 2020, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 18, and 50 of the '933 patent; claim 1 of the '736 patent; claim 1 of the '723 patent; and claims 1, 10, and 19 of the '071 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''spa pumps, jet pump housings, jet assemblies, spa jets, magnetic jet pumps, and pedicure spas used in nail and pedicure salons'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Luraco Health & Beauty, LLC, 1140 107th Street, Arlington, Texas 76011.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the second amended complaint is to be served: GTP International Corp., 11090 Grader St., Dallas, Texas 75238.

Lac Long U.S., Inc., 7400 Hazard Ave., Westminster, CA 92683.

Lac Long Co. Ltd., Q–4, 8th St, Long Hau IP., Long Hau Ward, Can Giuoc Dist, Long An Prov., Vietnam.

Alfalfa Nail Supply, Inc., 11488 S. Choctaw Dr., Baton Rouge, LA 70815.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the second amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the second amended complaint and the notice of investigation. Extensions of time for submitting responses to the second amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the second amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the second amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the second amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 5, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–09960 Filed 5–8–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0017]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Currently Approved Collection Annual Firearms Manufacturing and Exportation Report Under 18 U.S.C. Chapter 44, Firearms—ATF Form 5300.11

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection (IC) is also being published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until July 10, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact: Tracey Robertson, ATF Federal Firearms Licensing Center either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *Tracey.Robertson@atf.gov,* or by telephone at 304–616–4647.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):* Extension without change of a currently approved collection.

2. *The Title of the Form/Collection:* Annual Firearms Manufacturing and Exportation Report Under 18 U.S.C. Chapter 44, Firearms.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF Form 5300.11.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): None.

Abstract: The information collected on the Annual Firearms Manufacturing and Exportation Report Under 18 U.S.C. Chapter 44, Firearms—ATF Form 5300.11, is used to compile statistics about the manufacture and exportation of firearms. This collection of information is mandatory under 18 U.S.C. 923(g)(5)(A). The completed ATF Form 5300.11 must be submitted annually by every Type 07 and Type 10 Federal Firearms Licensees (FFLs), even if no firearms were exported or distributed into commerce.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 13,600 respondents will utilize the form annually, and it will take each respondent approximately 20 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 4,533 hours, which is equal to 13,600 (# of respondents) * 1 (total responses per respondents) * .333 (24 minutes).

7. *An Explanation of the Change in Estimates:* Due to more licensed manufacturers, the total respondents to this IC has increased by 1,600, since the last renewal in 2017. An increase in the total respondents has also contributed in a slight increase in the total burden hours by 533, since 2017.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: May 5, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–09949 Filed 5–8–20; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0028]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Currently Approved Collection Inventories: Licensed Explosives Importers, Manufacturers, Dealers, and Permittees

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection (IC) is also being published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until July 10, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact: Anita Scheddel, Program Analyst, Firearms and Explosives Industry Division, Explosives Industry Programs Branch, Mailstop 6N–518, either by mail at 99 New York Ave. NE, Washington, DC 20226, or by email at

eipbinformationcollection@atf.gov, or by telephone at (202) 648–7120.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection* (check justification or form 83): Extension without change of a currently approved collection.

2. *The Title of the Form/Collection:* Inventories: Licensed Explosives Importers, Manufacturers, Dealers, and Permittees.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Businesses or other for-profit.

Other (if applicable): None.

Abstract: The information collection entitled Inventories: Licensed Explosives Importers, Manufacturers, Dealers, and Permittees, requires that persons engaged in the explosives industry maintain explosive material inventories. The collected information is used by the government to develop audit trails during the course of a compliance inspection or criminal investigation.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 9,433 respondents will respond to this collection annually, and it will take each respondent approximately 2 hours to provide their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 18,866 hours, which is equal to 9,433 (# of responses) * 1 (# of responses per respondent) * 2 (total time in hours to respond to this IC).

7.*An Explanation of the Change in Estimates:* The adjustment associated with this collection is a decrease in the number of respondents by 483 and a decrease in the total burden hours by 966, since the last renewal in 2017. The recalculated burden hours for this collection corresponds with the fact that each respondent responds only once, and now take 2 hours, instead of 1 hour to complete their responses.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: May 5, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–09950 Filed 5–8–20; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0311]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval has Expired: National Inmate Survey in Prisons (NIS–4P)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. Following publication of the 60-day notice, the Bureau of Justice Statistics received one request for survey instruments and comments from three organizations. These comments will be addressed in the supporting statement.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Comments are encouraged and will be accepted for 30 days until June 10, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Amy Lauger, Supervisory Statistician, Institutional Research and Special Projects Unit, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *Amy.Lauger@ojp.usdoj.gov;* telephone: 202–307–0711).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement, with change, of a previously approved collection.

2. *The Title of the Form/Collection:* National Inmate Survey in Prisons (NIS–4P).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no agency form number at this time. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will primarily be State, Local, or Tribal Government entities. The work under this clearance will be used to produce estimates for the incidence and prevalence of sexual victimization within correctional facilities as required under the Prison Rape Elimination Act of 2003 (Pub. L. 108–79). The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

In 2003, the Prison Rape Elimination Act (PREA or the Act) was signed into law. The Act requires BJS to ''carry out, for each calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape.'' The Act further instructs BJS to collect survey data: ''. . . the Bureau shall . . . use surveys and other statistical studies of current and former inmates . . .''

To implement the Act, BJS developed the National Prison Rape Statistics Program (NPRS), which includes four separate data collection efforts: The Survey on Sexual Violence (SSV), the National Inmate Survey (NIS), the National Survey of Youth in Custody (NSYC), and the National Former Prisoner Survey (NFPS). The NIS collects information on sexual victimization self-reported by inmates held in adult correctional facilities, both prisons and jails. The NIS has been conducted three times, in 2007 (NIS–1), in 2008–09 (NIS–2), and in 2011–12 (NIS–3). Each iteration of NIS was conducted in at least one facility in all 50 states and the District of Columbia. In each iteration of the survey, inmates completed the survey using an audio computer-assisted self-interview (ACASI), whereby they heard questions and instructions via headphones and responded to the survey items via a touch-screen interface.

The collection requested in this notice is the fourth iteration of the National Inmate Survey. For NIS–4, administration of the survey in prisons will take place separately from survey administration in jails. This collection request is specific to conducting the survey in adult prison facilities.

The survey instrument for the NIS–4 in Prisons is slightly modified from the previous iterations. The main difference is the addition of a new set of incident-specific questions administered to respondents who affirmatively indicate they were sexually victimized at some point in the previous 12 months while housed in their current prison facility. These incident-specific questions will provide information to the public on the nature of sexual victimization in prisons, such as where incidents occurred within the facility, the relationship between the victim and the alleged perpetrator(s), and whether the victim suffered any injuries as a result of the incident, among other incident characteristics.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Prior to data collection commencing in 2021, BJS will coordinate the logistics of NIS–4 survey administration with staff at state, local, and tribal correction facilities. Because the administration of this survey in jails is not included in this request, the overall number of burden hours is lower than in the last request approved in 2010. It is estimated that 246 facility respondents will devote 150 minutes of time to this coordination effort. During data collection in 2021, an estimated 77,699 state, local, and tribal adult inmates held in prisons will be interviewed, with the average interview lasting an estimated 35 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* This collection was previously approved for implementation in both adult prisons and jails. The current request will only be implemented in adult prisons, thereby reducing the total number of facility staff and respondents required to participate. The total estimated NIS–4 in Prisons public burden, inclusive of facility staff and respondent burden estimates and assuming a 100% response rate, is 78,810 hours. This comprises 19,906 hours of facility staff burden (coordinating the administration, completing the facility questionnaire, and escorting inmates to and from the interviews) and 58,904 hours of respondent interviewing burden. The third iteration of NIS had around a 65% response rate, so the true burden will likely be much lower.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: May 6, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–10027 Filed 5–8–20; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0056]

OSHA–7 Form (''Notice of Alleged Safety and Health Hazard''); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the OSHA–7 Form.

DATES: Comments must be submitted (postmarked, sent, or received) by July 10, 2020.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0056, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2010–0056) for the Information Collection Request (ICR). All comments, including any

personal information you provide, such as social security numbers and dates of birth, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at (202) 693–2222 to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Laura Seeman, Directorate of Enforcement Programs, OSHA, U.S. Department of Labor, telephone (202) 693–2100.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance process to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, the reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining said information (29 U.S.C. 657).

Under paragraphs (a) and (c) of 29 CFR 1903.11 (''Complaints by employees''), employees and their representatives may notify the OSHA area director or an OSHA compliance officer of safety and health hazards regulated by the agency that they believe exist in their workplaces at any time. These provisions state further that this notification must be in writing and ''shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of the employee.''

In addition to providing specific hazard information to the agency, paragraph (a) permits employees/employee representatives to request an inspection of the workplace. Paragraph (c) also addresses situations in which employees/employee representatives may provide the information directly to the OSHA compliance officer during an inspection. An employer's former employees may also submit complaints to the agency.

To address the requirements of paragraphs (a), especially the requirement that the information be in writing, the agency developed the OSHA–7 Form (''Notice of Alleged Safety and Health Hazard''); this form standardized and simplified the hazard reporting process. For paragraph (a), they may complete an OSHA–7 Form obtained from the agency's website and then send it to OSHA online, or deliver a hardcopy of the form to the OSHA area office by mail or facsimile, or by hand. They may also write a letter containing the information and hand deliver it to the area office, or send it by mail or facsimile. In addition, they may provide the information orally to the OSHA area office or another party (*e.g.,* a federal safety and health committee for federal employees), in which case the area office or other party completes the hard copy version of the form. For the typical situation addressed by paragraph (c), an employee/employee representative informs an OSHA compliance officer orally of the alleged hazard during an inspection, and the compliance officer then incorporates that information into the walk around inspection.

The information on the hard copy version of the OSHA–7 Form includes information about the employer and alleged hazards, including: The establishment's name; the site's address and telephone and facsimile numbers; the name and telephone number of the management official; the type of business; a description and the specific location of the hazards, including the approximate number of employees exposed or threatened by the hazards; and whether or not the employee/employee representative informed another government agency about the hazards (and the name of the agency if so informed).

Additional information on the hard copy version of the form concerns the complainant, including: Whether or not the complainant is an employee or an employee representative, or a member of a federal safety and health committee or another party (with space to specify the party); the complainant's name, telephone number, and address; and the complainant's signature attesting that they believe a violation of an OSHA standard exists at the named establishment; and the date of the signature. An employee representative must also provide the name of the organization they represent and their title.

The information contained in the online version of the OSHA–7 Form is similar to the hard copy version. However, the online version requests the complainant's email address (the hard copy currently does not), and does not ask for the site's facsimile number or the complainant's signature and signature date.

The agency uses the information collected on the OSHA–7 Form to determine whether reasonable grounds exist to conduct an inspection of the workplace. The description of the hazards, including the number of exposed employees, allows the agency to assess the severity of the hazards and the need to expedite the inspection. The completed form also provides the employer with notice of the complaint and may serve as the basis for obtaining a search warrant if the employer denies the agency access to the workplace.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employees who must comply—for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements relating to the OSHA–7 Form. The agency is requesting an adjustment decrease of 75 burden hours (from 19,258 to 19,183 burden hours). The difference is the result of an overall decrease in estimated complaints received annually from 70,976 complaints to 68,896.

The agency also requests an adjustment decrease in operation and maintenance costs of $365 (from $701 to $336). The decrease occurred due to a decrease in the estimated OSHA–7 forms being mailed from 1,430 to 610 forms.

In addition, the ICR proposes several non-substantive editorial revisions to the hardcopy and electronic versions of the OSHA–7 Form to clarify instructions and modernize information sharing. The minor edits are also requested in response to feedback from field management, as well as to ensure consistency with current agency policies and procedures.

The first change, to the ''Instruction'' field box, would add the word ''health'' to the sentence, ''If there is any particular evidence that supports your suspicion that a hazard exists (for instance, a recent accident or physical/health symptoms of employees at your site) include the information in your description.'' In addition, the agency would add to the ''Hazard Description/Location'' field box, which states, ''Describe briefly the hazard(s) which you believe exist,'' the new phrase, ''and on what date you last observed the hazard(s).'' The agency also proposes to include the addition of an email address with which to contact the agency. The hardcopy form would also be revised to provide the complainant an opportunity to provide their email address to the agency, as the electronic form currently provides. Other nonsubstantive editorial changes to the forms are also proposed.

A mark-up of the proposed changes to the English-language versions of the form will be available in the ICR docket for public comment. Changes made to the Spanish-language versions of the form will be identical to the English-language versions of the form. The agency does not believe that the proposed revisions to the complaint form will further impact the adjusted burden hours. The agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Revision of a currently approved collection.

Title: Notice of Alleged Safety and Health Hazards (Form OSHA–7).

OMB Control Number: 1218–0064.

Affected Public: Individuals.

Number of Respondents: 68,896.

Frequency: On occasion.

Average Time per Response: Varies.

Estimated Number of Responses: 68,896.

Estimated Total Burden Hours: 19,183.

Estimated Cost (Operation and Maintenance): $336.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number (Docket No. OSHA–2010–0056) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350; TTY (877) 889–5627.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on May 5, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–09969 Filed 5–8–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2018–0013]

Salini-Impregilo/Healy Joint Venture: Grant of Permanent Variance

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of permanent variance.

SUMMARY: In this notice, OSHA grants a permanent variance to Salini-Impregilo/Healy Joint Venture from the provisions of OSHA standards that regulate work in compressed-air environments.

DATES: The permanent variance specified by this notice becomes effective on May 11, 2020 and shall remain in effect until the completion of the Northeast Boundary Tunnel project.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and Technical Information: Contact Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

*Copies of this **Federal Register** notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice and other relevant

information are also available at OSHA's web page at *http://www.osha.gov.*

I. Overview

On October 19, 2017, OSHA received a variance application from Salini-Impregilo/Healy Joint Venture (''Salini'' or ''the applicant'') regarding the Northeast Boundary Tunnel project, which consists of boring a 12-foot diameter tunnel under a roadway near the Potomac River in Washington, DC. Salini, requested a permanent variance from several provisions of 29 CFR 1926.803, the OSHA standard that regulates construction work in compressed air environments. Specifically, Salini sought a variance from the provisions of the standard that: (1) Require the use of the decompression values specified in decompression tables in Appendix A of the compressed-air standard for construction (29 CFR 1926.803(f)(1)); and (2) require the use of automated operational controls and a special decompression chamber (29 CFR 1926.803(g)(1)(iii) and .803(g)(1)(xvii), respectively).

Salini also requested an interim order pending OSHA's decision on the application for a variance (Document ID No. OSHA–2018–0013–0001).

OSHA reviewed Salini's application for the variance and interim order and determined that they were appropriately submitted in compliance with the applicable variance procedures in Section 6(d) of the Occupational Safety and Health Act of 1970 (''OSH Act''; 29 U.S.C. 655) and OSHA's regulations at 29 CFR 1905.11 (''Variances and other relief under section 6(d)''), including the requirement that the applicant inform workers and their representatives of their rights to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance application.

OSHA reviewed the alternative procedures in Salini's application and preliminarily determined that the applicant's proposed alternatives on the whole, subject to the conditions in the request and imposed by the Interim Order, provide measures that are as safe and healthful as those required by the cited OSHA standards. On August 27, 2019, OSHA published a **Federal Register** notice announcing Salini's application for permanent variance, stating the preliminary determination along with the basis of that determination, and granting the Interim Order (84 FR 44932). OSHA requested comments on each.

OSHA did not receive any comments or other information disputing the preliminary determination that the alternatives were at least as safe as OSHA's standard, nor any objections to OSHA granting a permanent variance. Accordingly, through this notice OSHA grants a permanent variance subject to the conditions set out in this document.

II. Salini and Its Proposed Excavation Techniques and Safeguards

The information that follows about Salini, its methods, and its project comes from Salini's variance application.

Salini, which is the general contractor for the Northeast Boundary Tunnel Project (hereafter, ''the project''), is a contractor that works on complex tunnel projects using innovations in tunnel-excavation methods. Salini's workers engage in the construction of tunnels using advanced shielded mechanical excavation techniques in conjunction with an earth pressure balanced tunnel boring machine (EPBMTBM). Using shielded mechanical excavation techniques, in conjunction with precast concrete tunnel liners and backfill grout, EPBMTBMs provide methods to achieve the face pressures required to the forward section (the working chamber) of the EPBMTBM.

The project consists of a 12-foot diameter tunnel under a roadway near the Potomac River in Washington, DC. Salini will bore the tunnel below the water table through soft soils consisting of clay, silt, and sand. Salini employs specially trained personnel for the construction of the tunnel, and states that this construction will use shielded mechanical-excavation techniques. Salini's workers perform hyperbaric interventions at pressures greater than 50 p.s.i.g. in the excavation chamber of the EPBMTBM; these interventions consist of conducting inspections and maintenance work on the cutter-head structure and cutting tools of the EPBMTBM.

Salini asserted in the variance application that innovations in tunnel excavation, specifically with EPBMTBMs, have, in most cases, eliminated the need to pressurize the entire tunnel. This technology negates the requirement that all members of a tunnel-excavation crew work in compressed air while excavating the tunnel. These advances in technology modified substantially the methods used by the construction industry to excavate subaqueous tunnels compared to the work regulated by the current OSHA compressed-air standard for construction at 29 CFR 1926.803. Such advances reduce the number of workers exposed, and the total duration of exposure, to hyperbaric pressure during tunnel construction.

Using shielded mechanical-excavation techniques, in conjunction with pre-cast concrete tunnel liners and backfill grout, EPBMTBMs provide methods to achieve the pressures required to maintain a stabilized tunnel face through various geologies, while isolating that pressure to the forward section (working or excavation chamber) of the EPBMTBM. EPBMTBMs are staffed by trained man-lock attendants and hyperbaric or compressed-air workers.

Interventions involving the working chamber (the pressurized chamber at the head of the EPBMTBM) take place only after the applicant halts tunnel excavation and prepares the machine and crew for an intervention. Interventions occur to inspect or maintain the mechanical-excavation components located in the forward portion of the working chamber. Maintenance conducted in the forward portion of the working chamber includes changing replaceable cutting tools and disposable wear bars, and, in rare cases, making repairs to the cutter head due to structural damage.

In addition to innovations in tunnel-excavation methods, research conducted after OSHA published its compressed-air standard for construction in 1971 resulted in advances in hyperbaric medicine. In this regard, the applicant asserts that the use of decompression protocols incorporating oxygen is more efficient, effective, and safer for tunnel workers than compliance with the existing OSHA standard (29 CFR 1926, subpart S, Appendix A decompression tables). According to the applicant, workers must periodically enter the excavation working chamber of EPBMTBMs to hyperbaric pressures up to 50 p.s.i.g., which does not exceed the maximum pressure specified by the existing OSHA standard (29 CFR 1926.803(e)(5)). The applicant asserts that these hyperbaric exposures are possible because of advances in hyperbaric technology, a better understanding of hyperbaric medicine, and the development of a project-specific Hyberbaric Operations Manual (HOM) that requires specialized medical support and hyperbaric supervision to provide assistance to a team of specially trained man-lock attendants and hyperbaric workers.

Salini contended that the alternative safety measures included in the application provide Salini's workers with a place of employment that is at least as safe and healthful as they would obtain under the existing provisions of

OSHA's compressed-air standard for construction.

OSHA included all of the above information in the **Federal Register** notice regarding Salini's variance application and did not receive any comments disputing any of that information, including the safety assertions made by Salini in the Variance application.

III. OSHA History of Approval of Nearly Identical Variance Requests

OSHA has previously approved several nearly identical variances involving the same types of tunneling equipment used for similar projects. OSHA notes that it granted three subaqueous tunnel construction Permanent Variances from the same provisions of OSHA's compressed-air standard (29 CFR 1926.803(f)(1), (g)(1)(iii), and (g)(1)(xvii)) that are the subject of the present application: (1) Impregilo, Healy, Parsons, Joint Venture (IHP JV) for the completion of the Annacostia River Tunnel in Washington, DC (80 FR 50652 (August 20, 2015)); (2) Traylor JV for the completion of the Blue Plains Tunnel in Washington, DC (80 FR 16440 (March 27, 2015)); and (3) Tully/OHL USA Joint Venture for the completion of the New York Economic Development Corporation's New York Siphon Tunnel project (79 FR 29809) (May 23, 2014)). The proposed alternate conditions in this notice are nearly identical to the alternate conditions of the previous Permanent Variances.[1] OSHA is not aware of any injuries or other safety issues that arose from work performed under these conditions in accordance with the previous variances.

IV. Applicable OSHA Standard and the Relevant Variances

A. Variance From Paragraph (f)(1) of 29 CFR 1926.803, Requirement To Use OSHA Decompression Tables

OSHA's compressed-air standard for construction requires decompression in accordance with the decompression tables in Appendix A of 29 CFR 1926, subpart S (29 CFR 1926.803(f)(1)). As an alternative to the OSHA decompression tables, the applicant proposes to use newer decompression schedules (the 1992 French Decompression Tables) that rely on staged decompression and supplement breathing air used during decompression with air or oxygen (as appropriate). The applicant asserts decompression protocols using the 1992 French Decompression Tables for air or oxygen as specified by the Northeast Boundary Tunnel-specific Hyperbaric Operations Manual (HOM) are safer for tunnel workers than the decompression protocols specified in Appendix A of 29 CFR 1926, subpart S. Accordingly, the applicant commits to following the decompression procedures described in that HOM, which would require it to follow the 1992 French Decompression Tables to decompress compressed-air workers (CAWs) after they exit the hyperbaric conditions in the working chamber.

Depending on the maximum working pressure and exposure times, the 1992 French Decompression Tables provide for air decompression with or without oxygen. Salini asserts that oxygen decompression has many benefits, including (1) keeping the partial pressure of nitrogen in the lungs as low as possible; (2) keeping external pressure as low as possible to reduce the formation of bubbles in the blood; (3) removing nitrogen from the lungs and arterial blood and increasing the rate of nitrogen elimination; (4) improving the quality of breathing during decompression stops so that workers are less tired and to prevent bone necrosis; (5) reducing decompression time by about 33 percent as compared to air decompression; and (6) reducing inflammation.

In addition, the project-specific HOM requires a physician certified in hyperbaric medicine to manage the medical condition of CAWs during hyperbaric exposures and decompression. A trained and experienced man-lock attendant also will be present during hyperbaric exposures and decompression. This man-lock attendant will operate the hyperbaric system to ensure compliance with the specified decompression table. A hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, directly oversees all hyperbaric interventions, and ensures that staff follow the procedures delineated in the HOM or by the attending physician.

B. Variance From Paragraph (g)(1)(iii) of 29 CFR 1926.803, Automatically Regulated Continuous Decompression

According to the applicant, breathing air under hyperbaric conditions increases the amount of nitrogen gas dissolved in a CAW's tissues. The greater the hyperbaric pressure under these conditions, and the more time spent under the increased pressure, the greater the amount of nitrogen gas dissolved in the tissues. When the pressure decreases during decompression, tissues release the dissolved nitrogen gas into the blood system, which then carries the nitrogen gas to the lungs for elimination through exhalation. Releasing hyperbaric pressure too rapidly during decompression can increase the size of the bubbles formed by nitrogen gas in the blood system, resulting in DCI, commonly referred to as ''the bends.'' This description of the etiology of DCI is consistent with current scientific theory and research on the issue.

The 1992 French Decompression Tables proposed for use by the applicant provide for stops during worker decompression (*i.e.,* staged decompression) to control the release of nitrogen gas from tissues into the blood system. Studies show that staged decompression, in combination with other features of the 1992 French Decompression Tables such as the use of oxygen, result in a lower incidence of DCI than the use of automatically regulated continuous decompression. OSHA decompression requirements of 29 CFR 1926.803, which specify the use of automatically regulated continuous decompression (see footnotes 5 through 10 below for references to these studies).[2] In addition, the applicant asserts that staged decompression administered in accordance with the project-specific HOM is at least as effective as an automatic controller in regulating the decompression process the HOM includes for at least two reasons:

(1) A hyperbaric supervisor (a competent person experienced and

[1] The other variances allowed further deviation from OSHA standards by permitting employee exposures above 50 p.s.i.g. based on the composition of the soil and the amount of water that will be above the tunnel for various sections of this project. The current proposed variance includes substantively the same safeguards as the variances that OSHA granted previously even though employees will not be exposed to the higher pressures.

[2] In the study cited in footnote 6, starting at page 338, Dr. Eric Kindwall notes that the use of automatically regulated continuous decompression in the Washington State safety standards for compressed-air work (from which OSHA derived its decompression tables) was at the insistence of contractors and the union, and against the advice of the expert who calculated the decompression table, who recommended using staged decompression. Dr. Kindwall then states, ''Continuous decompression is inefficient and wasteful. For example, if the last stage from 4 psig . . . to the surface took 1 h, at least half the time is spent at pressures less than 2 psig . . ., which provides less and less meaningful bubble suppression . . . .'' In addition, the report referenced in footnote 5 under the section titled ''Background on the Need for Interim Decompression Tables'' addresses the continuous-decompression protocol in the OSHA compressed-air standard for construction, noting that ''[a]side from the tables for saturation diving to deep depths, no other widely used or officially approved diving decompression tables use straight line, continuous decompressions at varying rates. Stage decompression is usually the rule, since it is simpler to control.''

trained in hyperbaric operations, procedures, and safety) directly supervises all hyperbaric interventions and ensures that the man-lock attendant, who is a competent person in the manual control of hyperbaric systems, follows the schedule specified in the decompression tables, including stops; and

(2) The use of the 1992 French Decompression Tables for staged decompression offers an equal or better level of management and control over the decompression process than an automatic controller and results in lower occurrences of DCI.

C. Variance From Paragraph (g)(1)(xvii) of 29 CFR 1926.803, Requirement of Special Decompression Chamber

The OSHA compressed-air standard for construction requires employers to use a special decompression chamber when total decompression time exceeds 75 minutes (29 CFR 1926.803(g)(1)(xvii)). Another provision of OSHA's compressed-air standard calls for locating the special decompression chamber adjacent to the man lock on the atmospheric pressure side of the tunnel bulkhead (29 CFR 1926.803(g)(2)(vii)). However, since only the working chamber of the EPBMTBM is under pressure, and only a few workers out of the entire crew are exposed to hyperbaric pressure, the man locks (which, as noted earlier, connect directly to the working chamber) are of sufficient size to accommodate the exposed workers. In addition, available space in the EPBMTBM does not allow for an additional special decompression lock. Again, the applicant uses the man locks, each of which adequately accommodates a three-member crew, for this purpose when decompression lasts up to 75 minutes. When decompression exceeds 75 minutes, crews can open the door connecting the two compartments in each man lock during decompression stops or exit the man lock and move into the staging chamber where additional space is available. This alternative enables CAWs to move about and flex their joints to prevent neuromuscular problems during decompression.

V. Decision

After reviewing the proposed alternatives OSHA determined that:

(1) Salini developed, and proposed to implement, effective alternative measures to the prohibition of using compressed air under hyperbaric conditions exceeding 50 p.s.i.g. The alternative measures include use of engineering and administrative controls of the hazards associated with work performed in compressed-air conditions up to 50 p.s.i.g. while engaged in the construction of a subaqueous tunnel using advanced shielded mechanical-excavation techniques in conjunction with an EPBMTBM. Prior to conducting interventions in the EPBMTBM's pressurized working chamber, the applicant halts tunnel excavation and prepares the machine and crew to conduct the interventions. Interventions involve inspection, maintenance, or repair of the mechanical-excavation components located in the working chamber.

(2) Salini developed, and proposed to implement, safe hyperbaric work procedures, emergency and contingency procedures, and medical examinations for the project's CAWs. The applicant compiled these standard operating procedures into a project-specific HOM. The HOM discusses the procedures and personnel qualifications for performing work safely during the compression and decompression phases of interventions. The HOM also specifies the decompression tables the applicant proposes to use. Depending on the maximum working pressure and exposure times during the interventions, the tables provide for decompression using air, pure oxygen, or a combination of air and oxygen. The decompression tables also include delays or stops for various time intervals at different pressure levels during the transition to atmospheric pressure (*i.e.,* staged decompression). In all cases, a physician certified in hyperbaric medicine will manage the medical condition of CAWs during decompression. In addition, a trained and experienced man-lock attendant, experienced in recognizing decompression sickness or illnesses and injuries, will be present. Of key importance, a hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, will directly supervise all hyperbaric operations to ensure compliance with the procedures delineated in the project-specific HOM or by the attending physician.

(3) Salini developed, and proposed to implement, a training program to instruct affected workers in the hazards associated with conducting hyperbaric operations.

(4) Salini developed, and proposed to implement, an effective alternative to the use of automatic controllers that continuously decrease pressure to achieve decompression in accordance with the tables specified by the standard. The alternative includes using the 1992 French Decompression Tables for guiding staged decompression to achieve lower occurrences of DCI, using a trained and competent attendant for implementing appropriate hyperbaric entry and exit procedures, and providing a competent hyperbaric supervisor and attending physician certified in hyperbaric medicine, to oversee all hyperbaric operations.

(5) Salini developed, and proposed to implement, an effective alternative to the use of the special decompression chamber required by the standard. EPBMTBM technology permits the tunnel's work areas to be at atmospheric pressure, with only the face of the EPBMTBM (*i.e.,* the working chamber) at elevated pressure. The applicant limits interventions conducted in the working chamber to performing required inspection, maintenance, and repair of the cutting tools on the face of the EPBMTBM. The EPBMTBM's man lock and working chamber provide sufficient space for the maximum crew of three CAWs to stand up and move around, and safely accommodate decompression times up to 360 minutes. Therefore, OSHA determined that the EPBMTBM's man lock and working chamber function as effectively as the special decompression chamber required by the standard.

OSHA conducted a review of the scientific literature regarding decompression to determine whether the alternative decompression method (*i.e.,* the 1992 French Decompression Tables) proposed by the applicant provide a workplace as safe and healthful as that provided by the standard. Based on this review, OSHA determined that tunneling operations performed with these tables [3] result in a lower occurrence of DCI than the decompression tables specified by the standard.[4 5 6]

[3] In 1992, the French Ministry of Labour replaced the 1974 French Decompression Tables with the 1992 French Decompression Tables, which differ from OSHA's decompression tables in Appendix A by using: (1) Staged decompression as opposed to continuous (linear) decompression; (2) decompression tables based on air or both air and pure oxygen; and (3) emergency tables when unexpected exposure times occur (up to 30 minutes above the maximum allowed working time).

[4] Kindwall, E.P. (1997). Compressed air tunneling and caisson work decompression procedures: development, problems, and solutions. Undersea and Hyperbaric Medicine, 24(4), pp. 337–345. This article reported 60 treated cases of DCI among 4,168 exposures between 19 and 31 p.s.i.g. over a 51-week contract period, for a DCI incidence of 1.44% for the decompression tables specified by the OSHA standard.

[5] Sealey, J.L. (1969). Safe exit from the hyperbaric environment: medical experience with pressurized tunnel operations. Journal of Occupational Medicine, 11(5), pp. 273–275. This article reported 210 treated cases of DCI among 38,600 hyperbaric exposures between 13 and 34 p.s.i.g. over a 32-month period, for an incidence of 0.54% for the decompression tables specified by the Washington

The review conducted by OSHA found several research studies supporting the determination that the 1992 French Decompression Tables result in a lower rate of DCI than the decompression tables specified by the standard. For example, H.L. Anderson studied the occurrence of DCI at maximum hyperbaric pressures ranging from 4 p.s.i.g. to 43 p.s.i.g. during construction of the Great Belt Tunnel in Denmark (1992–1996);[7] this project used the 1992 French Decompression Tables to decompress the workers during part of the construction. Anderson observed 6 DCS cases out of 7,220 decompression events, and reported that switching to the 1992 French Decompression tables reduced the DCI incidence to 0.08%. The DCI incidence in the study by H.L. Andersen is substantially less than the DCI incidence reported for the decompression tables specified in Appendix A. OSHA found no studies in which the DCI incidence reported for the 1992 French Decompression Tables were higher than the DCI incidence reported for the OSHA decompression tables, nor did OSHA find any studies indicating that the 1992 French Decompression Tables were more hazardous to employees than the OSHA decompression tables.[8]

Based on a review of available evidence, the experience of State Plans that either granted variances (Nevada, Oregon, and Washington)[9] or promulgated a new standard (California)[10] for hyperbaric exposures occurring during similar subaqueous tunnel-construction work, and the information provided in the applicant's variance application, OSHA is granting the permanent variance.

Under Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), and based on the record discussed above, the agency finds that when the employer complies with the conditions of the following order, the working conditions of the employer's workers are at least as safe and healthful as if the employer complied with the working conditions specified by paragraphs (e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii) of 29 CFR 1926.803. Therefore, Salini must: (1) Comply with the conditions listed below under ''Conditions Specified for the Permanent Variance'' for the period between the date of this notice and completion of the Northeast Boundary Tunnel Project; (2) comply fully with all other applicable provisions of 29 CFR part 1926; and (3) provide a copy of this **Federal Register** notice to all employees affected by the conditions, including the affected employees of other employers, using the same means it used to inform these employees of the application for a permanent variance. Additionally, this order will remain in effect until one of the following conditions occurs: (1) Completion of the Northeast Boundary Tunnel Project; or (2) OSHA modifies or revokes this final order in accordance with 29 CFR 1905.13.

VI. Description of the Conditions Specified for the Permanent Variance

The conditions for the variance are set out in the Order at the end of this document. This section provides additional detail regarding the conditions in the Order.

Condition A: Scope

The scope of the permanent variance limits coverage to the work situations specified under this condition. Clearly defining the scope of the permanent variance provides Salini, their employees, potential future applicants, other stakeholders, the public and OSHA with necessary information regarding the work situations in which the permanent variance applies. To the extent that Salini exceeds the defined scope of this variance, it will be required to comply with OSHA's standards.

Condition B: List of Abbreviations

Condition C defines a number of abbreviations used in the permanent variance. OSHA believes that defining these abbreviations serves to clarify and standardize their usage, thereby enhancing the applicant's and their employees' understanding of the conditions specified by the permanent variance.

Condition C: Definitions

The condition defines a series of terms, mostly technical terms, used in the permanent variance to standardize and clarify their meaning. Defining these terms serves to enhance the applicant's and their employees' understanding of the conditions specified by the permanent variance.

Condition D: Safety and Health Practices

This condition requires the applicant to develop and submit to OSHA an HOM specific to the Northeast Boundary Tunnel at least six months before using the EPBMTBM, proof that the EPMBTBM's hyberbaric chambers have been designed, fabricated, inspected, tested marked, and stamped in accordance with the requirements for ASME PVHO–1.2019 (or the most recent edition of *Safety Standards for Pressure Vessels for Human Occupancy*). These requirements ensure that the applicant develops hyperbaric safety and health procedures suitable for the project.

The submission of the HOM to OSHA, which Salini has already completed, enables OSHA to determine that the specific safety and health instructions and measures it specifies are appropriate to the field conditions of the tunnel (including expected geological conditions), conform to the conditions of the variance, and adequately protect the safety and health of the CAWs. It also facilitates OSHA's ability to ensure that the applicant is complying with these instructions and measures. The requirement for proof of compliance with ASME PVHO–1.2019 is intended to ensure that the equipment is structurally sound and capable of performing to protect the safety of the employees exposed to hyperbaric pressure.

Additionally, the condition includes a series of related hazard prevention and control requirements and methods (*e.g.,* decompression tables, job hazard analysis (JHA), operations and inspections checklists, incident investigation, and recording and notification to OSHA of recordable hyperbaric injuries and illnesses) designed to ensure the continued effective functioning of the hyperbaric equipment and operating system.

Condition E: Communication

Condition E requires the applicant to develop and implement an effective system of information sharing and communication. Effective information

State safety standards for compressed-air work, which are similar to the tables in the OSHA standard. Moreover, the article reported 51 treated cases of DCI for 3,000 exposures between 30 and 34 p.s.i.g., for an incidence of 1.7% for the Washington State tables.

[6] In 1985, the National Institute for Occupational Safety and Health (NIOSH) published a report entitled ''Criteria for Interim Decompression Tables for Caisson and Tunnel Workers''; this report reviewed studies of DCI and other hyperbaric-related injuries resulting from use of OSHA's tables. This report is available on NIOSH's website: *http://www.cdc.gov/niosh/topics/decompression/default.html.*

[7] Anderson H.L. (2002). Decompression sickness during construction of the Great Belt tunnel, Denmark. Undersea and Hyperbaric Medicine, 29(3), pp. 172–188.

[8] Le Péchon J.C., Barre P., Baud J.P., Ollivier F. (September 1996). Compressed air work—French tables 1992—operational results. JCLP Hyperbarie Paris, Centre Medical Subaquatique Interentreprise, Marseille: Communication a l'EUBS, pp. 1–5 (see Ex. OSHA–2012–0036–0005).

[9] These state variances are available in the docket: Exs. OSHA–2012–0035–0006 (Nevada), OSHA–2012–0035–0007 (Oregon), and OSHA–2012–0035–0008 (Washington).

[10] See California Code of Regulations, Title 8, Subchapter 7, Group 26, Article 154, available at *http://www.dir.ca.gov/title8/sb7g26a154.html.*

sharing and communication ensures that affected workers receive updated information regarding any safety-related hazards and incidents, and corrective actions taken, prior to the start of each shift. The condition also requires Salini to ensure that reliable means of emergency communications are available and maintained for affected workers and support personnel during hyperbaric operations. Availability of such reliable means of communications enables affected workers and support personnel to respond quickly and effectively to hazardous conditions or emergencies that may develop during EPBMTBM operations.

Condition F: Worker Qualification and Training

This condition requires the applicant to develop and implement an effective qualification and training program for affected workers. The condition specifies the factors that an affected worker must know to perform safely during hyperbaric operations, including how to enter, work in, and exit from hyperbaric conditions under both normal and emergency conditions. Having well-trained and qualified workers performing hyperbaric intervention work ensures that they recognize, and respond appropriately to, hyperbaric safety and health hazards. These qualification and training requirements enable affected workers to cope effectively with emergencies, as well as the discomfort and physiological effects of hyperbaric exposure, thereby preventing worker injury, illness, and fatalities.

Paragraph (2)(e) of this condition also requires the applicant to provide affected workers with information they can use to contact the appropriate healthcare professionals if they believe they are developing hyperbaric-related health effects. This requirement provides for early intervention and treatment of DCI and other health effects resulting from hyperbaric exposure, thereby reducing the potential severity of these effects.

Condition G: Inspections, Tests, and Accident Prevention

Condition G requires the applicant to develop, implement, and operate a program of frequent and regular inspections of the EPBMTBM's hyperbaric equipment and support systems, and associated work areas. This condition helps to ensure the safe operation and physical integrity of the equipment and work areas necessary to conduct hyperbaric operations. The condition also enhances worker safety by reducing the risk of hyperbaric-related emergencies.

Paragraph (3) of this condition requires the applicant to document tests, inspections, corrective actions, and repairs involving the EPBMTBM, and maintain these documents at the job site for the duration of the job. This requirement provides the applicant with information needed to schedule tests and inspections to ensure the continued safe operation of the equipment and systems, and to determine that the actions taken to correct defects in hyperbaric equipment and systems were appropriate, prior to returning them to service.

Condition H: Compression and Decompression

This condition requires the applicant to consult with a designated medical advisor regarding special compression or decompression procedures appropriate for any unacclimated CAW and then implement the procedures recommended by the medical consultant. This provision ensures that the applicant consults with the medical advisor, and involves the medical advisor in the evaluation, development, and implementation of compression or decompression protocols appropriate for any CAW requiring acclimation to the hyperbaric conditions encountered during EPBMTBM operations. Accordingly, CAWs requiring acclimation have an opportunity to acclimate prior to exposure to these hyperbaric conditions. OSHA believes this condition will prevent or reduce adverse reactions among CAWs to the effects of compression or decompression associated with the intervention work they perform in the EPBMTBM.

Condition I: Recordkeeping

Condition I requires the applicant to maintain records of specific factors associated with each hyperbaric intervention. Under OSHA's existing recordkeeping requirements in 29 CFR 1904 regarding Recording and Reporting Occupational Injuries and Illnesses, Salini must maintain a record of any recordable injury, illness or fatality (as defined by 29 CFR 1904) resulting from exposure of an employee to hyperbaric conditions by completing the OSHA's Form 301 Injury and Illness Incident Report and OSHA's Form 300 Log of Work-Related Injuries and Illnesses. Salini did not seek a variance from this rule and therefore must comply fully with those requirements.

Condition I adds additional reporting responsibilities, beyond those already required by the OSHA rule. Salini is required to maintain records of specific factors associated with each hyperbaric intervention. The information gathered and recorded under this provision, in concert with the information provided under Condition J (using OSHA's Form 301 Injury and Illness Incident Report to investigate and record hyperbaric recordable injuries as defined by 29 CFR 1904.4, 1904.7, 1904.8–1904.12), enables the Salini and OSHA to assess the effectiveness of the Permanent Variance in preventing DCI and other hyperbaric-related effects.

Condition J: Notifications

Under this condition, Salini must, within specified periods, notify OSHA and local authorities of any recordable injuries, illnesses, or fatalities that occur as a result of hyperbaric exposures during EPBMTBM operations.

These notification requirements enable the applicant, their employees, and OSHA to determine the effectiveness of the permanent variance in providing the requisite level of safety to the applicant's workers and, based on this determination, whether to revise or revoke the conditions of the permanent variance. Timely notification permits OSHA to take whatever action may be necessary and appropriate to prevent further injuries and illnesses. Providing notification to employees informs them of the precautions taken by the applicant to prevent similar incidents in the future.

Additionally, this condition also requires the applicant to notify OSHA if it ceases to do business, has a new address or location for their main office, or transfers the operations covered by the permanent variance to a successor company. In addition, the condition specifies that the transfer of the permanent variance to a successor company must be approved by OSHA. These requirements allow OSHA to communicate effectively with the applicant regarding the status of the permanent variance, and expedite the agency's administration and enforcement of the permanent variance. Stipulating that an applicant must have OSHA's approval to transfer a variance to a successor company provides assurance that the successor company has knowledge of, and will comply with, the conditions specified by permanent variance, thereby ensuring the safety of workers involved in performing the operations covered by the permanent variance.

VII. Order

As of the effective date of this final order, OSHA is revoking the interim order granted to the employer on August 27, 2019, and replacing it with a

permanent variance order. Note that there are not any substantive changes in the conditions between interim order and the final order.

OSHA issues this final order authorizing Salini to comply with the following conditions instead of complying with the requirements of paragraphs 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii). These conditions are:

A. Scope

1. The permanent variance applies only to work:

(a) That occurs in conjunction with construction of the Northeast Boundary Tunnel Project in Washington, DC, a subaqueous tunnel constructed using advanced shielded mechanical-excavation techniques and involving operation of an EPBMTBM;

(b) In the EPBMTBM's forward section (the working chamber) and associated hyperbaric chambers used to pressurize and decompress employees entering and exiting the working chamber.

2. The permanent variance applies only when Salini stops the tunnel-boring work, pressurizes the working chamber, and the CAWs either enter the working chamber to perform interventions (*i.e.,* inspect, maintain, or repair the mechanical-excavation components), or exit the working chamber after performing interventions.

3. Except for the requirements specified by 29 CFR 1926.803(f)(1), (g)(1)(iii), and (g)(1)(xvii), Salini must comply fully with all other applicable provisions of 29 CFR part 1926.

4. This order will remain in effect until one of the following conditions occurs:

(1) Completion of the Northeast Boundary Tunnel Project; or (2) OSHA modifies or revokes this final order in accordance with 29 CFR 1905.13.

B. List of Abbreviations

Abbreviations used throughout this permanent variance include the following:

1. BWAO—Baltimore/Washington OSHA Area Office
2. CAW—Compressed-air worker
3. CFR—Code of Federal Regulations
4. DCI—Decompression Illness
5. EPBMTBM—Earth Pressure Balanced Moving Tunnel Boring Machine
6. HOM—Hyperbaric Operations and Safety Manual
7. JHA—Job hazard analysis
8. OSHA—Occupational Safety and Health Administration
9. OTPCA—Office of Technical Programs and Coordination Activities

C. Definitions

The following definitions apply to this permanent variance. These definitions supplement the definitions in Salini's project-specific HOM.

1. *Affected employee or worker*—an employee or worker who is affected by the conditions of this permanent variance, or any one of his or her authorized representatives. The term ''employee'' has the meaning defined and used under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*)

2. *Atmospheric pressure*—the pressure of air at sea level, generally 14.7 p.s.i.a., 1 atmosphere absolute, or 0 p.s.i.g.

3. *Compressed-air worker*—an individual who is specially trained and medically qualified to perform work in a pressurized environment while breathing air at pressures up to 50 p.s.i.g.

4. *Competent person*—an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.[11]

5. *Decompression illness (also called decompression sickness or the bends)*—an illness caused by gas bubbles appearing in body compartments due to a reduction in ambient pressure. Examples of symptoms of decompression illness include (but are not limited to): Joint pain (also known as the ''bends'' for agonizing pain or the ''niggles'' for sight pain); areas of bone destruction (termed ''dysbaric osteonecrosis''); skin disorders (such as cutis marmorata, which causes a pink marbling of the skin); spinal cord and brain disorders (such as stroke, paralysis, paresthesia, and bladder dysfunction); cardiopulmonary disorders, such as shortness of breath; and arterial gas embolism (gas bubbles in the arteries that block blood flow).[12]

Note: Health effects associated with hyperbaric intervention, but not considered symptoms of DCI, can include: Barotrauma (direct damage to air-containing cavities in the body such as ears, sinuses, and lungs); nitrogen narcosis (reversible alteration in consciousness that may occur in hyperbaric environments and caused by the anesthetic effect of certain gases at high pressure); and oxygen toxicity (a central nervous system condition resulting from the harmful effects of breathing molecular oxygen (O_2) at elevated partial pressures).

6. *Earth Pressure Balanced Moving Tunnel Boring Machine*—the machinery used to excavate the tunnel.

7. *Hot work*—any activity performed in a hazardous location that may introduce an ignition source into a potentially flammable atmosphere.[13]

8. *Hyperbaric*—at a higher pressure than atmospheric pressure.

9. *Hyperbaric intervention*—a term that describes the process of stopping the EPBMTBM and preparing and executing work under hyperbaric pressure in the working chamber for the purpose of inspecting, replacing, or repairing cutting tools and/or the cutterhead structure.

10. *Hyperbaric Operations Manual*—a detailed, project-specific health and safety plan developed and implemented by the employer for working in compressed air during the Northeast Boundary Tunnel.

11. *Job hazard analysis*—an evaluation of tasks or operations to identify potential hazards and to determine the necessary controls.

12. *Man lock*—an enclosed space capable of pressurization, and used for compressing or decompressing any employee or material when either is passing into or out of a working chamber.

13. *Pressure*—a force acting on a unit area; usually expressed as pounds per square inch (p.s.i.).

14. *p.s.i.*—pounds per square inch, a common unit of measurement of pressure; a pressure given in p.s.i. corresponds to absolute pressure.

15. *p.s.i.a*—pounds per square inch absolute, or absolute pressure, is the sum of the atmospheric pressure and gauge pressure. At sea level, atmospheric pressure is approximately 14.7 p.s.i. Adding 14.7 to a pressure expressed in units of p.s.i.g. will yield the absolute pressure, expressed as p.s.i.a.

16. *p.s.i.g.*—pounds per square inch gauge, a common unit of pressure; pressure expressed as p.s.i.g. corresponds to pressure relative to atmospheric pressure. At sea level, atmospheric pressure is approximately 14.7 p.s.i. Subtracting 14.7 from a pressure expressed in units of p.s.i.a. yields the gauge pressure, expressed as p.s.i.g.

17. *Qualified person*—an individual who, by possession of a recognized degree, certificate, or professional standing, or who, by extensive knowledge, training, and experience,

[11] Adapted from 29 CFR 1926.32(f).

[12] See Appendix 10 of ''A Guide to the Work in Compressed Air Regulations 1996,'' published by the United Kingdom Health and Safety Executive and available from NIOSH at *http://www.cdc.gov/niosh/docket/archive/pdfs/NIOSH-254/compReg1996.pdf.*

[13] Also see 29 CFR 1910.146(b).

successfully demonstrates an ability to solve or resolve problems relating to the subject matter, the work, or the project.[14]

18. *Working chamber*—an enclosed space in the EPBMTBM in which CAWs perform interventions, and which is accessible only through a man lock.

D. Safety and Health Practices

1. Salini must implement the most recent project-specific HOM previously submitted to OSHA on February 1, 2018. The HOM shall provide the governing safety and health requirements regarding hyperbaric exposures during the tunnel-construction project.

2. Salini must implement the safety and health instructions included in the manufacturer's operations manuals for the EPBMTBM, and the safety and health instructions provided by the manufacturer for the operation of decompression equipment.

3. Salini must use air as the only breathing gas in the working chamber.

4. Salini must use the 1992 French Decompression Tables for air, air-oxygen, and oxygen decompression specified in the HOM, specifically the tables titled ''French Regulation Air Standard Tables.''

5. Salini must equip man-locks used by their employees with an oxygen-delivery system as specified by the HOM. Salini must not store oxygen or other compressed gases used in conjunction with hyperbaric work in the tunnel.

6. Workers performing hot work under hyperbaric conditions must use flame-retardant personal protective equipment and clothing.

7. In hyperbaric work areas, Salini must maintain an adequate fire-suppression system approved for hyperbaric work areas.

8. Salini must develop and implement one or more JHAs for work in the hyperbaric work areas, and review, periodically and as necessary (*e.g.,* after making changes to a planned intervention that affects their operation), the contents of the JHAs with affected employees. The JHAs must include all the job functions that the risk assessment[15] indicates are essential to prevent injury or illness.

9. Salini must develop a set of checklists to guide compressed-air work and ensure that employees follow the procedures required by this permanent variance (including all procedures required by the HOM, which this permanent variance incorporates by reference). The checklists must include all steps and equipment functions that the risk assessment indicates are essential to prevent injury or illness during compressed-air work.

10. Salini must ensure that the safety and health provisions of the HOM adequately protect the workers of all contractors and subcontractors involved in hyperbaric operations.[16]

E. Communication

1. Prior to beginning a shift, Salini must implement a system that informs workers exposed to hyperbaric conditions of any hazardous occurrences or conditions that might affect their safety, including hyperbaric incidents, gas releases, equipment failures, earth or rock slides, cave-ins, flooding, fires, or explosions.

2. Salini must provide a power-assisted means of communication among affected workers and support personnel in hyperbaric conditions where unassisted voice communication is inadequate.

a. Salini must use an independent power supply for powered communication systems, and these systems must operate such that use or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

b. Salini must test communication systems at the start of each shift and as necessary thereafter to ensure proper operation.

F. Worker Qualification and Training

Salini must:

1. Ensure that each affected worker receives effective training on how to safely enter, work in, exit from, and undertake emergency evacuation or rescue from, hyperbaric conditions, and document this training.

2. Provide effective instruction, before beginning hyperbaric operations, to each worker who performs work, or controls the exposure of others, in hyperbaric conditions, and document this instruction. The instruction must include topics such as:

a. The physics and physiology of hyperbaric work;

b. Recognition of pressure-related injuries;

c. Information on the causes and recognition of the signs and symptoms associated with decompression illness, and other hyperbaric intervention-related health effects (*e.g.,* barotrauma, nitrogen narcosis, and oxygen toxicity).

d. How to avoid discomfort during compression and decompression; and

e. Information the workers can use to contact the appropriate healthcare professionals should the workers have concerns that they may be experiencing adverse health effects from hyperbaric exposure.

3. Repeat the instruction specified in paragraph (2) of this condition periodically and as necessary (*e.g.,* after making changes to their hyperbaric operations).

4. When conducting training for their hyperbaric workers, make this training available to OSHA personnel and notify OTPCA the BWAO before the training takes place.

G. Inspections, Tests, and Accident Prevention

1. Salini must initiate and maintain a program of frequent and regular inspections of the EPBMTBM's hyperbaric equipment and support systems (such as temperature control, illumination, ventilation, and fire-prevention and fire-suppression systems), and hyperbaric work areas, as required under 29 CFR 1926.20(b)(2) by:

a. Developing a set of checklists to be used by a competent person in conducting weekly inspections of hyperbaric equipment and work areas; and

b. Ensuring that a competent person conducts daily visual checks, as well as weekly inspections of the EPBMTBM.

2. If the competent person determines that the equipment constitutes a safety hazard, Salini must remove the equipment from service until it corrects the hazardous condition and has the correction approved by a qualified person.

3. Salini must maintain records of all tests and inspections of the EPBMTBM, as well as associated corrective actions and repairs, at the job site for the duration of the job.

H. Compression and Decompression

Salini must consult with their attending physician concerning the need for special compression or decompression exposures appropriate for CAWs not acclimated to hyperbaric exposure.

I. Recordkeeping

Salini must maintain a record of any recordable injury, illness, or fatality (as defined by 29 CFR part 1904 Recording and Reporting Occupational Injuries and Illnesses) resulting from exposure of an employee to hyperbaric conditions by completing the OSHA's Form 301

[14] Adapted from 29 CFR 1926.32(m).

[15] See ANSI/AIHA Z10–2012, American National Standard for Occupational Health and Safety Management Systems, for reference.

[16] See ANSI/ASSE A10.33–2011, American National Standard for Construction and Demolition Operations—Safety and Health Program Requirements for Multi-Employer Projects, for reference.

Injury and Illness Incident Report form and OSHA's Form 300 Log of Work-Related Injuries and Illnesses.

Examples of important information to include on the OSHA's Form 301 Injury and Illness Incident Report (along with the corresponding question on the form) are:

Q14

- the task performed;
- the composition of the gas mixture (*e.g.,* air or oxygen);
- an estimate of the CAW's workload;
- the maximum working pressure;
- temperature in the work and decompression environments;
- unusual occurrences, if any, during the task or decompression

Q15

- time of symptom onset;
- duration between decompression and onset of symptoms

Q16

- type and duration of symptoms;
- a medical summary of the illness or injury

Q17

- duration of the hyperbaric intervention;
- possible contributing factors;
- the number of prior interventions completed by the injured or ill CAW; and the pressure to which the CAW was exposed during those interventions.[17]

In addition to completing the OSHA's Form 301 Injury and Illness Incident Report form and OSHA's Form 300 Log of Work-Related Injuries and Illnesses, the employer must maintain records of:

1. The date, times (*e.g.,* began compression, time spent compressing, time performing intervention, time spent decompressing), and pressure for each hyperbaric intervention.

2. The name of each individual worker exposed to hyperbaric pressure and the decompression protocols and results for each worker.

3. The total number of interventions and the total hyperbaric exposure duration at each pressure.

4. The results of the post-intervention physical assessment of each CAW for signs and symptoms of decompression illness, barotrauma, nitrogen narcosis, oxygen toxicity or other health effects associated with work in compressed air or mixed gases for each hyperbaric intervention.

J. Notifications

1. To assist OSHA in administering the conditions specified herein, the employer must:

a. Notify the OTPCA and the Baltimore/Washington OSHA Area Office of any recordable injury, illness, or fatality (by submitting the completed OSHA's Form 301 Injury and Illness Incident Report form [18]) resulting from exposure of an employee to hyperbaric conditions, including those exposures that do not require recompression treatment (*e.g.,* nitrogen narcosis, oxygen toxicity, barotrauma), but still meet the recordable injury or illness criteria of 29 CFR 1904. The employer shall provide the notification within 8 hours of the incident or 8 hours after becoming aware of a recordable injury, illness, or fatality, and submit a copy of the incident investigation (OSHA's Form 301 Injury and Illness Injury Reporting Form) within 24 hours of the incident or 24 hours after becoming aware of a recordable injury, illness, or fatality. In addition to the information required by the OSHA's Form 301 Injury and Illness Injury Reporting Form, the incident-investigation report must include a root-cause determination, and the preventive and corrective actions identified and implemented.

b. Provide certification within 15 days of the incident that the employer informed affected workers of the incident and the results of the incident investigation (including the root-cause determination and preventive and corrective actions identified and implemented).

c. Notify the OTPCA and the Baltimore/Washington OSHA Area Office within 15 working days in writing of any change in the compressed-air operations that affects the employer's ability to comply with the conditions specified herein.

d. Upon completion of the Northeast Boundary Tunnel, evaluate the effectiveness of the decompression tables used throughout the project, and provide a written report of this evaluation to the OTPCA and the Baltimore/Washington OSHA Area Office.

Note: The evaluation report is to contain summaries of: (1) The number, dates, durations, and pressures of the hyperbaric interventions completed; (2) decompression protocols implemented (including composition of gas mixtures (air and/or oxygen), and the results achieved; (3) the total number of interventions and the number of hyperbaric incidents (decompression illnesses and/or health effects associated with hyperbaric interventions as recorded on OSHA's Form 301 Injury and Illness Incident Report and OSHA's Form 300 Log of Work-Related Injuries and Illnesses, and relevant medical diagnoses and treating physicians' opinions); and (4) root causes of any hyperbaric incidents, and preventive and corrective actions identified and implemented.

e. To assist OSHA in administering the conditions specified herein, inform the OTPCA and the Baltimore/Washington OSHA Area Office as soon as possible after it has knowledge that it will:

i. Cease to do business;

ii. Change the location and address of the main office for managing the tunneling operations specified herein; or

iii. Transfer the operations specified herein to a successor company.

f. Notify all affected employees of this permanent variance by the same means required to inform them of the application for a variance.

g. This permanent variance cannot be transferred to a successor company without OSHA approval.

VIII. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1905.11.

Signed at Washington, DC, on May 5, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–09967 Filed 5–8–20; 8:45 am]

BILLING CODE 4510–26–P

[17] See 29 CFR 1904 Recording and Reporting Occupational Injuries and Illnesses *(http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9631);* recordkeeping forms and instructions *(http://www.osha.gov/recordkeeping/RKform300pkg-fillable-enabled.pdf)*; and OSHA Recordkeeping Handbook *(http://www.osha.gov/recordkeeping/handbook/index.html)*.

[18] See footnote 4.

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Agency Information Collection Activities; Comment Request

AGENCY: OWCP/DCMWC, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Roentgenographic Interpretation'' (Form CM–933), ''Roentgenographic Quality Rereading'' (Form CM–933a), ''Medical History and Examination for

Coal Mine Workers' Pneumoconiosis'' (Form CM–988 and CM–988a), ''Report of Arterial Blood Gas Study'' (Form CM–1159), and ''Report of Ventilatory Study'' (Form CM–2907). This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by July 10, 2020.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response and estimated total burden may be obtained free by contacting Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov*.

Submit written comments about this ICR by mail or courier to the U.S. Department of Labor, Office of Workers' Compensation Program, Room S–3323, 200 Constitution Avenue NW, Washington, DC 20210; by email: *suggs.anjanette@dol.gov.*

FOR FURTHER INFORMATION: Contact Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Black Lung Benefits Act, 30 U.S.C. 901 *et seq.,* provides benefits to coal miners who are totally disabled by black lung disease arising out of coal mine employment, and certain dependents and survivors. When a miner applies for benefits, the Division of Coal Mine Workers' Compensation (DCMWC) is required to give the miner an opportunity to establish his or her eligibility by providing a complete pulmonary evaluation, including a chest radiograph (X-ray), physical examination, pulmonary function test (also known as a ventilatory study), and arterial blood gas study. 30 U.S.C. 923(b); 20 CFR 718.101, 725.406. Forms CM–933, 933b, 988, 988a, 1159, and 2907 are used by physicians to report the results of these diagnostic tests. The information collected on these forms is used to determine whether the miner is totally disabled due to black lung disease caused by coal mine employment. The Black Lung Benefits Act, 30 U.S.C. 901 *et seq.,* and implementing regulation, 20 CFR 725.406, authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and summarized and included in the request for OMB approval of the final ICR. To help ensure appropriate consideration, comments should mention 1240–0023.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OWCP–DCMWC.

Type of Review: Extension.

Title of Collection: Roentgenographic Interpretation, Roentgenographic Quality Rereading, Medical History and Examination for Coal Mine Workers' Pneumoconiosis, Report of Arterial Blood Gas Study, and Report of Ventilatory Study.

Form: Roentgenographic Interpretation, CM–933, Roentgenographic Quality Rereading, CM–933b, Medical History and Examination for Coal Mine Workers' Pneumoconiosis, CM–988 and CM–988a, Report of Arterial Blood Gas Study, CM–1159, and Report of Ventilatory Study, CM–2907.

OMB Control Number: 1240–0023.

Affected Public: Business or other for profit, and not-for-profit institutions.

Form	Time to complete	Frequency of response	Number of respondents	Number of responses	Hours burden
CM–933	5 min	occasion	6,000	6,000	500
CM–933b	3 min	occasion	6,000	6,000	300
CM–988	40 min	occasion	6,000	6,000	4,000
CM–1159	15 min	occasion	6,000	6,000	1,500
CM–2907	10 min	occasion	6,000	6,000	1,000
Totals			30,000	30,000	7,300

Estimated Number of Respondents: 30,000.

Frequency: Occasion.

Total Estimated Annual Responses: 30,000.

Estimated Average Time per Response: 3 to 40 minutes.

Estimated Total Annual Burden Hours: 7,300 hours.

Total Estimated Annual Other Cost Burden: $0.

(Authority: 44 U.S.C. 3506(c)(2)(A))

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2020–09968 Filed 5–8–20; 8:45 am]

BILLING CODE 4510–CK–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

TIME AND DATE: The Legal Services Corporation's Board of Directors will meet remotely on Tuesday, May 19, 2020. The meeting will commence at 11:00 a.m., EDT, and will continue until the conclusion of the Board's agenda.

PLACE PUBLIC NOTICE OF VIRTUAL REMOTE MEETING: Legal Services Corporation (LSC) will be conducting the May19, 2020 meeting remotely via ZOOM.

Public Observation: Unless otherwise noted herein, the Board meeting will be open to public observation. Members of the public who wish to participate remotely may do so by following the directions provided below.

Directions for Open Session

- To join the Zoom meeting by computer, please click this link.
- *Meeting ID:* 885 2060 2585.
- *Password:* Justice74.
- To join the Zoom meeting with one tap from your mobile phone, please click below:

+19292056099,
88520602585#,1#,076404#

- To join the Zoom meeting by phone, please use the information below:

Dial by your location
+1 929 205 6099 US (New York)
+1 301 715 8592 US (Germantown)
+1 312 626 6799 US (Chicago)
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)

- *Meeting ID:* 885 2060 2585.
- *Password:* 076404.

Find your local number: *https://us02web.zoom.us/u/kb4U5k09XR.*

- When connected to the call, please immediately ''MUTE'' your telephone. Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the Chair may solicit comments from the public.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Board of Directors

1. Approval of agenda
2. Consider and act on the Board of Directors' transmittal to accompany the Inspector General's Semiannual Report to Congress for the period of October 1, 2019 through March 31, 2020
3. Public comment
4. Consider and act on other business
5. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Karly Satkowiak, Special Counsel and Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1633. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

Accessibility: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: May 7, 2020.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2020–10110 Filed 5–7–20; 4:15 pm]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–20–0012; NARA–2020–039]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on regulations.gov for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: NARA must receive comments by June 25, 2020.

ADDRESSES: You may submit comments by either of the following methods. You must cite the control number, which appears on the records schedule in parentheses after the name of the agency that submitted the schedule.

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Mail:* Records Appraisal and Agency Assistance (ACR); National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001

FOR FURTHER INFORMATION CONTACT: Kimberly Keravuori, Regulatory and External Policy Program Manager, by email at *regulation_comments@nara.gov.* For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov,* by mail at the address above, or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the regulations.gov docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly

posted. If you want to submit a comment with confidential information or cannot otherwise use the regulations.gov portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we have made to the proposed records schedule. We will then send the schedule for final approval by the Archivist of the United States. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Agriculture, Food Safety and Inspection Service, Label Submission and Approval System (DAA–0584–2019–0005).
2. Department of Health and Human Services, Administration for Children and Families, Tribal Maternal, Infant and Early Childhood Home Visiting Program (DAA–0292–2019–0012).
3. Department of Homeland Security, Immigration and Customs Enforcement, Operation Reports, Determinations, Review and Deconfliction Records (DAA–0567–2016–0004).
4. Department of the Treasury, Bureau of Engraving and Printing, Banknote Equipment Manufacturer Support Division Records (DAA–0318–2020–0002).
5. Department of the Treasury, Internal Revenue Service, Form 8973, Certified Professional Employer Organization Customer Reporting Agreement (DAA–0058–2020–0002).
6. Dwight D. Eisenhower Memorial Commission, Agency-wide, Commission Records (DAA–0220–2020–0018).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2020–10026 Filed 5–8–20; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Graduate Research Fellowships Program

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to renew this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by July 10, 2020 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Graduate Research Fellowship Program.

OMB Number: 3145–0023.

Expiration Date of Approval: September 30, 2020.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1861 *et seq.*), as amended, states that ''The Foundation is authorized to award, within the limits of funds made available . . . scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, biological, engineering, social, and other sciences at accredited U.S. institutions selected by the recipient of such aid, for stated periods of time.''

The Graduate Research Fellowship Program has two goals:

- To select, recognize, and financially support, early in their careers, individuals with the demonstrated potential to be high achieving scientists and engineers;
- To broaden participation in science and engineering of underrepresented groups, including women, minorities, persons with disabilities, and veterans.

The list of GRFP Awardees recognized by the Foundation may be found via FastLane through the NSF website: *https://www.fastlane.nsf.gov/grfp/AwardeeList.do?method=load AwardeeList.* The GRF Program is described in the Solicitation available at: *https://www.nsf.gov/publications/pub_summ.jsp?ods_key=nsf19590&org=NSF.*

Estimate of Burden: This is an annual application program providing three years of support to individuals, usable over a five-year fellowship period. The application deadlines are in late October. It is estimated that each submission is averaged to be 16 hours

per respondent, which includes three references (on average) for each application. It is estimated that it takes two hours per reference for each applicant.

The clearance request also includes two forms—the NSF–349, Fellowship Starting Certificate, and the NSF–453, the Fellowship Termination Certificate and Grant Fiscal Report. These are completed by program Fellows at the beginning and the end of their fellowship.

Respondents: Individuals.

Estimated Number of Responses: 15,000.

Estimated Total Annual Burden on Respondents: 225,000 hours.

Frequency of Responses: Annually.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: May 6, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–09995 Filed 5–8–20; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Committee on Equal Opportunities in Science and Engineering (CEOSE) Advisory Committee (#1173) (Virtual).

Date and Time: June 11, 2020; 1:00 p.m.–5:30 p.m.; June 12, 2020; 10:00 a.m.–3:30 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314 (Virtual).

The meeting will be held virtually among the CEOSE members. Public visitors will be able to listen telephonically. Connection information will be made available on the CEOSE website at least two weeks prior to the meeting at *http://www.nsf.gov/od/oia/activities/ceose/index.jsp.*

Type of Meeting: Open.

Contact Person: Dr. Bernice Anderson, Senior Advisor and CEOSE Executive Secretary, Office of Integrative Activities (OIA), National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. Contact Information: 703–292–8040/*banderso@nsf.gov.*

Minutes: Meeting minutes and other information may be obtained from the CEOSE Executive Secretary at the above address or the website at *http://www.nsf.gov/od/oia/activities/ceose/index.jsp.*

Purpose of Meeting: To study data, programs, policies, and other information pertinent to the National Science Foundation and to provide advice and recommendations concerning broadening participation in science and engineering.

Agenda

Day 1: June 11, 2020

- Welcome, Introductions, Opening Remarks
- Report of the CEOSE Executive Liaison
- Panel: BP Implications of Institutional Practices and COVID–19
- Discussion: Data Issues and New Ideas for the *Women, Minority, and Person with Disabilities Digest*
- Presentation: NSF INCLUDES Update
- Discussion: Overview of the Next CEOSE Biennial Report and Plans for the Next Day

Day 2: June 12, 2020

- Welcome and Recap of Day One
- Working Session: 2019–2020 CEOSE Report
- Reports of the CEOSE Executive Liaisons
- Panel: From Leadership Development to Leadership at the Top
- Announcements, Closing Remarks, and Adjournment

Dated: May 6, 2020.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2020–10014 Filed 5–8–20; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, May 19, 2020.

PLACE: Virtual.

STATUS: The one item may be viewed by the public through webcast only.

MATTER TO BE CONSIDERED:

64859 Aviation Accident Report—Helicopter Air Ambulance Collision with Terrain, Survival Flight Inc., Bell 407 Helicopter, N191SF, near Zaleski, Ohio, January 29, 2019

CONTACT PERSON FOR MORE INFORMATION: Candi Bing at (202) 590–8384 or by email at *bingc@ntsb.gov.*

Media Information Contact: Peter Knudson by email at *peter.knudson@ntsb.gov* or at (202) 314–6100.

This meeting will take place virtually. The public may view it through a live or archived webcast by accessing a ling under ''Webcast of Events'' on the NTSB home page at *www.ntsb.gov.*

There may be changes to this event due to the evolving situation concerning the novel coronavirus (COVID–19). Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

The National Transportation Safety Board is holding this meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b).

Dated: Thursday, May 7, 2020.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2020–10108 Filed 5–7–20; 4:15 pm]

BILLING CODE 7533–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88814; File No. SR–C2–2020–005]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend its Definition of Bulk Messages in Rule 1.1 and Amend Rule 6.8(c)(3)

May 5, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 24, 2020, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') proposes to amend its definition of bulk messages in Rule 1.1 and amend Rule 6.8(c)(3). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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 Exchange 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 Exchange has prepared summaries, set forth in sections 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

1. Purpose

The Exchange proposes to amend its rules in connection with bulk message functionality to offer this functionality exclusively to Market-Makers on the Exchange. Currently, C2 Market-Makers submit their quotes electronically as bulk messages. A bulk message is a single electronic message a User may submit to the Exchange in which the User may enter, modify, or cancel up to an Exchange-specified number of bids and offers. Bulk message functionality was adopted by the Exchange in connection with a recent technology migration and made available to all Users in place of the Exchange's prior quoting functionality, which was available only to Market-Makers and permitted them to update their electronic quotes in block quantities.[3] Currently, the definition of a bulk message in Rule 1.1 provides that a User may submit a bulk message through a bulk port, which is a dedicated logical port. Current Rule 6.8(c)(3) provides that a bulk message submitted through a logical port is subject to the following: (1) It has a Time-in-Force of Day; (2) a Market-Maker with an appointment in a class may designate a bulk message for that class as Post Only or Book Only, and other Users must designate a bulk message for that class as Post Only; and (3) a User may establish a default MTP Modifier of MCN, MCO, or MCB, and a default value of Attributable or Non-Attributable, for a bulk port, each of which applies to all bulk messages submitted to the Exchange through that bulk port. Additionally, Users may submit single orders through a bulk port in the same manner as Users may submit orders to the Exchange through any other type of port, including designated with any order instruction and any time-in-force,[4] and as auction responses (using auction response messages). The primary purpose of bulk ports and bulk messages is to encourage liquidity provision, particularly by Market-Makers, on the Exchange.[5]

The Exchange proposes to amend the definition of bulk messages in Rule 1.1 so that Market-Makers may exclusively submit bulk messages (the same quotation functionality that was prior offered exclusively to Market-Makers up until February 2019)[6] and proposes to update Rule 6.8(c)(3) regarding bulk ports accordingly. Specifically, the proposed rule change amends the definition of bulk messages to provide that the term ''bulk message'' means a single electronic message a User submits with an M Capacity (*i.e.,* for the account of a Market-Maker) to the Exchange in which the User may enter, modify, or cancel up to an Exchange-specified number of bids and offers. In this way, the bulk messages submitted through bulk ports would be attributed only to Market-Maker quotes. In line with the proposed amendment to the User Capacity permitted to submit bulk messages, the proposed rule change also updates Rule 6.8(c)(3)(A)(ii) to provide that, while a Market-Maker with an appointment in a class may designate a bulk message for that class as a Post Only or Book Only, a non-appointed Market-Maker, as opposed to any other User, must designate a bulk message for that class as Post Only. This is currently the case for Market-Makers submitting bulk messages in non-appointed classes and the proposed rule change merely reflects the specific type of other User (*i.e.,* Market-Makers not appointed in a class) that will be able to submit bulk messages. The Exchange also notes that the proposed rule change updates the term User to Market-Maker in Rule 6.8(c)(3)(A)(iii) to reflect the proposed amendment to the User Capacity permitted to submit bulk messages and provide uniformity for the terms used throughout Rule 6.8(c)(3)(A).

The Exchange notes that the vast majority of bulk messages submitted through bulk ports are for the account of a Market-Maker. Indeed, over the second half of March 2020 the Exchange observed that the bulk messages submitted through bulk ports by non-Market-Makers accounted for only 0.02% of all bulk messages submitted. The Exchange notes the non-Marker-Makers that submit this very small portion of bulk messages are institutional investors that are already registered as market makers on away exchanges and may readily register with the Exchange to become a C2 Market-Maker. Because so few non-Market-Maker Users opt to use this functionality, the Exchange believes that the current demand does not warrant the Exchange resources necessary for ongoing System support for non-Market-Maker bulk messaging. The Exchange notes that the use of bulk messages is voluntary and non-Market-Maker Users will continue to be able to submit their single orders and auction responses through bulk ports and other logical ports in the same manner as they currently do.

The Exchange notes that limiting the offering of quoting functionality to Market-Makers is not new or unique as other options exchanges currently offer quoting functionality only to their market makers.[7] Indeed, bulk message functionality (including submission through bulk ports) is geared toward encouraging Market-Maker quoting on the Exchange. For example, the requirement that bulk messages have a time-in-force of Day is intended to be

[3] *See* Securities Exchange Release No. 85038 (February 1, 2019) 84 FR 2598 (February 7, 2019) (SR–C2–2018–025).

[4] A Market-Maker with an appointment in a class may designate an order for that class submitted through a bulk port only as Post Only or Book Only, and other Users must designate an order for that class submitted through a bulk port as Post Only. *See* Rule 6.8(c)(3)(B).

[5] *See supra* note 3.

[6] *See id.*

[7] *See* Nasdaq Phlx Options 1, Section 7(a)(B), which provides for its ''Specialized Quote Feed'', a quoting interface offered specifically to market makers on Phlx; *and see generally* MIAX Options Rule 517, which provide for the different types of quotes and quoting mechanisms offered specifically to market makers on MIAX Options.

consistent with a Market-Maker's obligation to update its quotes in response to changed market conditions in its appointed classes, and the provision that allows Market-Makers to designate their bulk messages as Post Only or Book Only (as opposed to the limitation to Post Only for other Users' bulk messages) is intended to provide Market-Makers with flexibility to use these instructions with respect to their bulk messages as additional tools to meet their quoting obligations in a manner they deem appropriate.[8] Additionally, as noted above, the Exchange offered quote message functionality (which was substantially similar to current bulk message functionality) only to Market-Makers until recently.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and national market system and benefit investors, because it will delete from the Rules a functionality that is currently rarely used and as a result, the Exchange will no longer offer, thereby promoting transparency in its Rules. The Exchange notes that other options exchanges currently offer their quoting functionality and/or interfaces exclusively to market makers on their exchanges.[12] Additionally, as noted above, the Exchange only offered quote message functionality (which corresponds to bulk message functionality) until approximately a year ago months ago. Moreover, the Exchange does not believe that the proposed rule change raises any new or novel issues for Users and will not affect the protection of investors and the public interest because this functionality is not currently used by non-Market-Makers. In addition to this, the Exchange notes that the submission of bulk messages to the Exchange is voluntary, and, as stated, non-Market-Makers will continue to be able to submit single order and auction responses through bulk ports and other logical ports to connect to the Exchange and enter orders, receive date, and access information. Also, the Exchange believes that the low non-Market-Maker usage rate of bulk message functionality does not warrant the continued resources necessary for System support of bulk messaging for non-Market-Maker Users. As a result, the Exchange believes the proposed rule change will also remove impediments to and perfect the mechanism of a free and open market and national market system by allowing the Exchange to reallocate System capacity and resources to other System functionality, which benefits all market participants.

Additionally, the Exchange does not believe that the proposed rule change would permit unfair discrimination as, according to March 2020 data, a negligible portion of bulk messages are submitted by non-Market-Makers, and, as stated above, bulk message functionality is principally designed to assist Market-Makers in providing liquidity to the Exchange. The options market is driven by Market-Maker quotes, and thus Market-Maker quotes are critical to provide liquidity to the market and contribute to price discovery for investors. Additionally, Market-Makers are subject to continuous quoting obligations (which other Users are not), and bulk message functionality provides Market-Makers with a means to help them satisfy these obligations. Indeed, when bulk messages were adopted, the Exchange expected Market-Makers regularly to use bulk messages to input and update prices on multiple series of options at the same time, and noted that the functionality was intended primarily for the use of Market-Makers.[13]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because bulk messages functionality will be available for all Exchange Market-Makers in the same manner as it is today. Non-Market-Makers will continue to be able to submit their single orders and auction responses through bulk ports, as well as all orders and other data through logical ports, in the same manner as they currently do. As noted above, this is consistent with the primary purpose of bulk messages, which is to encourage Market-Maker quoting and liquidity on the Exchange. The Exchange further notes that if any non-Market-Makers wish to submit liquidity to the Exchange using bulk messages they are free to register as an Exchange Market-Maker and choose the appointed classes in which they wish to quote. Non-Market-Makers so infrequently use bulk message functionality, thus the proposed rule change is not expected to have any impact on their business need.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because other options exchanges currently limit their quoting functionality and/or interface to market makers on their exchanges.[14] As noted above, the Exchange similarly limited quoting functionality (which corresponds to bulk message functionality) to Market-Makers until recently.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become

[8] *See supra* note 3.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] *See supra* note 7.

[13] *See id.*

[14] *See supra* note 7.

operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [15] and subparagraph (f)(6) of Rule 19b–4 thereunder.[16]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [17] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Exchange represents that it disseminated advance notice of the proposed change to market participants on March 27, 2020 and plans to announce a specific implementation date in the near future. In addition, the Exchange states that the proposal is consistent with quoting functionality on other options exchanges which currently offer such functionality only to their market makers. The Commission notes that the proposed rule change does not present any unique or novel regulatory issues. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the five-day prefiling requirement in this case.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to rule-comments@sec.gov. Please include File Number SR–C2–2020–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2020–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2020–005 and should be submitted on or before June 1, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–09955 Filed 5–8–20; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88810; File No. SR–BOX–2020–09]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing of Proposed Rule Change To Adopt New Rule Regarding Transfer of Positions

May 5, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on April 28, 2020, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish BOX Rule 7160 (''Transfer of Positions'') to provide a process by which Participants may transfer option positions in limited circumstances off the floor. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Sections 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

1. Purpose

The purpose of the proposed rule change is to establish Rule 7160 (''Transfer of Positions'') to provide a process by which Participants may transfer option positions in limited circumstances off the floor. Rule 7160 will specify the circumstances under which a Participant may effect transfers of positions to permit market participants to move positions from one account to another without exposure to the BOX Trading Floor and to permit transfers upon the occurrence of significant, non-recurring events. The proposed rule change is similar to Cboe Rule 6.7.[3]

Currently, Exchange Rules do not specifically address transfers of option positions between accounts, individuals or entities. The Exchange, however, plans on aligning its Rules with its competitors by allowing off the floor transfers in situations similar to those permitted on other exchanges. The proposed rule will establish Exchange policy with respect to off the floor transfers of options positions in certain limited circumstances.

Specifically, the Exchange proposes to state, ''existing positions in options listed on the Exchange, of a Participant or person associated with the Participant, or non-Participant, or person associated with a non-Participant that are to be transferred on, from, or to the books of a Clearing Participant may be transferred off the Exchange if the transfer involves one or more of the flooring events: . . . .'' The proposed rule language makes clear that the Rule will not apply to products other than options listed on the Exchange.[4] The proposed rule text also mandates that a Participant or person associated with the Participant must be on at least one side of the transfer. The proposed rule change also states that transferred positions must be on, from, or to the books of a Clearing Participant.[5] The proposed rule change also states that existing positions of a Participant or person associated with a Participant, or non-Participant, or person associated with a non-Participant may be subject to a transfer, except under specified circumstances in which a transfer may only be effected for positions of a Participant or person associated with the Participant.[6]

The Exchange notes transfers of positions in Exchange-listed options may also be subject to applicable laws, rules, and regulations, including rules of other self-regulatory organizations.[7] Except as explicitly provided in the proposed rule text, the proposed rule change is not intended to exempt position transfers from any other applicable rules or regulations, and proposed paragraph (g) makes this clear in the rule.

The proposed rule change adds ten events where a transfer would be permitted to occur.

- Proposed subparagraph (a)(1) permits a transfer to occur if it, pursuant to Rule 3000, is an adjustment or transfer in connection with the correction of a bona fide error in the recording of a transaction or the transferring of a position to another account, provided that the original trade documentation confirms the error.
- Proposed subparagraph (a)(2) permits a transfer if it is a transfer of positions from one account to another account where there is no change in ownership involved (*i.e.,* the accounts are for the same Person),[8] provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements. The proposed rule change provides market participants with flexibility to maintain positions in accounts used for the same trading purpose in a manner consistent with their businesses. Such transfers are not intended to be transactions among different market participants, as there would be no change in ownership permitted under the provision, and would also not permit transfers among different trading units for which accounts are otherwise required to be maintained separately.[9]
- Proposed subparagraph (a)(3) similarly permits a transfer if it is a consolidation of accounts[10] where no change in ownership is involved.
- Proposed subparagraph (a)(4) permits a transfer if it is a merger, acquisition, consolidation, or similar non-recurring transaction for a Person. For example, a Participant that is undergoing a structural change and a one-time movement of positions may require a transfer of positions.
- Proposed subparagraph (a)(5) permits a transfer involving the dissolution of a joint account in which the remaining Participant or person associated with the Participant assumes the positions of the joint account. For example, a person associated with a Participant is leaving a firm that will no longer be in business may require a transfer of positions to another firm.
- Proposed subparagraph (a)(6) permits a transfer involving the dissolution of a corporation or partnership in which a former nominee of the corporation or partnership assumes the positions.
- Proposed subparagraph (a)(7) permits a position transfer as part of a Participant's or associated person's capital contribution to a new joint account, partnership, or corporations.
- Proposed subparagraph (a)(8) permits a transfer regarding the donation of positions to a not-for-profit corporation. The Exchange believes that permitting such a transfer in very limited circumstances is reasonable, as it allows organizations to accomplish certain goals more efficiently.
- Proposed subparagraph (a)(9) permits the transfer of positions to a minor under the Uniform Gifts to Minors Act.
- Proposed subparagraph (a)(10) permits the transfer of positions through operation of law from death, bankruptcy, or otherwise. This provision is consistent with applicable laws, rules, and regulations that legally require transfers in certain circumstances. This proposed rule change is consistent with the purposes of other circumstances in the current rule, such as the transfer of positions to a minor or dissolution of a corporation.

The Exchange believes these proposed events all have similar purposes in that

[3] The Exchange notes the proposed rule change is also similar to NASDAQ PHLX Options 6; Section 5 Transfer of Positions.

[4] Proposed paragraph (h) also states that the transfer procedure only applies to positions in options listed on the Exchange, and that transfers of non-Exchange-listed options and other financial instruments are not governed by Rule 7160.

[5] The Exchange understands that this is consistent with how transfers are currently effected on competitor exchanges. *See* Nasdaq Phlx LLC (''Phlx'') Options 6, Section 5; *See also* Cboe Exchange, Inc. (''Cboe'') Rule 6.7.

[6] *See* proposed subparagraphs (a)(5) and (7).

[7] *See* proposed paragraph (h).

[8] The Exchange proposes to define the term ''Person'' within this proposed Rule 7160 as ''For purposes of this rule, the term ''Person'' shall be defined as an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization, or any governmental entity or agency or political subdivision thereof.'' This definition is identical to Cboe Rule 1.1.

[9] Various rules (for example, Regulation SHO in certain circumstances) require accounts to be maintained separately, and the proposed rule change is consistent with those rules.

[10] This refers to the consolidation of entire accounts (*e.g.,* combining two separate accounts (including the positions in each account into a single account)).

they will enable market participants to move positions from one account to another and to permit transfers upon the occurrence of significant, non-recurring events.[11] As noted above, the proposed rule change is consistent with current rules of other self-regulatory organizations.

The proposed Exchange Rule 7160(b) provides that unless otherwise permitted by paragraph (f), no position may net against another position (''netting''), and no position transfer may result in preferential margin or haircut treatment.[12] Netting occurs when long positions and short positions in the same series ''offset'' against each other, leaving no or a reduced position. For example, if a Participant or associated person wanted to transfer 100 long calls to another account that contained short calls of the same options series as well as other positions, even if the transfer is permitted pursuant to one of the 10 permissible events listed in the Proposed Rule, the Participant or associated person could not transfer the offsetting series, as they would net against each other and close the positions.

However, netting is permitted for transfers on behalf of a Market Maker account for transactions in multiply listed options series on different options exchanges, but only if the Market Maker nominees are trading for the same Participant or associated person, and the options transactions on the different options exchanges clear into separate exchange-specific accounts because they cannot easily clear into the same Market Maker account at the Clearing Corporation. In such instances, all Market Maker positions in the exchange-specific accounts for the multiply listed class would be automatically transferred on their trade date into one central Market Maker account (commonly referred to as a ''universal account'') at the Clearing Corporation. Positions cleared into a universal account would automatically net against each other. Options exchanges permit different naming conventions with respect to Market Maker account acronyms (for example, lettering versus numbering and number of characters), which are used for accounts at the Clearing Corporation. A Market Maker may have a nominee with an appointment in class XYZ on BOX, and have another nominee with an appointment in class XYZ on Phlx, but due to account acronym naming conventions, those nominees may need to clear their transactions into separate accounts (one for BOX transactions and another for Phlx transactions) at the Clearing Corporation rather into a universal account (in which account the positions may net). The proposed rule change permits transfers from these separate exchange-specific accounts into the Market Maker's universal account in this circumstance to achieve this purpose.

Transfer Price

The Exchange proposes to state that the transfer price, to the extent it is consistent with applicable laws, rules, and regulations, including rules of other self-regulatory organizations, and tax and accounting rules and regulations, at which a transfer is effected may be: (1) The original trade prices of the positions that appear on the books of the trading Clearing Participant, in which case the records of the transfer must indicate the original trade dates for the positions; provided, transfers to correct bona fide errors pursuant to proposed subparagraph (a)(1) must be transferred at the correct original trade prices; (2) mark-to-market prices of the positions at the close of trading on the transfer date; (3) mark-to-market prices of the positions at the close of trading on the trade date prior to the transfer date;[13] or (4) the then-current market price of the positions at the time the transfer is effected.[14] The proposed rule text regarding permissible transfer prices provides market participants with flexibility to determine the transfer price at which the transfer may be effected. The Exchange proposes the four options noted above with respect to the transfer price.

This proposed rule change provides market participants that effect transactions with flexibility to select a transfer price based on circumstances of the transfer and their business. However, for corrections of bona fide errors, because those transfers are necessary to correct processing errors that occurred at the time of transaction, those transfers would occur at the original transaction price, as the purpose of the transfer is to create the originally intended result of the transaction.

Prior Written Notice

Proposed Exchange Rule 7160(b) requires a Participant or person(s) associated with the Participant and its Clearing Participant(s) (to the extent the Participant or associated person are not self-clearing) to submit to the Exchange, in a manner determined by the Exchange, written notice prior to effecting a transfer from or to the account of a Participant(s) or associated person(s).[15] The notice must indicate: The Exchange-listed options positions to be transferred; the nature of the transaction; the enumerated provision(s) under proposed paragraph (a) pursuant to which the positions are being transferred; the name of the counterparty(ies); the anticipated transfer date; the method for determining the transfer price; and any other information requested by the Exchange.[16] The proposed notice will ensure the Exchange is aware of all transfers so that it can monitor and review them (including the records that must be retained pursuant to proposed paragraph (e)) to determine whether they are effected in accordance with the Rules. The proposed rule text requires additional information with respect to the prior written notification that is required to effect a transfer.

Additionally, requiring notice from the Participant or person(s) associated with the Participant and its Clearing Participant will ensure both parties are in agreement with respect to the terms of the transfer. As noted in proposed subparagraph (d)(2), receipt of notice of an transfer does not constitute a determination by the Exchange that the transfer was effected or reported in conformity with the requirements of the proposed Rule 7160. Notwithstanding submission of written notice to the Exchange, Participants or person(s) associated with the Participant and Clearing Participant(s) that effect transfers that do not conform to the requirements of the proposed Rule will be subject to appropriate disciplinary action in accordance with the Rules.

Records

The proposed Exchange Rule 7160(e) requires each Participant or person(s) associated with the Participant and each Clearing Participant that is a party to a transfer must make and retain records of

[11] *See* proposed paragraph (g).

[12] For example, positions may not transfer from a customer, joint back office, or firm account to a Market Maker account. However, positions may transfer from a Market Maker account to a customer, joint back office, or firm account (assuming no netting of positions occurs).

[13] For example, for a transfer that occurs on a Tuesday, the transfer price may be based on the closing market price on Monday.

[14] *See* proposed paragraph (c).

[15] This notice provision applies only to transfers involving a Participant's or associated persons' positions and not to positions of non-Participants and non-Participant associated persons, as they are not subject to the Rules. In addition, no notice would be required to effect transfers to correct bona fide errors pursuant to proposed subparagraph (a)(1).

[16] *See* proposed paragraph (d).

the information provided in the written notice to the Exchange pursuant to proposed subparagraph (e)(1), as well as information on the actual Exchange-listed options that are ultimately transferred, the actual transfer date, and the actual transfer price (and the original trade dates, if applicable), and any other information the Exchange may request the Participant or associated persons, or Clearing Participant to provide.[17]

Presidential Exemption

Proposed paragraph (f) provides exemptions approved by the Exchange's Chief Executive Officer or President (or senior-level designee). Specifically, this provision is in addition to the exemptions set forth in proposed paragraph (a). The Exchange proposes that the Exchange Chief Executive Officer or President (or senior-level designee) may grant an exemption from the requirement of this proposed Rule, on his or her own motion or upon application of the Participant or person(s) associated with the Participant (with respect to the Participant or person(s) associated with the Participant's positions) or a Clearing Participant (with respect to positions carried and cleared by the Clearing Participants). The Chief Executive Officer, the President, or his or her designee, may permit a transfer if necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and is in the public interest, including due to unusual or extraordinary circumstances. For example, an exemption may be granted if the market value of the Person's positions would be compromised by having to comply with the requirement to trade on the Exchange pursuant to the normal auction process or when, in the judgment of the Chief Executive Officer, President, or his or her designee, market conditions make trading on the Exchange impractical.[18]

Routine, Recurring Transfers

The Exchange proposes to state that the transfer procedure set forth in Rule 7160 is intended to facilitate non-routine, nonrecurring movements of positions.[19] The transfer procedure is not to be used repeatedly or routinely in circumvention of the normal auction market process.

Exchange-Listed Options

Lastly, the Exchange proposes paragraph (h) which notes that the transfer procedure set forth in the proposed rule is only applicable to positions in options listed on the Exchange. Transfers of positions in Exchange-listed options may also be subject to applicable laws, rules, and regulations, including rules of other self-regulatory organizations. Transfers of non-Exchange listed options and other financial instruments are not governed by the proposed rule.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[20] in general, and Section 6(b)(5) of the Act,[21] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Specifically, the Exchange believes the proposed transfer rule is consistent with the Section 6(b)(5)[22] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[23] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that permitting the transfers in very limited circumstances, such as where there is no change in beneficial ownership, a transfer by operation of law or an adjustment or transfer in connection with the correction of a bona fide error, is reasonable to allow a Participant or associated person(s) to accomplish certain goals efficiently. As noted above for example, a Participant or associated person that is undergoing a structural change and a one-time movement of positions may require a transfer of positions, or a Participant or associated person that is leaving a firm that will no longer be in business may require a transfer of positions to another firm. Also, a Participant or associated person may require a transfer of positions to make a capital contribution. The above-referenced circumstances are non-recurring situations where the transferor continues to maintain some ownership interest or manage the positions transferred. By contrast, repeated or routine transfers between entities or accounts—even if there is no change in beneficial ownership as a result of the transfer—is inconsistent with the purposes for which the proposed rule will be adopted. Accordingly, the Exchange believes that such activity should not be permitted under the rules and thus, seeks to adopt language in proposed paragraph (f) that dictates the transfer of positions procedures set forth in the proposed rule are intended to facilitate non-recurring movements of positions.

The Exchange believes the proposed rule change would benefit investors, as it adds transparency and consistency between BOX's rulebook and other exchange rulebooks.[24] The purpose of the proposed rule allowing for limited circumstances in which market participants may conduct transfers is consistent with the purpose of the circumstances currently permitted on another exchange.[25] The proposed rule change will provide market participants that experience these limited, non-recurring events with an efficient and effective means to transfer positions in these situations. The Exchange believes the proposed rule change regarding permissible transfer prices provides market participants with flexibility to determine the price appropriate for their business, which maintain cost bases in accordance with normal accounting practices and removes impediments to a free and open market.

The proposed rule change which requires notice and maintenance of records will ensure the Exchange is able to review transfers for compliance with the Rules, which prevents fraudulent and manipulative acts and practices. The requirement to retain records is consistent with the requirements of Rule 17a–3 and 17a–4 under the Act.

[17] *See* proposed paragraph (e).

[18] *See* proposed Rule (f).

[19] *See* proposed Rule (g).

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78f(b)(5).

[23] *Id.*

[24] *See* Phlx Options 6, Section 5; *See also* Cboe Rule 6.7.

[25] *See* Securities Exchange Act Release No. 34–88424 (March 19, 2020), 85 FR 16981 (March 25, 2020) (Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, Regarding Off-Floor Position Transfers).

Similar to Cboe and Phlx rules, the Exchange would permit a presidential exemption. The Exchange believes that this exemption is consistent with the Act because the Exchange's Chief Executive Officer or President (or senior-level designee) would consider an exemption in very limited circumstances. The transfer process is intended to facilitate non-routine, nonrecurring movements of positions and, therefore, is not to be used repeatedly or routinely in circumvention of the normal auction market process. The proposed rule text specifically provides within the rule text that the Exchange's Chief Executive Officer or President (or senior-level designee) may in his or her judgment allow a transfer if it is necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and is in the public interest, including due to unusual or extraordinary circumstances such as the market value of the Person's positions will be comprised by having to comply with the requirement to trade on the Exchange pursuant to the normal auction process or, when in the judgment of President or his or her designee, market conditions make trading on the Exchange impractical. These standards within the proposed rule paragraph (f) are intended to provide guidance concerning the use of this exemption which is intended to provide the Exchange with the ability to utilize the exemption for the maintenance of a fair and orderly market and the protection of investors and is in the public interest. The Exchange believes that the exemption is consistent with the Act because it would allow the Exchange's Chief Executive Officer or President (or senior-level designee) to act in certain situations which comply with the guidance within paragraph (f) which is intended to protect investors and the general public. Although Cboe's rule grants an exemption to the President (or senior-level designee),[26] the Exchange has elected to parallel Phlx and grant an exemption to the Exchange's Chief Executive Officer or President (or senior-level designee), who are similarly situated within BOX's organization as senior-level individuals.[27]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe the proposed rule change will impose an undue burden on intra-market competition as the transfer procedure may be utilized by any Participant or person associated with the Participant and the rule will apply uniformly to all Participants and associated persons. Use of the transfer procedure is voluntary, and all Participants or associated persons may use the procedure to transfer positions as long as the criteria in the proposed rule are satisfied. With the establishment of the proposed rule, a Participant or person(s) associated with a Participant that experiences limited permissible, non-recurring events would have an efficient and effective means to transfer positions in these situations. The Exchange believes the proposed rule change regarding permissible transfer prices provides market participants with flexibility to determine the price appropriate for their business, which determine prices in accordance with normal accounting practices and removes impediments to a free and open market. The Exchange does not believe the proposed notice and record requirements are unduly burdensome to market participants. The Exchange believes the proposed requirements are reasonable and will ensure the Exchange is aware of transfers and would be able to monitor and review the transfers to ensure the transfer falls within the proposed rule.

Adopting an exemption, similar to Phlx Section 5(f), to permit the Exchange's Chief Executive Officer or President (or senior-level designee) to grant an exemption, in addition to the limited circumstances of the proposed rule, in his or her judgment, does not impose an undue burden on competition. Such an exemption would only be applied when in the judgment of the Chief Executive Officer, or President or his or her designee, the off-floor transfer is necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and is in the public interest, including due to unusual or extraordinary circumstances, such as the possibility that the market value of a Person's positions would be compromised by having to comply with the requirement to trade on the Exchange pursuant to the normal auction process or when market conditions make trading on the Exchange impractical.

The Exchange does not believe the proposed rule change will impose an undue burden on inter-market competition. The proposed position transfer procedure is not intended to be a competitive trading tool. The proposed rule change is an accommodative trading tool because it permits, in limited circumstances, a transfer to facilitate non-routine, nonrecurring movements of positions. As provided for in proposed paragraph (g), it would not be used repeatedly or routinely in circumvention of the normal auction market process. In addition, proposed paragraph (f) provides within the rule text that the Exchange's Chief Executive Officer or President (or senior-level designee) may in his or her judgment allow a transfer for the maintenance of a fair and orderly market and the protection of investors and is in the public interest. The Exchange believes that the exemption does not impose an undue burden on competition as the Exchange's Chief Executive Officer or President (or senior-level designee) would apply the exemption consistent with the guidance laid out in the proposed rule text. Additionally, as discussed above, the proposed rule change is similar to Cboe Rule 6.7 and Phlx Options 6, Section 5 rule text, therefore, the Exchange believes having similar rules related to transfer positions to those of other options exchanges will reduce the administrative burden on market participants of determining whether their transfers complies with multiple sets of rules.

As such, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[28] and subparagraph (f)(6) of Rule 19b–4 thereunder.[29]

[26] *See* Cboe Rule 6.7(f).

[27] *See* Phlx Section 5(f).

[28] 15 U.S.C. 78s(b)(3)(A)(iii).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b–4(f)(6)(iii) [30] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission notes that the proposal is substantively similar to rules of Cboe and Phlx and raises no new or novel issues.[31] The Commission therefore believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[32]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2020–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2020–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2020–09 and should be submitted on or before June 1, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

J. Matthew DeLesDernier,

Assistant Secretary.

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the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] *See* CBOE Rule 6.7 and NASDAQ PHLX Options 6; Section 5.

[32] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88812; File No. SR–NYSEArca–2020–38]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

May 5, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 29, 2020, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''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

The Exchange proposes to modify the NYSE Arca Options Fee Schedule (''Fee Schedule'') to waive certain Floor-based fixed fees for the month of May 2020. The Exchange proposes to implement the fee change effective April 29, 2020. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the Fee Schedule to waive certain Floor-based fixed fees for the month of May 2020. The Exchange proposes to implement the fee change effective April 29, 2020.

On March 18, 2020, the Exchange announced that it would temporarily close the Trading Floor, effective Monday, March 23, 2020, as a precautionary measure to prevent the potential spread of COVID–19. Following the temporary closure of the Trading Floor, the Exchange waived certain Floor-based fixed fees for April

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

2020 (the ''fee waiver'').[4] Although the Trading Floor will be partially reopened on May 4, 2020 and normal open outcry activity will be supported, because the Trading Floors remained closed for a longer period than expected—including seven business days in March, and will continue to operate with reduced capacity, the Exchange proposes to extend the fee waiver through May 2020.

Specifically, the fee waiver covers the following fixed fees, which relate directly to Floor operations, are charged only to Floor participants and do not apply to participants that conduct business off-Floor:

- Floor Booths;
- Market Maker Podia;
- Options Floor Access;
- Wire Services; and
- ISP Connection.[5]

This proposed extension of the fee waiver would reduce monthly costs for Floor participants whose operations have been disrupted by the unanticipated Floor closure for more than a month. In reducing this monthly financial burden, the proposed change would allow affected participants to reallocate funds to assist with the cost of shifting and maintaining their previously on-Floor operations to off-Floor and recoup losses as a result of the unanticipated Floor closure. Absent this change, such participants may experience an unexpected increase in the cost of doing business on the Exchange.[6]

The Exchange believes that all OTP Holders that conduct business on the Trading Floor would benefit from this proposed fee change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [9]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[10] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in January 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[11]

This proposed extension of the fee waiver is reasonable, equitable, and not unfairly discriminatory because it would reduce monthly costs for Floor participants whose operations have been disrupted by the unanticipated Floor closure for more than a month. In reducing this monthly financial burden, the proposed change would allow affected participants to reallocate funds to assist with the cost of shifting and maintaining their previously on-Floor operations to off-Floor and recoup losses as a result of the unanticipated Floor closure. Absent this change, such participants may experience an unexpected increase in the cost of doing business on the Exchange.

The Exchange believes that all OTP Holders that conduct business on the Trading Floor would benefit from this proposed fee change.

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits as it merely continues the fee waiver, which impacts fees charged only to Floor participants and do not apply to participants that conduct business off-Floor.

The Exchange believes that the proposal is not unfairly discriminatory because the proposed continuation of the fee waiver would affect all similarly-situated market participants on an equal and non-discriminatory basis.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes would encourage the continued participation of affected OTP Holders, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [12]

Intramarket Competition. The proposed continuation of the fee waiver is designed to reduce monthly costs for Floor participants whose operations have been disrupted by the unanticipated Floor closure. In reducing this monthly financial burden, the proposed change would allow affected participants to reallocate funds to assist with the cost of shifting and maintaining their previously on-Floor operations to off-Floor. Absent this change, such participants may experience an unintended increase in the cost of doing business on the Exchange. The Exchange believes that the proposed waiver of fees would not impose a disparate burden on competition among market participants on the Exchange because off-Floor market participants are not subject to these Floor-based fixed fees.

Intermarket Competition. The Exchange operates in a highly

[4] *See* Securities Exchange Act Release No. 88596 (April 8, 2020), 85 FR 20796 (April 14, 2020) (SR–NYSEArca–2020–29). *See* Fee Schedule, NYSE Arca OPTIONS: FLOOR and EQUIPMENT and CO–LOCATION FEES.

[5] *See* proposed Fee Schedule, NYSE Arca OPTIONS: FLOOR and EQUIPMENT and CO–LOCATION FEES.

[6] The Exchange will refund participants of the Floor Broker Prepayment Program for any prepaid May 2020 fees that are waived. *See* proposed Fee Schedule, FLOOR BROKER FIXED COST PREPAYMENT INCENTIVE PROGRAM (the ''FB Prepay Program'') (providing that ''the Exchange will refund certain of the prepaid Eligible Fixed costs that were waived for April 2020, per NYSE Arca OPTIONS: FLOOR and EQUIPMENT and CO–LOCATION FEES'').

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[10] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, *available* here: *https://www.theocc.com/market-data/volume/default.jsp.*

[11] Based on OCC data, *see id.,* in 2019, the Exchange's market share in equity-based options was 9.57% for the month of January 2019 and 9.59% for the month of January 2020.

[12] *See* Reg NMS Adopting Release, *supra* note 9, at 37499.

competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange currently has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[13] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in January 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[14]

The Exchange believes that the proposed rule change reflects this competitive environment because it continues the fee waiver, which is designed to reduce monthly costs for Floor participants whose operations have been disrupted by the unanticipated Floor closure. In reducing this monthly financial burden, the proposed change would allow affected participants to reallocate funds to assist with the cost of shifting and maintaining their previously on-Floor operations to off-Floor. Absent this change, such participants may experience an unintended increase in the cost of doing business on the Exchange, which would make the Exchange a less competitive venue on which to trade as compared to other options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[15] of the Act and subparagraph (f)(2) of Rule 19b–4[16] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2020–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2020–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2020–38 and should be submitted on or before June 1, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–09956 Filed 5–8–20; 8:45 am]

BILLING CODE 8011–01–P

[13] *See supra* note 10.

[14] Based on OCC data, *supra* note 11, the Exchange's market share in equity-based options was 9.57% for the month of January 2019 and 9.59% for the month of January, 2020.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(2).

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88813; File No. SR–NASDAQ–2020–023]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Operative Date of SR–NASDAQ–2020–012

May 5, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 2020, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. 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

The Exchange proposes to modify the operative date of SR–NASDAQ–2020–012. The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Exchange 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 Exchange has prepared summaries, set forth in sections 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

1. Purpose

On March 12, 2020, the Exchange filed with the Commission a proposed rule change to establish reopening protections for Nasdaq listed securities following a Level 1 or Level 2 market-wide circuit breaker trading halt initiated under Rule 4121.[3] The proposed rule change indicated that operative date of the reopening protections would be during April 2020.[4] The Exchange proposes to modify the operative date and delay the implementation of this functionality to July 2020. The Exchange will issue an Equity Trader Alert notifying members prior to implementing the functionality.

Due to the recent market volatility resulting from the novel coronavirus pandemic, the Exchange has been adjusting its systems testing schedule and assessing any risks to the operation of its systems that could potentially be introduced by implementing new functionality during this time. The extension would therefore provide the Exchange with flexibility and additional time to adjust its systems testing schedule, and to develop and test this new functionality, to safeguard against any such risk. Furthermore, the extension would allow the Exchange to implement the halt reopening changes after the Russell Rebalance, a significant market event occurring in June 2020, and for which the Exchange will reduce the number of changes to its systems. The Exchange has historically limited rolling out new functionality before the Russell Rebalance to mitigate the operational risk of introducing technology changes before this significant market event.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by providing the Exchange additional time to implement SR–NASDAQ–2020–012. As discussed above, the proposed delay is in recognition of both the recent market volatility and upcoming annual Russell Rebalance in June 2020. The Exchange believes that the extension would therefore allow the Exchange to mitigate any potential risks to the market and the operation of its systems by limiting the implementation of new functionality until after the Russell Rebalance, which, in turn, protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to delay the implementation of SR–NASDAQ–2020–012 does not impose an undue burden on competition. Delaying the implementation will simply allow the Exchange additional time to properly plan and implement SR–NASDAQ–2020–012.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule changed filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Exchange to adjust its testing schedule and develop and test the new auction functionality adequately prior to implementation.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2020–023 on the subject line.

[3] *See* Securities Exchange Act Release No. 88383 (March 13, 2020), 85 FR 15819 (March 19, 2020) (SR–NASDAQ–2020–012).

[4] *See id.* at 15822.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2020–023. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2020–023 and should be submitted on or before June 1, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–09959 Filed 5–8–20; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of the Final Environmental Assessment and Finding of No Significant Impact for the Titusville-Cocoa Airport Authority Launch Site Operator License

AGENCY: The Federal Aviation Administration (FAA), Department of Transportation (DOT) is the lead agency. The National Aeronautics and Space Administration (NASA) and the U.S. Air Force are cooperating agencies for this Environmental Assessment (EA) due to their special expertise and jurisdictions (40 CFR 1508.15 and 1508.26).

ACTION: Notice of availability.

SUMMARY: The FAA is announcing the availability of the Final Environmental Assessment and Finding of No Significant Impact for the Titusville-Cocoa Airport Authority (TCAA) Launch Site Operator License (Final EA and FONSI). The FAA has prepared the EA to evaluate the potential environmental impacts of the FAA issuing a Launch Site Operator License to TCAA for the operation of a commercial space launch site at the Space Coast Regional Airport (TIX) in Titusville, FL. TCAA proposes to offer the launch site for launches of horizontal reusable launch vehicles and construct facilities related to launches.

FOR FURTHER INFORMATION CONTACT: Ms. Stacey M. Zee, Environmental Protection Specialist, Federal Aviation Administration, 800 Independence Avenue SW, Suite 325, Washington, DC 20591; email *Stacey.Zee@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA has prepared the EA in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 United States Code 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations parts 1500–1508), and FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, as part of its licensing process. Concurrent with the NEPA process and to determine the potential effects of the Proposed Action on historic and cultural properties, the FAA completed Section 106 Consultation with the Florida State Historic Preservation Office and the following Native America tribes: The Miccosukee Tribe of Indians of Florida, the Mississippi Band of Choctaw Indians, the Muscogee (Creek) Nation, the Poarch Band of Creek Indians, the Seminole Tribe of Florida, and the Seminole Nation of Oklahoma. Through consultation, the Mississippi Band of Choctaw Indians requested to be removed from the list of tribes consulted for this project. Pursuant to the U.S. Department of Transportation Act of 1966, this EA complies with the requirements of Section 4(f) of the Act.

The FAA published a Draft EA for public comment on December 19, 2019. A public meeting was held on January 8, 2020. The comment period ended January 17, 2020. As a result of the comments received, the FAA made minor revisions to the EA. Appendix I includes copies of the comments received and a summary of FAA's responses. The Final EA was signed on April 15, 2020.

An electronic version of the Final EA is available on the FAA Office of Commercial Space Transportation website at: *https://www.faa.gov/space/environmental/nepa_docs/#SCASPA.*

Daniel Murray,

Manager, Safety Authorization Division.

[FR Doc. 2020–10010 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration

Notice of Intent To Rule on a Land Release Request at Hamilton Municipal Airport (VGC), Hamilton, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport land.

SUMMARY: The FAA proposes to rule and invites public comment on the application for a release of approximately 14.59 acres of federally obligated airport property at Hamilton Municipal Airport, Hamilton, Madison County, NY, from conditions, reservations, and restrictions contained in Airport Improvement Program (AIP) grants that would restrict the use of said land to aeronautical purposes. This acreage is composed of portions of seven parcels that were acquired by the Village of Hamilton though AIP Grants 3–36–0192–01–1995 and 3–36–0192–02–1998. It is proposed that 12.69 acres, composed of portions of seven parcels, would be released by the FAA for sale. The land is not needed for aeronautical purposes. The use of the land after the release will be compatible with the airport and will not interfere with the airport or its operation. The Federal share of the proceeds from the sales of land would be dedicated to a future AIP eligible airport effort. It is also proposed

that the remaining 1.90 acres, composed of three parcels, would be released from grant obligations to permit the non-aeronautical use of the property. Concurrently, it is requested that FAA approval be given for the three currently existing long-term non-aeronautical leases on the aforementioned three parcels. The land is not needed for aeronautical purposes and the revenue from the leases is dedicated for use in operating the airport.

DATES: Comments must be received on or before June 10, 2020.

FOR FURTHER INFORMATION CONTACT: Comments on this application may be submitted to Robert Costa, Federal Aviation Administration, New York Airports District Office via phone at (718) 995–5778 or at the email address *Robert.Costa@faa.gov.* Comments on this application may also be mailed or delivered to the FAA at the following address: Evelyn Martinez, Manager, Federal Aviation Administration, New York Airports District Office, **Federal Register** Comment, 1 Aviation Plaza, Jamaica, New York 11434.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements. The following is a brief overview of the request.

The Village of Hamilton has requested release from grant assurance obligations of approximately 12.69 acres of airport property at Hamilton Municipal Airport to permit the disposal of the land at fair market value for the purpose of commercial development. The airport has no plans to utilize the parcels for aviation use. The parcels are separated from the aviation facilities by public use roadways or are inaccessible to aviation facilities due to environmental and terrain limitations. The expected use of the parcels includes disposal for the purposes of commercial development as permitted by the Village of Hamilton Zoning. As a condition of the release, the proposed use must not interfere with the airport or its operations. The Federal share of the proceeds of the sale would be distributed towards approved AIP eligible efforts, with the remaining proceeds to be utilized to operate the airport. For these reasons, it is not anticipated that this acreage will be needed for aeronautical purposes in the future.

The Village of Hamilton has also requested release from grant assurance obligations to allow three separate parcels, composed of approximately 1.90 acres of airport property, to be used for non-aeronautical purposes. Concurrently, the Village has asked that the FAA approve of the existing long term leases pertaining to each of these parcels. The three uses are described as follows; a 0.60 acre parcel utilized for engine manufacturing and fabrication; approximately 1.11 acres currently utilized as a local police substation; approximately 0.29 acres occupied by a portion of a local business's parking lot. The Village has indicated that these parcels are not needed for current or future aviation development purposes. All rental proceeds are considered airport revenue and must be retained for use in operating the airport.

Issued in Jamaica, New York, on May 6, 2020.

Evelyn Martinez,

Manager, New York Airports District Office.

[FR Doc. 2020–10018 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Selection Announcement and Request for Expressions of Interest To Participate in Pilot Program for Nonprofit Procurements

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The FTA announces the selection of one nonprofit participant and solicits expressions of interest from additional eligible nonprofit entities to participate in the Pilot Program for Nonprofit Cooperative Procurements (Pilot Program). The Pilot Program, the establishment of which FTA announced on August 22, 2017, is aimed at increasing innovation, promoting efficiency, and demonstrating the effectiveness of cooperative procurement contracts for rolling stock and related equipment administered by eligible nonprofit entities.

DATES: Expressions of interest to become a nonprofit entity in the Pilot Program must be received by July 10, 2020.

ADDRESSES: Expressions of interest may be submitted via U.S. mail, electronic mail, or fax. Mail submissions must be addressed to the Office of Acquisition Management, Federal Transit Administration, 1200 New Jersey Avenue SE, Room E42–332, Washington, DC 20590. Email submissions must be sent to *NonprofitPilotProgram@dot.gov.* Facsimile submissions must be submitted to the attention of Nonprofit Pilot Program at 817–978–0575. If there is an insufficient number of eligible nonprofit entities that meet the requirements of the Pilot Program, FTA may solicit additional interest in the future.

FOR FURTHER INFORMATION CONTACT: For program matters, James Harper, FTA Office of Acquisition Management, telephone (202) 366–1127 or email *James.Harper@dot.gov.* For legal matters, Christopher Hall, FTA Office of Chief Counsel, telephone (202) 366–5218 or email *Christoper.Hall@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. Pilot Program Description
III. Prior Solicitation
IV. Eligibility Information
V. Expression of Interest Submission Process
VI. Application Review
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I. Background

Section 3019 of the Fixing America's Surface Transportation (FAST) Act, Public Law 114–94, permits FTA grantees—meaning a recipient or sub-recipient of assistance under chapter 53 of title 49, United States Code—to purchase rolling stock and related equipment from cooperative procurement contracts entered into by either a State government or an eligible nonprofit entity and one or more Transit Vehicle Manufacturer (TVM). Section 3019 was designed to address the high purchasing costs attributable to the relatively small size of procurements for rolling stock and related equipment, particularly for small and rural public transportation providers. Many States currently have authority to enter into cooperative purchasing contracts, also known as ''State schedules.'' However, such authority was not previously extended to nonprofit entities.

II. Pilot Program Description

Section 3019(b)(3) authorizes a Pilot Program to demonstrate the effectiveness of cooperative procurement contracts administered by eligible nonprofit entities. A cooperative procurement contract in the Pilot Program means a contract between an eligible nonprofit entity and one or more TVM(s) under which the TVM(s) agree to provide an option to purchase rolling stock and related equipment to multiple grantee participants. Where permitted by State law, a grantee may participate in a cooperative

procurement contract under the Pilot Program without regard to whether the grantee is in the same State as the lead nonprofit entity. Participation by FTA grantees in a nonprofit cooperative procurement under the Pilot Program is voluntary. These contracts are intended to be separate from State cooperative purchasing contracts and provide another opportunity for public transportation systems of all sizes to enhance their purchasing options. The FTA will assess the benefits and effectiveness of the Pilot Program to assist grantees in developing more efficient and innovative approaches to acquiring rolling stock and related equipment.

Nonprofit entities selected for the Pilot Program may enter a cooperative procurement contract for an initial term of not more than 2 years. The contract may include not more than three optional extensions for terms of not more than 1 year each. Thus, the contract may be in effect for a total period of not more than 5 years, including each extension. A nonprofit entity selected for the Pilot Program must develop the terms of the contract and the contract must be solicited and awarded in accordance with all applicable FTA and other Federal statutes, regulations, and policies, including FTA's Buy America requirements (49 U.S.C. 5323 and 49 CFR part 661), 2 CFR parts 200 and 1201, FTA Circular 4220.1F, and Disadvantaged Business Enterprise regulations (49 CFR part 26).

III. Prior Solicitation

On August 22, 2017, FTA published in the **Federal Register** (82 FR 39947), a notice announcing the establishment of the Pilot Program for Nonprofit Cooperative Procurements and solicited expressions of interest from eligible nonprofit entities to participate. Four non-profits submitted expressions of interest on October 23, 2017 in response to FTA's **Federal Register** Notice (FRN).

The FTA determined that only one applicant—Vermont Energy Investment Corporation (VEIC)—was an eligible nonprofit that satisfied all the requirements of Section 3019 and the FRN. The FTA and VEIC will execute a Memorandum of Agreement to designate VEIC under the Pilot Program.

Section 3019 requires FTA to designate not less than three eligible nonprofit entities to enter cooperative procurement contracts. Since FTA determined that only one applicant met the requirements of Section 3019 from the previous solicitation, this Notice is intended to solicit additional expressions of interest and to provide clarification regarding the eligibility of nonprofit entities.

IV. Eligibility Information

Eligible nonprofit entities for the Pilot Program should either be a nonprofit cooperative purchasing organization that is not an FTA grantee or sub-grantee, or a consortium of eligible nonprofit cooperative purchasing organizations. See Section 3019(b)(1)(A)(ii). Successful entities are expected to develop and issue solicitations for a cooperative procurement contract within 60 days of their selection into the Pilot Program. The solicitation of a contract must be conducted through a competitive process that will comply with all applicable Federal procurement requirements and policies, including FTA's full and open competition requirement.

To promote the fullest opportunity for grantees to participate in the Pilot Program, FTA anticipates that cooperative procurement contracts will be open and available to all FTA grantees. To address special circumstances, however, FTA may consider a cooperative procurement contract in the Pilot Program which may be limited only to recipients in one or more of FTA's grant programs.

A lead nonprofit entity in the Pilot Program may charge participants in the contract for the cost of administering, planning, and providing technical assistance for the contract in an amount that is not more than one percent of the total value of the participant's order placed on the contract. The one percent charge may either be incorporated into the price of the rolling stock and related equipment offered under the cooperative procurement program or directly charge the grantee participants for the costs, but not both. If the nonprofit directly charges the grantee participants for the costs, it cannot charge any individual grantee more than one percent of the total value of the grantee's order.

V. Expression of Interest Submission Process

Interested nonprofit entities for the Pilot Program must submit the required information by U.S. mail, email or facsimile by 60 days after publication, as specified in the **DATES** section of this notice, above. The FTA reserves the right to request additional clarifying information from all applicants before making selections to participate in the Pilot Program. Nonprofit entities wishing to participate in the Pilot Program must submit an expression of interest to FTA no longer than ten pages in length including any supporting documentation.

Interested nonprofit entities must provide the following information to FTA in narrative format or as otherwise instructed:

a. Description of the procurement experience held by the personnel in the applicant's organization, including sufficient information to demonstrate the ability to successfully carry out and administer a cooperative procurement contract or contracts;

b. A description of the familiarity of the applicant's personnel with Federal and FTA procurement standards, requirements, and policies;

c. A description to show how the applicant's program will be administered. This description should include, but not be limited to, the process by which vendors will be selected for the cooperative procurement contract, the process by which grantee participants will be registered in the program and the process for grantee participants to place orders on a cooperative procurement contract.

d. The articles of incorporation of the applicant to demonstrate that the purpose of the nonprofit organization is consistent with the purpose of the Pilot Program;

e. Evidence that the applicant possesses adequate financial capacity to successfully administer a cooperative procurement contract or contracts;

f. Documentation that the applicant is a nonprofit entity in good standing in the State of incorporation; and,

g. Certification that the applicant is not indebted to a Federal or State taxing authority.

All information submitted as part of or in support of the Pilot Program application must be publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the submission includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following:

(1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)'';

(2) mark each affected page ''CBI'' and

(3) highlight or otherwise denote the CBI portions.

FTA protects such information from disclosure to the extent allowed under applicable law. If FTA receives a Freedom of Information Act (FOIA) request for the information, FTA will follow the procedures described in the U.S. DOT FOIA regulations at 49 CFR

7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA. Should FTA receive an order from a court of competent jurisdiction ordering the release of the information, FTA will provide the applicant timely notice of such order to allow the applicant the opportunity to challenge such an order.

FTA will not challenge a court order on behalf of an applicant.

VI. Application Review

The FTA will evaluate the submissions to determine which applicants demonstrate that they have the capability to effectively enter and administer a cooperative procurement contract. The FTA will select at least two additional applicants from the submitted expressions of interest to be part of the Pilot Program, except that if there are less than two applicants able to meet the requirements of the Pilot Program, FTA may solicit additional interest in the future. The FTA will evaluate the experience, legal, technical, and financial capacity of interested nonprofit entities to implement the Pilot Program successfully.

VII. Pilot Program Administration

1. Notice

After an announcement by the FTA Administrator or designee of the final selection(s) is posted on the FTA website, FTA will publish final selections for the Pilot Program in the **Federal Register**.

2. Pilot Program Administration and Reporting Requirements

The Pilot Program is not funded with Federal funds; selected nonprofit entities may charge the grantee participants in the cooperative procurement contract for the cost of administering, planning, and providing technical assistance for the contract in an amount that is not more than one percent of the contract price. The selected nonprofit entity may incorporate the cost into the price of the contract or directly charge the grantee participants for the cost, but not both.

To achieve a comprehensive understanding of the utility and effectiveness of the Pilot Program, FTA, or its designated independent evaluator, will require access to project data. Selected nonprofit entities should be prepared to collect and maintain data related to participating vendors, participating grantees, and the quantity and price of rolling stock and related equipment procured by grantees through the cooperative procurement.

Issued in Washington, DC.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2020–09964 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0073]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ENDLESS SUN (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 10, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0073 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0073 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0073, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ENDLESS SUN is:

—*Intended Commercial Use of Vessel:* ''Carriage of passengers only in week long, weekend and overnight charters with the emphasis on week and weekend charters, to small groups such as families.''

—*Geographic Region Including Base of Operations:* ''Florida, Georgia, South Carolina, North Carolina, Virginia, District of Columbia, Maryland, Delaware, Pennsylvania, New Jersey, New York (excluding New York Harbor), Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine '' (Base of Operations: Miami, FL).

—*Vessel Length and Type:* 100′ motor vessel.

The complete application is available for review identified in the DOT docket as MARAD–2020–0073 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2020–0073 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

Dated: May 6, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–09983 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0071]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ALWAYS SUNDAY (Catamaran); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 10, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0071 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0071 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0071, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ALWAYS SUNDAY is:

—*Intended Commercial Use of Vessel:* ''Sightseeing sailing tours''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Port Canaveral, FL)
—*Vessel Length and Type:* 35′ catamaran

The complete application is available for review identified in the DOT docket as MARAD–2020–0071 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2020–0071 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal

identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

Dated: May 6, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–09982 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0070]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel FLITE DECK (Sailing Catamaran); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 10, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0070 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0070 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0070, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FLITE DECK is:

—*Intended Commercial Use of Vessel:* Our vessel will be used to carry up to a maximum of 12 passengers who are engaged in safe boating education and instruction as well as sightseeing throughout the ports she serves.

—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: San Diego, CA)

—*Vessel Length and Type:* 38′ sailing catamaran

The complete application is available for review identified in the DOT docket as MARAD–2020–0070 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2020–0070 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the

basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121).

Dated: May 6, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–09984 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0072]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MANUKAI (SAILBOAT); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 10, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0072 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0072 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0072, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MANUKAI is:

—*Intended Commercial Use Of Vessel:* ''Sail Charter''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York (excluding New York Harbor), New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida'' (Base of Operations: Rockland, ME)

—*Vessel Length And Type:* 46′ sailboat

The complete application is available for review identified in the DOT docket as MARAD–2020–0072 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2020–0072 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To

facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

Dated: May 6, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–09985 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petitions for Exemption From the Federal Motor Vehicle Theft Prevention Standard

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

ACTION: Grant of petitions for exemption.

SUMMARY: This document grants in full eight manufacturers' petitions for exemption for eight model lines from the Federal Motor Vehicle Theft Prevention Standard (Theft Prevention Standard) beginning in model years (MYs) 2020 and 2021. The manufacturers, vehicle lines, and model years are as follows: BMW of North America, LLC (BMW) for its 2 series vehicle line beginning in MY 2020; Jaguar Land Rover North America LLC (Jaguar Land Rover) for its Jaguar E-Pace vehicle line beginning in MY 2020; Nissan North America, Inc. (Nissan) for its QX55 beginning in MY 2020; Tesla Motors Inc. (Tesla) for its Model Y vehicle line beginning in MY 2020; General Motors Corporation (GM) for its Chevrolet Trailblazer vehicle line beginning in MY 2021; Mazda Motors Corporation (Mazda) for its CX–30 vehicle line beginning in MY 2021; Mitsubishi Motors R&D of America (Mitsubishi) for its Outlander vehicle line beginning in MY 2021; and Toyota Motor North America, Inc. (Toyota) for its Venza vehicle line beginning in MY 2021.

DATES: The exemptions granted by this notice are effective beginning with the 2020 model year for BMW, Jaguar Land Rover, Nissan, and Tesla, and effective beginning with the 2021 model year for General Motors, Mazda, Mitsubishi, and Toyota.

FOR FURTHER INFORMATION CONTACT: Carlita Ballard, Office of International Policy, Fuel Economy, and Consumer Standards, NHTSA, West Building, W43–439, NRM–310, 1200 New Jersey Avenue SE, Washington, DC 20590. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. Chapter 331, the Secretary of Transportation (and the National Highway Traffic Safety Administration [NHTSA] by delegation) is required to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. NHTSA promulgated regulations at Part 541 (Theft Prevention Standard) to require parts-marking for specified passenger motor vehicles and light trucks. Pursuant to 49 U.S.C. 33106, manufacturers that are subject to the parts-marking requirements may petition the Secretary of Transportation for an exemption for a line of passenger motor vehicles equipped as standard equipment with an anti-theft device that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. In accordance with this statute, NHTSA promulgated 49 CFR part 543, which establishes the process through which manufacturers may seek an exemption from the Theft Prevention Standard.

49 CFR 543.5 provides general submission requirements for petitions and states that each manufacturer may petition NHTSA for an exemption of one vehicle line per model year. Among other requirements, manufacturers must identify whether the exemption is sought under section 543.6 or section 543.7. Under section 543.6, a manufacturer may request an exemption by providing specific information about the anti-theft device, its capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements. Section 543.7 permits a manufacturer to request an exemption under a more streamlined process if the vehicle line is equipped with an anti-theft device (an ''immobilizer'') as standard equipment that complies with one of the standards specified in that section.

Section 543.8 establishes requirements for processing petitions for exemption from the Theft Prevention Standard. As stated in section 543.8(a), NHTSA processes any complete exemption petition. If NHTSA receives an incomplete petition, NHTSA will notify the petitioner of the deficiencies. Once NHTSA receives a complete petition it will process it and, in accordance with section 543.8(b), will grant the petition if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541.

Section 543.8(c) requires NHTSA to issue its decision either to grant or to deny an exemption petition not later than 120 days after the date on which a complete petition is filed. If NHTSA does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.[1] Exemptions granted under Part 543 apply only to the vehicle line or lines that are subject to the grant and are equipped with the antitheft device on which the line's exemption was based and is effective for the model year beginning after the model year in which NHTSA issues the notice of exemption, unless the notice of exemption specifies a later year.

543.8(f) and (g) apply to how NHTSA's decisions on petitions are to be made known. Under (f), if the petition is sought under section 543.6, NHTSA publishes a notice of its decision to grant or deny the exemption petition in the **Federal Register** and notifies the petitioner in writing. Under (g), if the petition is sought under section 543.7, NHTSA notifies the petitioner in writing of the agency's decision to grant or deny the exemption petition.

This grant of petitions for exemption considers the following manufacturers' petitions for the following model years: BMW of North America, LLC (BMW) for its 2 series vehicle line beginning in MY 2020; Jaguar Land Rover North America LLC (Jaguar Land Rover) for its Jaguar E-Pace vehicle line beginning in MY 2020; Nissan North America, Inc. (Nissan) for its QX55 beginning in MY 2020; Tesla Motors Inc. (Tesla) for its Model Y vehicle line beginning in MY 2020; General Motors Corporation (GM) for its Chevrolet Trailblazer vehicle line beginning in MY 2021; Mazda Motors Corporation (Mazda) for its CX–30 vehicle line beginning in MY 2021; Mitsubishi Motors R&D of America (Mitsubishi) for its Outlander vehicle

[1] 49 U.S.C. 33106(d).

line beginning in MY 2021; and Toyota Motor North America, Inc. (Toyota) for its Venza vehicle line beginning in MY 2021.

As explained below, the petitions for all eight manufacturers' vehicle lines are granted under 49 U.S.C. 33106, which states that if the Secretary of Transportation (NHTSA, by delegation) does not make a decision about a petition within 120 days of the petition submission, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year. Separately, based on the information provided in each manufacturer's petition, NHTSA has determined that the antitheft device to be placed on each line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

I. Petition Approval Under 49 U.S.C. 33106(d)

As outlined above, if NHTSA does not make a decision on a complete exemption petition within the 120-day period after the date that the petition was filed,[2] the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.[3]

Each manufacturer covered in this notice for the specified model year submitted a petition for exemption to NHTSA more than 120 days prior to this decision. Although each petition is accordingly approved pursuant to 49 U.S.C. 33106(d), for continuity for manufacturers that petitioned for MYs past (*i.e.,* we are now approximately 7–8 months into MY 2020), or MYs for which production is likely to begin 8 months prior to the start of this notice,[4] NHTSA evaluated the specific information provided by each manufacturer in accordance with the requirements in 49 CFR 543.6, *Petition: Specific content requirements.* Based on this information, NHTSA separately determined that the antitheft device to be placed on each line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

II. Specific Petition Content Requirements Under 49 CFR 543.6

Pursuant to 49 CFR 543, *Exemption from Vehicle Theft Prevention,* the eight manufacturers described below petitioned for their specified vehicle lines an exemption from the parts-marking requirements of the Theft Prevention Standard, beginning in MYs 2020 or 2021. Each manufacturer petitioned under 49 CFR 543.6, *Petition: Specific content requirements,* which as described above, requires manufacturers to provide specific information about the anti-theft device installed as standard equipment on all vehicles in the line for which an exemption is sought, the anti-theft device's capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements.

More specifically, 543.6(a)(1) requires petitions to include a statement that an antitheft device will be installed as standard equipment on all vehicles in the line for which the exemption is sought. Under section 543.6(a)(2), each petition must list each component in the antitheft system, and a diagram showing the location of each of those components within the vehicle. As required by section 543.6(a)(3), each petition must include an explanation of the means and process by which the device is activated and functions, including any aspect of the device designed to: (1) Facilitate or encourage its activation by motorists; (2) attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; (3) prevent defeating or circumventing the device by an unauthorized person attempting to enter a vehicle by means other than a key; (4) prevent the operation of a vehicle which an unauthorized person has entered using means other than a key; and (5) ensure the reliability and durability of the device.[5]

In addition to providing information about the antitheft device and its functionality, petitioners must also submit the reasons for the petitioner's belief that the antitheft device will be effective in reducing and deterring motor vehicle theft, including any theft data and other data that are available to the petitioner and form a basis for that belief,[6] and the reasons for the petitioner's belief that the agency should determine that the antitheft device is likely to be as effective as compliance with the parts-marking requirements of Part 541 in reducing and deterring motor vehicle theft, including any statistical data that are available to the petitioner and form the basis for the petitioner's belief that a line of passenger motor vehicles equipped with the antitheft device is likely to have a theft rate equal to or less than that of passenger motor vehicles of the same, or a similar, line which have parts marked in compliance with Part 541.[7]

The following sections describe each manufacturer's petition information provided pursuant to 49 CFR 543, *Exemption from Vehicle Theft Prevention.* Some manufacturers requested confidential treatment for specific information in their petition. Therefore, no confidential information provided for purposes of this notice has been disclosed.

a. BMW

In a petition dated February 22, 2019, BMW requested an exemption from the parts-marking requirements of the Theft Prevention Standard for its 2 series vehicle line beginning with MY 2020. Pursuant to 543.6(a)(1), BMW stated that the antitheft device described in its petition will be standard equipment on 100% of its 2 series vehicle line produced for the U.S. beginning with MY 2020 and beyond.

In accordance with 543.6(a)(2), BMW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its 2 series vehicle line. Under 543.6(a)(3), BMW stated that its 2 series vehicle line will be installed with a passive, electronically-coded, vehicle immobilizer system (EWS) as standard equipment that will prevent the vehicle from being driven away under its own engine power. Key features of the antitheft device will include a passive immobilizer, remote-control w/transponder including a mechanical key, ring antenna (transponder coil), low frequency antenna (LF), engine control unit (DME/DDE) with encoded start release input, transmission control unit (EGS) and an EWS (BDC) control unit. BMW stated that it will not offer an audible or visible alarm feature on the proposed device.

BMW also provided information on the reliability and durability of its proposed device. To ensure reliability and durability of its device, BMW stated that it conducted tests on the antitheft device which complied with its own

[2] *See* 51 FR 706; 52 FR 33821. Since the interim final rule implementing the Theft Prevention Standard, NHTSA has interpreted the filing date as meaning the date on which NHTSA receives a manufacturer's *complete* petition.

[3] 49 U.S.C. 33106(d).

[4] 49 U.S.C. 33106(c).

[5] 49 CFR 543.6 (a)(3).

[6] 49 CFR 543.6(a)(4).

[7] 49 CFR 543.6(a)(5).

specific standards. BMW further stated that its antitheft device fulfills the requirements of the January 1995 European vehicle insurance companies. In further addressing the reliability and durability of its device, BMW provided information on the uniqueness of its mechanical keys to be used on the 2 series vehicle line. Specifically, BMW stated that the vehicle's mechanical keys are unique because they require a special key blank, cutting machine and a unique vehicle code to allow for key duplication. BMW also stated that the mechanical keys cannot be used to deactivate the device but that activation must be done electronically. BMW further stated that the new keys will only be issued to authorized persons and will incorporate special guide-way millings, making the locks almost impossible to pick and the keys impossible to duplicate on the open market.

BMW stated that activation of its antitheft device occurs automatically when the engine is shut off and the vehicle key is removed from the ignition system. BMW stated that a transponder (transmitter/receiver) in the radio frequency remote control communicates with the EWS (BDC) control unit providing the interface to the loop antenna (coil), engine control unit and starter. After an initial starting value, the authentication uses the challenge response technique with symmetric secret key. BMW further stated that when the control unit identifies the correct release signal, the ignition signal and fuel supply are released allowing operation of the vehicle.

BMW also stated that the vehicle is equipped with a central-locking system that can be operated to lock and unlock all doors or to unlock only the driver's door, preventing forced entry into the vehicle through the passenger doors. BMW further stated that the vehicle can be further secured by locking the doors and hood using either the key-lock cylinder on the driver's door or the remote frequency remote control. BMW stated that the frequency for the remote control constantly changes to prevent an unauthorized person from opening the vehicle by intercepting the signals of its remote control.

BMW further stated that all of its vehicles are currently equipped with antitheft devices as standard equipment, including its 2 series vehicle line. BMW compared the effectiveness of its antitheft device with devices which NHTSA has previously determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of Part 541. Specifically, BMW has installed its antitheft device on several of its vehicle lines which have been granted parts-marking exemptions by the agency.

b. Jaguar Land Rover

In a petition dated December 14, 2018, Jaguar Land Rover requested an exemption from the parts-marking requirements of the Theft Prevention Standard for its Jaguar E-Pace vehicle line beginning with MY 2020. Pursuant to 543.6(a)(1), Jaguar Land Rover stated that the antitheft device described in its petition will be standard equipment on the Jaguar E–PACE model for MY 2020.

In accordance with 543.6(a)(2), Jaguar Land Rover provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Jaguar E-Pace vehicle line. Under 543.6(a)(3), Jaguar Land Rover stated that the Jaguar E-Pace vehicle line will be installed with a passive, transponder-based, electronic engine immobilizer device as standard equipment beginning with the 2020 model year. Key components of its antitheft device will include a Smart Key, power train control module (PCM), instrument cluster, body control module (BCM), remote frequency receiver (RFR), Immobilizer Antenna Unit (IAU), Remote Frequency Actuator (RFA), Security Horn and Vehicle Horn, Smart Key, Door Zone Modules (Passenger and Driver) (DMZs) and a Security Warning LED. Jaguar Land Rover stated that its antitheft device will also include a vehicle security system that includes an audible and visual perimeter alarm system as standard equipment on the entire vehicle line. The horn will sound and the vehicle's exterior lights will flash if unauthorized entry is attempted by opening the hood, doors or luggage compartment. Jaguar Land Rover further stated that its perimeter alarm system can be armed with its Smart Key or programmed to be passively armed.

Jaguar Land Rover provided information on the reliability and durability of its proposed device as required by 543.6(a)(3)(v). To ensure reliability and durability of the device, Jaguar Land Rover conducted tests based on its own specified standards. Jaguar Land Rover provided a detailed list of the tests conducted (*i.e.,* temperature and humidity cycling, high and low temperature cycling, mechanical shock, random vibration, thermal stress/shock tests, material resistance tests, dry heat, dust and fluid ingress tests). Jaguar Land Rover stated that it believes that its device is reliable and durable because it complied with specified requirements for each test. Additionally, Jaguar Land Rover stated that its key recognition sequence includes over a billion code combinations with encrypted data that are secure against duplication. Jaguar Land Rover further stated that the coded data transfer between modules use a unique secure identifier and public algorithm. Jaguar Land Rover also stated that since its Jaguar E-Pace vehicle line will utilize a push button vehicle ignition, it does not have a conventional mechanical key barrel, and therefore, a thief will have no means of forcibly bypassing the key-locking system.

Jaguar Land Rover stated that its immobilizer device is automatically activated when the Smart Key is removed from the vehicle. Jaguar Land Rover also stated that its Smart key is programmed and synchronized to each vehicle through an identification key code and a secret, randomly-generated code unique to each vehicle.

Jaguar Land Rover stated that there are three methods of antitheft device deactivation and engine starting. Method one consists of automatic detection of the Smart Key via a remote frequency challenge response sequence. Specifically, when the driver approaches the vehicle and pulls the driver's door handle following authentication of the correct Smart Key, the doors will unlock. When the ignition start button is pressed, the device searches to find and authenticate the Smart Key within the vehicle interior. If successful, this information is passed to the BCM via the Remote Function Actuator by coded data transfer. The BCM will pass the ''valid key'' status to the instrument cluster, via a coded data transfer and then send the key valid message code to the PCM initiating a coded data transfer and engine authorization to start. Method two consists of unlocking the vehicle with the Smart Key unlock button. As the driver approaches the vehicle, the Smart Key unlock button is pressed and the doors will unlock. Once the driver presses the ignition start button, the operation process is the same as method one. Method three involves using the emergency key blade. If the Smart Key has a discharged battery or is damaged, there is an emergency key blade that can be removed from the Smart Key and used to unlock the doors. When the ignition start button is pressed, the device searches to find and authenticate the Smart Key within the vehicle interior. If successful, the Smart Key needs to be docked. Once the Smart Key is docked/placed in the correct position, and the ignition start button is pressed again, the BCM and Smart key enter a coded data exchange via the Immobilizer Antenna Unit. The BCM

then passes the valid key status to the instrument cluster, via the Immobilizer Antenna Unit and sends the key valid message to the PCM which initiates a coded data transfer. If successful, engine starting is authorized.

Jaguar Land Rover stated that its immobilizer system on the Jaguar E-Pace is substantially similar to the antitheft devices using similar technology installed on the Jaguar F-Pace, Jaguar XJ, Jaguar F-Type, Jaguar XF, Jaguar XE, Land Rover Discovery Sport and the Land Rover Range Rover Evoque.

c. Nissan

On October 19, 2017, Nissan was granted an exemption from the parts-marking requirements of 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard) by the agency beginning with its MY 2019 vehicles (see 82 FR 48744). The exemption in accordance with 49 CFR part 543, *Exemption from the Theft Prevention Standard* was granted because the agency determined that the antitheft device placed on the vehicle line as standard equipment is likely to be effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. The QX50 vehicle line is installed with a passive, electronic engine immobilizer antitheft device as standard equipment but does not provide an audible and visible alarm system, although the system provides a security indicator light.

On July 29, 2019, Nissan sent the agency a letter informing the agency of its plans to add the new QX55 luxury sport utility coupe model to its existing Infiniti QX50 sports utility vehicle line beginning with MY 2020. Nissan stated that there will be slight exterior styling differences between the QX50 and the QX55 vehicles, however, the vehicle specifications and platform/chassis will remain the same. Nissan further confirmed that its new QX55 model will also maintain the same antitheft device as utilized on the QX50 vehicle line for which its original exemption was granted.

d. Tesla

In a petition dated August 9, 2019, Tesla requested an exemption from the parts-marking requirements of the Theft Prevention Standard for its Model Y vehicle line beginning with MY 2020. Pursuant to 543.6(a)(1), Tesla stated that the antitheft device described in its petition will be installed as standard equipment on Model Y line vehicles starting with MY 2020.

In accordance with 543.6(a)(2), Tesla provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Model Y vehicle line. Tesla stated that the Model Y vehicle line will be installed with a passive, transponder-based, electronic engine immobilizer device as standard equipment beginning with its MY 2020 model year. Key components of the antitheft device include an engine immobilizer, central body controller, security controller, gateway function, drive inverters and a passive entry transponder (PET). Tesla also stated that the new design of its immobilizer device will have enhanced security communication between its components, prevent tampering and provide additional features to enhance its overall effectiveness. Tesla further stated that in addition to its immobilizer device, it will incorporate an audible alarm (horn) as standard equipment, but will not include a visual feature with the alarm system. Tesla stated that forced entry into the vehicle or any type of unauthorized entry without the correct PET will trigger the audible alarm. Tesla further stated that in addition to an unauthorized access through the doors, the alarm will also trigger when a break-in is attempted to both the front and rear cargo areas.

Tesla provided information on the reliability and durability of its proposed device as required by 543.6(a)(3)(v). Tesla stated that the antitheft device will be an upgraded version of the successful antitheft system currently installed as standard equipment in all Tesla Model S/X/3 vehicles. To ensure reliability and durability of the device, Tesla conducted tests based on its own specified standards. Tesla provided a detailed list of the tests conducted and stated that it believes that its device is reliable and durable because it complied with its design standards. Additionally, Tesla stated that it has also incorporated other measures of ensuring reliability and durability of the device to protect the immobilizer device from exposure to the elements and limits its access by unauthorized personnel. Furthermore, Tesla stated that the immobilizer relies on electronic functions and not mechanical functions, and therefore expects the components to last at least the life of the vehicle or longer.

Tesla stated that its antitheft device will have a two-step activation process with a vehicle code query conducted at each stage. The first stage allows access to the vehicle when an authorization cycle occurs between the PET and the central body controller, as long as the PET is in close proximity to the car and the driver either pushes the lock/unlock button on the key fob, pushes the exterior door handle to activate the handle sensors or inserts a hand into the handle to trigger the latch release. During the second stage, vehicle operation will be enabled when the driver has depressed the brake pedal and moves the gear selection stalk to drive or reverse, when one of these actions is performed, the security controller will poll to verify if the appropriate PET is inside the vehicle. Upon location of the PET, the security controller will run an authentication cycle with the key confirming the correct PET is being used inside the vehicle. Tesla stated that once authentication is successful, the security controller initiates a coded message through the gateway. If the code exchange matches the code stored in the drive inverters, the exchange will authorize the drive inverter to deactivate immobilization allowing the vehicle to be driven under its own power. Tesla stated that the immobilizer functions to ensure maximum theft protection when the immobilizer is active, the vehicle is off and the doors are locked. Tesla stated that it will incorporate an additional security measure that performs when the car is unlocked and immobilization is deactivated. Specifically, immobilization will reactivate when there are no user inputs to the vehicle within a programmed period of time. Tesla stated that any attempt to operate the vehicle without performing and completing each task, will render the vehicle inoperable.

Tesla stated that its immobilizer system on the Model Y vehicle line will be similar to the version designed to deter theft on the Model S and X vehicle lines. Tesla also stated that it expects similar results with the Model Y vehicles equipped with a modern immobilizer system that is state of the art in both design and function.

e. General Motors

Pursuant to 49 CFR 543, *Exemption from Vehicle Theft Prevention,* GM requested, in a petition dated July 19, 2019, an exemption from the parts-marking requirements of the Theft Prevention Standard for its Chevrolet Trailblazer vehicle line beginning with MY 2021. GM stated that its ''PASS–KEY III+'' antitheft device, discussed further below, would be installed as standard equipment on all vehicles in the Chevrolet Trailblazer line.''

In accordance with 49 CFR 543.6(a)(2), GM stated that its PASS-Key III+ anti-theft device is a passive, transponder-based, electronic immobilizer, with the following major components: A PASS-Key III+ controller

module, engine control module (ECM), an electronically-coded ignition key, a radio frequency (RF) receiver, an immobilizer exciter module, three low frequency antennas, and a passive antenna module and provided a diagram of the locations of the components.

As required by 49 CFR 543.6(a)(3), GM stated that the PASS-Key III+ immobilizer device is designed to be active at all times without direct intervention by the vehicle operator. GM further stated that activation of the device occurs immediately after the ignition has been turned off and the key has been removed and deactivation of the antitheft device occurs automatically when the engine is started. GM stated that the Chevrolet Trailblazer vehicle line will be equipped with one of two ignition versions. Specifically, the Chevrolet Trailblazer will be equipped with either a keyed or keyless ignition version of its PASS-Key III+ immobilizer antitheft device. GM also stated that the ''keyed'' ignition version utilizes a special ignition key and decoder module and its electrical code must be sensed and properly decoded by the controller module before the vehicle can be operated. GM further stated that with the ''keyless'' ignition version, an electronic key fob performs normal remote keyless entry functions and communicates with the vehicle without direct owner intervention. Specifically, during operation of the vehicle, when the owner presses the engine start/stop switch, the vehicle transmits a randomly generated challenge and vehicle identifier within the passenger compartment of the vehicle via three low-frequency antennas, controlled by the passive antenna module. The electronic key receives the data and if the vehicle identifier matches that of the vehicle, the electronic key will calculate the response to the vehicle using the challenge and secret information shared between the key and the vehicle. The electronic key then transmits the response via a radio frequency channel to a vehicle mounted receiver, conveying the information to the PASS-Key III+ control module. The PASS-Key III+ control module compares the received response with an internally calculated response. If the values match, the device will allow the vehicle to enter functional modes and transmit a fixed code pre-release password to the engine controller over the serial data bus, and enable computation and communication of a response to any valid challenge received from the engine controller. If a valid key is not detected, the system will not transmit a fixed code pre-release password to the engine controller and fuel will not be delivered to the engine and the starter will not be enabled, so the vehicle will be immobilized.

As required in section 543.6 (a)(3)(v), GM provided information on the reliability and durability of its proposed device. GM followed its own standards in assessing reliability and durability and conducted tests to validate the integrity, durability and reliability of the PASS-Key III+ device, including tests for high temperature storage, low temperature storage, thermal shock, humidity, frost, salt fog, flammability and others. GM further stated that the design and assembly processes of the PASS-Key III+ subsystem and components are validated for 10 years of vehicle life and 150,000 miles of performance.

GM noted in its petition that its proposed device lacks an audible or visible alarm and, therefore, does not perform one of the functions listed in 49 CFR part 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, GM stated that based on comparison of the reduction in the theft rates of Chevrolet Corvettes using a passive antitheft device along with an audible/visible alarm system to the reduction in theft rates for the Chevrolet Camaro models equipped with a passive antitheft device without an alarm, GM did not find that the lack of an alarm or attention-attracting device compromised the theft deterrent performance of a device such as PASS-Key III+ device. GM stated that in these instances, the agency has previously concluded that the lack of an audible or visible alarm has not prevented these antitheft devices from being effective protection against theft.

To support its assertion that the antitheft device would be as effective at reducing and deterring theft as parts-marking, as required by 49 CFR 543.6(a)(4), GM referenced data provided by the American Automobile Manufacturers Association (AAMA) in support of the effectiveness of GM's PASS-Key devices in reducing and deterring motor vehicle theft and stated that the PASS-Key III+ device has been designed to enhance the functionality and theft protection provided by its first, second and third generation PASS-Key, PASS-Key II, and PASS-Key III devices. Specifically, GM stated that data which provide the basis for GM's confidence that the PASS-Key III+ system will be effective in reducing and deterring motor vehicle theft are contained in the response of the American Automobile Manufacturers Association (AAMA) to Docket 97–042; Notice I (NHTSA Request for Comments on its preliminary Report to Congress on the effects of the Anti Car Theft Act of 1992 and the Motor Vehicle Theft Law Enforcement Act of 1984). In the Report to Congress, AAMA stated the more recent antitheft systems are more effective in reducing auto theft. AAMA also cited the Highway Loss Data Institute (HLDI) findings on the effectiveness of antitheft devices in reducing theft. AAMA noted that vehicles with antitheft devices are less likely to be stolen for joyriding or transportation and therefore, their recovery rates are lower.

GM also stated that theft rate data have indicated a decline in theft rates for vehicle lines equipped with comparable devices that have received full exemptions from the parts-marking requirements. GM stated that the theft rate data, as provided by the Federal Bureau of Investigation's National Crime Information Center (NCIC) and compiled by the agency, show that theft rates are lower for exempted GM models equipped with the PASS-Key-like systems than the theft rates for earlier models with similar appearance and construction that were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III devices on other GM models, and the advanced technology utilized in PASS-Key III+, GM believes that the PASS-Key III+ device will be more effective in deterring theft than the parts-marking requirements of 49 CFR part 541.

f. Mazda

In a petition dated October 1, 2019, Mazda requested an exemption from the parts-marking requirements of the Theft Prevention Standard for its Mazda CX–30 vehicle line beginning with MY 2021.

In its petition, Mazda provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the CX–30 vehicle line. Mazda stated that its MY 2021 CX–30 vehicle line will be installed with a passive, transponder based, electronic engine immobilizer antitheft device as standard equipment. Key components of its antitheft device will include a powertrain control module (PCM), immobilizer control module, security indicator light, coil antenna, transmitter with transponder key (transponder key), low frequency (LF) antenna, radio frequency (RF) receiver and a low frequency unit (LFU). The device will not provide any visible or audible indication of unauthorized vehicle entry (*i.e.,* flashing lights or horn alarm) as standard equipment however, Mazda

stated that its device will incorporate a light-emitting diode (LED) indicator which will provide a visual confirmation on the protection status of the antitheft device.

As required in section 543.6 (a)(3)(v), Mazda provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Mazda conducted tests based on its own specified standards. Mazda provided a detailed list of the tests conducted (*i.e.,* low/high temperature exposure operation, high temperature endurance, thermal cycling, thermal shock resistance, thermal shock endurance, humidity temperature cycling, high temperature and humidity endurance, water, dust, vibration, connector and lead/lock strength, chemical resistance, electromagnetic field, power line variations, DC stresses, electrostatic discharge and push button start strength) and stated that it believes the device is reliable and durable since it complied with its own specified requirements for each test. Additionally, Mazda stated that its device is extremely reliable and durable because it is computer-based and does not rely on any mechanical or moving parts. Mazda further stated that any attempt to slam-pull its vehicle's ignition will have no effect on a thief's ability to start the vehicle without the correct code being transmitted to the electronic control modules.

According to Mazda, there are two methods of initiating the antitheft device operation process. Specifically, Mazda stated that the immobilizer system checks up on two codes; (1) the transponder code which the immobilizer control module checks with the transponder located in the transmitter; and (2) the immobilizer code, which the immobilizer control module checks with the powertrain's electronic control module. Mazda also stated that there are two means of checking the transponder code; (1) when the immobilizer control module communicates with the transmitter which includes a transponder by LF antenna and receives a reply of transmitter in the RF receiver; and (2) when the immobilizer control module communicates with the transponder by coil antenna which is located in the push button start. If a code of the transponder matches with the immobilizer control module by either method mentioned above, and the ignition is turned to the ON position, the immobilizer control module checks the powertrain's electronic control module with immobilizer code. Mazda further stated that the vehicle's engine can only be started if the immobilizer code matches the code previously programmed into the immobilizer control module. If the immobilizer code does not match, the engine will be disabled. Communications between the immobilizer system control function and the powertrain's electronic control module are encrypted. Mazda also stated that there are more than 15×10^6 different transponder codes, and each transponder is hard coded with a unique code at the time of manufacture.

Mazda provided data on the effectiveness of other similar antitheft devices installed on vehicle lines in support of its belief that its device will be at least as effective as those comparable devices. Specifically, Mazda stated that its device was installed on certain MY 1996 Ford vehicles as standard equipment, (*i.e.,* all Ford Mustang GT and Cobra models, Ford Taurus LX, and SHO models and Ford Sable LS models). In MY 1997, Mazda installed its immobilizer device on the entire Ford Mustang vehicle line as standard equipment. When comparing 1995 model year Mustang vehicle thefts (without immobilizers) with MY 1997 Mustang vehicle thefts (with immobilizers), Mazda referenced the National Crime Information Center's (NCIC) theft information which showed that there was a 70% reduction in theft experienced when comparing MY 1997 Mustang vehicle thefts (with immobilizers) to MY 1995 Mustang vehicle thefts (without immobilizers).

g. Mitsubishi

On February 2, 2009, NHTSA published in the **Federal Register** a notice granting in full a petition from Mitsubishi for an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR 541) for the Outlander vehicle line beginning with its MY 2011 vehicles (see 74 FR 5891). The Mitsubishi Outlander is currently equipped with a passive, transponder-based, electronic engine immobilizer device and an audible and visible alarm.

On August 6, 2012, Mitsubishi submitted a petition to modify the previously approved exemption for the Outlander vehicle line. On November 28, 2012 (see 77 FR 71030), the agency granted a petition for modification of the previously granted exemption for the Outlander vehicle line beginning with its MY 2014 vehicles. On August 1, 2019, Mitsubishi submitted a second petition to modify the previously approved exemption for the Outlander vehicle line.

In accordance with 543.6(a)(2), Mitsubishi's petition for modification provides a detailed description and diagram of the identity, design, and location of the components of the antitheft device proposed for installation beginning with the 2021 MY.

For the current antitheft device installed on the Mitsubishi Outlander, Mitsubishi stated that it will continue to offer the wireless control module (WCM) as standard equipment for the entry models for the Outlander vehicle line, but all models other than the entry models will be equipped with one touch starting system (OSS). The features of the OSS are the engine electronic control unit (ECU), electronic time and alarm control system (ETACS ECU), OSS ECU, keyless operation system (KOS) ECU, engine (power) switch keyless operation key (transponder key) and low-frequency (LF) antenna. Mitsubishi stated that the OSS utilizes a keyless system that allows the driver to press a button located on the instrument panel to activate and deactivate the ignition (instead of using a traditional key in the key cylinder) as long as the transponder is located in close proximity to the driver. Once the ignition switch is pushed to the ''on'' position, the transceiver module reads the specific ignition key code for the vehicle and transmits an encrypted message containing the key code to the ECU which verifies that the key is correct. The immobilizer then sends a separate encrypted state-code signal to the engine ECU to allow the driver to start the vehicle. The engine will only function if the key code matches the unique identification key code previously programmed into the ECU. If the codes do not match, the engine and fuel system will be disabled.

In its 2021 modification, Mitsubishi stated that it will offer the one touch starting system (OSS 2) as standard equipment for all Outlander vehicles. The features of the OSS 2 are the engine control module (ECM), intelligent power distribution module engine room (IPDM–ER), body control module (BCM), hands free module (HFM) w/ antenna, engine (power) switch w/ring antenna, iKey Fob (transponder key) and a LF antenna. The OSS 2 is a transponder-based electronic immobilizer system that starts the engine without using a mechanical key as long as the registered iKey Fob is located in close proximity to the driver. Mitsubishi stated that it will also introduce another model into the Outlander vehicle line beginning with MY 2021.

When the ignition key is pushed to the ignition ''on'' position, the transceiver module reads the specific

ignition key code for the vehicle and transmits an encrypted message containing the key code to the ECU or HFM which verifies that the key is correct. The immobilizer then sends a separate encrypted start-code signal to the engine ECU or HFM to allow the driver to start the vehicle. The engine will only function if the key code matches the unique identification key code previously programmed into the ECU or HFM. If the codes do not match, the engine and fuel system will be disabled. Mitsubishi also stated that if the iKey Fob battery is functioning at low power, once the ignition key is pushed and the iKey Fob is close to the engine switch, the ring antenna in the engine switch will supply power by transmitting electromagnetic waves to a transponder built into the iKey Fob by using magnetic coupling. After power is supplied to the iKey Fob it will transmit the ID code to the HFM via the engine switch, once authentication is successfully at the HFM, the HFM will send the outcome to the BCM turning the ignition on and sending the ignition on request to the IPDM–ER.

Mitsubishi further stated that there are 4.3 billion different possible key codes for the WCM system, 250 million for the OSS 1 system and 268 million for the new OSS 2 system making a successful key code duplication nearly impossible. Mitsubishi stated that the immobilizer device and the ECU or HFM share security data when first installed during vehicle assembly, making them a matched set. These matched modules will not function if taken out and reinstalled separately on other vehicles. Mitsubishi also stated that the device is extremely reliable and durable because there are no moving parts, the key does not require a separate battery and it is impossible to mechanically override the device and start the vehicle.

Mitsubishi stated that the Mitsubishi Outlander has been equipped with the immobilizer device since MY 2007. Mitsubishi also stated that the Eclipse, Galant, Endeavor, Lancer, Outlander Sport, I-MiEv, Mirage, and the Eclipse Cross vehicle lines have been equipped with a similar type of immobilizer device since January 2000, January 2004, April 2004, March 2007, September 2010, October 2011, July 2013 and December 2017 respectively, and they have all been granted parts-marking exemptions by the agency. Mitsubishi further stated that its Eclipse vehicle line has been equipped with a similar device since introduction of its MY 2000 vehicles. Mitsubishi further stated that the theft rate for the MY 2000 Eclipse decreased by almost 42% when compared with that of its MY 1999 Mitsubishi Eclipse (unequipped with an immobilizer device).

h. Toyota

In a petition dated August 19, 2019, Toyota requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Venza vehicle line beginning with MY 2021.

In its petition, Toyota provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Venza vehicle line. Toyota stated that its MY 2021 Venza vehicle line will be installed with an engine immobilizer device as standard equipment, as required by 543.6(a)(1). Toyota also stated that it will offer an HV with ''smart entry and start'' system on its Venza vehicle line. Specifically, key components of the ''smart entry and start'' system will include, a certification engine control unit (ECU), power switch, steering lock ECU, security indicator, door control receiver, electrical key, HV–ECU, ID code box, and an engine control module (ECM). Toyota stated that there will also be position switches installed on the vehicle to protect the hood and doors from unauthorized tampering/opening. Toyota further explained that locking the doors can be accomplished through use of a key, wireless switch or its smart entry system, and that unauthorized tampering with the hood or door without using one of these methods will cause the position switches to trigger its antitheft device to operate. Toyota stated that its antitheft device will also include an alarm system as standard equipment. Toyota stated that once its alarm system is activated, the horn will sound and its exterior and interior lights will flash if unauthorized entry is attempted.

As required in section 543.6 (a)(3)(v), Toyota provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Toyota conducted tests based on its own specified standards. Toyota provided a detailed list of the tests conducted (*i.e.,* high and low temperature operation, strength, impact, vibration, electro-magnetic interference, etc.). Toyota stated that it believes that its device is reliable and durable because it complied with its own specific design standards and the antitheft device is installed on other vehicle lines for which the agency has granted a parts-marking exemption. As an additional measure of reliability and durability, Toyota stated that its vehicle key cylinders are covered with casting cases to prevent the key cylinder from easily being broken. Toyota further explained that there are approximately 10,000 combinations for inner cut keys which makes it difficult to unlock the doors without using a valid key because the key cylinders would spin out and cause the locks to not operate.

Toyota stated that its HV with ''smart entry and start'' system is activated when the power switch is pushed from the ''ON'' ignition status to any other status. The certification ECU then performs the calculation for the immobilizer and the immobilizer signals the ECM to activate the device. Toyota also stated that key verification is also performed after the driver pushes the power switch. Deactivation occurs after the driver pushes the power switch, the certification ECU and steering lock ECU receive confirmation of a valid key, and the certification ECU allows the ECM to start the engine. Toyota also stated that a security indicator is installed notifying the users and others inside and outside the vehicle with the status of the immobilizer. Toyota further explained that the security indicator flashes continuously when the immobilizer is activated, and turns off when it is deactivated.

Toyota stated that currently, there is no theft rate data available for its new Venza vehicle line. However, Toyota compared its proposed device to other Toyota antitheft devices that NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Toyota compared its proposed device to that which has been installed on the Camry, Corolla, Prius, Prius v, RAV4, Highlander, Sienna, Avalon, C–HR, Lexus LS, GS, RX, NX vehicle lines. Toyota also stated that the MY 2014 theft rate data for the Toyota RAV4 and RAV4 HV is similar to its proposed device for the Venza vehicle line. Therefore, Toyota has concluded that the antitheft device proposed for its Venza vehicle line is no less effective than those devices on the lines for which NHTSA has already granted full exemption from the parts-marking requirements.

III. Decision to Grant the Petitions

As discussed above, the petitions for all eight manufacturers' vehicle lines are considered approved under 49 U.S.C. 33106. Separately, NHTSA believes, based on the supporting evidence submitted by each manufacturer, that the antitheft device described for each vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-

marking requirements of the Theft Prevention Standard.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.8(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that each manufacturer has provided adequate reasons for its belief that the antitheft device for each vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. This conclusion is based on the information each manufacturer provided about its antitheft device.

The agency concludes that each described device will provide four of the five types of performance listed in section 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Moving forward, to facilitate the agency's consideration of complete petitions in a timely manner, NHTSA is planning to publish a **Federal Register** notice clarifying the type of information that can serve as a valid basis for granting a request for exemption from the Theft Prevention Standard. Specifically, NHTSA will be providing this clarification because it has received a few petitions in which the petitioners have sought to support their request for exemption with data comparing the theft rate of a particular vehicle line to the industry median or average vehicle theft rate. The notice will not impose any new requirements for manufacturers seeking exemptions from the parts-marking requirement or otherwise change Part 541. As will be explained further in that notice, 49 CFR 543.6(a)(5) does not refer to NHTSA's considering comparisons of the theft rate of the subject vehicle in a petition to the industry-wide median or average theft rate when evaluating a request for exemption under Part 543. Instead, under 49 CFR 543.6(a)(5), NHTSA is to consider ''any statistical data that are available to the petitioner and form a basis for petitioner's belief that a line of passenger motor vehicles equipped with the antitheft device is likely to have a theft rate equal to or less than that of passenger motor vehicles *of the same, or a similar, line* which have parts marked in compliance with part 541'' (emphasis added).[8] The notice will clarify this provision of Part 541.

The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.8(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If any manufacturer listed in this notice decides not to use the exemption for their requested vehicle line, the manufacturer must formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if any manufacturer listed in this notice wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.8(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, section 543.10(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in the exemption.''

The agency wishes to minimize the administrative burden that section 543.10(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if any manufacturer listed in this notice contemplates making any changes, the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

For the foregoing reasons, the agency hereby grants in full the following petitions for exemption for the following manufacturers' vehicle lines for the following model years: BMW of North America, LLC (BMW) for its 2 series vehicle line beginning in MY 2020; Jaguar Land Rover North America LLC (Jaguar Land Rover) for its Jaguar E-Pace vehicle line beginning in MY 2020; Nissan North America, Inc. (Nissan) for its QX55 beginning in MY 2020; Tesla Motors Inc. (Tesla) for its Model Y vehicle line beginning in MY 2020; General Motors Corporation (GM) for its Chevrolet Trailblazer vehicle line beginning in MY 2021; Mazda Motors Corporation (Mazda) for its CX–30 vehicle line beginning in MY 2021; Mitsubishi Motors R&D of America (Mitsubishi) for its Outlander vehicle line beginning in MY 2021; and Toyota Motor North America, Inc. (Toyota) for its Venza vehicle line beginning in MY 2021.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2020–10028 Filed 5–8–20; 8:45 am]

BILLING CODE 4910–59–P

[8] This is because, to make a valid comparison, NHTSA must carefully choose two sets of vehicles that are as nearly similar as possible so that the agency can be reasonably certain that any differences or similarities in the theft rates of the two sets of vehicles can be attributed to the presence of an anti-theft device or parts marking and not to extraneous, confounding variables.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

[Case IDs MALI–16234, MALI–16277, and MALI–EO13882–16735]

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490;

Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On December 20, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. AG ALHOUSSEINI, Houka Houka (a.k.a. IBN ALHOUSSEYNI, Mohamed; a.k.a. IBN AL–HUSAYN, Muhammad), Zouera, Mali; DOB 1962; alt. DOB 1963; alt. DOB 1964; POB Ariaw, Tombouctou region, Mali; nationality Mali; Gender Male (individual) [MALI–EO13882].

Designated pursuant to section 1(a)(i)(A) of E.O. 13882 for being responsible for or complicit in, or having directly or indirectly engaged in, actions or policies that threaten the peace, security, or stability of Mali.

2. BEN DAHA, Mahri Sidi Amar (a.k.a. DAHA, Sidi Amar Ould; a.k.a. DAHA, Yoro Ould; a.k.a. DAYA, Yoro Ould; a.k.a. ''Yoro''), Golf Rue 708 Door 345, Gao, Mali; DOB 1978; POB Djebock, Mali; nationality Mali; Gender Male; National ID No. 11262/1547 (Mali) (individual) [MALI–EO13882].

Designated pursuant to section 1(a)(i)(A) of E.O. 13882 for being responsible for or complicit in, or having directly or indirectly engaged in, actions or policies that threaten the peace, security, or stability of Mali.

3. MATALY, Mohamed Ould, Golf Rue 708 Door 345, Gao, Mali; DOB 1958; nationality Mali; Gender Male; Passport D9011156 (Mali) (individual) [MALI–EO13882].

Designated pursuant to section 1(a)(i)(A) of E.O. 13882 for being responsible for or complicit in, or having directly or indirectly engaged in, actions or policies that threaten the peace, security, or stability of Mali.

4. MAHRI, Mohamed Ben Ahmed (a.k.a. DAYA, Mohamed Ould Mahri Ahmed; a.k.a. DEYA, Mohamed Ould Ahmed; a.k.a. ''Mohamed Rouggy''; a.k.a. ''Mohamed Rougie''; a.k.a. ''Mohamed Rouji''; a.k.a. ''Mohammed Rougi''), Bamako, Mali; DOB 1979; POB Tabankort, Mali; nationality Mali; Gender Male; Passport AA00272627 (Mali); alt. Passport AA0263957 (Mali) (individual) [MALI–EO13882].

Designated pursuant to section 1(a)(i)(A) of E.O. 13882 for being responsible for or complicit in, or having directly or indirectly engaged in, actions or policies that threaten the peace, security, or stability of Mali.

5. AG ALBACHAR, Ahmed (a.k.a. AG ALBACHAR, Intahmadou), Quartier Aliou, Kidal, Mali; DOB 31 Dec 1963; POB Tin-Essako, Kidal region, Mali; nationality Mali; Gender Male; National ID No. 1 63 08 4 01 001 005E (Mali) (individual) [MALI–EO13882].

Designated pursuant to section 1(a)(i)(E) of E.O. 13882 for being responsible for, or complicit in, or having directly or indirectly engaged in, obstructing the delivery or distribution of, or access to, humanitarian assistance, in relation to Mali.

Dated: May 6, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2020–10000 Filed 5–8–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Federal Advisory Committee on Insurance

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces that the U.S. Department of the Treasury's Federal Advisory Committee on Insurance (''Committee'') will meet via teleconference on Thursday, June 4, 2020 from 1:30 p.m.–4:30 p.m. Eastern Time. The meeting is open to the public.

DATES: The meeting will be held via teleconference on Thursday, June 4, 2020, from 1:30 p.m.–4:30 p.m. Eastern Time.

Attendance: The Committee meeting will be held via teleconference and is open to the public. The public can attend remotely via live webcast at *http://www.yorkcast.com/treasury/events/2020/06/04/faci.* The webcast will also be available through the Committee's website at *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/federal-advisory-committee-on-insurance-faci.* Requests for reasonable accommodations under Section 504 of the Rehabilitation Act should be directed to Mariam G. Harvey, Office of Civil Rights and Diversity, Department of the Treasury at (202) 622–0316, or *mariam.harvey@do.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Lindsey Baldwin, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220, at (202) 622–3220 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2), through implementing regulations at 41 CFR 102–3.150.

Public Comment: Members of the public wishing to comment on the business of the Federal Advisory Committee on Insurance are invited to submit written statements by any of the following methods:

Electronic Statements

- Send electronic comments to *faci@treasury.gov.*

Paper Statements

- Send paper statements in triplicate to the Federal Advisory Committee on Insurance, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220.

In general, the Department of the Treasury will post all statements on its website *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/federal-advisory-committee-on-insurance-faci* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department of the Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's Library, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–2000. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Tentative Agenda/Topics for Discussion: This is the second periodic meeting of the Committee in 2020. In this meeting, the Committee will receive updates from the Committee's three subcommittees: The Availability of Insurance Products, the Federal Insurance Office's International Work, and Addressing the Protection Gap Through Public-Private Partnerships and Other Mechanisms. The subcommittee on Addressing the Protection Gap Through Public-Private Partnerships and Other Mechanisms will hold a discussion on its ongoing work related to natural hazard mitigation and the National Mitigation Investment Strategy. The Committee will also discuss insurance topics related to COVID–19, and receive an update from the Federal Insurance Office on its activities.

Dated: May 5, 2020.

Steven Seitz,

Director, Federal Insurance Office.

[FR Doc. 2020–09932 Filed 5–8–20; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Department of Veterans Affairs Guidance Document Database and Portal (Executive Order 13891)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing this notice pursuant to Executive Order 13891 to announce and describe the database and public-facing portal that will contain VA's Guidance Documents, as described under the Executive Order.

FOR FURTHER INFORMATION CONTACT: Richard Murphy, Office of Policy and Interagency Collaboration, Office of Enterprise Integration, 810 Vermont Avenue NW, Washington, DC 20420, (202) 870–9518. (This is not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: Pursuant to section 3 of Executive Order 13891, Promoting the Rule of Law Through Improved Agency Guidance Documents, dated October 9, 2019 (the Executive Order), VA has established a database and a public-facing portal that contains or links to all VA documents that it considers ''Guidance Documents'' under the Executive Order. The URL for this searchable portal is *www.va.gov/guidance.* All guidance documents remaining in effect will be contained in this guidance portal.

For each guidance document that VA publishes on its guidance website, VA will include the following information:

A concise name for the guidance document.

The date on which the guidance document was issued.

The date on which the guidance document was posted to the website.

An agency unique identifier.

A hyperlink to the guidance document.

The general topic addressed by the guidance document.

One or two sentences summarizing the guidance document's content.

In addition to the information associated with each guidance document, the website will include a clearly visible note stating that: (1) Guidance documents lack the force and effect of law, except as expressly authorized by statute or incorporated into a contract; and (2) VA may not cite, use, or rely on any guidance that is not posted on the website existing under the Executive Order, except to establish historical facts.

Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Brooks D. Tucker, Acting Chief of Staff, Department of Veterans Affairs, approved this document on May 5, 2020, for publication.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2020–10019 Filed 5–8–20; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Advisory Committee on Former Prisoners of War (Committee) will meet virtually via conference call on May 26–28, 2020 from 1:00 p.m.–3:00 p.m. EDT daily. The meeting sessions are open to the public and can be accessed via telephone at 1–844–358–7954, access code: 6859230129#.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under Title 38 U.S.C., for Veterans who are Former Prisoners of War (FPOW), and to make recommendations on the needs of such Veterans for compensation, health care, rehabilitation, and memorial benefits.

On Tuesday, May 26th through Thursday, May 28th, the Committee will hear briefings from VA officials; conversations open to FPOWs, family members and Survivors; and engage in discussion of committee issues.

Any member of the public may also submit a 1–2-page commentary for the Committee's review. Any member of the public seeking additional information should contact Ms. Leslie Williams, Designated Federal Officer, Department of Veterans Affairs, Advisory Committee on Former Prisoners of War at *Leslie.Williams1@va.gov* or via phone at (202) 530–9219.

Dated: May 6, 2020.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2020–09971 Filed 5–8–20; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 174, 175, 176, 178 and 180

Hazardous Materials: Harmonization With International Standards; Final Rule

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 174, 175, 176, 178 and 180

[Docket No. PHMSA–2017–0108 (HM–215O)]

RIN 2137–AF32

Hazardous Materials: Harmonization With International Standards

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: PHMSA is issuing this final rule to amend the Hazardous Materials Regulations (HMR) to maintain alignment with international regulations and standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the HMR with recent changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations. Additionally, PHMSA is adopting several amendments to the HMR that would allow for increased alignment with the Transport Canada, Transportation of Dangerous Goods Regulations.

DATES:

Effective date: This rule is effective May 11, 2020, except for instruction 17, which is effective January 2, 2023.

Voluntary compliance date: January 1, 2019.

Delayed compliance date: May 10, 2021.

Incorporation by reference date: The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of May 11, 2020.

FOR FURTHER INFORMATION CONTACT: Steven Webb, International Program or Aaron Wiener, International Program, telephone (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, East Building, 2nd Floor, Washington, DC 20590–0001.

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I. Executive Summary

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is amending the Hazardous Materials Regulations (HMR; 49 CFR parts 171 to 180) to maintain alignment with international regulations and standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. This rulemaking project is part of PHMSA's ongoing biennial process to harmonize the HMR with international regulations and standards.

As part of this biennial process, PHMSA is amending the HMR to incorporate changes from the 20th Revised Edition of the UN Model Regulations, Amendment 39–18 of the International Maritime Dangerous Goods (IMDG) Code, and the 2019–2020 International Civil Aviation Organization (ICAO) Technical Instructions, which became effective January 1, 2019.[1] Notable amendments to the HMR in this final rule include the following:

- *Incorporation by Reference:* PHMSA incorporates by reference the newest versions of various international hazardous materials (hazmat) standards, including: The 2019–2020 Edition of the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions); Amendment 39–18 to the International Maritime Dangerous Goods Code (IMDG Code); the 20th Revised Edition of the United Nations Recommendations on the Transport of Dangerous Goods (UN Model Regulations); Amendment 1 to the 6th Revised Edition of the UN Manual of Tests and Criteria; and the 7th Revised Edition of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS). Additionally, we are updating our incorporation by reference of the Transport Canada, Transportation of Dangerous Goods (TDG) Regulations to include: SOR/2016–95, published June 1, 2016; SOR/2017–137, published July 12, 2017; and SOR/2017–253, published December 13, 2017. Finally, PHMSA is adopting various updated International Organization for Standardization (ISO) standards.
- *Hazardous Materials Table:* PHMSA amends the Hazardous Materials Table (HMT; § 172.101) consistent with recent changes in the Dangerous Goods List of the UN Model Regulations, the IMDG Code, and the ICAO Technical Instructions. Specifically, PHMSA is making amendments to the HMT to add, revise, or remove certain proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, bulk packaging requirements, and passenger and cargo aircraft maximum quantity limits.
- *Articles Containing Dangerous Goods:* PHMSA adds a classification system for articles containing hazardous materials that do not already have a proper shipping name. This addresses situations in which hazardous materials or hazardous materials residues are present in articles, and authorizes a safe method to transport articles that may be too large to fit into typical packages.
- *Lithium Battery Test Summary:* PHMSA adds requirements regarding lithium battery test summaries. The HMR requires lithium battery manufacturers to subject lithium batteries and cells to appropriate UN design tests to ensure they are classified correctly for transport, and to develop records of successful test completion, called a test report. The test summary includes a standardized set of elements that provide traceability and accountability, thereby ensuring that lithium cell and battery designs offered for transport contain specific information on the required UN tests. The test summary must be made available to subsequent distributors.
- *Baggage Equipped with Lithium Batteries:* PHMSA is amending the aircraft passenger provisions for carriage

[1] Amendment 39–18 to the IMDG Code may be voluntarily applied on January 1, 2019; however, the previous amendment remained effective through December 31, 2019.

of baggage equipped with lithium batteries intended to power features such as location tracking, battery charging, digital weighing, or motors (sometimes referred to as ''smart luggage''). Specifically, baggage equipped with a lithium battery or batteries will be required to be carried in the cabin of the aircraft unless the battery or batteries are removed. This restriction in checked baggage does not apply to baggage containing lithium metal batteries with a lithium content not exceeding 0.3 grams, or lithium ion batteries with a Watt-hour (Wh) rating not exceeding 2.7 Wh.

• *Segregation of Lithium Batteries from Specific Hazardous Materials:* PHMSA is adding requirements to segregate lithium cells and batteries from certain other hazardous materials, notably flammable liquids, when offered for transport or transported on aircraft. PHMSA is taking this action to promote consistency with the ICAO Technical Instructions and to implement a National Transportation Safety Board (NTSB) Safety Recommendation (A–16–001) stemming from the investigation of the July 28, 2011, in-flight fire and crash of Asiana Airlines Flight 991 that resulted in the loss of the aircraft and crew. The investigation report cited the flammable materials and lithium ion batteries that were loaded together in either the same or adjacent pallets as a contributing factor to the accident.

• *Alternative Criteria for Classification of Corrosive Materials:* PHMSA is including non-testing alternatives for classifying corrosive mixtures using existing data on its chemical properties. Currently, the HMR require offerors to classify Class 8 corrosive material and assign a packing group based on test data. The HMR authorizes a skin corrosion test and various *in vitro* test methods that do not involve animal testing. However, data obtained from testing is currently the only data acceptable for classification and assigning a packing group. The alternatives added in this final rule afford offerors the ability to make a classification and packing group assignment without the need to conduct physical tests.

• *Provisions for Polymerizing Substances:* PHMSA is extending the sunset dates for provisions concerning the transportation of polymerizing substances from January 2, 2019 to January 2, 2023. This additional time will allow PHMSA to conduct research and analyze comments and data concerning the issue submitted to the docket for this rulemaking, to have a more comprehensive understanding of polymerizing substances and further consider the most appropriate transport provisions for these materials.

II. Background

Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*) directs PHMSA to participate in relevant international standard-setting bodies and promotes consistency of the HMR with international transport standards to the extent practicable. Federal hazmat law permits PHMSA to depart from international standards where a more stringent standard or requirement is necessary in the public interest or if a different standard or requirement is unnecessary or unsafe. However, Federal hazmat law otherwise encourages domestic and international harmonization (*see* 49 U.S.C. 5120).

Harmonization facilitates international trade by minimizing the costs and other burdens of complying with multiple or inconsistent safety requirements for transportation of hazardous materials. Safety is enhanced by creating a uniform framework for compliance. As the volume of hazardous materials transported in international commerce continues to grow, harmonization is increasingly important.

PHMSA published a notice of proposed rulemaking (NPRM) under Docket HM–215O [83 FR 60970 (November 27, 2018)] to incorporate various amendments to harmonize the HMR with recent changes to the IMDG Code, ICAO Technical Instructions, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations (UN Model Regulations). When considering alignment of the HMR with international standards, PHMSA reviews and evaluates each amendment on its own merit, on the basis of its overall impact on transportation safety, and on the basis of the economic implications associated with its adoption into the HMR. PHMSA's goal is to harmonize without diminishing the level of safety currently provided by the HMR or imposing undue burdens on the regulated community.

III. Incorporation by Reference Discussion Under 1 CFR Part 51

The UN Model Regulations, Manual of Tests and Criteria, and GHS, as well as all of the Transport Canada Clear Language Amendments, are free and easily accessible to the public on the internet, with access provided through the parent organization websites. The ICAO Technical Instructions, IMDG Code, and all ISO references are available for interested parties to purchase either print or electronic versions through the parent organization websites. The specific standards are discussed in greater detail in the section-by-section review (see § 171.7).

IV. NPRM Comment Discussion

In response to the November 27, 2018 NPRM [83 FR 60970], PHMSA received comments from the following organizations and individuals:

- Air Line Pilots Association, International (ALPA)
- Alaska Airlines
- Amazon
- American Coatings Association (ACA)
- Anonymous
- Anonymous 2
- Association of American Railroads and the American Short Line and Regional Railroad Association (AAR and ASLRRA)
- Association of Hazmat Shippers (AHS)
- The Basic Acrylic Monomer Manufacturers, Inc. (BAMM)
- Compressed Gas Association (CGA)
- Council on Safe Transportation of Hazardous Articles (COSTHA)
- Dangerous Goods Advisory Council (DGAC)
- The Dow Chemical Company (Dow)
- Frits Wybenga
- Gases and Welding Distributors Association
- Institute of Makers of Explosives (IME)
- Interested Parties for Hazardous Materials Transportation (Interested Parties)
- International Air Transport Association (IATA)
- International Vessel Operators Dangerous Goods Association (IVODGA)
- Yvonne Keller
- Medical Device Battery Transport Council (MDBTC)
- National Retail Federation (NRF)
- The Rechargeable Battery Association (PRBA)
- Reusable Industrial Packaging Association (RIPA)
- Transport Canada (TC)
- U.S. Chamber of Commerce (Chamber)
- Utility Solid Waste Activities Group (USWAG)

PHMSA received comments from the ACA, CGA, ALPA, IATA, DGAC, and the Chamber all providing general support for harmonization with international standards and additional support from CGA for the incorporation by reference of the proposed ISO standards. In addition, PHSMA received a comment from IME in support of updating the edition of the GHS that is incorporated by reference.

Comments concerning the issuance of a direct final rule, the sunset provisions for polymerizing substances, compliance and applicability dates for the test summary, fuel gas containment systems, damaged and defective lithium batteries, competency based training, and safety devices in dedicated handling devices are discussed below. PHMSA concluded that comments made by Anonymous 2, portions of comments made by MDBTC concerning ''receipted for in one lot,'' in § 173.185,[2] portions of comments made by Alaska Airlines concerning air transport provisions for fish meal, and portions of comments made by IME concerning amendments to packaging instruction US 1 in § 173.62,[3] are outside the scope of this rulemaking. Therefore, PHMSA did not address these comments in this rulemaking. All other comments specific to the respective HMR sections are addressed in the ''Section-by-Section Review'' of this document.[4]

Delays in Issuing the Final Rule

PHMSA received a comment from AAR and ASLRRA that indicated the delay associated with publication of a final rule ''presents immediate challenges for shippers and carriers involved in the transportation of hazardous materials across U.S. borders'' and suggested alternative ways for proceeding with the rulemaking. PHMSA recognizes that a delay in publication of this final rule may have presented challenges for shippers and carriers. To mitigate these challenges, on December 18, 2018, PHMSA issued a Notice of Enforcement Policy Regarding International Standards authorizing the use of the applicable international standards.[5] The notice explained that PHMSA would not take enforcement action against any offeror or carrier using the updated standards when all or part of the transportation is by air with respect to the ICAO TI, or all or part of the transportation is by vessel with respect to the IMDG code.

Sunset Provisions for Polymerizing Substances

In the March 30, 2017, final rule [HM–215N; 82 FR 15796], PHMSA added four new Division 4.1 entries for polymerizing substances to the HMT, and added defining criteria, authorized packagings, and safety requirements including, but not limited to, stabilization methods and operational controls into the HMR. In this prior rulemaking, PHMSA indicated that these changes would be in effect until January 2, 2019. During the interim time period between publication of that final rule and January 2, 2019, PHMSA indicated it would review and research the implications of the polymerizing substance amendments, and readdress the issue in the next international harmonization rulemaking. In the HM–215O NPRM, PHMSA proposed to extend the sunset dates for provisions concerning the transportation of polymerizing substances from January 2, 2019 to January 2, 2021 as the research is still in progress. PHMSA received comments from BAMM, DGAC, and Dow expressing support for the extension of the sunset provisions proposed in the HM–215O NPRM. These commenters also requested that PHMSA harmonize the requirements for temperature control of polymerizing substances in portable tanks and testing requirements for these substances intended to be carried in portable tanks or intermediate bulk containers (IBCs) with those found in the transport international standards while awaiting the results of a currently underway research project.

DGAC and Dow requested that the previously adopted changes to § 173.21 in the March 30, 2017, final rule [HM–215N; 82 FR 15796], requiring temperature control at 50 °C for portable tanks carrying polymerizing substances be harmonized with the internationally adopted 45 °C, while PHMSA awaits the outcome of ongoing research into polymerizing substances. BAMM, DGAC, and Dow requested that PHMSA not require polymerizing substances intended to be transported in portable tanks or IBCs to undergo the Test Series E heating under confinement testing. The commenters requested that the provisions for polymerizing substances be harmonized with those found in the applicable international standards while PHMSA awaits the outcome of ongoing research into polymerizing substances. DGAC and Dow commented that differing domestic and international temperature control thresholds before temperature control is required would result in materials with a self-accelerating polymerization temperature (SAPT) greater than 45 °C and less than or equal to 50 °C being subject to temperature control when transported in portable tanks in the United States, but not elsewhere in the world. BAMM, DGAC, and Dow expressed their view that because the recommended test methods for Test Series E were not specifically designed for polymerizing substances that the test results would be meaningless. The commenters did not raise any new reasons for not adopting the provisions beyond those previously addressed in the March 30, 2017 final rule [HM–215N; 82 FR 15796]. PHMSA understands the concerns raised by the commenters, but to ensure the safe and efficient transportation of these commodities, PHMSA is adopting the provisions as proposed in the NPRM and codified in the March 30, 2017, final rule for the reasons that were previously outlined [HM–215N; 82 FR 15796, 15798–99]. In brief, the rationale for adopting the 50 °C SAPT threshold before temperature control is required for transport in portable tanks is primarily that 50 °C is the maximum temperature reasonable expected to be experienced by any selfreactive, organic peroxide, and/or polymerizing substance. The rationale for requiring Test Series E testing for polymerizing substances intended to be transported in portable tanks or IBC is that Test Series E (or an equivalent performance measure) provides information on how the material behaves when heated under confinement. For additional discussion of these issues refer to the March 30, 2017 final rule [HM–215N; 82 FR 15796, 15798–99].

To accommodate additional potential delays in completion and reviewing the results of the research project on polymerizing substances, PHMSA is extending the date for the sunset provisions for an additional two years beyond the date proposed in the NPRM. The new sunset date for transport provisions concerning polymerizing substances is January 2, 2023.

Lithium Battery Test Summary

In the NPRM, PHMSA proposed the inclusion of lithium battery test summary requirements. The test summary includes a standardized set of elements that provide traceability and accountability to ensure that lithium cell and battery designs offered for transport contain specific information on the required UN tests. PHMSA proposed that manufacturers and subsequent distributers of lithium cells and batteries manufactured after June 30, 2003 must make test summaries available to others in the supply chain.

[2] Section 173.185 defines consignment to mean ''one or more packages of hazardous materials accepted by an operator from one shipper at one time and at one address, receipted for in one lot and moving to one consignee at one destination address.''

[3] Section 173.62 establishes specific packing requirements for explosives. US 1 is a packing instruction that is ''particular to the United States and not found in applicable international regulations.''

[4] Comments which were outside the scope of this rulemaking are not addressed in this final rule.

[5] *https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/international-program/70251/notice-enforcement-policy-international-standards.pdf.*

In the international standards, and as proposed in the NPRM, the lithium battery test summary requirements would have an effective date of January 1, 2020.

In response to the comments received, in this final rule, PHMSA is providing additonal background on the test summary. The development of the test summary by the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods spanned several years. The work was the outgrowth of an industry-identified problem concerning lack of availability of information needed to verify compliance and facilitate transportation. Specifically, the inability of shippers to access documentation verifying that lithium cells and batteries have successfully passed the tests prescribed in part III, sub-section 38.3 of the UN Manual of Tests and Criteria. In 2014, a trade association representing major rechargeable battery manufacturers relayed to the UN Sub-Committee that shippers were experiencing difficulties in verifying compliance with the UN 38.3 tests (See UN/SCETDG/46/INF.11, paragraph 15).[6] It was the industry group's suggestion to work within the UN Sub-Committee towards a summary format that would facilitate making available essential compliance information to all concerned. This suggestion led the UN Sub-Committee over the next two years in cooperation with government and industry stakeholders to develop a standardized list of information to be included in a test summary (see ST/SG/AC.10/C.3/100, paragraph 56).[7] PHMSA received several comments, which are discussed throughout this rulemaking and the associated RIA, concerning the potential costs of the test summary provisions. While providing no specific cost estimates, these commenters indicated that they believed implementing the test summary provisions as proposed would be more burdensome than PHMSA estimated. In this final rule, PHMSA is adopting changes to the compliance date, the implementation date, and several other variatons from the NPRM proposals that will reduce the burden on lithium cell and battery manufacturers and distributors.

Compliance Date

PHMSA received comments from Alaska Airlines, Amazon, Chamber, COSTHA, DGAC, MDBTC, NRF, PRBA, and an anonymous commenter concerning the proposed effective date of January 1, 2020 for the proposed test summary requirements. These commenters requested that PHMSA provide additional time to comply. Alaska Airlines commented that they hope the test summary requirements can be implemented by January 1, 2021. PRBA, Amazon, MDBTC, the Chamber, and NRF indicated that PHMSA should allow manufacturers and subsequent distributors until January 1, 2022 to comply with the test summary requirements. The DGAC recommended a one-year transition period following publication of the final rule. The commenters opined that the proposed compliance deadline of January 1, 2020 would not allow sufficient time for U.S. manufacturers and subsequent distributors of these products to establish procedures for preparing and securing test summaries. In their comments, NRF commented that it will take significant time for manufacturers and shippers, especially small companies, to develop and prepare the test summaries for their products. NRF opined that a longer implementation time will give companies enough time to identify, develop, and prepare the materials that are needed for compliance.

PHMSA agrees that additional time may be required to fully integrate systems, processes, and policies for preparing test summaries. The additional time can be used to help ensure the availability of test summaries and to prepare procedures for making test summaries available to subsequent distributors. In this final rule, the required compliance date for both the creation of and subsequent distribution upon request for test summaries is January 1, 2022.

COSTHA noted that using the same implementation date for both battery manufacturers and distributors presents the possibility that manufacturers could wait until December 31, 2021 to prepare the documents and distributors would not have any additional time to receive and make available the test summaries throughout the supply chain. COSTHA requested a staggered implementation date that would allow distributors an additional year to comply. PHMSA believes that the extended transition period for domestic implementation of the test summary requirements (two years after the requirements enter the IMDG Code and ICAO Technical Instructions) will mitigate this concern over shared implementation dates for shippers and distributors by providing additional time for battery distributers to work with manufacturers to acquire the necessary information and establish mechanisms for further distribution.

Applicability Date

PHMSA received comments from PRBA, NRF, DGAC, MDBTC, Amazon, and the Chamber requesting that PHMSA reconsider which lithium batteries require a test summary be created and made available. PHMSA proposed a requirement that a test summary be made available for all lithium cells and batteries manufactured after June 30, 2003, and that manufacturers and subsequent distributers of lithium cells and batteries manufactured after June 30, 2003, must make this information available to others in the supply chain.

PRBA commented that ''[i]t is not practicable to require the post-hoc generation of a Test Summary for batteries that were manufactured as far back as 2003,'' and asked that PHMSA adopt a date that requires the creation of test summaries and subsequent distribution for only batteries and cells manufactured after the effective date of the provisions. In conjunction with its request to extend the compliance date for the test summary generally to January 1, 2022, PRBA requests that only batteries and cells manufactured after this date require test summaries and subsequent distribution. The Chamber also requested that the applicability be limited to lithium cells and batteries manufactured after January 1, 2022 noting that ''there may be times when distributors are shipping older battery designs that were manufactured by a company that is no longer in business. In instances like this, it may be impossible for shippers to acquire the necessary information for the TS.'' The NRF and Amazon commented with similar requests to limit the scope of batteries subject to the test summary by using the effective date of the requirement which would then apply the requirements to cells and batteries currently in production and those made going forward. The NRF noted that it would be incredibly difficult and burdensome to locate a test certification and create a test summary for batteries dating back up to 17 years. MDBTC supported requiring test summary documents for only lithium cells and batteries manufactured after January 1, 2014.

PHMSA recognizes the comments noting the potential difficulty in obtaining test summaries for older batteries, particularly in cases where a manufacturer may no longer be in business or has merged with another company. Therefore, PHMSA is applying the test summary requirements

[6] *https://www.unece.org/fileadmin/DAM/trans/doc/2014/dgac10c3/UN-SCETDG-46-INF11e.pdf.*

[7] *https://www.unece.org/fileadmin/DAM/trans/doc/2016/dgac10c3/ST-SG-AC10-C3-100e.pdf.*

only to cells and batteries manufactured after January 1, 2008. This date is the effective date of the final rule that required all lithium batteries (including small batteries) be of the type proven to meet the criteria in part III, sub-section 38.3 of the UN Manual of Tests and Criteria (''Hazardous Materials; Transportation of Lithium Batteries,'' August 9, 2007, 72 FR 44929). As of January 1, 2008, all batteries transported in accordance with the HMR should have valid test reports that will help facilitate the creation of and availability of test summaries. PHMSA believes that amending the scope of cells and batteries that require a test summary to those manufactured after January 1, 2008 will lead to fewer instances where insufficient information will be available to create the required test summary while still capturing the majority of batteries and cells being offered for transportation.

PHMSA reiterates the importance of the test summary in providing confirmation to users that the battery is from a legitimate and compliant source and allowing those in the transport chain to more easily identify non-counterfeit products. Additionally, PHMSA maintains that the creation and subsequent distribution of test summaries for lithium batteries provides an enhanced mechanism for shippers to meet their existing requirement to only offer lithium cells and batteries of a type proven to meet the criteria in part III, sub-section 38.3 of the UN Manual of Tests and Criteria. The availability of specific information in the test summary document will enhance the users' ability to obtain the information needed to ensure they are receiving, and potentially reoffering for transportation, a battery that is of a tested and approved type.

Fuel Gas Containment Systems

In the NPRM, PHMSA discussed amendments to international standards that are not being considered for adoption. As stated in the NPRM, the 20th Revised Edition to the UN Model Regulations added a special provision to allow for the transportation of vehicle fuel gas containment systems containing certain gases, such as compressed natural gas and liquified petroleum gas, transported for disposal, recycling, repair, inspection, maintenance, or from where they are manufactured to a vehicle assembly plant. The provisions allow for gaseous fuels to be transported in fuel tanks designed for vehicles meeting certain European automotive standards rather than specification pressure receptacles. In the NPRM, PHMSA explained that the vehicle specification pressure vessels that are incorporated and authorized by the UN Model Regulations do not apply to U.S. domestic transportation as most of the fuel gas containment standards that are addressed in the UN Model Regulations are more appropriate for European road and rail regulations. PHMSA solicited comments on the fuel gas containment systems amendment in the UN Model Regulations and asked whether it would benefit industry to include a similar amendment in the HMR.

PHMSA received a comment from COSTHA on the decision not to include provisions for fuel gas containment decisions. The commenter disagreed with the view that the amendments are more appropriate for European regulations. COSTHA commented on the benefits of adopting the provisions into the HMR. COSTHA opined that when fuel tanks are removed from the vehicle and offered for transportation they are constructed to meet motor vehicle standards, but the tanks will not be permitted for transport of gaseous fuels under the HMR without the gas being completely removed from the tank. COSTHA further commented that the gas removal process has the potential to lead to dangerous situations at repair shops, dealers, and disposal locations not equipped to properly empty these fuel tanks. COSTHA notes that U.S. automobile manufacturers often use UN or Global Technical Regulations to demonstrate compliance with equivalent Federal Motor Vehicle Safety Standards (FMVSS).[8] In addition, COSTHA supports referencing applicable FMVSS in the HMR to facilitate U.S. domestic gas containment system transport.

PHMSA thanks COSTHA for its comments on this topic, and PHMSA understands the concerns related to difficulties in ensuring gas is removed from these cylinders prior to transport, but it would be premature to adopt the FMVSS requirements into the HMR. The FMVSS requirements are not presently incorporated in the UN Model Regulations, and adoption of the FMVSS requirements would require additional coordination with Federal agencies outside of PHMSA. PHMSA may consider this action in a future rulemaking and invites COSTHA to file a petition for rulemaking in accordance with 49 CFR 106.95, 106.100 and 106.105, to formally request this change be made in the HMR. Additonally, PHMSA believes that a more comprehensive review of the current domestic standards used by vehicle fuel gas containment systems is necessary prior to incorporation in the HMR to help ensure safety standards that most closely align with existing practices are incorporated. The request could be further evaluated for merit to address in an upcoming rulemaking.

Damaged and Defective Lithium Batteries

In the NPRM, PHMSA discussed amendments to international standards not being considered for adoption. As stated in the NPRM, the 20th Revised Edition of the UN Model Regulations adopted transportation provisions for damaged and defective cells and batteries liable to rapidly disassemble, dangerously react, or produce a flame, a dangerous evolution of heat, or a dangerous emission of toxic, corrosive, or flammable gases or vapors under normal conditions of transport (UN Nos. 3090, 3091, 3480 and 3481). In the NPRM, PHMSA explained that the existing packaging and hazard communication requirements in § 173.185(f) sufficiently address consignments of this nature. PHMSA received one comment from MDBTC in support of not adopting the provisions for damaged and defective lithium batteries.

Competency-Based Training

PHMSA received comments from AAR and ASLRRA, ACA, AHS, Alaska Airlines, CGA, COSTHA, DGAC, Dow, IATA, IME, Interested Parties, IVODGA, MDBTC, and RIPA in response to our request for comments on the principles of Competency-Based Training, recently published in the attachments of the ICAO Technical Instructions. As noted in the NPRM, the provisions concerning Competency-Based Training were not finalized or adopted in the 2017–2018 ICAO Technical Instructions and there were no proposals concerning this topic in the NPRM. PHMSA thanks all commenters for their views on the issue and, as noted in the NPRM, comments will be considered for the betterment of PHMSA's work in various international forums.

Safety Devices in Dedicated Handling Devices

PHMSA received a comment from COSTHA concerning safety devices in dedicated handling devices. COSTHA commented that PHMSA should align the provisions of § 173.166(e)(4)(i) with the UN Model Regulations and the IMDG Code to authorize unpackaged articles in dedicated handling devices, vehicles, or containers to, from, or

[8] National Highway Transportation Safety Administration issues FMVSS. The regulations establishing the FMVSS are primarily found at 49 CFR part 571. *https://www.nhtsa.gov/laws-regulations/fmvss.*

between where they are manufactured and an assembly plant including intermediate handling locations. PHMSA notes that the provisions adopted by the UN and the IMDG Code are currently authorized in §§ 173.166(e)(4)(i) and (ii), therefore no additional action is required.

V. Section-By-Section Review

The following is a section-by-section review of the amendments adopted in this final rule:

Part 171—General Information, Regulations, and Definitions

Section 171.7 Reference Material

Section 171.7 provides a listing of all voluntary consensus standards incorporated by reference into the HMR, as directed by the ''National Technology Transfer and Advancement Act of 1995.'' According to the Office of Management and Budget (OMB), Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,'' and in accordance with Sec 12(d)(1) of the ''National Technology Transfer and Advancement Act of 1995,'' government agencies must use voluntary consensus standards wherever practical in the development of regulations. When properly conducted, agency adoption of industry standards promotes productivity and efficiency in government and industry, expands opportunities for international trade, conserves resources, improves health and safety, and protects the environment.

PHMSA actively participates in the development and updating of consensus standards through representation on more than 20 consensus standard bodies, and it regularly reviews updated consensus standards to consider their merit for inclusion in the HMR. For this rulemaking, PHMSA evaluated updated international consensus standards pertaining to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. It determined that the revised standards provide an enhanced level of safety without imposing significant compliance burdens. These standards have well-established and documented safety histories, and their adoption will maintain the high safety standard currently achieved under the HMR. Therefore, in this final rule, PHMSA is adding and revising the following incorporation by reference materials:

• Paragraph (s)(2) is added, to incorporate the International Atomic Energy Agency Code of Conduct on the Safety and Security of Radioactive Sources. Section 172.800 references the incorporation by reference of this document; however, this entry does not currently appear in § 171.7. The addition of this paragraph corrects this oversight. The incorporation of this document in § 172.800 provides a list of Category 1 and 2 radioactive sources for which offerors or carriers require a security plan.

• Paragraph (t)(1), which incorporates the *International Civil Aviation Organization* Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), 2017–2018 Edition, is revised to incorporate the 2019–2020 Edition. These instructions contain the detailed instructions for the international transport of hazardous materials by air. In a previous rulemaking, [Docket No. PHMSA–2015–0102 (HM–219A); 83 FR 55792], PHMSA added § 172.407 to the list of sections in paragraph (t)(1) and (v)(2). The NPRM did not account for this addition, and in this final rule § 172.407 has been added to the list in paragraphs (t)(1) and (v)(2) consistent with the earlier published final rule.

• Paragraph (v)(2), which incorporates the *International Maritime Organization* International Maritime Dangerous Goods Code (IMDG Code), incorporating Amendment 38–16 (English Edition), is revised to incorporate the 39–18 (English Edition), 2018 Edition. This code contains detailed instructions for the international transport of hazardous materials by vessel.

• Paragraph (w), which incorporates various *International Organization for Standardization* entries, is revised to incorporate by reference standards for the specification, design, construction, testing, and use of gas cylinders:

—ISO 11118(E), Gas cylinders—Non-refillable metallic gas cylinders—Specification and test methods is replaced by ISO 11118:2015(E), Gas cylinders—Non-refillable metallic gas cylinders—Specification and test methods in paragraph (w)(53). The purpose of this standard is to provide a specification for the design, manufacture, inspection, and testing of non-refillable metallic gas cylinders for worldwide safe use, handling, and transport. The updated version of ISO 11118 includes, among other edits, clarified requirements for the processing of carbon steel to avoid strain aging and the inclusion of alternative temperatures for artificial aging of carbon steel cylinders prior to burst testing.

—ISO 11120(E), Gas cylinders—Refillable seamless steel tubes of water capacity between 150 L and 3000 L—Design, construction and testing, First edition, March 1999 is replaced by ISO 11120:2015(E), Gas cylinders—Refillable seamless steel tubes of water capacity between 150 L and 3,000 L—Design, construction and testing in paragraph (w)(62). This standard provides a specification for the design, manufacture, inspection and testing of tubes at the time of manufacture for worldwide usage. The updated version of ISO 11120 includes, among other edits, the modification of ultrasonic provisions for ultrasonic examination in 8.3 to include ultrasonic examination for wall thickness and for imperfections also on the supplied tubing and revision of the provisions for design of tubes for embrittling gases.

—ISO 11623(E), Transportable gas cylinders—Periodic inspection and testing of composite gas cylinders, First edition, March 2002 is replaced by ISO 11623:2015(E), Gas cylinders—Composite construction—Periodic inspection and testing in paragraph (w)(66). This standard specifies the requirements for periodic inspection and testing and to verify the integrity for further service of hoop-wrapped and fully-wrapped composite transportable gas cylinders, with aluminum-alloy, steel or non-metallic liners or of linerless construction (Types 2, 3, 4, and 5), intended for compressed, liquefied or dissolved gases under pressure, of water capacity from .5 L up to 450 L. The updated version of ISO 11623 includes, among other edits, updated terminology, particularly for the various types of composite cylinders, and moves information regarding intervals between periodic inspection and testing based on cylinder type into the new Annex C (formerly listed in Tables 1 through 4).

—ISO 14246:2014(E), Gas cylinders—Cylinder valves—Manufacturing tests and examination is added in paragraph (w)(69). This standard covers the function of a cylinder valve as a closure.

—ISO 16148:2016(E), Gas cylinders—Refillable seamless steel gas cylinders and tubes—Acoustic emission examination (AT) and follow-up ultrasonic examination (UT) for periodic inspection and testing is added in paragraph (w)(71). This International Standard describes two methods of AT, defined as Method A and Method B, and a method of

follow-up UT. These non-destructive examination techniques are an alternative to conventional testing procedures for cylinders and tubes.

—ISO 17871:2015(E) Gas cylinders—Quick-release cylinder valves—Specification and type testing is added in paragraph (w)(72). This standard covers the function of a quick-release cylinder valve as a closure.

—ISO 21172–1:2015(E), Gas cylinders—Welded steel pressure drums up to 3,000 litres capacity for the transport of gases—Design and construction—Part 1: Capacities up to 1,000 litres is added in paragraph (w)(75). This standard provides a specification for the design, manufacture, inspection, and approval of welded steel gas pressure drums.

—ISO 22434:2006(E), Transportable gas cylinders—Inspection and maintenance of cylinder valves is added in paragraph (w)(76). This standard specifies the requirements for the inspection and maintenance of cylinder valves, including valves with integrated pressure regulators.

—ISO/TR 11364:2012(E), Gas cylinders—Compilation of national and international valve stem/gas cylinder neck threads and their identification and marking system is added in paragraph (w)(77). The purpose of this standard is to list all known cylinder/valve threads currently used and also threads used in the past and to specify a harmonized identification code and marking system for both cylinders and valves.

• Paragraphs (aa)(1)–(4), which updates four (4) existing *Organization for Economic Cooperation and Development* (OECD) guidelines concerning corrosivity testing (Nos. 404, 430, 431, & 435). The references to these standards are updated to the 2015 versions of the standards. Updated OECD Guideline 404 and OECD Guideline 435 contain minor variations in the types of information to be recorded as a part of the test report. Updated OECD Guideline 430 and OECD Guideline 431 include references to a developed document on integrated approaches to testing and assessment.

• Paragraph (bb)(1), which incorporates the *Transport Canada* Transportation of Dangerous Goods Regulations, adds subparagraphs (xx), (xxi), and (xxii), to include SOR/2016–95 published June 1, 2016; SOR/2017–137 published July 12, 2017; and SOR/2017–253 published December 13, 2017, respectively. These additions are to incorporate changes to the *Transport Canada* Transportation of Dangerous Goods Regulations. SOR/2016–95 contains amendments concerning reporting requirements and international restrictions on lithium batteries. SOR/2017–137 contains amendments related to international harmonization. SOR/2017–253 containes amendments related to marine transportation.

• Paragraph (bb)(2) is added to incorporate by reference Containers for Transport of Dangerous Goods by Rail, a *Transport Canada* standard that was published in 2013. The standard applies to the design, manufacture, maintenance and qualification of tank cars and ton containers and the selection and use of large containers or transport units used in the handling, offering for transport, or transporting of dangerous goods by rail.

• Paragraph (dd)(1), which incorporates the *United Nations* Recommendations on the Transport of Dangerous Goods—Model Regulations, 19th Revised Edition (2015), Volumes I and II, is revised to incorporate the 20th Revised Edition (2017), Volumes I and II. This standard presents a basic scheme of provisions that allow uniform development of national and international regulations governing the various modes of transport. In a previous rulemaking, [Docket No. PHMSA–2015–0102 (HM–219A); 83 FR 55792], PHMSA added § 172.519 to the list of sections in paragraph (dd)(1). The NPRM did not account for this addition and in this final rule, § 172.519 has been added to the list in paragraph (dd)(1) consistent with the earlier published final rule.

• Paragraph (dd)(2)(ii) is added to incorporate the United Nations Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, 6th Revised Edition, Amendment 1. This standard contains criteria, test methods, and procedures to be used for the classification of hazardous materials according to the UN Model Regulations.

• Paragraph (dd)(3), which incorporates the *United Nations* Recommendations on the Transport of Dangerous Goods, Globally Harmonized System of Classification and Labelling of Chemicals Sixth revised edition (2015), is revised to incorporate the *United Nations* Recommendations on the Transport of Dangerous Goods, Globally Harmonized System of Classification and Labelling of Chemicals (GHS), Seventh revised edition (2017). This standard helps identify the intrinsic hazards found in substances and mixtures and to convey information about these hazards.

Section 171.8 Definitions and Abbreviations

Section 171.8 defines terms generally used throughout the HMR that have broad or multi-modal applicability. In this final rule, PHMSA is amending the definition of ''UN pressure receptacle'' to include pressure drums. Additionally, PHMSA is adding a definition for ''UN Pressure drum'' to mean a welded transportable pressure receptacle of a water capacity exceeding 150 L and not more than 1,000 L (*e.g.,* cylindrical receptacles equipped with rolling hoops, spheres on skids). These amendments provide defining terms related to pressure drums for which ISO 21172–1:2015(E) Gas cylinders—Welded steel pressure drums up to 3,000 litres capacity for the transport of gases—Design and construction—Part 1: Capacities up to 1,000 litres is incorporated in § 178.71.

Section 171.12 North American Shipments

Section 171.12 prescribes requirements for the use of the Transport Canada TDG Regulations. In a March 30, 2017, final rule [HM–215N; 82 FR 15796], PHMSA amended the HMR to expand recognition of cylinders and pressure receptacles, cargo tank repair facilities, and certificates of equivalency (an authorization to conduct an activity in compliance with the conditions of that authorization instead of the standard requirements) in accordance with the TDG Regulations. The goal of these amendments is to promote flexibility and permit the use of advanced technology for the requalification and use of pressure receptacles; doing so will provide for a broader selection of authorized pressure receptacles, reduce the need for special permits, and to facilitate cross-border transportation of these cylinders. In this final rule, PHMSA is clarifying the recognition of certificates of equivalency issued by Transport Canada. Transport Canada issues equivalency certificates as both a competent authority approval and for an alternative means of compliance with TDG Regulations. PHMSA provides reciprocity for equivalency certificates that are issued by Transport Canada as an alternative to the TDG Regulations; PHMSA does not provide recognition to Canada's competent authority approvals. In this final rule, PHMSA is amending paragraph (a)(1) to clarify the extent of reciprocity regarding certificates of equivalency.

Additionally, PHMSA is amending paragraph (a)(3)(v) to update the standard incorporated by reference to

which Canadian rail cars must conform. The existing reference to the Canadian General Standards Board standard 43.147 is replaced with Containers for Transport of Dangerous Goods by Rail (2013).

PHMSA received comments of general support from the Dow and DGAC. Dow specifically mentioned support for the incorporation by reference of the Containers for Transport of Dangerous Goods by Rail and clarification of the certificates of equivalency.

PHMSA received a comment from Transport Canada suggesting that the terms ''pressure drum'' and ''pressure receptacle'' addressed in § 171.8 of this final rule, also be included in § 171.12 in a manner that promotes reciprocity between the United States and Canada. We agree with the commenter and in this final rule are adding the terms ''pressure drum'' and ''UN pressure receptacle'' to § 171.12 and authorizing use of these packages when marked with the letters ''CAN.''

Part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans

Section 172.101 Purpose and Use of Hazardous Materials Table

Section 172.101 contains the HMT and provides instructions for its use. In this final rule, PHMSA is revising the instructional text that precedes the HMT for paragraph (e) of this section.

Paragraph (e) of § 172.101 provides instructions for the use of column (4) of the HMT. Column (4) lists the identification number assigned to each proper shipping name. Most identification numbers are preceded by the letters ''UN'' and are associated with proper shipping names, which may be used for both domestic and international transportation. Some proper shipping names are assigned ''NA'' or ''North American'' numbers. In the NPRM, PHMSA proposed a revision to paragraph (e) to indicate that NA numbers are only recognized for use in the United States. In the NPRM, PHMSA stated that NA numbers are not authorized in Canada because the TDG limit the use of NA numbers to materials classified as ''Consumer commodity,'' and do not allow for the use of other NA numbers. Transport Canada made this amendment in August 15, 2001 with SOR 2001–186.[9] The TDG, Part 9.1 Transporting Dangerous Goods from the United States into or through Canada state that the HMR may be followed as an alternative to the TDG if certain conditions are met, including that ''the classification in Schedule 1 or in the UN Recommendations, for dangerous goods that have the letter ''D'' assigned to them in column 1 of the table to section 172.101 of 49 CFR, except for dangerous goods with the shipping name 'Consumer commodity'.'' The letter ''D'' is assigned to NA numbers. Therefore, NA numbers are not recognized for shipments from a place in the United States to a place in Canada or from a place in the United States through Canada to a place outside Canada. As such, PHMSA is revising the HMR to be consistent with Canada's national regulations. PHMSA received comments from DGAC on the use of NA numbers in § 172.101(e), North American Shipments. Specifically, DGAC stated this change will eliminate mutual recognition of NA numbers between the United States and Canada. Although the text in § 172.101(e), stating that NA numbers are not recognized for international transportation, except to and from Canada, was not previously amended to align with the TDG, the mutual recognition of NA numbers has not been permitted under the TDG since the August 15, 2001 publication. NA numbers will continue to be recognized for shipments within the United States.

1. Hazardous Materials Table (HMT)

In this final rule, PHMSA is amending the HMT. Readers should review all changes for a complete understanding of the amendments. For purposes of the U.S. Government Printing Office's typesetting procedures, proposed changes to the HMT appear under three sections of the Table, ''remove,'' ''add,'' and ''revise.'' Certain entries in the HMT, such as those with revisions to the proper shipping names, appear as a ''remove'' and ''add.'' The amendments to the HMT include the following:

2. New HMT Entries

- UN3537 Articles containing flammable gas, n.o.s.
- UN3538 Articles containing non-flammable, non-toxic gas, n.o.s.
- UN3539 Articles containing toxic gas, n.o.s.
- UN3540 Articles containing flammable liquid, n.o.s.
- UN3541 Articles containing flammable solid, n.o.s.
- UN3542 Articles containing a substance liable to spontaneous combustion, n.o.s.
- UN3543 Articles containing a substance which in contact with water emits flammable gases, n.o.s.
- UN3544 Articles containing oxidizing substance, n.o.s.
- UN3545 Articles containing organic peroxide, n.o.s.
- UN3546 Articles containing toxic substance, n.o.s.
- UN3547 Articles containing corrosive substance, n.o.s.
- UN3548 Articles containing miscellaneous dangerous goods, n.o.s.

PHMSA is adding a classification scheme for articles containing hazardous materials not otherwise specified by name in the HMR that contain hazardous materials of various hazard classes and divisions. This addresses transportation scenarios where various hazardous materials or hazardous materials residues are present in articles above the quantities currently authorized for dangerous goods in machinery or apparatus. This authorizes safe and secure methods to transport articles that may be too large to fit into typical packagings. Absent provisions to package and transport these materials safely, such articles may be offered for transport under provisions that do not adequately account for the physical and chemical properties of the substances or mode of transport and may require the issuance of an approval by the Associate Administrator for Hazardous Materials Safety.

- UN3535 Toxic solid, flammable, inorganic, n.o.s.

Consistent with the 20th Revised Edition of the UN Model Regulations, this new generic entry addresses toxic solids with a flammable subsidiary risk in Packing Groups (PG) I and II.

- UN3536 Lithium batteries installed in cargo transport unit *lithium ion batteries or lithium metal batteries*

This new HMT entry addresses lithium metal and lithium ion batteries that are installed in a cargo transport unit and designed only to provide power external to the cargo transport unit. The lithium batteries must meet the requirements of § 173.185 and contain the necessary systems to prevent overcharge and over discharge between the batteries. Such units are forbidden for transport on aircraft. PHMSA received one comment on the proposed changes to § 172.101 from PRBA supporting the new entry of UN3536 in the table.

3. Amendments to Column (2) Hazardous Materials Descriptions and Proper Shipping Names

Section 172.101(c) describes column (2) of the HMT and the requirements for hazardous materials descriptions and proper shipping names. For the entry ''2-Dimethylaminoethyl acrylate,'' the word ''stabilized'' is added to the end,

[9] *http://www.gazette.gc.ca/rp-pr/p2/2001/2001-08-15-s/pdf/g2-135s1.pdf.*

as the substance has been determined to polymerize in certain conditions.

4. Amendments to Column (5) Packing Group

The HMT entries for articles ''UN3316, Chemical kit'' and ''UN3316, First aid kit'' are revised to remove Packing Group II and III assignments. This revision reverts the entries to a single row with the packing group column left blank as they existed prior to adding the Packing Group II and III assignments in a final rule published on January 8, 2015 [Docket No. PHMSA–2013–0260 (HM–215M); 80 FR 1075]. This revision addresses situations where materials in the kits are not assigned to a packing group or have Packing Group I assigned, as permitted by § 173.161.

5. Amendments to Column (7) Special Provisions

Section 172.101(h) describes column (7) of the HMT, which contains special provisions for each entry in the table. Section 172.102(c) prescribes the special provisions assigned to specific entries in the HMT. The modifications to the entries in the HMT are discussed below.

In an October 18, 2018, final rule, entitled ''Notification of the Pilot-in-Command and Response to Air Related Petitions for Rulemaking'' [(HM–259); 83 FR 52878], PHMSA removed special provision A6 from UN numbers 2789, 2790, 1715, 1717, 1723, 1732, 1739, 1758, 2240, 3264, 3265, 1764, 1765, 1768, 1775, 1776, 1778, 1777, 1782, 1786, 1790, 2031, 2308, 1808, 2258, 2879, 1818, 2564, 2699, 2502, 2443, and 2444. However, the HM–215O NPRM incorrectly showed special provision A6 as still being applicable to these entries. Therefore, in this final rule, A6 is not assigned to these HMT entries consistent with the previously published HM–259 final rule.

Similarly, in the HM–259 final rule, PHMSA removed special provision A3 from UN numbers 1739, 2604, 1758, 2240, 1183, 1777, 1242, 1798, 1873, 2879, 1828, 1831, 2699, and 2444. However, the HM–215O NPRM incorrectly showed special provision A3 as still being applicable to these entries. Therefore, in this final rule, A3 is not assigned to these HMT entries consistent with the previously published HM–259 final rule.

Finally, in a March 6, 2019, interim final rule (IFR) [(HM–224I); 84 FR 8006], PHMSA removed special provision A51 from UN3480 and added special provision A100 to UN 3480. However, the HM–215O NPRM did not account for this action and in this final rule, A51 is removed from UN3480 and A100 is added to UN 3480 consistent with the previously published HM–224I IFR.

See ''Section 172.102 special provisions'' below for a detailed discussion of the additions, revisions, and deletions to the special provisions addressed in this final rule.

• *Special provision 325.* Special provision 325 is added to the following HMT entries:

UN2912 Radioactive material, low specific activity (LSA–I) *non-fissile or fissile-excepted*
UN2913 Radioactive material, surface contaminated objects (SCO–I or SCO–II) *non-fissile or fissile-excepted*
UN2915 Radioactive material, Type A package *non-special form, non-fissile or fissile-excepted*
UN2916 Radioactive material, Type B(U) package *non-fissile or fissile-excepted*
UN2917 Radioactive material, Type B(M) package *non-fissile or fissile-excepted*
UN2919 Radioactive material, transported under special arrangement, *non-fissile or fissile-excepted*
UN3321 Radioactive material, low specific activity (LSA–II) *non-fissile or fissile-excepted*
UN3322 Radioactive material, low specific activity (LSA–III) *non-fissile or fissile-excepted*

• *Special provision 347.* Special provision 347 restricts the use of certain HMT entries classed as Division 1.4S explosive materials to those articles successfully passing Test Series 6(d) of Part I of the UN Manual of Tests and Criteria. The 6(d) test is a test on a single package to determine if there are hazardous effects outside the package arising from accidental ignition or initiation of the contents. A Division 1.4 explosive is defined as an explosive that presents a minor explosion hazard such that hazardous effects are confined to a package and no projection of fragments of appreciable size or range are expected; and that an external fire must not cause virtually instantaneous explosion of almost the entire contents of a package containing a Division 1.4 explosive. Explosive articles or substances are assigned to Division 1.4, Compatibility Group S (1.4S) if hazardous effects are confined within a package or the blast and projection effects do not significantly hinder emergency response efforts.

Special provision 347 is presently assigned to eight (8) Division 1.4S entries in the HMT including shaped charges, detonators, power device cartridges, detonator assemblies, and plastic bonded bursting charges. Following a review of other Division 1.4S entries, the UN Working Group on Explosives supported applying special provision 347 to entries for Division 1.4S articles and substances that are generic or ''not otherwise specified'' (n.o.s.), and to UN 0367 (Fuzes, detonating) that are normally package dependent. The UN Working Group noted that generic entries normally warrant more systematic testing. In the NPRM, PHMSA requested comment on whether this provision is likely to have net benefits. PHMSA received one comment from IME stating that the ''addition of the special provision will benefit transportation safety and that the additional costs are, accordingly justified.'' Therefore, in this final rule, consistent with the UN Model Regulations, PHMSA is adding special provision 347 to the following entries:

UN0349 Articles, explosives, n.o.s.
UN0367 Fuzes, detonating
UN0384 Components, explosive train, n.o.s.
UN0481 Substances, explosive, n.o.s.

• *Special provision 368.* Special provision 368 prescribes requirements for non-fissile or fissile-excepted uranium hexafluoride that must be described as UN3507 or UN2978, as appropriate. Based on an informal working paper submitted at the 50th session of the UN Sub-Committee of Experts (SCOE) on the Transport of Dangerous Goods that highlighted potential errors in the 19th revised edition of the Model Regulations, it was agreed that special provision 368 should have been assigned to ''UN 2908, Radioactive material, excepted package—empty packaging'' because empty uncleaned packagings containing residues of non-fissile or fissile-excepted uranium hexafluoride should be classified under UN3507 or UN2978 as appropriate. Therefore, in this final rule, PHMSA is assigning special provision 368 to the following entry to aid shippers:

UN2908 Radioactive material, excepted package—empty packaging.

• *Special provision 369.* Special provision 369 is revised for clarity and is applicable to the following HMT entry:

UN3507 Uranium hexafluoride, radioactive material, excepted package, *less than 0.1 kg per package, non-fissile or fissile-excepted*

• *Special provision 383.* Consistent with the deletion of this special provision in section 172.102, special provision 383 is removed from the following PG II HMT entries:

UN1133 Adhesives, *containing a flammable liquid*

UN1263 Paint related material *including paint thinning, drying, removing, or reducing compound*
UN1263 Paint *including paint, lacquer, enamel, stain, shellac solutions, varnish, polish, liquid filler and liquid lacquer base*
UN1210 Printing ink, *flammable or* Printing ink related material *(including printing ink thinning or reducing compound), flammable*
UN1866 Resin Solution, *flammable*

• *Special provision 388.* New special provision 388 is added to the following HMT entries:

UN3090 Lithium metal batteries *including lithium alloy batteries*
UN3091 Lithium metal batteries contained in equipment *including lithium alloy batteries*
UN3091 Lithium metal batteries packed with equipment *including lithium alloy batteries*
UN3480 Lithium ion batteries *including lithium ion polymer batteries*
UN3481 Lithium ion batteries contained in equipment *including lithium ion polymer batteries*
UN3481 Lithium ion batteries packed with equipment *including lithium ion polymer batteries*

• *Special provision 389.* New special provision 389 providing applicable transport conditions is added to the following new HMT entry:

UN3536 Lithium batteries installed in cargo transport unit *lithium ion batteries or lithium metal batteries*

• *Special provision 391.* New special provision 391 is added to the following new HMT entries:

UN3537 Articles containing flammable gas, n.o.s.
UN3538 Articles containing non-flammable, non-toxic gas, n.o.s.
UN3539 Articles containing toxic gas, n.o.s.
UN3540 Articles containing flammable liquid, n.o.s.
UN3541 Articles containing flammable solid, n.o.s.
UN3542 Articles containing a substance liable to spontaneous combustion, n.o.s.
UN3543Articles containing a substance which in contact with water emits flammable gases, n.o.s.
UN3544 Articles containing oxidizing substance, n.o.s.
UN3545 Articles containing organic peroxide, n.o.s.
UN3546 Articles containing toxic substance, n.o.s.
UN3547 Articles containing corrosive substance, n.o.s.
UN3548 Articles containing miscellaneous dangerous goods, n.o.s.

• *Special provision B136.* PHMSA is adding new special provision B136 to the following HMT entries:

UN1363 Copra
UN1386 Seed cake, *containing vegetable oil solvent extractions and expelled seeds, with not more than 10 percent of oil and when the amount of moisture is higher than 11 percent, with not more than 20 percent of oil and moisture combined*
UN1386 Seed cake *with more than 1.5 percent oil and not more than 11 percent moisture*
UN1398 Aluminum silicon powder, uncoated
UN1435 Zinc ashes
UN2071 Ammonium nitrate based fertilizer
UN2216 Fish meal, stabilized *or* Fish scrap, stabilized
UN2217 Seed cake *with not more than 1.5 percent oil and not more than 11 percent moisture*
UN2793 Ferrous metal borings *or* Ferrous metal shavings *or* Ferrous metal turnings *or* Ferrous metal cuttings *in a form liable to self-heating*

• *Special provisions W31 and W32.* Special provision W32 is removed from the following PG I HMT entries (unless otherwise noted in Table 1) and replaced with special provision W31:

TABLE 1

Proper shipping name	UN No.
Calcium phosphide	UN1360
Aluminum phosphide	UN1397
Calcium carbide	UN1402
Calcium hydride	UN1404
Cesium *or* Caesium	UN1407
Metal hydrides, water reactive, n.o.s.	UN1409
Lithium aluminum hydride	UN1410
Lithium borohydride	UN1413
Lithium hydride	UN1414
Lithium	UN1415
Magnesium, powder *or* Magnesium alloys, powder.	UN1418
Magnesium aluminum phosphide	UN1419
Rubidium	UN1423
Sodium borohydride	UN1426
Sodium hydride	UN1427
Sodium	UN1428
Sodium phosphide	UN1432
Stannic phosphide	UN1433
Zinc phosphide	UN1714
Potassium borohydride	UN1870
Magnesium hydride	UN2010
Magnesium phosphide	UN2011
Potassium phosphide	UN2012
Strontium phosphide	UN2013
Potassium	UN2257
Aluminum hydride	UN2463
Lithium nitride	UN2806
Water-reactive solid, n.o.s	UN2813
Metallic substance, water-reactive, n.o.s.	UN3208
Metallic substance, water-reactive, self-heating, n.o.s.	UN3209 (All PGs)
Alkali metal amalgam, solid	UN3401
Alkaline earth metal amalgams, solid.	UN3402

TABLE 1—Continued

Proper shipping name	UN No.
Potassium, metal alloys, solid	UN3403
Potassium sodium alloys, solid	UN3404

• *Special provision W40.* Special provision W40 prohibits the use of non-bulk bags. This requirement typically applies to solid substances in Packing Group II. Consistent with changes made in Amendment 39–18 of the IMDG Code, special provision W40 is removed from the following HMT entries:

UN1396 Aluminum powder, uncoated (PG III)
UN1398 Aluminum silicon powder, uncoated
UN1403 Calcium cyanamide *with more than 0.1 percent of calcium carbide*
UN1405 Calcium silicide (PG III)
U3208 Metallic substance, water-reactive, n.o.s. (PG III)

Additionally, PHMSA is adding special provision W40 to the following HMT entry:

UN3208 Metallic substance, water-reactive, n.o.s. (PG II)

6. Amendments to Column (10) Vessel Stowage Requirements

Section 172.101(k) explains the purpose of column (10) of the HMT and prescribes the vessel stowage and segregation requirements for specific entries. Column (10) is divided into two columns: Column (10A) [Vessel stowage] specifies the authorized stowage locations on board cargo and passenger vessels, and column (10B) [Other provisions] specifies special stowage and segregation provisions. The meaning of each code in column (10B) is set forth in § 176.84.

In the NPRM, PHMSA proposed to amend various vessel stowage codes assigned to explosives articles to allow under deck stowage of these articles when not in closed cargo transport units (CCTUs). PHMSA received a comment from IME noting support for the changes, but indicating that the commercial ports used by their industry in the United States require commercial explosives to be containerized regardless of whether they are shipped on deck or under deck. PHMSA reiterates that these changes also allow the shipment of large and robust articles that while generally contained in some manner (*e.g.* a custom built crate, cradle, or box) may not fit in a traditional CCTU. The changes made in this final rule authorize such transport when not in a traditional CCTU. While these changes do not authorize the break bulk stowage of explosive substances, they

do facilitate the movement of larger explosive articles.

The following table addresses this issue through modification of the stowage categories for individual UN numbers for which under deck stowage was previously permitted prior to Amendment 36–12 of the IMDG Code. Table 2 contains the changes listed in numerical order by UN identification number and additionally lists the proper shipping name, the previous column (10A) entry, and the adopted column (10A) entry.

TABLE 2

Proper shipping name	UN No.	Previous code column (10A)	Adopted code column (10A)
Cartridges for weapons, *with bursting charge*	0005	05	03
Cartridges for weapons, *with bursting charge*	0006	04	03
Cartridges for weapons, *with bursting charge*	0007	05	03
Bombs, *with bursting charge*	0033	05	03
Bombs, *with bursting charge*	0034	04	03
Bombs, *with bursting charge*	0035	04	03
Bombs, photo-flash	0037	05	03
Bombs, photo-flash	0038	04	03
Boosters, *without detonator*	0042	04	03
Bursters, *explosive*	0043	04	03
Charges, demolition	0048	04	03
Charges, depth	0056	04	03
Charges, shaped, *without detonator*	0059	04	03
Charges, supplementary explosive	0060	04	03
Cord, detonating, *flexible*	0065	04	03
Fracturing devices, explosive, *without detonators for oil wells*	0099	04	03
Cord, detonating *or* Fuze, detonating *metal clad*	0102	04	03
Jet perforating guns, charged *oil well without detonator*	0124	04	03
Mines *with bursting charge*	0136	05	03
Mines *with bursting charge*	0137	04	03
Mines *with bursting charge*	0138	04	03
Projectiles, *with bursting charge*	0167	05	03
Projectiles, *with bursting charge*	0168	04	03
Projectiles, *with bursting charge*	0169	04	03
Rockets, *with bursting charge*	0180	05	03
Rockets, *with bursting charge*	0181	04	03
Rockets, *with bursting charge*	0182	04	03
Rockets, *with inert head*	0183	04	03
Rocket motors	0186	04	03
Sounding devices, explosive	0204	05	03
Warheads, torpedo *with bursting charge*	0221	04	03
Charges, propelling, for cannon	0242	04	03
Charges, propelling	0271	04	03
Charges, propelling	0272	04	03
Cartridges, power device	0275	04	03
Cartridges, oil well	0277	04	03
Charges, propelling, for cannon	0279	04	03
Rocket motors	0280	04	03
Boosters, *without detonator*	0283	04	03
Grenades, *hand or rifle, with bursting charge*	0284	04	03
Grenades, *hand or rifle, with bursting charge*	0285	04	03
Warheads, rocket *with bursting charge*	0286	04	03
Warheads, rocket *with bursting charge*	0287	04	03
Cord, detonating *or* Fuze, detonating *metal clad*	0290	04	03
Bombs, *with bursting charge*	0291	05	03
Grenades, *hand or rifle, with bursting charge*	0292	05	03
Grenades, *hand or rifle, with bursting charge*	0293	05	03
Mines *with bursting charge*	0294	05	03
Rockets, *with bursting charge*	0295	05	03
Sounding devices, explosive	0296	05	03
Cartridges for weapons, *with bursting charge*	0321	04	03
Projectiles, *with bursting charge*	0324	05	03
Cartridges for weapons, blank	0326	04	03
Cartridges for weapons, blank *or* Cartridges, small arms, blank	0327	04	03
Cartridges for weapons, inert projectile	0328	04	03
Torpedoes *with bursting charge*	0329	04	03
Torpedoes *with bursting charge*	0330	05	03
Projectiles, *with burster or expelling charge*	0346	04	03
Cartridges for weapons, *with bursting charge*	0348	05	03
Warheads, rocket *with bursting charge*	0369	05	03
Warheads, rocket *with burster or expelling charge*	0371	05	03
Sounding devices, explosive	0374	04	03
Sounding devices, explosive	0375	04	03
Cartridges, power device	0381	04	03
Fuzes, detonating, *with protective features*	0408	04	03

TABLE 2—Continued

Proper shipping name	UN No.	Previous code column (10A)	Adopted code column (10A)
Fuzes, detonating, *with protective features*	0409	04	03
Cartridges for weapons, blank	0413	04	03
Charges, propelling, for cannon	0414	04	03
Charges, propelling	0415	04	03
Cartridges for weapons, inert projectile *or* Cartridges, small arms	0417	04	03
Projectiles, *with burster or expelling charge*	0426	05	03
Projectiles, *with burster or expelling charge*	0427	05	03
Rockets, *with expelling charge*	0436	04	03
Rockets, *with expelling charge*	0437	04	03
Charges, shaped, *without detonator*	0439	04	03
Charges, explosive, commercial *without detonator*	0442	04	03
Charges, explosive, commercial *without detonator*	0443	04	03
Cases, combustible, empty, without primer	0447	04	03
Torpedoes *with bursting charge*	0451	04	03
Charges, bursting, plastics bonded	0457	04	03
Charges, bursting, plastics bonded	0458	04	03
Articles, explosive, n.o.s	0462	04	03
Articles, explosive, n.o.s	0463	04	03
Articles, explosive, n.o.s	0464	04	03
Articles, explosive, n.o.s	0465	05	03
Articles, explosive, n.o.s	0466	04	03
Articles, explosive, n.o.s	0467	04	03
Articles, explosive, n.o.s	0468	04	03
Articles, explosive, n.o.s	0469	05	03
Articles, explosive, n.o.s	0470	04	03
Articles, explosive, n.o.s	0472	05	03
Rockets, *with inert head*	0502	02	03

Consistent with changes to Amendment 39–18 of the IMDG Code, PHMSA is making numerous changes to the special stowage and segregation provisions [Other provisions] indicated in column (10B) of the HMT.

Amendment 39–18 of the IMDG Code amended multiple entries to ensure proper segregation between acids and both amines and cyanides. Amines react dangerously with acids, evolving heat, and the heat of reaction has the potential to generate corrosive vapors. Cyanides react with acids to generate toxic vapors. However, current vessel segregation requirements are inconsistent. Therefore, PHMSA is applying stowage codes 52, 53, and 58—which require stowage ''separated from acids,'' ''separated from alkaline compounds'', and ''separated from cyanides,'' respectively—to column 10B of the HMT, as shown in Table 3, below.

Consistent with changes adopted in Amendment 39–18 of the IMDG Code, PHMSA is adding existing stowage codes 12 and 25 to entries in the HMT. Vessel stowage code 12 requires keeping the cargo as cool as reasonably practicable. Vessel stowage code 25 requires protecting shipments from sources of heat. PHMSA is adding codes 12 and 25 to Nitrocellulose with alcohol *with not less than 25 percent alcohol by mass, and with not more than 12.6 percent nitrogen, by dry mass,* UN 2556. The addition of these two vessel stowage codes will help ensure that nitrocellulose is stowed so as to keep it as cool as practicable during transportation and to avoid possible loss of stabilization material in packages. Additionally, PHMSA is adding stowage code 25 to Dipropylamine, UN 2383 consistent with changes adopted in Amendment 39–18 of the IMDG Code.

PHMSA is adding vessel stowage codes to multiple HMT entries for uranium hexafluoride. In a previous final rule [Docket No. PHMSA–2015–0273 (HM–215N); 82 FR 15796] a subsidiary hazard of 6.1 was added to the UN 2977 and UN 2978 Uranium hexafluoride entries, and the primary hazard for UN 3507, Uranium hexafluoride, radioactive material, excepted package was changed from 8 to 6.1. Consequential amendments to the stowage and segregation requirements codes for these materials were not addressed at the time of these changes in the IMDG Code or the HMR. In this final rule, PHMSA is adding existing vessel stowage code 74 and new vessel stowage codes 151 and 153 to UN 2977 and UN 2978. Additionally, PHMSA is adding new vessel stowage code 152 to UN 3507. Stowage code 74 requires stowage separated from oxidizers. See a section-by-section discussion on the proposed changes to § 176.84 for a description of stowage codes 151, 152 and 153. These amendments are necessary to ensure appropriate stowage and segregation provisions that account for the subsidiary and tertiary hazards of these commodities.

Finally, we are adding new stowage provision 154 and assigning it to the NA 0124, NA 0494, UN 0494, and UN 0124 jet perforating gun HMT entries. This new stowage provision indicates that, notwithstanding the stowage category assigned to the entries in the HMT, jet perforating guns may be stowed in accordance with the provisions of packing instruction US 1 in § 173.62. See the discussion on stowage provision 154 in the § 176.84 section by section portion of this rulemaking.

TABLE 3

Proper shipping name	UN No.	Addition(s)
Jet perforating guns, charged *oil well, with detonator*	NA0124	154
Jet perforating guns, charged *oil well, without detonator*	UN0124	154

TABLE 3—Continued

Proper shipping name	UN No.	Addition(s)
Jet perforating guns, charged *oil well, with detonator*	NA0494	154
Jet perforating guns, charged, *oil well, without detonator*	UN0494	154
Dimethylamine, anhydrous	UN1032	52
Ethylamine	UN1036	52
Hydrogen fluoride, anhydrous	UN1052	53, 58
Methylamine, anhydrous	UN1061	52
Trimethylamine, anhydrous	UN1083	52
Amylamines	UN1106 PG II & III	52
n-Butylamine	UN1125	52
Diethylamine	UN1154	52
Diisopropylamine	UN1158	52
Ethyl chloroformate	UN1182	53, 58
Ethyldichlorosilane	UN1183	53, 58
Isobutylamine	UN1214	52
Isopropylamine	UN1221	52
Methyl chloroformate	UN1238	53, 58
Methyldichlorosilane	UN1242	53, 58
Methyltrichlorosilane	UN1250	53, 58
Propylamine	UN1277	52
Trichlorosilane	UN1295	53, 58
Trimethylamine, aqueous solutions *with not more than 50 percent trimethylamine by mass*	UN1297 all PG's	52
Trimethylchlorosilane	UN1298	53, 58
Vinyltrichlorosilane	UN1305	53, 58
Cacodylic acid	UN1572	53, 58
Dimethyl sulfate	UN1595	53, 58
Acetic anhydride	UN1715	53, 58
Acetyl bromide	UN1716	53, 58
Acetyl chloride	UN1717	53, 58
Butyl acid phosphate	UN1718	53, 58
Allyl chloroformate	UN1722	53, 58
Allyl iodide	UN1723	53, 58
Allyltrichlorosilane, stabilized	UN1724	53, 58
Aluminum bromide, anhydrous	UN1725	53, 58
Aluminum chloride, anhydrous	UN1726	53, 58
Ammonium hydrogendifluoride, solid	UN1727	53, 58
Amyltrichlorosilane	UN1728	53, 58
Anisoyl chloride	UN1729	53, 58
Antimony pentachloride, liquid	UN1730	53, 58
Antimony pentachloride, solutions	UN 1731 all PG's	53, 58
Antimony pentafluoride	UN1732	53, 58
Antimony trichloride, liquid *and* solid	UN1733	53, 58
Benzoyl chloride	UN1736	53, 58
Benzyl bromide	UN1737	53, 58
Benzyl chloride *and* Benzyl chloride *unstabilized*	UN1738	53, 58
Benzyl chloroformate	UN1739	53, 58
Hydrogendifluoride, solid, n.o.s	UN1740 all PG's	53, 58
Boron trifluoride acetic acid complex, liquid	UN1742	53, 58
Boron trifluoride propionic acid complex, liquid	UN1743	53, 58
Bromine solutions	UN1744 all entries	53, 58
Bromine pentafluoride	UN1745	53, 58
Bromine trifluoride	UN1746	53, 58
Butyltrichlorosilane	UN1747	53, 58
Chloroacetic acid, solution	UN1750	53, 58
Chloroacetic acid, solid	UN1751	53, 58
Chloroacetyl chloride	UN1752	53, 58
Chlorophenyltrichlorosilane	UN1753	53, 58
Chlorosulfonic acid (with or without sulfur trioxide)	UN1754	53, 58
Chromic acid solution	UN1755 all PG's	53, 58
Chromic fluoride, solid	UN1756	53, 58
Chromic fluoride, solution	UN1757 all PG's	53, 58
Chromium oxychloride	UN1758	53, 58
Cupriethylenediamine solution	UN1761 all PG's	52
Cyclohexenyltrichlorosilane	UN1762	53, 58
Cyclohexyltrichlorosilane	UN1763	53, 58
Dichloroacetic acid	UN1764	53, 58
Dichloroacetyl chloride	UN1765	53, 58
Dichlorophenyltrichlorosilane	UN1766	53, 58
Diethyldichlorosilane	UN1767	53, 58
Difluorophosphoric acid, anhydrous	UN1768	53, 58
Diphenyldichlorosilane	UN1769	53, 58
Diphenylmethyl bromide	UN1770	53, 58
Dodecyltrichlorosilane	UN1771	53, 58

TABLE 3—Continued

Proper shipping name	UN No.	Addition(s)
Ferric chloride, anhydrous	UN1773	53, 58
Fluoroboric acid	UN1775	53, 58
Fluorophosphoric acid anhydrous	UN1776	53, 58
Fluorosulfonic acid	UN1777	53, 58
Fluorosilicic acid	UN1778	53, 58
Formic acid with more than 85% acid by mass	UN1779	53, 58
Fumaryl chloride	UN1780	53, 58
Hexadecyltrichlorosilane	UN1781	53, 58
Hexafluorophosphoric acid	UN1782	53, 58
Hexamethylenediamine solution	UN1783 all PG's	52
Hexyltrichlorosilane	UN1784	53, 58
Hydrofluoric acid and Sulfuric acid mixtures	UN1786	53, 58
Hydrobromic acid, *with more than 49 percent hydrobromic acid*	UN1788 all PG's	53, 58
Hydrochloric acid	UN1789 all PG's	53, 58
Hydrofluoric acid	UN1790 all PG's	53, 58
Hypochlorite solutions	UN1791 all PG's	53, 58
Iodine monochloride, solid	UN1792	53, 58
Isopropyl acid phosphate	UN1793	53, 58
Lead sulfate *with more than 3 percent free acid*	UN1794	53, 58
Nitrating acid mixtures	UN1796 all PG's	53, 58
Nitrohydrochloric acid	UN1798	53, 58
Nonyltrichlorosilane	UN1799	53, 58
Octadecyltrichlorosilane	UN1800	53, 58
Octyltrichlorosilane	UN1801	53, 58
Perchloric acid *with not more than 50 percent acid by mass*	UN1802	53, 58
Phenolsulfonic acid, liquid	UN1803	53, 58
Phenyltrichlorosilane	UN1804	53, 58
Phosphoric acid solution	UN1805	53, 58
Phosphorus pentachloride	UN1806	53, 58
Phosphorus pentoxide	UN1807	53, 58
Phosphorus tribromide	UN1808	53, 58
Phosphorus trichloride	UN1809	53, 58
Phosphorous oxychloride	UN1810	53, 58
Potassium hydrogendifluoride solid	UN1811	53, 58
Propionyl chloride	UN1815	53, 58
Propyltrichlorosilane	UN1816	53, 58
Pyrosulfuryl chloride	UN1817	53, 58
Silicon tetrachloride	UN1818	53, 58
Nitrating acid mixtures, spent	UN1826 all PGs	53, 58
Stannic chloride, anhydrous	UN1827	53, 58
Sulfur chlorides	UN1828	53, 58
Sulfur trioxide, stabilized	UN1829	53, 58
Sulfuric acid *with more than 51 percent acid*	UN1830	53, 58
Sulfuric acid, fuming *with less than 30 percent free sulfur trioxide*	UN1831	53, 58
Sulfuric acid, fuming *with 30 percent or more free sulfur trioxide*	UN1831	53, 58
Sulfuric acid, spent	UN1832	53, 58
Sulfurous acid	UN1833	53, 58
Sulfuryl chloride	UN1834	53, 58
Thionyl chloride	UN1836	53, 58
Thiophosphoryl chloride	UN1837	53, 58
Titanium tetrachloride	UN1838	53, 58
Trichloroacetic acid	UN1839	53, 58
Zinc chloride, solution	UN1840	53, 58
Propionic acid *with not less than 10% and less than 90% acid by mass*	UN1848	53, 58
Perchloric acid *with more than 50 percent but not more than 72 percent acid, by mass*	UN1873	53, 58
Acetyl iodide	UN1898	53, 58
Diisooctyl acid phosphate	UN1902	53, 58
Selenic acid	UN1905	53, 58
Sludge, acid	UN1906	53, 58
Bromoacetic acid solution	UN1938 all PGs	53, 58
Phosphorus oxybromide	UN1939	53, 58
Thioglycolic acid	UN1940	53, 58
Nitric acid *other than red fuming*	UN2031 all entries	53, 58
Nitric acid, red fuming	UN2032	53, 58
2-Dimethylaminoethanol	UN2051	52
Phthalic anhydride *with more than .05 percent maleic anhydride*	UN2214	53, 58
Maleic anhydride	UN2215 all entries	53, 58
Acrylic acid, stabilized	UN2218	53, 58
Benzotrichloride	UN2226	53, 58
Chromosulfuric acid	UN2240	53, 58
Di-n-butylamine	UN2248	52
1,2-Propylenediamine	UN2258	52

TABLE 3—Continued

Proper shipping name	UN No.	Addition(s)
Tripropylamine	UN2260	52
Dimethylcarbamoyl chloride	UN2262	53, 58
N,N-Dimethylcyclohexylamine	UN2264	52
Dimethyl-N-propylamine	UN2266	52
Dimethyl thiophosphoryl chloride	UN2267	53, 58
3,3′-Iminodipropylamine	UN2269	52
2-Ethylhexylamine	UN2276	52
Hexamethylenediamine, solid	UN2280	52
Isophoronediamine	UN2289	52
Nitrobenzenesulfonic acid	UN2305	53, 58
Nitrosylsulfuric acid, liquid	UN2308	53, 58
Trimethylcyclohexylamine	UN2326	52
Trimethylhexamethylenediamines	UN2327	52
Zinc chloride, anhydrous	UN2331	53, 58
Allylamine	UN2334	52
Butyryl chloride	UN2353	53, 58
Cyclohexylamine	UN2357	52
Diallylamine	UN2359	52
Diisobutylamine	UN2361	52
Dipropylamine	UN2383	25, 52
Isobutyryl chloride	UN2395	53, 58
Isopropyl chloroformate	UN2407	53, 58
Dibenzyldichlorosilane	UN2434	53, 58
Ethylphenyldichlorosilane	UN2435	53, 58
Methylphenyldichlorosilane	UN2437	53, 58
Trimethylacetyl chloride	UN2438	53, 58
Sodium hydrogendifluoride	UN2439	53, 58
Stannic chloride pentahydrate	UN2440	53, 58
Trichloroacetyl chloride	UN2442	53, 58
Vanadium oxytrichloride	UN2443	53, 58
Vanadium tetrachloride	UN2444	53, 58
Vanadium trichloride	UN2475	53, 58
Iodine pentafluoride	UN2495	53, 58
Propionic anhydride	UN2496	53, 58
Valeryl chloride	UN2502	53, 58
Zirconium tetrachloride	UN2503	53, 58
Ammonium hydrogen sulfate	UN2506	53, 58
Chloroplatinic acid, solid	UN2507	53, 58
Molybdenum pentachloride	UN2508	53, 58
Potassium hydrogen sulfate	UN2509	53, 58
2-Chloropropionic acid	UN2511	53, 58
Bromoacetyl bromide	UN2513	58
Furfurylamine	UN2526	52
Methacrylic acid, stabilized	UN2531	53, 58
Nitrocellulose with alcohol *with not less than 25 percent alcohol by mass, and with not more than 12.6 percent nitrogen, by dry mass.*	UN2556	12, 25
Trichloroacetic acid, solution	UN2564 all PGs	53, 58
Dicyclohexylamine	UN2565	52
Alkylsulfuric acids	UN2571	53, 58
Phosphorus oxybromide, molten	UN2576	53, 58
Phenylacetyl chloride	UN2577	53, 58
Phosphorus trioxide	UN2578	53, 58
Aluminum bromide, solution	UN2580	53, 58
Aluminum chloride, solution	UN2581	53, 58
Ferric chloride, solution	UN2582	53, 58
Alkyl sulfonic acids, solid *or* Aryl sulfonic acids, solid, *with more than 5 percent free sulfuric acid*	UN2583	53, 58
Alkyl sulfonic acids, liquid *or* Aryl sulfonic acids, liquid *with more than 5 percent free sulfuric acid*	UN2584	53, 58
Alkyl sulfonic acids, solid *or* Aryl sulfonic acids, solid *with not more than 5 percent free sulfuric acid*	UN2585	53, 58
Alkyl sulfonic acids, liquid *or* Aryl sulfonic acids, liquid *with not more than 5 percent free sulfuric acid*	UN2586	53, 58
Boron trifluoride diethyl etherate	UN2604	53, 58
Triallylamine	UN2610	52
Benzyldimethylamine	UN2619	52
Chloric acid aqueous solution, *with not more than 10 percent chloric acid*	UN2626	53
Fluoroacetic acid	UN2642	53, 58
Cyanuric chloride	UN2670	53, 58
3-Diethyamino-propylamine	UN2684	52
N,N-Diethylethylenediamine	UN2685	52
2-Diethylaminoethanol	UN2686	52
Phosphorus pentabromide	UN2691	58
Boron tribromide	UN2692	53, 58
Tetrahydrophthalic anhydrides *with more than 0.05 percent of maleic anhydride*	UN2698	53, 58
Trifluoroacetic acid	UN2699	53, 58

TABLE 3—Continued

Proper shipping name	UN No.	Addition(s)
Butyric anhydride	UN2739	53, 58
n-Propyl chloroformate	UN2740	53, 58
Chloroformates, toxic, corrosive, flammable, n.o.s	UN2742	53, 58
n-Butyl chloroformate	UN2743	53, 58
Cyclobutyl chloroformate	UN2744	53, 58
Chloromethyl chloroformate	UN2745	53, 58
Phenyl chloroformate	UN2746	53, 58
2-Ethylhexyl chloroformate	UN2748	53, 58
Diethylthiophosphoryl chloride	UN2751	53, 58
Acetic acid, glacial *or* Acetic acid solution, *with more than 80 percent acid, by mass*	UN2789	53, 58
Acetic acid solution	UN2790 all entries	53, 58
Batteries, wet, filled with acid, *electric storage*	UN2794	53, 58
Sulfuric acid *with not more than 51% acid*	UN2796	53, 58
Phenyl phosphorus dichloride	UN2798	53, 58
Phenyl phosphorus thiodichloride	UN2799	53, 58
Copper chloride	UN2802	53, 58
N-Aminoethylpiperazine	UN2815	52
Ammonium hydrogendifluoride, solution	UN2817 all PGs	53, 58
Amyl acid phosphate	UN2819	53, 58
Butyric acid	UN2820	53, 58
Crotonic acid, solid	UN2823	53, 58
Ethyl chlorothioformate	UN2826	53, 58
Caproic acid	UN2829	53, 58
Phosphorous acid	UN2834	53, 58
Di-n-amylamine	UN2841	52
Boron trifluoride dehydrate	UN2851	53, 58
Hydroxylamine sulfate	UN2865	52, 53, 58
Titanium trichloride mixtures	UN2869 all PGs	53, 58
Selenium oxychloride	UN2879	53, 58
N-Methylbutylamine	UN2945	52
Sulfamic acid	UN2967	53, 58
Radioactive material, uranium hexafluoride *non fissile or fissile-excepted*	UN2978	74, 151, 153
Radioactive material, uranium hexafluoride, fissile	UN2977	74, 151, 153
Chlorosilanes, flammable, corrosive, n.o.s	UN2985	53, 58
Chlorosilanes, corrosive, flammable, n.o.s	UN2986	53, 58
Chlorosilanes, corrosive, n.o.s	UN2987	53, 58
Chlorosilanes, water-reactive, flammable, corrosive, n.o.s	UN2988	53, 58
2-(2-Aminoethoxy) ethanol	UN3055	52
Methanesulfonyl chloride	UN3246	53, 58
Chloroacetic acid, molten	UN3250	53, 58
Corrosive solid, acidic, inorganic, n.o.s	UN3260 all PGs	53, 58
Corrosive solid, acidic, organic, n.o.s	UN3261 all PGs	53, 58
Corrosive liquid, acidic, inorganic, n.o.s	UN3264 all PGs	53, 58
Corrosive liquid, acidic, organic, n.o.s	UN3265 all PGs	53, 58
Chloroformates, toxic, corrosive, n.o.s	UN3277	53, 58
Chlorosilanes, toxic, corrosive, n.o.s	UN3361	53, 58
Chlorosilanes, toxic, corrosive, flammable, n.o.s	UN3362	53, 58
Formic acid	UN3412 all PGs	53, 58
Boron trifluoride acetic acid complex, solid	UN3419	53, 58
Boron trifluoride propionic acid complex, solid	UN3420	53, 58
Potassium hydrogendifluoride solution	UN3421 all PGs	53, 58
Bromoacetic acid, solid	UN3425	53, 58
Phosphoric acid, solid	UN3453	53, 58
Nitrosylsulphuric acid, solid	UN3456	53, 58
Propionic acid *with not less than 90% acid by mass*	UN3463	53, 58
Crotonic acid, liquid	UN3472	53, 58
Iodine monochloride, liquid	UN3498	53, 58
Uranium hexafluoride, radioactive material, excepted package, *less than 0.1 kg per package, non-fissile or fissile-excepted.*	UN3507	152

7. Appendix B to § 172.101—List of Marine Pollutants

Appendix B to § 172.101 lists marine pollutants regulated under the HMR. Based on the test data submitted to PHMSA, the USCG, and the IMO, Amendment 39–18 of the IMDG Code was updated to indicate that 1-dodecene is not a marine pollutant. In this final rule, PHMSA is amending the entry for ''Dodecene'' in the list of marine pollutants in Appendix B to § 172.101 to indicate that 1-dodecene is not a marine pollutant, and as a result, shipments of 1-dodecene are not subject to the provisions of the HMR applicable to marine pollutants.

Section 172.102 Special Provisions

Section 172.102 lists special provisions applicable to the transportation of specific hazardous materials. Special provisions contain packaging requirements, prohibitions, and exceptions applicable to particular quantities or forms of hazardous

materials. In this final rule, PHMSA is revising the following § 172.102 special provisions:

• *Special provision 132.* This special provision prescribes conditions for use of description ''UN 2071, Ammonium nitrate based fertilizer, Class 9.'' As the composition limits and requirement on self-sustaining decomposition were replaced by a flow chart in sub-section 39.5 of the Manual of Tests and Criteria, part III, section 39, the corresponding UN Model Regulations special provision 193 was revised by removing the specific conditions and making a reference to the applicable section of the UN Manual of Tests and Criteria. Consistent with these changes to the UN Model Regulations, in this final rule, PHMSA is revising special provision 132 by removing the specific conditions applicable to use of this description and clarifying that UN 2071 may only be used for ammonium nitrate-based compound fertilizers and that they must be classified in accordance with the procedure as set out in the Manual of Tests and Criteria, part III, section 39.

• *Special provision 150.* This special provision prescribes conditions for use of description ''UN 2067, Ammonium nitrate based fertilizer, Division 5.1.'' As the composition limits were replaced by a flow chart in sub-section 39.5 of the Manual of Tests and Criteria, part III, section 39, the corresponding UN Model Regulations special provision 307 was revised by removing the specific conditions and making a reference to the applicable section of the UN Manual of Tests and Criteria. Consistent with these changes to the UN Model Regulations, in this final rule, PHMSA is revising special provision 150 by removing the specific conditions applicable to use of this description by clarifying that UN 2067 may only be used for ammonium nitrate-based fertilizers and that they must be classified in accordance with the procedure as set out in the Manual of Tests and Criteria, part III, section 39.

• *Special provision 238.* Special provision 238 prescribes the requirements for neutron radiation detectors containing boron trifluoride. In a final rule published under [(HM–215N); 82 FR 15796], special provision 238 was revised to align with special provision 373 of the UN Model Regulations. In reformatting the special provision for alignment, several of the preexisting references to paragraphs within the special provision were not revised accordingly. Therefore, PHMSA is removing the first instance of the text ''a.'' in the introductory text as it is not necessary and inadvertently results in two paragraphs with the same letter header. In paragraph e, the references to preceding paragraphs within the special provision are revised from a(1), a(2), and a(3) to a, b, and c, respectively.

• *Special provision 325.* Consistent with a pre-existing special provision 325 in the UN Model Regulations, PHMSA is adding new special provision 325 to assist shippers of this material by clarifying that in the case of non-fissile or fissile-excepted uranium hexafluoride, the material must be classified as ''UN2978 Radioactive material, uranium hexafluoride *non fissile or fissile-excepted.*'' In this final rule, PHMSA is assigning special provision 325 to the following entries to aid shippers:

UN2912 Radioactive material, low specific activity (LSA–I) *non fissile or fissile-excepted*

UN2913 Radioactive material, surface contaminated objects (SCO–I or SCO–II), *non-fissile or fissile excepted*

UN2915 Radioactive material, Type A package *non-special form, non fissile or fissile-excepted*

UN2916 Radioactive material, Type B(U) package *non fissile or fissile-excepted*

UN2917 Radioactive material, Type B(M) package *non fissile or fissile-excepted*

UN2919 Radioactive material, transported under special arrangement, *non fissile or fissile-excepted*

UN3321 Radioactive material, low specific activity (LSA–II) *non fissile or fissile-excepted*

UN3322 Radioactive material, low specific activity (LSA–III) *non fissile or fissile excepted*

• *Special provision 369.* Special provision 369 prescribes requirements for UN3507, Uranium hexafluoride, radioactive material, excepted package, *less than 0.1 kg per package, non-fissile or fissile-excepted.* In this final rule, PHMSA is revising the first sentence of the special provision for editorial clarity by replacing the words ''a radioactive material and corrosive subsidiary risk'' with ''radioactivity and corrosive subsidiary risks.''

• *Special provision 383.* PHMSA is removing special provision 383, which allows certain high viscosity flammable liquids, when offered for transportation by motor vehicle, to be reassigned to Packing Group III when packaged in UN metal drums with a capacity not exceeding 220 L (58 gallons). Amendments to § 173.121 in this final rule provide a larger capacity package, additional packaging options, and more modes of transport (all modes except air). PHMSA believes these amendments to § 173.121 provide more regulatory relief than special provision 383 currently offers, and is deleting special provision 383 and removing the special provision from the HMT for those entries to which it is assigned.

• *Special provision 387.* Special provision 387 is revised to extend the sunset dates for provisions concerning the transportation of polymerizing substances from January 2, 2019, to January 2, 2023.

• *Special provision 388.* Consistent with the UN Model Regulations, PHMSA is adding new special provision 388, which prescribes requirements for lithium batteries containing both primary lithium metal cells and rechargeable lithium ion cells that are not designed to be externally charged and for which the existing provisions for lithium batteries do not adequately address. Such batteries must meet the following conditions: (1) The rechargeable lithium ion cells can only be charged from the primary lithium metal cells; (2) overcharge of the rechargeable lithium ion cells is precluded by design; (3) the battery has been tested as a primary lithium battery; and (4) component cells of the battery must be of a type proved to meet the respective testing requirements of the UN Manual of Tests and Criteria, part III, subsection 38.3. Lithium batteries conforming to special provision 388 must be assigned to UN Nos. 3090 or 3091, as appropriate. When such batteries are transported in accordance with § 173.185(c), the total lithium content of all lithium metal cells contained in the battery must not exceed 1.5 g and the total capacity of all lithium ion cells contained in the battery must not exceed 10 Wh.

• *Special provision 389.* In conjunction with the new HMT entry ''UN3536, Lithium batteries installed in cargo transport unit *lithium ion batteries or lithium metal batteries,*'' PHMSA is adding new special provision 389, which prescribes requirements for lithium ion batteries or lithium metal batteries installed in a cargo transport unit and designed only to provide power external to the cargo transport unit.

This special provision, which captures many of the safety elements included in previous approvals issued by PHMSA, specifies that the lithium batteries must meet the requirements of § 173.185(a) and contain the necessary systems to prevent overcharge and over-discharge between the batteries. The batteries inside the cargo transport unit are not subject to marking or labelling requirements of part 172 subparts D and E of this subchapter. The cargo transport

unit shall display the UN number in a manner in accordance with § 172.332 of this subchapter and be placarded on two opposing sides.

The batteries must be securely attached to the interior structure of the cargo transport unit (*e.g.,* by means of placement in racks, cabinets, etc.) in such a manner as to prevent short circuits, accidental operation, and significant movement relative to the cargo transport unit under the shocks, loadings, and vibrations normally incidental to transport. Further, hazardous materials necessary for the safe and proper operation of the cargo transport unit (*e.g.,* fire extinguishing systems and air conditioning systems), must be properly secured to or installed in the cargo transport unit and are not otherwise subject to this subchapter. Lastly, other hazardous materials must not be transported within the cargo transport unit.

• *Special provision 391.* As part of the classification and packaging framework for ''Articles containing dangerous goods'' adopted in this rulemaking, PHMSA is adding new special provision 391, which prohibits articles containing certain high-hazard materials of Division 2.3, Division 4.2, Division 4.3, Division 5.1, Division 5.2, or Division 6.1 (substances with a inhalation toxicity of Packing Group I) and articles containing more than one of the following hazards from being offered for transport or transported, except under conditions approved by the Associate Administrator for Hazardous Materials Safety: (1) Gases of Class 2; (2) Liquid desensitized explosives of Class 3; or (3) Self-reactive substances and solid desensitized explosives of Division 4.1.

• *Special provision 421.* Special provision 421 is revised to extend the sunset dates for provisions concerning the transportation of polymerizing substances from January 2, 2019 to January 2, 2023.

• *Special provision 422.* PHMSA is revising special provision 422 to remove the transition period authorizing lithium battery Class 9 labels conforming to requirements in place on December 31, 2016 to continue to be used until December 31, 2018.

• *Special provision A56.* Special provision A56 prescribes the requirements for radioactive materials with subsidiary hazards when transported by aircraft. In this final rule, PHMSA is revising special provision A56 consistent with the revisions made to special provision A78 in the 2019–2020 ICAO Technical Instructions. Specifically, where the subsidiary hazard material is listed as ''Forbidden'' in column (9A) or (9B) of the § 172.101 Table, the radioactive material may only be offered for transportation and transported by aircraft under conditions approved by the Associate Administrator.

• *Special provision A105.* PHMSA is revising special provision A105, which prescribes requirements for the air transport of machinery or apparatus containing hazardous materials as an integral element of the machinery or apparatus. Where the quantity of hazardous materials contained as an integral element in machinery or apparatus exceeds the limits permitted for air transport in § 173.222, and the hazardous materials meet the provisions of § 173.222 for other than air transport, the machinery or apparatus may be transported by aircraft only with the prior approval of the Associate Administrator for Hazardous Materials Safety.

• *Special provision B136.* Consistent with the 20th Revised Edition of the UN Model Regulations, PHMSA is adding new special provision B136 that authorizes non-specification closed bulk bins for the following solid substances:

UN1363 Copra
UN1386 Seed cake, *containing vegetable oil solvent extractions and expelled seeds, with not more than 10 percent of oil and when the amount of moisture is higher than 11 percent, with not more than 20 percent of oil and moisture combined*
UN1386 Seed cake *with more than 1.5 percent oil and not more than 11 percent moisture*
UN1398 Aluminum silicon powder, uncoated
UN1435 Zinc ashes
UN2071 Ammonium nitrate based fertilizer
UN2216 Fish meal, stabilized *or* Fish scrap, stabilized
UN2217 Seed cake *with not more than 1.5 percent oil and not more than 11 percent moisture*
UN2793 Ferrous metal borings *or* Ferrous metal shavings *or* Ferrous metal turnings *or* Ferrous metal cuttings *in a form liable to self-heating*

• *Portable tank special provisions:* PHMSA is revising Portable Tank Special Provision TP10, assigned to UN 1744, to authorize a three-month extension for the transportation of bromine portable tanks for the purposes of performing the next required liner test—after emptying, but before cleaning.

• *Special provisions W31 and W32.* Special provision W32 currently requires non-bulk packagings to be hermetically sealed, except for solid fused material. Amendment 39–18 of the IMDG Code removed the qualifying text from the equivalent special packaging provision. Discussions at the International Maritime Organization noted that when a substance evolves flammable gases when in contact with water at the rate and quantity meeting the classification requirements for a Division 4.3 material, there is no safety justification to permit their transportation in packagings which are not hermetically sealed. In Amendment 39–18, the text ''except for solid fused material'' was removed from special packing provision PP31 in packing instruction P403. Consistent with the IMDG Code PHMSA is deleting special provision W32 and assigning W31, which requires non-bulk packagings to be hermetically sealed regardless of the form of the material.

Section 172.203 Additional Description Requirements

Section 172.203 prescribes additional description requirements for shipping papers. In the NPRM, PHMSA proposed revising § 172.203(o)(2), to require that the words ''TEMPERATURE CONTROLLED,'' when appropriate, be added to the proper shipping name for Division 4.1 (polymerizing substance and self-reactive) and Division 5.2 (organic peroxide), if not already indicated in the HMT. PHMSA received a comment from DGAC noting that the HMT lists only four (4) n.o.s. entries for ''polymerizing materials,'' two of which identify that the material is stabilized and the other two of which already include the words ''temperature controlled.'' Therefore, the commenter states that the addition of ''polymerizing substances'' to this listing is unnecessary. PHMSA points out that polymerizing substances are not limited to the four (4) n.o.s. entries, but also include HMT entries assigned special provision 387. While it may be the case that all organic peroxides and self-reactive materials that require temperature control are assigned to HMT entries that include the words ''temperature control'' the same does not apply to polymerizing substances. Therefore, in this final rule PHMSA is revising paragraph (o)(2) as proposed in the NPRM. This amendment provides notice to those in the transport chain that a material is being offered under temperature control.

In the NPRM, PHMSA proposed revising paragraph § 172.203(o)(3) by requiring that for samples of polymerizing substances, the word ''SAMPLE'' must be included in association with the basic description.

PHMSA received comments from DGAC and Dow. Both commented that the corresponding regulatory reference in paragraph (o)(3) to § 173.224(c)(3) applies to self-reactive substances but not to polymerizing substances, and noted that there are no equivalent requirements in the HMR for samples of polymerizing substances. DGAC also noted that requiring the word ''SAMPLE'' for all polymerizing substances would create disharmony with the provisions in the IMDG code, which only require ''SAMPLE'' to be included on the transport document for self-reactive materials and organic peroxides. PHMSA agrees with the commenters and is not revising paragraph (o)(3) in this final rule.

Additionally, PHMSA is adding polymerizing substances to the list of types of materials that the additional documentation requirements in paragraph (o) apply to.

Section 172.407 Label Specifications

Section 172.407 prescribes specifications for hazard communication labels. Consistent with changes made in Amendment 39–18 of the IMDG Code and the 2019–2020 ICAO Technical Instructions, PHMSA is amending paragraph (c)(1) to remove the requirement that the width of the solid line forming the inner border of labels must be at least 2 mm. Additionally, we are amending the requirement that the solid line inner border, currently required to be 5 mm inside and parallel to the edge, to include the word ''approximately'' before 5 mm. These changes provide flexibility for minor labeling variations that do not have an appreciable impact on transportation safety. Finally, paragraph (c)(1)(iii) which contains a transitional exception allowing for labels in conformance with the requirements of 49 CFR 172.407(c)(1) (revised October 1, 2014) to continue to be used until December 31, 2018, is removed and reserved. PHMSA received comments from IME, DGAC and MDBTC expressing support for the revision of label border specifications. Yvonne Keller commented that changes to § 172.407 (c)(1) that were made in a previous final rule on Nov. 7, 2018 [(HM–219A); 83 FR 55792], would be overwritten by the proposed changes in the NPRM. The changes to (c)(1) in this rulemaking were intentional and consistent with changes made to international standards and adequately account for the changes to this paragraph in HM–219A.

Section 172.514 Bulk Packagings

Section 172.514 prescribes placarding requirements and exceptions for a bulk packaging containing a hazardous material. The general placarding requirements prescribe that bulk packagings are to be placarded on each side and each end. Due to the form and shape (*e.g.,* round) of flexible bulk containers, it is impractical to require placards on each side and each end. Consistent with the IMDG Code, in this final rule, PHMSA is allowing flexible bulk containers to be placarded on two opposing sides. PHMSA received a comment from DGAC supporting the changes to placarding requirements for flexible bulk containers.

Section 172.604 Emergency Response Telephone Number

Section 172.604 prescribes requirements for emergency response telephone numbers. Paragraph (d) identifies materials for which an emergency response telephone number is not required when offered for transportation. In a March 30, 2017, final rule [(HM–215N); 82 FR 15796], PHMSA harmonized the HMR with international regulations by adopting separate HMT entries for internal combustion engines based on the fuel, (*e.g.,* engine, internal combustion, flammable liquid powered and engine, internal combustion, flammable gas powered). Previously, a single HMT entry covered all engines. At that time, we did not amend § 172.604(d)(2) to ensure that ''engines, internal combustion'' offered under any of the new proper shipping names would continue to be excepted from the emergency response telephone requirements of § 172.604. In this final rule, PHMSA is amending paragraph (d)(2) to list all possible proper shipping names for engines per the original intent. PHMSA received a comment from DGAC supporting the change to the requirements for shipping descriptions of internal combustion engines. In a previous rulemaking [(HM–219A); 83 FR 55792], PHMSA made amendments to § 172.604 to clarify that excepted quantities do not require an emergency response telephone number. This final rule amends the same section, but accounts for the changes made in HM–219A.

Section 172.800 Purpose and Applicability

Section 172.800 prescribes the requirements for developing and implementing plans to address security risks related to the transportation of hazardous materials in commerce. During review of existing material that is incorporated by reference into the HMR it was noted that the International Atomic Energy Agency (IAEA) Code of Conduct Category 1 and 2, while referenced in paragraph (b)(15), was not appropriately incorporated by reference (see § 171.7). In this final rule, PHMSA is incorporating by reference the IAEA Code of Conduct on the Safety and Security of Radioactive Sources into paragraph (b)(15). Furthermore, we are revising a reference to known radionuclides in forms listed as RAM–QC by the Nuclear Regulatory Commission, to Nuclear Regulatory Commission, Category 1 and Category 2 radioactive materials as listed in Table 1, Appendix A to 10 CFR part 37. Lastly, we are listing the reference to Highway Route Controlled Quantities separately in this paragraph. This amendment does not require the creation and retention of security plans by any new individuals, but simply incorporates by reference the appropriate IAEA reference and clarifies the existing requirement.

Part 173—Shippers—General Requirements for Shipments and Packagings

Section 173.2a Classification of a Material Having More Than One Hazard

Section 173.2a outlines classification requirements for materials having more than one hazard. PHMSA is amending paragraph (a) to indicate the appropriate classification precedence for the new ''Articles'' HMT entries added in this final rule. This change gives guidance to offerors and shippers using the new HMT entries numbers that do not conform to a single hazard class.

Section 173.6 Materials of Trade Exceptions

Section 173.6 provides authorization for certain hazardous materials meeting the definition of a material of trade (MOT) to be transported by motor vehicle in conformance with this section and be excepted from all other requirements of this subchapter if certain quantity limitations, packaging provisions, and hazard communication requirements are met. In two recent rulemakings [(HM–218H); 81 FR 35483] and [(HM–215N); 82 FR 15796], PHMSA removed packing group assignments from Column (5) of the HMT for all organic peroxides (Division 5.2), self-reactive substances (Division 4.1), explosives (Class 1), and specific articles containing hazardous materials indicated in Table 4 below. This removal of an indication of packing group for these materials and articles has led to questions about the ability of these materials and articles to utilize the MOTs exceptions provided in § 173.6. Further, this final rule adds 12 new proper shipping names for articles that

are also not assigned a packing group. See ''Section 172.101 Hazardous Materials Table (HMT)'' for a detailed discussion of this addition.

It was not the intention of these previous rulemakings to exclude these materials and articles from the ability to utilize the MOTs exceptions, provided the hazardous materials within the articles comply with the existing quantity limitations and other transport provisions of § 173.6. In this final rule, PHMSA is adding a new paragraph (a)(7) to clarify that materials and articles for which Column (5) of the HMT in § 172.101 does not indicate a packing group are authorized to utilize the MOTs exceptions as applicable, and indicate the appropriate quantity limits applicable to those materials in articles. For all materials and articles for which a packing group was recently removed from the HMT, the corresponding section referenced in Column (8) of the § 172.101 Table requires packaging meeting either Packing Group II or III performance level or non-specification packaging. Therefore, the quantity limits in the new paragraph (a)(7) will reference the PG II or PG III limits in § 173.6(a)(1)(ii) or § 173.6(a)(3) for articles containing Division 4.3 materials, as appropriate. PHMSA received a supporting comment from USWAG stating: ''We are pleased to note that PHMSA has proposed this change in the current rulemaking. We appreciate PHMSA's efforts to correct this important oversight.'' In addition, PHMSA is revising paragraph (b)(3) to clarify the securement requirement for the transportation of articles under the MOTs exceptions.

TABLE 4

Proper shipping name	UN No.	Class/division
Ammunition, tear-producing, non-explosive, without burster or expelling charge, non-fuzed	UN2017	6.1
Ammunition, toxic, non-explosive, without burster or expelling charge, non-fuzed	UN2016	6.1
Batteries, containing sodium	UN3292	4.3
Lithium ion batteries *including lithium ion polymer batteries*	UN3480	9
Lithium ion batteries contained in equipment *including lithium ion polymer batteries*	UN3481	9
Lithium ion batteries packed with equipment *including lithium ion polymer batteries*	UN3481	9
Lithium metal batteries *including lithium alloy batteries*	UN3090	9
Lithium metal batteries contained in equipment *including lithium alloy batteries*	UN3091	9
Lithium metal batteries packed with equipment *including lithium alloy batteries*	UN3091	9
Mercury contained in manufactured articles	UN3506	8
Oxygen generator, chemical *(including when contained in associated equipment, e.g., passenger service units (PSUs), portable breathing equipment (PBE), etc).*	UN3356	5.1
Safety devices, *electrically initiated**	UN3268	9
Tear gas candles	UN1700	6.1

Section 173.21 Forbidden Materials and Packages

Section 173.21 describes the situations in which the offering for transport or transportation of materials or packages is forbidden. In this final rule, PHMSA is reinstating the provisions adopted in the HM–215N final rule. A delayed effective date of January 2, 2019 was placed on amendment 22 of the HM–215N final rule, which reinstated the provisions of § 173.21 in place prior to publication of that rule. Section 173.21 was not mentioned in the NPRM for this final rule because there was no amendment to make at the time, as the effective text of the section on the date of publication of the NPRM was the text we are reinstating in this final rule. The provisions that previously sunset on January 2, 2019 are reinstated in this final rule. PHMSA is extending the date for the sunset provisions for an additional two years versus the date proposed in the NPRM. The new sunset date for transport provisions concerning polymerizing substances is January 2, 2023. This addition is consistent with the discussion above on polymerizing substances and associated research in the background and comment discussion sections of this rulemaking.

Section 173.62 Specific Packaging Requirements for Explosives

Section 173.62 outlines specific packaging requirements for explosives. In paragraph (c), in the Table of Packing Methods, Packing Instruction US 1 containing packing instructions for jet perforating guns, PHMSA is increasing the maximum authorized amount of explosive contents per tool pallet and cargo vessel compartment from 90.8 kg to 95 kg. These limits are consistent with a provision added to Amendment 39–18 of the IMDG Code authorizing jet perforating guns to be transported to or from offshore oil platforms, mobile offshore drilling units, and other offshore installations in offshore well tool pallets, cradles, or baskets. PHMSA notes that the amendments adopted in section 7.1.4.4.5 of Amendment 39–18 of the IMDG Code require both ends of jet perforating guns to be protected by means of steel end caps. PHMSA is not adopting this additional requirement for steel end caps noting the safe transportation record of these explosive articles under the existing requirements of the HMR. PHMSA received one comment from IME supporting the increase in the maximum authorized amount of explosive contents per tool pallet and cargo vessel compartment and PHMSA's decision to not require steel end caps, leaving the existing HMR requirement intact.

Section 173.121 Class 3—Assignment of Packing Group

Section 173.121 provides the criteria for the assignment of packing groups to Class 3 materials. Paragraph (b) provides criteria for viscous flammable liquids of Class 3 (*e.g.,* paints, enamels, lacquers, and varnishes) to be placed in packing group III on the basis of their viscosity, coupled with other criteria. Consistent with recent changes to the IMDG Code, PHMSA is amending paragraph (b)(1)(iii) to authorize a packaging capacity up to 450 L (119 gallons), an increase from the presently authorized 30 L. A working paper submitted to the IMO Sub-Committee on Carriage of Cargoes and Containers noted that both the UN Model Regulations and The European Agreements Concerning the International Carriage of Dangerous Goods by Road and Rail allow receptacles up to 450 L, and that due to the nature of viscous materials (*e.g.,* lower flow rate in the event of damage to a receptacle, and lower levels of solvent vapors), which present a lower fire risk than non-viscous flammable liquids, there has been a history of safe transport of these materials by road and

rail since the introduction of the provision.

This change will increase the allowed volume of viscous liquids in a single package and will be applicable to all modes except for air. Specifically, in this final rule, PHMSA is increasing the packaging limits for viscous flammable liquids of Packing Group II material that may be assigned Packing Group III. For transport by vessel, PHMSA is increasing the limit from 30 L to 450 L. For transport by rail and highway, PHMSA is increasing the limit from 100 L to 450 L. Consistent with the ICAO Technical Instructions, the packaging quantity limits for air will remain 30 L for passenger aircraft and 100 L for cargo aircraft.

Section 173.124 Class 4, Divisions 4.1, 4.2 and 4.3—Definitions

Section 173.124 contains definitions for Class 4, Divisions 4.1, 4.2, and 4.3. In this final rule, PHMSA is amending paragraph (a)(4)(iv) to extend the sunset dates for provisions concerning the transportation of polymerizing substances from January 2, 2019, to January 2, 2023. See the background and comment discussion sections of this rulemaking for a more detailed discussion on polymerizing substances.

Section 173.127 Class 5, Division 5.1—Definition and Assignment of Packing Groups

Section 173.127 provides a definition and criteria for the assignment of packing groups for Division 5.1 Oxidizers. A new Section 39 in the UN Manual of Tests and Criteria was introduced containing all provisions for the classification of ammonium nitrate based fertilizers. As a consequence of the new section, existing text in both the UN Manual of Tests and Criteria and the UN Model Regulations was amended or removed to avoid duplicative provisions in both publications. In this final rule, PHMSA is revising the classification criteria for ammonium nitrate based fertilizers by requiring that they are classified in accordance with the procedures prescribed in the UN Manual of Tests and Criteria, Part III, Section 39. These changes will not result in changes to the current classification provisions for ammonium nitrate fertilizers, but rather consolidate the provisions for ease of use and to prevent inadvertent misclassification.

Section 173.134 Class 6, Division 6.2—Definitions and Exceptions

Section 173.134 provides definitions and exceptions for infectious substances. Consistent with the UN Model Regulations, PHMSA is revising the definition for ''patient specimen'' in paragraph (a)(4) by removing redundant references to humans and animals.

Section 173.136 Class 8—Definitions

Section 173.136 provides the definition for corrosive materials. In the UN Model Regulations, the definition for corrosive materials was revised to align with the text in Chapter 3.2 of the UN GHS and the OECD Test Guidelines for Testing of Chemicals. PHMSA is amending the definition in paragraph (a) for a corrosive material by replacing the text ''full thickness destruction'' with ''irreversible damage.'' Harmonized terminology increases understanding and reduces the potential for confusion between those in the transport and storage and use sectors.

Section 173.137 Class 8—Assignment of Packing Group and Appendix I to Part 173

Section 173.137 prescribes the requirements for assigning a packing group to Class 8 (corrosive) materials. Currently, the HMR require offerors to classify Class 8 material and assign a packing group based on test data. The HMR authorize a skin corrosion test and various *in vitro* test methods that do not involve animal testing. Data obtained from the currently authorized test methods is the only data acceptable for classification and assignment of a packing group. In this final rule, consistent with changes to the UN Model Regulations, PHMSA is adding alternative packing group assignment methods for making a corrosivity classification determination for mixtures that do not involve testing. These amendments include bridging principles and a calculation method for the classification of mixtures. Bridging principles include; dilution, batching, concentration of mixtures of PG I, interpolation within one packing group, and provisions for substantially similar mixtures.

In a new paragraph (d), PHMSA is creating an alternative, tiered approach to classification and packing group assignment depending on how much information is available about the mixture itself, similar mixtures, and/or the mixture's ingredients. When sufficient data is available on similar mixtures to estimate skin corrosion hazards for bridging, the bridging principle method may be used to classify and assign a packing group. When no bridging data is available, the more conservative calculation method may be used. When there is not sufficient information to determine a packing group using the non-testing methods described in paragraph (d), the testing and criteria in § 173.137 introductory paragraph and (a)–(c) must be applied. To emphasize this point, PHMSA is adding an additional line to Figure 1 in paragraph (d) to state that in such cases the testing and criteria in § 173.137 introductory paragraph and (a)–(c) must be applied to the mixture. This tiered approach ensures an appropriate level of safety in situations where reliable test data on that specific mixture may not be available. These alternatives for classifying corrosive mixtures provide opportunities for offerors to make a classification and packing group assignment without having to conduct physical tests.

Additionally, the new corrosivity classification methods are much more closely aligned with those found in the UN GHS. However, not all GHS corrosivity classification methods were incorporated in the UN Model Regulations corrosivity requirements. For example, the use of extreme pH values to assign corrosivity was not addressed in the UN Model Regulations, and as such is not adopted in this final rule.

PHMSA is replacing all instances of the text ''full thickness destruction'' with ''irreversible damage'' consistent with the change to the definition of a corrosive material in § 173.136. PHMSA is also adding a new Appendix I to part 173, containing a flow chart for use with the calculation method.

The corrigendum to the 20th Revised edition of the UN Model Regulations made several corrections to the calculation method classification criteria that were not included in the NPRM. Consistent with the UN Model Regulations, the last sentence of paragraph (d)(2)(i)(B) in the NPRM was added to a new paragraph (d)(2)(i)(B) and the following subparagraphs were renumbered accordingly. The new paragraph (d)(2)(i)(B) provides additional guidance on the use of the flow chart added in Appendix I to part 173.

Finally, PHMSA is updating the four existing OECD Guidelines currently incorporated by reference in this section to their 2015 versions (Test Nos. 404, 430, 431, and 435). OECD Guideline 404 addresses in vivo testing and OECD Guidelines 430, 431, and 435 address in vitro testing. OECD Guideline 404 and OECD Guideline 435 contain minor variations in the types of information to be recorded as a part of the test report in relation to the previously incorporated versions. OECD Guideline 430 and OECD Guideline 431 were updated to include a reference to a developed document on integrated approaches to testing and assessment.

Section 173.159 Batteries, Wet

Section 173.159 prescribes the requirements applicable to the transportation of electric storage batteries containing electrolyte acid or alkaline corrosive battery fluid (*i.e.,* wet batteries). Consistent with the UN Model Regulations, PHMSA is making several editorial amendments in paragraphs (a) and (d) to specify that electrically non-conductive packaging materials must be used and that contact with other electrically conductive materials must be prevented.

Section 173.185 Lithium Cells and Batteries

Section 173.185 prescribes requirements for lithium cells and batteries. The introductory paragraph defines terms as used in this section. In § 173.185(a), the HMR describe UN cell and battery design testing, general cell and battery design safety requirements, and packaging requirements. In this final rule, PHMSA clarifies in paragraph (a)(1) that a single cell battery is considered a ''cell'' and must be transported in accordance with the requirements for cells. PHMSA is also amending § 173.185(a) to include a lithium cell and battery test summary (TS) with a standardized set of elements. Manufacturers and subsequent distributers of lithium cells and batteries manufactured on or after January 1, 2008 must make this information available to others in the supply chain. This action is intended to provide subsequent distributors and consumers the information necessary to ensure that lithium cells and batteries that are offered and reoffered for transport contain specific information on the required UN tests.

PHMSA received comments on the test summary from Alaska Airlines, Amazon, the Chamber, COSTHA, DGAC, IATA, MDBTC, NRF, and PRBA. MDBTC noted ''our Council understands the rationale behind the TS Document and, if implemented effectively, agrees with PHMSA and international regulators that making vital battery information more accessible will enhance the safety of all lithium battery shipments.'' IATA commented that it believes ''the availability of the test summary will improve safety by providing clear visibility that the lithium cell and battery types have been tested as required.'' Amazon commented that there are other effective methods for improving the safe transportation of lithium batteries, including common safety messaging across the supply chain, expanding supplier outreach, and improved packaging methods. Amazon noted that the test summary requirements, if implemented strategically and with appropriate clarity, could complement these other measures. However, Amazon suggested that additional outreach may be needed to ensure manufacturers and suppliers are informed of the new test summary requirements. Amazon further states that there is no publicly available data that supports the claim that the test summary requirement would improve the safe transport of lithium batteries. PHMSA recognizes that internal process improvements implemented by shippers (*e.g.,* supplier outreach and common safety messaging) may also positively impact lithium battery transportation safety. Additionally, PHMSA is aware of, and is participating in, ongoing research into packaging solutions and classification criteria for lithium batteries. As previously stated, PHMSA believes that the test summary will ensure shippers are verifying that a cell or battery is from a legitimate and compliant source, and allow those in the transport chain to more easily identify non-counterfeit products.

Comments on the compliance date and applicability date for the lithium battery test summary are addressed in the ''Comments Received'' section of this rulemaking. The requests that PHMSA reexamine the test summary document's impact for businesses, specifically small businesses, are addressed in the ''Information Collection'' section of this rulemaking and the Regulatory Impact Analysis (RIA). The remaining comments received regarding the proposed test summary requirements requested clarifications on terminology and when the document must be made available, exceptions for button cell batteries, and additional clarification of the docketed guidance document.

Requests for Clarification on Terminology and When the TS Must Be Made Available

PHMSA received a comment from COSTHA that asked for clarification that in addition to being required for cells and batteries, a test summary is only required for equipment where the safety components of the equipment are necessary for the cells or batteries contained to pass the relevant UN sub-section 38.3 tests (*e.g.,* when the overcharge protection for a battery is part of the equipment circuit board and not installed in the battery), and would not be required for all devices containing lithium batteries. In response to this comment, PHMSA would like to clarify that a test summary document is required for all *cells and batteries* manufactured on or after January 1, 2008, without regard to whether they are transported as standalone shipments, contained in equipment, packed with equipment, or used in vehicles. As noted in the ''New UN Requirements for Lithium Battery Test Summaries'' [10] guidance document found in the docket for this rulemaking, product manufacturers of devices containing lithium batteries are not required to create new test summary documents for their products if compliant test summaries have been created and are made available for the batteries contained in those products. Product manufactuerers may use existing test summaries for the batteries in their devices to meet their obligation to make them available to subsequent distributors. PHMSA also understands that there may be instances where device manufacturers desire to create a test summary for a product containing a lithium cell or battery. While not required, creating a test summary for a specific device rather than using an existing test summary applicable to a battery installed in the device is authorized if the required elements of the test summary are provided.

Amazon requested that PHMSA require that manufacturers create a complete test summary for each lithium battery and lithium battery product and require that manufacturers post the summary online for widespread access for anyone in the supply chain. As proposed in the NPRM and adopted in this final rule, manufacturers and each subsequent distributor of lithium cells or batteries must make available test summaries as specified in § 173.185. PHMSA expects that the first entity offering the cell or battery into transport would likely create the document for use by subsequent offerors or end users. However, the HMR intentionally do not specify who must create the test summary to provide implementation flexibility. The ''make available'' phrase is also intentional to allow for compliance through any means manufacturers and subsequent distributors find best fits their business needs and capabilities. Any method that ensures the information is made available to downstream distributors would be acceptable. This includes the envisioned least burdensome method of posting the information or links to the information on websites. Other possible methods include, but are not limited to, emailing copies of the required

[10] *https://www.regulations.gov/document?D=PHMSA-2017-0108-0008.*

information or providing physical hard copies with shipments.

PHMSA received comments from Amazon, COSTHA, MDBTC, and NRF regarding the entity in the transportation chain that must make the test summary available and the phrase ''each manufacturer and subsequent distributor.'' Amazon and NRF commented that because the supply chain for lithium batteries involves many different entities acting in different roles, the phrase ''subsequent distributor'' should be defined. Amazon and NRF suggested that PHMSA clarify ''subsequent distributor'' by defining it as limited to entities and persons who possess and transfer title to lithium batteries and lithium battery products. MDBTC commented that one of the most challenging aspects of implementing the test summary requirement will be to clearly delineate the role of a ''subsequent distributor.'' COSTHA requested that PHMSA confirm that the use of the term ''distributor'' is only to emphasize that proof of successful design type testing is needed by shippers of lithium batteries, and that distributors are the logical persons to have such information needed for the TS, and that ultimately it is the shipper's responsibility to obtain the information for proof of classification. COSTHA also commented that the terms ''offerors'' and ''subsequent offerors,'' which are more commonly used in transportation regulations, would provide more clarity. We confirm COSTHA's understanding that in addition to manufacturers, distributors of lithium batteries are a logical entity to have information needed for a TS and that a shipper or offeror of lithium batteries is the person ultimately responsible for ensuring that lithium cells and batteries offered for transport contain specific information on the required UN tests. In response to the requests to define ''subsequent distributor,'' PHMSA does not believe that a definition of ''subsequent distributor'' is necessary, as the intent is simply to indicate in broad terms the persons responsible for providing test summary information. PHMSA does not believe that the language proposed by Amazon and NRF defining ''subsequent distributor'' as those who possess and transfer title to lithium batteries and lithium battery products provides additional clarity as the phrase ''transfer title to'' is not understood in the context of the HMR. We note that the phrase ''subsequent distributor'' is also used in section § 178.2(c) of the HMR, applicable to package closure notifications, requiring manufacturers and subsequent distributors to notify each person to whom the package is transferred with appropriate closure information.

In its comments, MDBTC stated that the proposed requirement for subsequent distributors to verify that a test summary document is available for all of the products it ships could be ''extremely burdensome'' and could potentially require the hiring of additional staff to verify the presence of a test summary. MDBTC suggests that a more reasonable approach would be for shippers of lithium cells and batteries to notify upstream distributors of test summary requirements but not to require the explicit verification for each shipment. MDBTCs comment contains no specific cost estimates, other than referencing the potential need to hire additional staff to manage the test summary requirements. PHMSA is cognizant of the costs associated with compliance such as creation of the test summary and activities related to subsequent distribution (see the ''Information Collection'' section of this rulemaking and the Regulatory Impact Analysis (RIA)), but notes that lithium batteries are already subject to the design testing requirements. Other than contacting the manufacturer, shippers currently have no way to confirm compliance with the UN design testing requirements. The proposed requirement provides a means for shippers to comply with the HMR when previously no such mechanism existed. Retrieving a test summary and ensuring it is made available to subsequent distributors will result in most instances in a one-time action and cost for each cell or battery design type offered for transportation (*e.g.,* verifying the existence of the information and procuring a copy or creating a link for their own further use). It is expected to streamline what is currently a difficult process. While it is a requirement to make a test summary available for shipments of lithium cells or batteries, PHMSA does not intend to require a positive verification that the information has been received by each downstream customer. For instance, a distributor who has posted copies of test summaries or links to the appropriate test summaries on a website accessible to the next downstream distributor has made the test summaries available. There would be no additional burden on the initial distributor unless contact was initiated by the subsequent distributor who is unable to locate a test summary.

MDBTC also submitted comments concerning who can make a request for a test summary, suggesting that requests should be limited to an actual distributor and not just anyone from the public or a person that is attempting to collect information not related to transport. MDBTC indicates that this limitation would be especially critical with respect to new product development and protecting proprietary information. While it is not envisioned that consumers of lithium batteries or products containing lithium batteries would generally request a test summary, if they are going to be offering the batteries back into transportation it would be necessary for them to have access to this information. The information required in the test summary was specifically crafted so as not to require proprietary information or information that would hinder product development.

Amazon commented that PHMSA should clarify that if a subsequent distributor cannot obtain a test summary, but has a process in place to accurately classify lithium batteries, that distributor will not be subject to enforcement action for failure to provide a test summary for a specific product. PHMSA disagrees with the commenter. In accordance with § 173.185(a)(1), each lithium cell or battery must be of the type proven to meet the criteria in part III, sub-section 38.3 of the UN Manual of Tests and Criteria. Therefore, a lithium cell or battery could not be classified unless the information provided on the test summary was available. If a distributor or other person in the transportation chain is classifying lithium cells or batteries, the information needed to develop a test summary must be available to that person.

COSTHA compared the test summary requirements to those for safety data sheets (SDS) required by the Occupational Safety and Health Administration (OSHA) under their Hazard Communication Standard in 29 CFR, § 1910.1200. Manufacturers of hazardous chemicals are required to develop and make available safety data sheets that indicate the hazards associated with the hazardous chemicals that may be encountered in the workplace. COSTHA notes that SDSs are required to be provided by distributors to commercial customers, but not to non-commercial customers. COSTHA notes that test summary distributors would be required to provide the testing summary to a greater relative population than OSHA requires SDSs to be made available. PHMSA reiterates that the HMR require that shippers of lithium cells and batteries know that their batteries are of a tested type. If a non-commercial customer does not intend to offer the battery or cell for

transportation there would be no requirement for them to further make the test summary available.

Requests for Exceptions for Button Cell Batteries

DGAC and MDBTC requested PHMSA provide an exception from the requirement to provide a test summary for button cells installed in equipment or articles. The commenters noted that button cells installed in equipment are excepted from packaging and marking requirements under existing regulations. While lithium button cell batteries are excepted from certain requirements in the HMR and international standards, they are not excepted from the requirement to be of a tested type. The purpose of the test summary is provide information to downstream shippers that the lithium battery passed required tests and can be accepted or offered for transport. The primary benefit of the test summary is the increased visibility of the presence of lithium batteries particularly in products, and the ability of individuals in the transport chain to determine that that the lithium cells and batteries they offer for transport are of a tested type. If PHMSA was to accept the suggestions of MDBTC and DGAC to except equipment containing lithium button cell batteries from the test summary requirements, the benefits attributed to these provisions would not be gained. Excepting certain button cells and batteries from the test summary requirement does not enhance compliance and could lead to confusion on whether these cells and batteries are even subject to the design tests.

Requests for Clarification on the Docketed Guidance Document

PHMSA drafted a guidance document to assist manufacturers and distributors with understanding and implementing this requirement. The guidance includes an explanation of the requirement, a sample test summary, and questions and answers. A copy of this guidance is available in the docket for this rulemaking. In the NPRM, PHMSA requested comment on the usefulness of the guidance. PHMSA also requested comment to help improve its clarity and provide additional questions to add to the guidance. PHMSA received comments from COSTHA, MDBTC, PRBA, and the Chamber concerning the guidance document, which are categorized as follows:

- Must the test summary accompany the shipment
- Additional input on the development of the guidance document
- Devices containing different battery types
- Test summary availability

Must the Test Summary Accompany the Shipment

In their comments, COSTHA and MDBTC provided general support for PHMSA's effort to issue a guidance document. COSTHA suggested that the HMR and guidance document should be amended to clarify that the test summary document is not required to be provided as documentation with each shipment, noting that PHMSA cannot prohibit industry from implementing its own procedures, such as requiring additional documentation be provided with a shipment. The guidance document available in the docket addressed this question. Specifically, on page 5 of the guidance document, question and answer number 7. The question: ''Must a manufacturer or distributor include the TS with product shipments?'' The answer: ''No, the product manufacturer or distributor would have to make the information available. This may be achieved by placing this information on a website or through alternative means.''

PHMSA is not amending the HMR, as it believes the text in paragraph (a)(3) sufficiently addresses the commenters concern by indicating that the test summary must be made ''available upon request.'' The summary document does not need to physically accompany a shipment containing lithium batteries. PHMSA supports making the test summary available by electronic means and may revise the guidance document for clarification.

Additional Input on the Development of the Guidance Document

COSTHA requested that PHMSA revise the guidance document once the final rule is issued and subsequently update it on a periodic basis with input from stakeholders. COSTHA also requested that PHMSA solicit additional input on the guidance document before the end of 2019 as experience gained both domestically and internationally could be captured in the guidance document for future reference. MDBTC requested that PHMSA revise the guidance document prior to issuing a final rule and consider soliciting additional input on the document. PHMSA does not believe an additional round of comments is necessary prior to publishing the final rule since comments were already received. PHMSA does intend to update the guidance to account for comments received in response to the NPRM. PHMSA also intends to update the guidance document as regulations change and when experience and feedback from stakeholders dictate a need.

Devices Containing Different Battery Types

In its comments, MDBTC suggested that the guidance document should address situations where any number of different commercially available cells or batteries may be installed in a medical device. Specifically, the commenter indicated that while each battery supplier may have made the test summary available, it is a challenge to identify which battery is in the product, especially when it may be one of several similar batteries produced by different suppliers. PHMSA answered this question on page 5 of guidance document. The test summary requirement may be satisfied by using multiple, different test summaries for the batteries themselves, or by issuing a comprehensive test summary for the device that includes information for all of the batteries contained within the device.

Test Summary Availability

PHMSA received comments from Amazon, DGAC, MDBTC, NRF, PRBA, and the Chamber concerning the timeframe in which the test summary must be provided following a request. The commenters asked for clarification as to what constitutes a ''reasonable time and location.'' NRF, PRBA, and the Chamber suggested PHMSA clarify that a ''reasonable'' time does not mean that the test summary must be made available immediately upon request. Amazon suggested that PHMSA should clarify that ''subsequent distributors'' will not be required to have test summaries on hand and will be afforded a reasonable amount of time to obtain one from the manufacturer. Amazon further suggested that PHMSA should clarify that it is the responsibility of the manufacturer to respond in a timely manner. PRBA and the Chamber suggested that PHMSA's final rule and guidance document should be consistent with the IATA's lithium battery guidance [11] and industry test summary Q&A [12] that states: ''Due to the large volume of lithium batteries and lithium battery powered products that are shipped daily, manufacturers and distributors should not be expected to immediately provide a test summary for every product they ship. Manufacturers and distributors should be provided a reasonable amount of time to provide

[11] *https://www.iata.org/whatwedo/cargo/dgr/Documents/lithium-battery-shipping-guidelines.pdf.*

[12] *http://www.prba.org/wp-content/uploads/Q-A-on-Lithium-Battery-Test-Summary-September-2018-Version-A.pdf.*

the required test summary.'' MDBTC recommended that PHMSA revise the text in paragraph § 173.185(a)(3) from, ''must make available upon request at reasonable times and locations,'' to mirror the language in the UN Model Regulations, which reads ''shall make available.'' PHMSA agrees with the commenters that the test summary does not need to be made available immediately upon request, as that was not the intent of this requirement in the UN Model Regulations. As a result, PHMSA is amending the guidance document to clarify that manufacturers and distributors should make available the test summary in a reasonable amount of time but should not be expected to immediately provide a test summary for every product they ship. In addition, in this final rule, PHMSA is revising paragraph (a)(3) consistent with text in the international standards (a)(3) with the phrase ''must make available'' instead of ''must make available upon request at reasonable times and locations.'' The language proposed in the NPRM was an attempt to add clarity to the UN text by using similar language found in other sections of the HMR. Based on the comments received and upon further consideration, PHMSA believes aligning with the UN text will better reflect the intent of the regulation and avoid the possibility of imposing an undue burden.

Section 173.185(b) requires lithium cells and batteries to be packed in inner packagings in such a manner as to prevent short circuits, including movement that could lead to short circuits. These inner packagings must be placed in an outer package that conforms to the requirements of part 178, subparts L and M, at the Packing Group II performance level. PHMSA is making several amendments to § 173.185(b) to update and clarify various provisions. PHMSA is amending § 173.185(b)(2)(ii) to specify that lithium cells and batteries including lithium cells or batteries packed with, or contained in, equipment, must be packaged in a manner that prevents damage caused by movement or placement within the package. The current text requires lithium batteries to be packaged in a manner to prevent movement. This could be interpreted as to require no movement within the package. This amendment minimizes the ambiguity in the current requirements and only prohibits movement that leads to damage within the package. PHMSA received a comment from MBDTC in support of this amendment.

Further, PHMSA is amending § 173.185(b)(3)(i) to specify that inner packagings must be separated from *electrically* conductive materials. This change is based on revisions to the UN Model Regulations that revised the existing requirement that inner packagings separate lithium cells and batteries from ''conductive materials'' to require separation from ''electrically conductive'' materials. In the NPRM, PHMSA had proposed adding ''except for transportation by passenger-carrying aircraft,'' to the beginning of § 173.185(b)(5). This paragraph provides an exception from specification packaging for lithium batteries that weigh 12 kg (26.5 pounds) or more and have a strong, impact-resistant outer casing. This proposed addition is not being adopted, as the last sentence of this paragraph indicates that shipments in accordance with this paragraph are not permitted for transportation by passenger-carrying aircraft, and may be transported by cargo aircraft only if approved by the Associate Administrator.

PHMSA is amending § 173.185(b)(6) to clarify the provisions for the use of large packagings. Currently, large packagings are authorized for the transport of a single battery, including a battery contained in equipment. This amendment clarifies that large packagings are limited to a single battery or to a single item of equipment. This acknowledges that a single item of equipment may contain one or more cells or batteries. Additionally, consistent with revisions to the ICAO Technical Instructions, PHMSA is adding a new paragraph (b)(7) to prohibit the placement of lithium batteries in the same outer packaging as substances and articles of the following classes and divisions: Class 1 (explosives) other than Division 1.4S; Division 2.1 (flammable gases); Class 3 (flammable liquids); Division 4.1 (flammable solids); or Division 5.1 (oxidizers) when offered for transport or transported by aircraft. This action promotes consistency with the ICAO Technical Instructions and responds to a recommendation (A–16–001) from the NTSB stemming from the investigation of the July 28, 2011 in-flight fire and crash of Asiana Airlines Flight 991 that resulted in the loss of the aircraft and crew. The investigation report cited as a contributing factor the flammable materials and lithium ion batteries that were loaded together either in the same or adjacent pallets. Logically, if the materials are not allowed to be stowed in the same or adjacent pallets, segregation within the same package also would result in decreased risk in the event of a fire.

Section 173.185(c) of the HMR describes provisions for the carriage of up to eight small lithium cells or two small lithium batteries per package with alternative hazard communication that replaces the Class 9 label with a lithium battery mark. Additional conditions for the transport of small lithium cells and batteries by air are contained in § 173.185(c)(4). In this final rule, PHMSA is making several amendments to § 173.185(c)(2), (c)(3), and (c)(4) to align the HMR with the UN Model Regulations and the ICAO Technical Instructions, address the hazards associated with placing lithium batteries next to other hazardous materials, and clarify specific provisions. PHMSA is amending § 173.185(c)(2) to except equipment that is robust enough to protect lithium batteries from damage or short circuits from the requirement to be packaged. The current regulations provide an exception from the requirement for the package to be rigid, but otherwise require the equipment to be placed into a package. This amendment removes an unnecessary requirement to package otherwise robust equipment that protects lithium batteries from damage or short circuits. This amendment further aligns the HMR with the UN Model Regulations provisions found in special provision 188 for packaging of lithium cells, batteries, and equipment. PHMSA is removing the expired transitional provision in paragraph § 173.185(c)(3)(ii), applicable to marking requirements. PHMSA is adding a new § 173.185(c)(3)(iii) to require that when packages of lithium cells or batteries required to bear the lithium battery mark are placed in an overpack, the lithium battery mark must either: (1) Be clearly visible through the overpack; or (2) the lithium battery mark must also be affixed on the outside of the overpack, and the overpack must be marked with the word ''OVERPACK'' in lettering at least 12 mm (0.47 inches) high. PHMSA is amending § 173.185(c)(4)(ii) to adopt an ''OVERPACK'' marking minimum size requirement consistent with the proposed requirement for surface transport in § 173.185(c)(3)(iii). PHMSA received a comment from MBDTC in support of the amendments that align the ''OVERPACK'' marking requirements. PHMSA is clarifying the limits for spare batteries in § 173.185(c)(4)(vi) to state that up to ''two spare sets'' of cells or batteries can be placed in a package with equipment. For the purposes of this paragraph, a spare set is equal to the number of individual spare cells or batteries

required to power each piece of equipment. For example, if a single item of equipment requires two lithium batteries to operate, a maximum of four additional batteries (two spare sets) may be placed in the package, provided the package continues to meet the other conditions of § 173.185(c). PHMSA received a comment from MBDTC in support of this amendment. PHMSA is adding a new § 173.185(c)(4)(viii) to specify that for air transport, lithium cells and batteries may not be placed in the same package as other hazardous materials. Further, packages containing small lithium cells and batteries must not be placed into an overpack with packages containing Class 1 (explosives) other than Division 1.4S, Division 2.1 (flammable gases), Class 3 (flammable liquids), Division 4.1 (flammable solids) or Division 5.1 (oxidizers).

Section 173.185(d) of the HMR describes provisions for the transport of lithium cells and batteries for disposal or recycling. In the NPRM, PHMSA proposed to authorize the use of certain rigid large packagings to transport a single large battery or a single large item of equipment when transported for disposal or recycling. PRBA noted that the existing regulations for disposal or recycling of lithium batteries authorize strong outer packaging conforming to the requirements of §§ 173.24 and 173.24a for batteries and equipment of all sizes and do not require the use of UN packaging. PHMSA agrees with the commenter. Lithium batteries and equipment transported for disposal or recycling are not required to be placed in UN packagings. PHMSA did not intend to implement more burdensome packaging requirements for large lithium batteries transported for disposal or recycling where packages prepared in accordance with the current requirements have a demonstrated record of safe transport. Accordingly, PHMSA is not adopting this proposal and amends § 173.185(d) to clarify this point. The use of UN specification packagings, including large packagings, will remain an option.

Section 173.185(e) of the HMR sets forth provisions for the transport of low production and prototype lithium cells and batteries, including equipment. In this final rule, PHMSA is making an editorial amendment to the § 173.185(e) introductory paragraph to clarify that the ''transported for purposes of testing'' condition applies to prototype cells and batteries and that both low production and prototype lithium cells and batteries may be contained in equipment. PHMSA received a comment from MBDTC in support of this amendment. PHMSA is also making an editorial amendment to paragraphs (e)(1) and (2) to specify that cushioning material must be electrically non-conductive instead of the existing ''non-conductive'' requirement. In addition, PHMSA is adding a new paragraph (e)(4) to authorize the use of certain rigid large packagings to transport a single large battery or a single large item of equipment. This provides additional packaging options to transport large batteries and equipment that, by nature of their size or shape, cannot fit into a non-bulk package. Each of the remaining sub-paragraphs in § 173.185(e) is renumbered and remain unchanged.

Section 173.185(f) of the HMR describes the provisions for the transport of lithium batteries that have been damaged or identified by the manufacturer as being defective for safety reasons, and that have the potential of producing a dangerous evolution of heat, fire, or short circuit (*e.g.,* those being returned to the manufacturer for safety reasons). PHMSA is making an editorial amendment to § 173.185(f)(2) to specify that cushioning material must be electrically non-conductive, which harmonizes the HMR with the international standards. PHMSA is also amending § 173.185(f)(3) to clarify the provisions for the use of large packagings. Currently, large packagings are authorized for the transport of a single battery including a battery contained in equipment. This amendment clarifies that large packagings are limited to a single battery or to a single item of equipment. This acknowledges that a single item of equipment may contain one or more batteries.

ALPA commented that they did not see any proposed amendments for harmonization with three emergency amendments to the 2015–2016 ICAO Technical Instructions concerning the transport of lithium batteries by air. PHMSA published an interim final rule entitled ''Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft'' on March 6, 2019 [(HM–224I); 84 FR 8006], that amended and added multiple paragraphs in § 173.185 incorporating these ICAO Technical Instructions amendments. The NPRM did not account for these amendments and additions. Therefore, in this final rule, we are revising this section consistent with the March 6, 2019 interim final rule. Specifically, we are including text added or revised in the March 6, 2019 interim final rule in the following paragraphs: § 173.185(c)(1)(iii); (c)(4)(ii) through (vii); (c)(5); redesignated paragraph (g) as paragraph (h); and a new paragraph (g).

Section 173.218 Fish Meal or Fish Scrap

Section 173.218 contains packaging requirements for shipments of stabilized fish meal and fish scrap. Stabilization of fish meal and fish scrap by applying antioxidants is required in order to offer the material under a Class 9 stabilized proper shipping name. Historically, the IMDG Code and the HMR only reference one antioxidant, ethoxyquin, by name, although other antioxidants exist. In response to testing performed by the International Fishmeal and Fish Oil Organization [13] that indicated that concentrations of 50 ppm (mg/kg) of ethoxyquin, 100 ppm (mg/kg) of butylated hydroxytoluene (BHT), and 250 ppm (mg/kg) of tocopherol-based antioxidant are effective in stabilizing fish meal, the UN and the IMO adopted allowances for the use of two additional antioxidants (butylated hydroxytoluene and tocopherols) and a reduction in the required ethoxyquin concentration at time of shipment from 100 ppm to 50 ppm.

In this final rule, PHMSA is amending paragraph (c) of this section to lower the required ethoxyquin level at the time of shipment in bulk in freight containers for transportation by vessel from 100 ppm to 50 ppm and to specify acceptable levels of for butylated hydroxytoluene (100 ppm) and for tocopherols (250 ppm) in shipments of fish meal or fish scrap transported by vessel in bulk in freight containers. Reducing the required minimum concentration of ethoxyquin and permitting the use of additional antioxidants will reduce cost and add flexibility while maintaining an equivalent level of safety.

Section 173.220 Internal Combustion Engines, Vehicles, Machinery Containing Internal Combustion Engines, Battery-Powered Equipment or Machinery, Fuel Cell-Powered Equipment or Machinery

Section 173.220 prescribes transportation requirements and exceptions for internal combustion engines, vehicles, machinery containing internal combustion engines, battery-powered equipment or machinery, and fuel cell-powered equipment or machinery.

Special provision 135 is assigned to the HMT entries for certain vehicles. It specifies that if a vehicle is powered by both a flammable liquid and a

[13] *https://www.unece.org/fileadmin/DAM/trans/doc/2016/dgac10c3/ST-SG-AC.10-C.3-2016-82e.pdf.*

flammable gas internal combustion engine, it must be consigned under the entry ''Vehicle, flammable gas powered.'' Special provision 135 does not, however, clearly indicate that a flammable gas-powered vehicle must also comply with the requirements applicable to the quantity of flammable liquid in the fuel tank in addition to all of the applicable provisions for a flammable gas-powered vehicle. Consistent with the ICAO Technical Instructions, PHMSA is clarifying in a new paragraph (b)(2)(ii)(C) that if a vehicle is powered by a flammable liquid and a flammable gas internal combustion engine, the flammable liquid fuel tank requirements of paragraphs (b)(1) of this section must also be met.

In this final rule, PHMSA is making an editorial amendment to the requirements for vehicles powered by lithium batteries in paragraph (d). Specifically, we are clarifying that when a lithium battery is removed from the vehicle and is packed separately from the vehicle in the same outer packaging, the package must be classified as ''UN 3481, Lithium ion batteries packed with equipment'' or ''UN 3091, Lithium metal batteries packed with equipment,'' and is not eligible for classification as ''UN3171, Battery-powered vehicle *or* Battery-powered equipment.'' This clarification is a result of a working paper submitted at the 26th Meeting of the ICAO Dangerous Goods Panel (ICAO DGP/26) concerning the carriage of battery powered vehicles such as ''e-bikes'' and it addresses instances where a shipper removes the lithium battery from the battery powered vehicle and subsequently packs the battery in a separate packaging, which is then placed with the vehicle in the same outer packaging. Although this was the result of an amendment to the ICAO Technical Instructions, we believe that it provides clarification of a preexisting requirement for all modes of transport.

Section 173.222 Dangerous Goods in Equipment, Machinery or Apparatus

Section 173.222 specifies the requirements for dangerous goods in machinery or apparatus. During the course of reviewing provisions associated with the new HMT entries for ''Articles containing hazardous materials, n.o.s.,'' PHMSA found that the quantity limits prescribed in § 173.222 are inconsistent with certain international standards. The current authorized quantity of hazardous materials in one item of machinery or apparatus are as follows: 1 kg for solids; 0.5 L for liquids, and 0.5 kg for Division 2.2 gases. These quantity limits are consistent with the ICAO Technical Instructions; however, they are not aligned with the UN Model Regulations or the IMDG Code. Special provision 301 of the UN Model Regulations and the IMDG Code authorize up to the limited quantity amount for each item of dangerous goods contained in the machinery or apparatus. An example of the current authorizations is for an article containing ''Heptanes UN 1206, Class 3'' the HMR and ICAO Techinical Instructions authorize the use of UN 3363 for machinery or apparatus up to a total net quantity of .5 L. For the same material the UN Model Regulations and the IMDG Code authorize 1 L total net quantity of heptanes. The authorized limited quantity amounts in the IMDG Code and the UN Model Regulations generally align the ''methodology for determining limited quantities'' indicated in the Guiding Principles for the Development of the UN Model Regulations.[14]

In a previous final rule published on March 5, 1999 [Docket No. RSPA–98–4185 (HM–215C); 64 FR 10742], PHMSA's predecessor agency, the Research and Special Projects Administration (RSPA), aligned the HMR with the ICAO Technical Instructions by adding ''Dangerous goods in machinery *or* Dangerous goods in apparatus'' to the HMT. The proper shipping name was assigned identification number ''NA8001,'' special provision 136 was added for directions on class assignment, and § 173.222 was added containing requirements applicable to the new entry. In the HM–215C rulemaking, RSPA stated that upon the assignment of a UN identification number, it would revise the entry accordingly [81 FR 53935]. This was accomplished in the 11th revised edition of the UN Model Regulations, in which identification number UN3363 and Class 9 were assigned to this entry. The ICAO Technical Instructions were amended to be consistent with the UN Model Regulations. Subsequently, the HMR were updated accordingly in a final rule published on June 21, 2001 [Docket No. RSPA–2000–7702 (HM–215D); 66 FR 33315]. While the HMR were amended to incorporate the identification number and Class 9 designation, the quantity limit was not amended to allow up to the limited quantity amount authorized by the UN Model Regulations. Therefore, the ICAO quantity limits were retained for all modes of transport.

In the 20th Revised Edition of UN Model Regulations and Amendment 39–18 of the IMDG Code, the new ''Articles containing hazardous materials, n.o.s.'' entries apply to articles that contain only hazardous materials that exceed the permitted limited quantity amount for UN3363. The ICAO addressed the difference between the quantity authorized in the Technical Instructions and both the UN Model Regulations and the IMDG Code by amending ICAO special provision A107. The revised special provision A107 indicates that where the quantity of dangerous goods contained in machinery or apparatus exceeds the limits permitted by ICAO Technical Instructions Packing Instruction 962 (same as the existing HMR authorization), and the dangerous goods meet the provisions of Special Provision 301 of the UN Model Regulations, the machinery or apparatus may be transported as UN3363 only with the prior approval of the appropriate authority of the State of Origin and the State of the Operator under the written conditions established by those authorities. The use of the new ''Articles containing hazardous materials, n.o.s.'' requires in all cases require competent authority approval prior to being offered for transport in accordance with the ICAO Technical Instructions.

To more closely align with the UN Model Regulations and IMDG Code, for other than air transportation, PHMSA is increasing the quantity limits for liquids and solids in paragraph (c) up to the limited quantity amount prescribed in the corresponding section of Part 173 referenced in Column (8A) of the § 172.101 Table. Without this amendment, the HMR would differ from the UN Model Regulations and IMDG Code for application of the new ''Articles, n.o.s.'' entries, and an approach used by the ICAO Technical Instructions would be necessary for all modes. The authorized quantity for gases remains unchanged for all modes of transport.

Section 173.224 Packaging and Control and Emergency Temperatures for Self-Reactive Materials

Section 173.224 establishes packaging and control and emergency temperatures for self-reactive materials. The Self-Reactive Materials Table in paragraph (b)(7) of this section specifies self-reactive materials authorized for transportation without first being approved for transportation by the Associate Administrator for Hazardous Materials Safety, as well as requirements for transporting these materials. Consistent with the UN

[14] *https://www.unece.org/fileadmin/DAM/trans/danger/publi/unrec/GuidingPrinciples/Guiding_Principles_Rev19.pdf.*

Model Regulations, in paragraph (b)(7), PHMSA is adding a new entry ''Phosphorothioic acid, O-[(cyanophenyl methylene) azanyl] O,O-diethyl ester'' to the Self-Reactive Materials Table. In addition, consistent with the UN Model Regulations, a new ''Note 5'' assigned to this entry is added to the list following the table stating that this entry applies to the technical mixture in n-butanol within the specified concentration limits of the (Z) isomer.

Paragraph (c) of this section prescribes requirements for new self-reactive materials, formulations, and samples. In paragraph (c)(4), PHMSA is authorizing small samples of certain potentially explosive or self-reactive substances when transported for testing purposes. These substances usually consist of organic molecules which are active ingredients, building blocks, or intermediates for pharmaceutical or agricultural chemicals. The molecules of the substances often carry functional groups listed in tables A6.1 and/or A6.2 in Annex 6 (Screening Procedures) of the UN Manual of Tests and Criteria, that would indicate explosive or self-reactive properties; however, these substances are not designed to be explosives of Class 1. This amendment is necessary because during the early development phase of a new product, complete test data is often unavailable but the substances must be transported for further testing. The provisions adopted in paragraph (c)(4) prescribe applicability criteria and packaging conditions for these substances to be transported as samples for the purpose of testing. These criteria and packaging conditions are based on submissions to the United Nations SCOE on the Transport of Dangerous Goods showing the effectiveness of the packaging methods.

Consistent with the UN Model Regulations, PHMSA is revising paragraph (b)(4) to authorize the transportation of self-reactive substances packed in accordance with packing method OP8 (non-bulk packaging authorization) where transport in IBCs or portable tanks is permitted in accordance with § 173.225, provided that the control and emergency temperatures specified in the instructions are complied with. This change allows materials that are authorized in bulk packagings to also be transported in appropriate non-bulk packagings.

Section 173.225 Packaging Requirements and Other Provisions for Organic Peroxides

Section 173.225 prescribes packaging requirements and other provisions for organic peroxides. The Organic Peroxide Table in the UN Model Regulations is continually updated based on data submitted by governments and industry groups to account for new peroxides and formulations that have become commercially available. Consistent with revisions to the UN Model Regulations, PHMSA is revising the Organic Peroxide Table in paragraph (c) by adding the entries: ''Di-(4-tert-butylcyclohexyl) peroxydicarbonate [as a paste],'' ''Diisobutyryl peroxide [as a stable dispersion in water],'' and ''1-Phenylethyl hydroperoxide.'' The table in paragraph (d)(4) currently titled ''Maximum Quantity per Packaging/Package'' is amended to read ''Table to paragraph (d): Maximum Quantity per Packaging/Package.'' This change is being made in response to a request made during the publishing of the NPRM by the **Federal Register** to align with their requirements for table headings in regulations. The Organic Peroxide IBC Table in paragraph (e) is revised to maintain alignment with the UN Model Regulations by adding new entries for ''Cumyl peroxyneodecanoate, not more than 52%, stable dispersion, in water,'' ''2,5-Dimethyl-2,5-di(tert-butylperoxy)hexane, not more than 52% in diluent type A,'' ''3,6,9-Triethyl-3,6,9-trimethyl-1,4,7-triperoxonane not more than 27% diluent type A,'' and ''tert-Amyl peroxy-2-ethylhexanoate, not more than 62% in a diluent type A'' and by adding a type 31HA1 IBC authorization to the existing entry for ''tert-Butyl hydroperoxide, not more than 72% with water.''

In addition, consistent with the UN Model Regulations, PHMSA is amending paragraphs (e) and (g) to authorize organic peroxides to be transported packed in accordance with packing method OP8, where transport in IBCs or portable tanks is permitted, provided that the control and emergency temperatures specified in the instructions are complied with.

Section 173.232 Articles Containing Hazardous Materials, n.o.s.

New section 173.232 prescribes requirements for articles not otherwise specified by name in the HMR that contain hazardous materials of various hazard classes and divisions. This addresses situations in which hazardous materials or hazardous materials residues are present in articles in quantities greater than the amounts authorized for dangerous goods in machinery or apparatus. This new section authorizes a safe method to transport articles that may be too large to fit into typical packages. The packaging section 173.232 added in this final rule for the new proper shipping names for articles requires packaging at the Packing Group II performance level. Non-specification packaging, and transportation in an unpackaged manner or on pallets when the hazardous materials are afforded equivalent protection by the article in which they are contained, are also authorized. Absent these provisions to package and transport these materials safely, these articles may be offered for transport under provisions that do not adequately account for the physical and chemical properties of the substances and may require the issuance of an approval by PHMSA's Associate Administrator for Hazardous Materials Safety.

Section 173.301b Additional General Requirements for Shipment of UN Pressure Receptacles

Section 173.301b describes additional requirements when shipping gases in UN pressure receptacles. In paragraph (c)(1), PHMSA is incorporating ISO 17871:2015 containing specification and type testing requirements for quick release cylinder valves. In paragraph (d)(1), PHMSA is phasing out ISO 13340:2001, Transportable gas cylinders—Cylinder valves for non-refillables cylinders—Specification and prototype testing, which can be utilized until December 31, 2020. ISO 13340:2001 is being phased out because the applicable valve standard in ISO 13340:2001 has been incorporated into ISO 11118:2015.

Section 173.304b Additional Requirements for Shipment of Liquefied Compressed Gases in UN Pressure Receptacles

Section 173.304b contains additional requirements for the shipment of liquefied compressed gases in UN pressure receptacles. In this final rule, consistent with a change made in the 20th Revised Edition of the UN Model Regulations, PHMSA is amending paragraph (b)(5) by replacing ''liquid phase'' with ''liquefied gas'' and ''compressed'' with ''compressed gas'' to better describe the phases of the material being stored and to align with the UN language.

Section 173.422 Additional Requirements for Excepted Packages Containing Class 7 (Radioactive) Materials

Section 173.422 contains additional requirements for excepted packages containing Class 7 (radioactive) materials. Shipments of excepted packages containing Class 7 materials are not required to meet the general

shipping paper requirements found in the HMR. Amendment 39–18 of the IMDG Code adopted a requirement that vessels carrying these excepted packages include information concerning these packages (*e.g.,* UN ID Number and location on board the vessel) on the Dangerous Cargo Manifest (DCM). Historically, the HMR has not required any documentation to accompany shipments of excepted packages containing radioactive material when offered for transportation by vessel. In this final rule, PHMSA is amending the DCM requirements in § 176.30 to require information about these shipments to be included in the DCM carried aboard the vessel. Without a corresponding amendment to § 173.422 to require the information to be provided to the vessel operator, the vessel operator would not have the information available that would be required to be included on the DCM.

In this final rule, PHMSA proposes to add a new paragraph (f) that would require excepted packages of radioactive materials offered for transportation by vessel to have a special transport document such as an ocean bill of lading or other similar document that includes the UN identification number for the material being offered, the name and address of the consignor and consignee, and a container packing certificate, in accordance with the requirements in § 176.27. This amendment provides for the conveyance of necessary information to the vessel operator for creation of the DCM.

Appendix I to Part 173

PHMSA is also adding a new Appendix I to part 173, containing a flow chart for use with the calculation method for corrosive classification. Please see the section-by-section discussion for § 173.137 for further information on Appendix I to Part 173.

Part 174—Carriage by Rail

Section 174.50 Nonconforming or Leaking Packages

Section 174.50 prescribes regulations for the movement of nonconforming or leaking packages by rail. Under the HMR, no person may offer for transportation or transport a bulk hazmat packaging (typically a tank car) by rail unless that packaging is marked, represented, maintained, reconditioned, repaired, and retested in accordance with the HMR (§ 171.2(g)). However, § 174.50 authorizes the movement of a non-conforming bulk hazmat package moved by rail when: (1) The movement is necessary to reduce or eliminate an immediate threat or harm to human health or the environment; or (2) the movement is approved by the Federal Railroad Administration's (FRA) Associate Administrator for Railroad Safety.

Approvals issued by FRA's Associate Administrator for Railroad Safety are commonly referred to as One-Time Movement Approvals (OTMA).[15] Transport Canada issues similar approvals for the movement of non-conforming bulk hazmat packages and tank cars, which are referred to as Temporary Certificates. Historically, for movements of non-conforming tank cars from Canada to or through the United States, the offeror would have to obtain both an OTMA from FRA and a Temporary Certificate from Transport Canada. These applications initiate administrative processes and safety reviews by both governments that nearly always result in the same conclusion. Since the safety analysis used to evaluate Temporary Certificates in Canada is similar to the safety analysis used to evaluate OTMAs by FRA, the requirement to obtain two government approvals for a cross border movement provides no additional safety benefit and is redundant and burdensome. Thus, to facilitate cross border trade, for movements to or through the United States from Canada, PHMSA is amending the regulation to recognize Temporary Certificates issued by Transport Canada. This amendment would reduce the duplicative requirement to apply for both an OTMA from the United States and a Temporary Certificate from Canada, should the non-conforming package need to be transported over the U.S.-Canadian border.

On July 12, 2007, Transport Canada published, ''Regulations Amending the Transportation of Dangerous Goods Regulations (International Harmonization Update, 2016).'' In this publication, Transport Canada indicated that recognition of OTMA may be included in a future amendment. This amendment aims to facilitate international transportation and at the same time ensures the safety of people, property, and the environment. Finally, for low-risk movements of non-conforming tank cars, Transport Canada authorizes the one-time movement without the need to obtain a temporary certificate (see TP–14877). For clarification, such movements under the TDG Regulations are already authorized by § 171.12, provided the movements are compliant with all applicable requirements in the TDG Regulations and § 171.12. PHMSA received comments from DGAC and Dow in support of the changes to § 174.50 noting these amendments work to facilitate cross border trade.

Part 175—Carriage by Aircraft

Section 175.10 Exceptions for Passengers, Crewmembers, and Air Operators

Section 175.10 specifies the conditions under which passengers, crew members, or an operator may carry hazardous materials aboard an aircraft. Consistent with revisions to the ICAO Technical Instructions, in this final rule, PHMSA is making several revisions to this section.

PHMSA is revising paragraph (a)(2) to account for lighters powered by lithium batteries (*e.g.,* laser plasma lighters, tesla coil lighters, flux lighters, arc lighters, and double arc lighters). The assigned provisions would be consistent with a combination of the existing requirements applicable to portable electronic devices powered by lithium batteries and battery powered portable electronic smoking devices. Specifically, each lithium battery must be of a type which meets the requirements of each test in the UN Manual of Tests and Criteria, Part III, Subsection 38.3 and must not exceed the size limits authorized for portable electronic devices. Recharging of the devices and/or the batteries on board the aircraft is not permitted consistent with the requirements for portable electronic smoking devices. In addition, lithium battery powered lighters without a safety cap or means of protection against unintentional activation are prohibited in carry-on baggage, checked baggage, and when carried on one's person.

PHMSA is revising paragraph (a)(3), to authorize medical devices containing radioactive material fitted externally as the result of medical treatment, consistent with the ICAO Technical Instructions. In addition, the reference to implanted medical devices containing lithium batteries is removed. For medical devices containing lithium batteries (including those implanted, externally fitted, or carried by passengers or crew members) the quantity limits provided in (a)(18)(i) or (ii) apply, as applicable.

PHMSA is revising paragraph (a)(14) for consistency with the ICAO Technical Instructions and other paragraphs in this section. The first sentence is revised to clarify that the paragraph is applicable to battery powered heat-producing devices rather

[15] On October 7, 2014 FRA issued guidance on One-Time Movement Approvals titled *One-Time Movement Approval Procedures, HMG–127.*

than ''electrically powered'' articles. For lithium battery powered devices, quantity limits are added in new paragraphs (i) and (ii) consistent with the existing requirements applicable to portable electronic devices powered by lithium batteries and battery powered portable electronic smoking devices. The requirements for spare batteries are revised to reference the provisions for spare batteries in paragraph (a)(18).

PHMSA is revising paragraph (a)(15) by adding a new paragraph (vi) to separate and clarify the handling requirements applicable to each ''non-spillable'' and ''dry sealed'' battery presently prescribed in paragraph (v). PHMSA is also adding a new paragraph (vii) to authorize passengers with restricted mobility to carry a spare non-spillable or dry sealed battery for their mobility aid. Prior to this rulemaking, spare lithium batteries were permitted for passengers with lithium battery-powered mobility aids; this was deemed acceptable for mobility aids equipped with non-spillable or dry sealed batteries. This action is consistent with the ICAO Technical Instructions.

PHMSA is amending provisions for carriage of wheelchairs or other mobility aids equipped with a lithium ion battery by removing the requirement that ''collapsible'' mobility aids necessitate removal of the battery. The intent of the existing requirement was to allow the removal of the batteries from lightweight collapsible mobility aids when these do not afford any protection to the batteries. However, the existing text in both the HMR and ICAO Technical Instructions can be construed to mean that if the battery was designed to be removable from the mobility aid, that it must be removed in all circumstances, even when adequate protection to the batteries is provided. In cases when the batteries are adequately protected, it is preferable that they remain installed in the mobility aid; however, there may be situations when that is not possible or safe to do, and in these cases the batteries must be removed. Therefore, in this final rule, PHMSA is amending (a)(17)(v) by removing the word ''collapsible'' and clarifying that when the wheelchair or mobility aid does not provide adequate protection to the battery, that the battery must be removed and handled in accordance with the existing conditions prescribed in (a)(17)(v)(A) through (E).

PHMSA is amending the provisions for carriage of portable electronic devices (PEDs) containing lithium batteries to address safety concerns requiring passengers to carry PEDs in checked baggage. Consistent with the ICAO Technical Instructions, § 175.10(a)(18) is revised to require that when PEDs powered by lithium batteries are in checked baggage, they must be completely powered off and protected to prevent unintentional activation or damage. PHMSA received a comment from Yvonne Keller noting that in an October 18, 2018, final rule [Docket No. PHMSA–2015–0100 (HM–259) [83 FR 52878], PHMSA amended paragraph (a)(18)(i) to authorize passengers and crewmembers to carry on board an aircraft lithium metal battery-powered portable medical electronic devices and two spare batteries for those devices exceeding 2 grams of lithium content per battery, but not exceeding 8 grams of lithium content per battery, with the approval of the operator. We agree that the NPRM did not account for this amendment. Therefore, in this final rule, we are revising this paragraph consistent with the earlier published final rule.

PHMSA is revising the carriage requirements for battery-powered portable electronic smoking devices in paragraph (a)(19). The 2015–2016 Edition of the ICAO Technical Instructions incorporated provisions prohibiting passengers and crew from carrying such devices in checked baggage or recharging them in the cabin, and requiring that any spare batteries be protected from short circuit. In a working paper (DGP/26–WP/42) submitted by the United States at the ICAO DGP/26 meeting, it was reported that even after the prohibition, 10 incidents involving these devices were documented between May 2015 and May 2017. As described in the working paper, seven of the incidents occurred inside a passenger aircraft and three occurred inside an airport. These incidents typically involved the electronic smoking device while it was being transported in carry-on baggage, with the suspected cause of the majority of these incidents being the accidental activation of the device.

In this final rule, PHMSA is aligning the HMR with the ICAO Technical Instructions by requiring passengers or crew to take effective measures for preventing accidental activation of the heating element of the device when transporting such devices in carry-on baggage on board passenger aircraft. Examples of effective measures include, but are not limited to: Removing the battery from the electronic smoking device; separating the battery from the heating coil; placing the electronic smoking device into a protective case; using a protective cover, safety latch, or locking device on the electronic smoking device's heating coil activation button; and electronics or technology in the device designed to prevent accidental activation, such as those requiring the electronic smoking device to be powered on before the heating coil button can be activated.

PHMSA is adding a new paragraph (a)(26) that amends the passenger provisions for carriage of baggage equipped with lithium batteries (*e.g.,* smart baggage) intended to power features designed to make travel easier, such as location tracking, PED battery charging, short range wireless connections, digital weighing, or motors. To address concerns that passengers would check baggage containing lithium batteries (*e.g.,* power banks) despite existing requirements that articles whose primary purpose is to provide power to another device be carried as spare batteries in the cabin as carry-on baggage, the ICAO Technical Instructions were amended to require that passengers remove lithium batteries from baggage they intend to check, in accordance with the provisions for spare batteries. Specifically, baggage equipped with a lithium battery or batteries is required to be carried as carry-on baggage, unless the battery or batteries are removed from the baggage. Once the battery or batteries are removed from baggage intended to be checked, the battery or batteries must be carried in the cabin in accordance with the provisions for spare batteries prescribed in paragraph (a)(18). This restriction in checked baggage does not apply to baggage containing lithium metal batteries with a lithium content not exceeding 0.3 grams, or lithium ion batteries with a Watt-hour rating not exceeding 2.7 Wh.

PHMSA received a comment from Alaska Airlines requesting that additional text be added to clarify that batteries must be removable without the use of any tool for baggage to be carried on, in the event the bag must subsequently be placed in the cargo compartment. However, in the NPRM, we proposed to align with the text of the ICAO Technical Instructions, which does not include this requirement. The requested language would, therefore, result in unalignment with the ICAO Technical Instructions and additional changes in existing practices in manufacturing and design of these types of bags.

Section 175.33 Shipping Paper and Information to the Pilot-in-Command

Section 175.33 establishes requirements for shipping papers and for the notification of the pilot-in-command when hazardous materials are transported by aircraft. Consistent with

revisions to the ICAO Technical Instructions, in paragraph (a)(13)(i), PHMSA is including a requirement to indicate the airport at which the lithium batteries will be unloaded in the information to the pilot-in-command when a summary is used for lithium batteries. Including the airport at which the batteries will be unloaded is consistent with the existing authorization in paragraph (a)(12) to use a summary instead of the default information to the pilot in command for ''UN 1845, Carbon dioxide, solid (dry ice).'' Yevon Keller commented noting that the HM–215O NPRM did not take into account recent changes to this section made in an October 18, 2018, final rule [Docket No. PHMSA–2015–0100 (HM–259); 83 FR 52878]. The NPRM did not fully account for this amendment and, in this final rule, we are revising paragraphs (a)(12) and (13) to make them editorially consistent with the earlier published final rule.

Additionally, in a recent interim final rule (IFR) published March 6, 2019, [HM–224I; 84 FR 8006], PHMSA made revisions to some lithium battery requirements in the HMR.[16] As part of the IFR, we made changes to § 173.185(c) including redesignating paragraph (c)(4)(vi) as paragraph (c)(5). However, in the HM–224I IFR, we did not make a conforming amendment to § 175.33, specifically § 175.33(a)(13)(iii), which continued to incorrectly reference § 173.185(c)(4)(vi). As such, the reference in § 175.33(a)(13)(iii) should be to § 173.185(c)(5), as this will correctly indicate that UN3480, UN3481, UN3090, and UN3091 materials prepared in accordance with § 173.185(c)(5) are still required to appear on the information to the pilot-in-command. This HM–215O final rule makes that necessary editorial correction.

Section 175.78 Stowage Compatibility of Cargo

Section 175.78 prescribes the stowage compatibility of hazardous materials offered for transportation by aircraft. Consistent with international standards, in a March 30, 2017, final rule [HM–215N; 82 FR 15796], PHMSA added new Class 3 HMT entry ''UN 3528,'' applicable to the fuel contained in engines and machinery powered by Class 3 flammable liquids. In accordance with the segregation requirements prescribed in this section, engines and machinery classified under the new UN 3528 entry in Class 3 are required to be segregated from dangerous goods with a primary or subsidiary hazard of Division 5.1. Prior to the addition of the UN 3528 HMT entry, such engines and machinery were classed in Class 9 and, therefore, not required to be segregated from Division 5.1 materials. The packing requirements by air for UN 3528 require engines to be drained and the tank caps fitted securely. These precautions ensure that there is only a negligible amount of residual fuel remaining. There is no indication that, as prepared for transport, UN 3528 poses any more hazard now that would require these items to be segregated than when these items were previously identified as a Class 9. Therefore, in this final rule, PHMSA is adding an exception to the segregation requirement by including a ''Note 3'' to the paragraph (b) Segregation Table and adding a new paragraph (c)(8) stating that materials consigned under UN 3528 need not be segregated from packages containing hazardous materials in Division 5.1.

Consistent with the ICAO Technical Instructions, PHMSA is requiring that packages and overpacks containing lithium cells and batteries that bear the Class 9 label must not be stowed on an aircraft next to, in contact with, or in a position that would allow interaction with, packages or overpacks containing other hazardous materials in Class 1 (other than Division 1.4S), Division 2.1, Class 3, Division 4.1 and Division 5.1. Specifically, the current paragraph (b) is reformatted into two paragraphs. A new paragraph (b)(2) is added to prescribe the segregation requirements applicable to lithium cells and batteries. The existing Segregation Table is revised by adding the necessary columns and rows representing hazard classes not presently in the Table. These changes to the Table indicate that hazardous materials in the classes described above must be segregated from packages and overpacks containing lithium cells or batteries prepared in accordance with § 173.185(b)(3) and (c)(4)(vi). PHMSA is taking this action to promote consistency with the ICAO Technical Instructions and in response to a NTSB recommendation (A–16–001). The recommendation stemmed from NTSB's investigation of the July 28, 2011, in-flight fire and crash of Asiana Airlines Flight 991, which resulted in the loss of the aircraft and crew. The investigation report cited as a contributing factor the flammable materials and lithium ion batteries that were loaded together either in the same or adjacent pallets.

PHMSA received two comments from COSTHA and Alaska Airlines in support of the segregation requirements. Alaska Airlines supports the changes to the segregation requirements and COSTHA supports the new Note 3 in § 175.78 exempting ''UN3528'' from Division 5.1 segregation requirements. Alaska Airlines asked if it was an oversight that PHMSA did not propose to amend § 175.310(c)(1)(ii) to include similar prohibitions on shipping lithium metal and lithium ion batteries with flammable liquids, which authorizes transportation of flammable liquid fuel by passenger and cargo aircraft when other means of transportation are impracticable. Shipments made in accordance with § 175.310 may vary from the packaging references and quantity limits listed in Columns 7, 8, and 9 of the HMT. PHMSA did not propose or intend to propose amendments to § 175.310 in the NPRM. As no amendments were proposed to this section or these provisions, we are not amending the requirements in this section in this final rule. The FAA and PHMSA have agreed to look at the issue further and any potential future rulemaking action would afford stakeholders the opportunity to review and provide comments.

Part 176—Carriage by Vessel

Section 176.30 Dangerous Cargo Manifest

Section 176.30 prescribes requirements for DCMs, lists, or stowage plans required to be carried aboard vessels transporting hazardous materials. For consistency with the IMDG Code in this final rule, PHMSA is adding a new paragraph (a)(9) to require that DCMs include information on shipments of excepted packages containing Class 7 materials. For shipments of excepted packages containing Class 7 material only the UN identification number, the name and address of the consignor and the consignee, and the stowage location of the hazardous material on board the vessel is required to be entered on the DCM, list, or stowage plan carried aboard the vessel.

Section 176.84 Other Requirements for Stowage, Cargo Handling, and Segregation for Cargo Vessels and Passenger Vessels

Section 176.84 prescribes the meanings and requirements for numbered or alphanumeric stowage provisions for vessel shipments listed in column (10B) of the § 172.101 HMT. The provisions in § 176.84 are separated into general stowage provisions, which are defined in the ''table of provisions'' in paragraph (b), and the stowage provisions applicable to vessel shipments of Class 1 explosives, which

[16] *https://www.govinfo.gov/content/pkg/FR-2019-03-06/pdf/2019-03812.pdf.*

are defined in the table in paragraph (c)(2). In a previous final rule [Docket No. PHMSA–2015–0273 (HM–215N); 82 FR 15796], a subsidiary hazard of 6.1 was added to the UN 2977 and UN 2978 uranium hexafluoride entries, and the primary hazard for UN 3507, Uranium hexafluoride, radioactive material, excepted package was changed from 8 to 6.1. Consequential amendments to the stowage and segregation requirements codes for these materials were not addressed at the time of these changes in the IMDG Code or the HMR. In this final rule, we are adding new stowage provisions that clarify what segregation requirements apply to shipments of uranium hexafluoride.

PHMSA is adding a new stowage provision 151 and assigning it to the UN 2977 and UN 2978 uranium hexafluoride entries. This new stowage provision requires segregation for Class 7 materials to apply to uranium hexafluoride shipped under these two UN numbers.

Additionally, consistent with Amendment 39–18 of the IMDG Code, PHMSA is adding a new stowage provision 152 and assigning it to UN 3507, Uranium hexafluoride, radioactive material, excepted package. This new stowage provision requires segregation for Class 8, but excepts segregation in relation to Class 7 materials. This exception to the general segregation requirements between Class 8 and Class 7 materials allows shipments of excepted packages of uranium hexafluoride to be stowed in close proximity to shipments of fully regulated uranium hexafluoride.

Based on changes to the IMDG Code to address the appropriate segregation requirements for shipments of uranium hexafluoride, PHMSA is adding a new stowage provision 153 and assigning it to the UN 2977 and UN 2978 uranium hexafluoride HMT entries. This new stowage provision requires these materials to be stowed ''separated longitudinally by an intervening complete compartment or hold from'' Divisions 1.1, 1.2, and 1.5.

Based on changes to the IMDG Code to provide additional flexibility in the stowage requirements for jet perforating guns, PHMSA is adding a new stowage provision 154 and assigning it to the NA 0124, NA 0494, UN 0494, and UN 0124 jet perforating gun HMT entries. This new stowage provision indicates that, notwithstanding the stowage category assigned to the entries in the HMT, jet perforating guns may be stowed in accordance with the provisions of packing instruction US 1 in § 173.62. These jet perforating guns are currently assigned to stowage categories ''02'' and ''04.'' Both stowage categories require stowage in closed cargo transport units. The inclusion of new stowage provision 154 clarifies that regardless of the stowage category assigned, jet perforating guns offered in accordance with US 1 in § 173.62 are not required to be offered for transport or transported in closed cargo transport units.

Part 178—Specifications for Packagings

Section 178.71 Specifications for UN Pressure Receptacles

Section 178.71 prescribes specifications for UN pressure receptacles. Consistent with the UN Model Regulations, PHMSA is amending paragraphs (d)(2), (f), (i), (j), and (q)(12), to reflect the adoption of the latest ISO standards for the design, construction, and testing of gas cylinders and their associated service equipment. In paragraph (d)(2), PHMSA is adding a phase out date for ISO 13340:2001, which is authorized for valves manufactured until December 31, 2020, and incorporating by reference ISO 14246:2014 (E) ''Gas cylinders—Cylinder valves—Manufacturing tests and examination,'' which addresses initial inspection and testing requirements for valves. ISO 13340:2001 is being phased out because the applicable valve requirements have been incorporated into ISO 11118:2015. In paragraph (f), PHMSA is amending the title of the paragraph to include pressure drums and adding ISO 21172–1:2015(E), ''Gas cylinders—Welded steel pressure drums up to 3 000 litres capacity for the transport of gases—Design and construction—Part 1: Capacities up to 1 000 litres'' in new paragraph (f)(4). A note was added to the UN Model Regulations that authorizes welded steel gas pressure drums with dished ends convex to pressure to be used for the transport of corrosive substances provided all applicable additional requirements are met, irrespective of section 6.3.3.4 of this standard which prohibits such use.[17] Therefore, PHMSA is authorizing the same deviation from the ISO standard in paragraph (f).

In addition, in paragraph (i), PHMSA is adding a phase out date for ISO 11118:1999 ''Gas Cylinders for Non-refillable Metallic Gas Cylinders,'' which is authorized until December 31, 2020, and replacing it with the new standard, ISO 11118:2015. In paragraph (j), PHMSA is adding a phase out date for ISO 111120:1999, ''Gas Cylinders for Refillable Seamless Steel Tubes,'' which is authorized until December 31, 2022, and replacing it with ISO 111120:2015. In paragraph (q)(12), PHMSA is incorporating ISO/TR 11364, ''Gas cylinders—Compilation of national and international valve stem/gas cylinder neck threads and their identification and marking system'' to specify a harmonized identification code and marking system for both cylinders and valves.

Section 178.75

Section 178.75 prescribes specifications for multi-element gas containers (MEGCs). In paragraph (d)(3)(v), PHMSA is adding a phase out date for ISO 11120:1999, which is authorized for construction and testing of receptacles of MEGCs until December 31, 2022, and authorizing the new, updated standard ISO 11120:2015. Changes to the new edition of this standard include the addition of an annex outlining typical chemistry groupings for seamless steel tubes, the addition of nickel chromium molybdenum steel, the modification of ultrasonic examination provisions, and revisions to the provisions for the design of tubes for embrittling gases.

Section 178.601 General Requirements

Section 178.601 prescribes the general requirements for test procedures for non-bulk packagings and packages. A test report must be prepared and made available to a user of a packaging or a DOT representative upon request. In this final rule, PHMSA is requiring in paragraph (l)(2)(viii) that the test report for plastic packagings that are subject to the hydraulic pressure test include the temperature of the water used for the test. Tests with different water temperatures applied to one design type can produce different test results (pass or fail). This action is consistent with amendments to the UN Model Regulations. PHMSA received a comment from RIPA supporting the requirement.

Section 178.801 General Requirements

Section 178.801 prescribes the general requirements for test procedures of an IBC containing a hazardous material. A test report for an IBC must be prepared and made available to a user of a packaging or a DOT representative upon request. In this final rule, PHMSA is requiring in paragraph (l)(2)(viii) that the test report for rigid plastics and composite IBCs that are subject to the hydraulic pressure test must include the temperature of the water used for the test. Tests with different water temperatures applied to one design type can produce different test results (pass

[17] *https://www.unece.org/fileadmin/DAM/trans/doc/2015/dgac10c3/UN-SCETDG-48-INF49_e_.pdf.*

or fail). The inclusion of the temperature of the water used for the test will allow for tests that more accurately simulate the original design type testing when such additional testing is performed. PHMSA received a comment from RIPA supporting the requirement.

Section 178.810 Drop Test

Section 178.810 prescribes the requirements for an IBC drop test. In the NPRM, we proposed to amend paragraph (c)(1), to clarify that the same IBC or a different IBC of the same design type may be utilized for the required drop tests. PHMSA received a comment from Frits Wybenga noting that IBCs exceeding 450 L (0.45 cubic meters) capacity only require one drop test and that our proposed language could confuse users. PHMSA agrees and has determined that (c)(2), addressing IBC design types with a capacity of 0.45 cubic meters or less is the most appropriate paragraph for this provision. As such, we are amending paragraph (c)(2).

Part 180—Continuing Qualification and Maintenance of Packagings

Section 180.207 Requirements for Requalification of UN Pressure Receptacles

Section 180.207 prescribes requirements for requalification of UN pressure receptacles. In March 2017, PHMSA published a final rule under Docket HM–215N [82 FR 15796 (March 30, 2017)]. In this rule, PHMSA amended the HMR to expand recognition of cylinders and pressure receptacles, cargo tank repair facilities, and certificates of equivalency in accordance with the Transport Canada TDG Regulations. The goal of these amendments is to promote flexibility and permit the use of advanced technology for the requalification and use of pressure receptacles, to provide for a broader selection of authorized pressure receptacles, to reduce the need for special permits, and to facilitate cross-border transportation of these cylinders. Section § 171.12(a)(4) permits the transportation of a cylinder authorized by Transport Canada TDG Regulations to, from, or within the United States. In HM–215N, PHMSA amended (a)(4)(ii) to authorize the use of Canadian manufactured cylinders. Specifically, PHMSA authorized the transportation of CTC, CRC, BTC, and TC cylinders that have a corresponding DOT specification cylinder prescribed in the HMR. HM–215N did not remove or amend existing requirements for DOT specification cylinders; rather, PHMSA provided that a shipper may use either a DOT specification cylinder or a TC cylinder, as appropriate. In this final rule, PHMSA is clarifying the amendments in HM–215N and allowing for the requalification of ''CAN'' marked UN cylinders in the United States.

In the NPRM, PHMSA proposed that cylinders marked with the letters ''CAN'' for Canada as a country of manufacture or a country of approval may be requalified in the United States, provided the requirements in §§ 178.69, 178.70, and 178.71, as applicable, are met. PHMSA received a comment from Transport Canada stating that it disagrees that UN cylinders marked with the letters ''CAN'' must comply with the U.S. manufacturing and approval requirements in §§ 178.69, 178.70, and 178.71, as the cylinders are manufactured to comply with the TDG Regulations. Transport Canada recommended that consistent with the reciprocity provisions for TC cylinders added in the HM–215N final rule, UN cylinders marked with the letters ''CAN'' be requalified and marked by a facility registered by Transport Canada in accordance with the Transport Canada TDG Regulations. PHMSA agrees with the commenter that allowing this method of requalification is consistent with previous amendments concerning requalification of Canadian pressure vessels using TDG Regulations, promotes U.S. and Canadian regulatory reciprocity and facilitates international trade. In this final rule, PHMSA is revising paragraph (a)(2) per the recommendation from Transport Canada.

Consistent with changes to the UN Model Regulations, PHMSA is revising paragraph (d)(1) to incorporate ISO 16148:2016, which addresses the requalification of seamless steel cylinders and tubes. This addition allows the internal inspection and hydraulic pressure test for seamless steel ISO cylinders and tubes to be replaced by non-destructive testing methods identified in ISO 16148:2016. Non-destructive test methods in this ISO standard have been updated to provide a method for evaluating the significance of acoustic emission examination identifed emission sources. This standard specifies the ultrasonic examination method as a follow-up procedure to evaluate the significance of sources identified through acoustic emissions examinations. Additionally, in paragraph (d)(4), PHMSA is adding a phase out date for ISO 11623:2002, which is authorized for inspection and testing of composite UN cylinders until December 31, 2020, and authorizing the new standard, ISO 11623:2015. Finally, PHMSA is adding new paragraph (d)(6) to incorporate inspection and maintenance requirements for cylinder valves as found in ISO 22434:2006 ''Transportable gas cylinders—Inspection and maintenance of cylinder valves.'' Changes to the revised standard include: Up-to-date terminology, particularly for the various types of composite cylinders; up-to-date references to additional documents for steel and aluminum-alloy liner materials; and an update of some photographs to provide sharper examples of damage.

Section 180.217 Requalification Requirements for MEGCs

Section 180.217 contains requalification requirements for MEGCs. PHMSA received a comment from Transport Canada that the HM–215N final rule did not extend reciprocity to the requalification of MEGCs performed by facilities registered with Transport Canada. The commenter noted that having mutual recognition for cylinder requalification was one of the main goals of the U.S.-Canada Regulatory Cooperation Council. PHMSA agrees that the ability to requalify MEGC's is consistent with previous amendments concerning pressure vessels and promotes U.S. and Canadian regulatory reciprocity and facilitates international trade. In this final rule PHMSA is revising paragraph (a) by authorizing MEGCs to be requalified by a facility registered by Transport Canada in accordance with the Transport Canada TDG Regulations.

VI. Regulatory Analyses and Notices

A. Statutory/Legal Authority for This Final Rule

This final rule amends the HMR to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. This final rule is published under the statutory authority of Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*). Section 5103(b) of Federal hazmat law authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce. Additionally, 49 U.S.C. 5120(b) authorizes the Secretary to ensure that, to the extent practicable, regulations governing the transportation of hazardous materials in commerce are

consistent with standards adopted by international authorities. The Secretary's authority is delegated to PHMSA at 49 CFR 1.97.

B. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order (E.O.) 12866, Regulatory Planning and Review, 58 FR 51735 and, therefore, was not formally reviewed by the Office of Management and Budget. This final rule is not considered a significant rule under the Department of Transportation's Policies and Procedures for Rulemakings (DOT Order 2100.6; Dec. 20, 2018).

E.O. 12866 requires agencies to design regulations ''in the most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' In this final rule, PHMSA accomplishes the directives of E.O. 12866 by harmonizing the HMR with widely used consensus international standards to address specific safety concerns, reduce regulatory burdens, and facilitate international trade. Such alignment promotes international trade through standardization, facilitates domestic transportation and reduces regulatory burden by using a single set of guiding principles worldwide.

Overall, the issues discussed in this final rule promote the continued safe transportation of hazardous materials while producing net cost savings. Cost savings are derived from generalized harmonization effects (such as avoided costs of compliance) and the specific provisions related to corrosivity classification that adds alternative packing group assignment methods to classify corrosive mixtures without conducting physical testing. Details on the estimated cost savings and benefits of this final rule can be found in the rule's Regulatory Impact Analysis (RIA), which is available in the public docket.

Based on the discussions of benefits and costs provided above, PHMSA estimates discounted net cost savings at a 3 percent discount rate of approximately $93,000–$2.2 million per year and at a 7 percent discount rate of approximately $55,000–$2.1 million per year. Please see the complete RIA for a more detailed analysis of the costs and benefits of this final rule.

C. Executive Order 13771

This final rule is considered an E.O. 13771 deregulatory action. Details on the estimated cost savings of this final rule are discussed in the rule's RIA, which has been uploaded to the docket.

D. Executive Order 13132

This final rule was analyzed in accordance with the principles and criteria contained in E.O. 13132, Federalism, 64 FR 43255. E.O. 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' The regulatory changes in this final rule may preempt State, local, and Indian tribe requirements but do not have substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous materials transportation law contains an express preemption provision, 49 U.S.C. 5125(b), that preempts State, local, and Indian tribe requirements on certain covered subjects, unless the non-Federal requirements are ''substantively the same'' as the Federal requirements:

(1) The designation, description, and classification of hazardous material;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(3) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; and

(5) The design, manufacture, fabrication, inspection, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

This final rule addresses covered subject items (1), (2), (3), and (5) above. Therefore, this final rule preempts State, local, or tribal requirements concerning these subjects unless the non-Federal requirements are ''substantively the same'' as the Federal requirements. PHMSA received no comments on the NPRM regarding the effect of the adoption of the specific proposals on State, local or tribal governments.

E. Executive Order 13175

This final rule was analyzed in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249. E.O. 13175 requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that significantly or uniquely affect Tribal communities by imposing ''substantial direct compliance costs'' or ''substantial direct effects'' on such communities or the relationship and distribution of power between the Federal government and Indian tribes. This final rule is likely to affect offerors and carriers of hazardous materials, some of whom are small entities, such as chemical manufacturers, users and suppliers, packaging manufacturers, distributors, and training companies. It does not impose substantial direct compliance costs and does not have substantial direct effects on Native American tribal governments. Therefore, the funding and consultation requirements of E.O. 13175 do not apply. Further, PHMSA did not receive comments on the tribal implications of the rulemaking.

F. Regulatory Flexibility Act, Executive Order 13272, and DOT Policies and Procedures

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess its impact on small entities, unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking, 68 FR 7990,'' requires agencies to establish procedures and policies to promote compliance with the Regulatory Flexibility Act and to ''thoroughly review draft rules to assess and take appropriate account of the potential impact'' of the rules on small businesses, governmental jurisdictions and small organizations. This rule was developed in accordance with this E.O. and DOT's procedures and policies (DOT Order 2100.6) to promote compliance with the Regulatory Flexibility Act and to ensure that the potential impacts of a regulatory action on small entities were properly considered.

Section 603(b) of the Regulatory Flexibility Act requires an analysis of the possible impact of the rule on small entities, including the need for the rule, the description of the action, the identification of potentially affected

small entities, the reporting and recordkeeping requirements, the related Federal rules and regulations, and the alternative proposals considered.

PHMSA expects the amendments in this rule to result in overall net cost savings and ease the regulatory compliance burden for shippers engaged in domestic and international commerce, including trans-border shipments within North America. Additionally, the changes effected by this rule will relieve U.S. companies, including small entities competing in foreign markets, from the burden of complying with a dual system of regulations. Therefore, PHMSA expects that these amendments will not have a significant economic impact on a substantial number of small entities. However, PHMSA solicited comments in the NPRM on the anticipated economic impacts to small entities. Comments from Amazon and NRF to the NPRM indicated that the requirement to prepare a test summary and the subsequent distribution to others in the supply chain for all lithium cells and batteries manufactured would have a disproportionate impact on small businesses. While the commenters provided no quantitative context, PHMSA estimated the burden on manufacturers and subsequent distributors for the lithium cell and battery test summary requirement in the SBA below to address this issue. Such analysis for this final rule is as follows, supplemented by the analysis contained in the RIA, which can be found in the docket for this rulemaking:

1. Need for the Final Rule

This final rule adopts the conditional use of international standards, and where appropriate, harmonizes domestic transportation requirements for hazardous materials with those found in the applicable international standards. This harmonization promotes compliance cost savings, process efficiencies/time savings, reduced potential property, health and environmental damages, and increased trade flows/reduction in barriers to trade.

The benefits from the adoption of the amendments include enhanced transportation safety resulting from the consistency of domestic and international hazard communication and continued access to foreign markets by U.S. manufacturers and other businesses that are transporters of hazardous materials.

2. Description of the Action

This final rule facilitates the transportation of hazardous materials in international commerce by providing consistency with international standards. The rule will align the HMR with international regulations and standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements.

3. Identification of Potentially Affected Small Entities

The term ''small entities,'' as described in 5 U.S.C. 601, comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000. The amendments considered here are likely to affect offerors and carriers of hazardous materials, some of whom are small entities, such as chemical manufacturers, users and suppliers, packaging manufacturers, distributors, and training companies.

As noted above, PHMSA expects that these amendments will not have a significant economic impact on a substantial number of small entities. However, to address comments to the NPRM indicating that the requirement to create a test summary for lithium cells and batteries and for subsequent distributors to make this information available to others in the supply chain would have a disproportionate impact on small businesses, PHMSA estimated the burden on manufacturers and subsequent distributors for the lithium cells and batteries test summary requirements. PHMSA identified approximately 3,700 small entities that may be impacted by the lithium cell and battery test summary requirements. PHMSA examined the entities in NAICS codes for battery retailers, wholesalers, and merchants and identified the percentage of entities in each NAICS industry that are involved in distributing batteries based on the sub-NAICS product series information provided in the 2012 Economic Census by Industry. PHMSA assumed that product manufacturers would include 27.9 percent of Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers (NAICS 423610), 50 percent of Power-Driven Handtool Manufacturing (NAICS 333991) and 100 percent of Electronic Computer Manufacturing (NAICS 334111) and Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing (NAICS 334220). Finally, PHMSA determined that retailers would need to make the test summary document available to customers. PHMSA assessed that retailers would predominantly fall within the All Other Miscellaneous Store Retailers (NAICS 453998) and that 2.2 percent of all firms in this sector may be affected. Then PHMSA multiplied this percent by the more recent U.S. Census Bureau Statistics of U.S. Businesses (SUSB) 2016 [18] to estimate the total number of potentially impacted respondents. Please see the RIA submitted to the docket for this rulemaking for a more detailed analysis of these small entities. As a result of our analysis on the impacts test summary document requirements will have on small buisnesses, PHMSA believes that although some small businesses will be directly impacted, particular firms and their associated industries are unlikely to experience significant (*i.e.,* greater than 1 percent) impacts.

- Reporting and recordkeeping requirements

Reporting and recordkeeping requirements are discussed in detail in the RIA submitted to the docket for this rulemaking and the ''Paperwork Reduction Act'' section of this rulemaking. These requirements will apply to all regulated entities, including small entities.

4. Related Federal Rules and Regulations

PHMSA is unaware of any Federal rules and regulations that are substantially similar to the requirements in this final rule.

5. Alternative Proposals for Small Business

The Regulatory Flexibility Act directs agencies to establish exceptions and differing compliance standards for small businesses, where it is possible to do so and still meet the objectives of applicable regulatory statutes. PHMSA does not believe there are alternative compliance standards for small businesses that still meet the objectives of these regulatory statutes.

Excepting small entities from the test summary requirements would not fully harmonize the HMR with the UN Model Regulations, IMDG Code, ICAO Technical Instructions, IATA Dangerous Goods Regulations and other related national and international dangerous goods regulations that require

[18] SUSB 2016. Annual Data Tables by Establishment Industry, Data by Enterprise Employment Size, U.S. 6-digit NAICS. *https://www.census.gov/data/tables/2016/econ/susb/2016-susb-annual.html.*

manufacturers and distributors of lithium cells and batteries and equipment powered by cells and batteries to make available a ''test summary'' as specified in the UN Manual of Tests and Criteria, Sixth Revised Edition, Amendment 1, Part III, sub-section 38.3, paragraph 38.3.5. Fully harmonizing the test summary requirements allows traceability and accountability of those involved in the lithium cells and batteries transport chain, including small entities, thereby ensuring that lithium cell and battery designs offered for transport contain specific information on the required UN tests. In addition, it allows those in the distribution chain, including small entities, to more easily identify non-counterfeit products by providing confirmation to users that the battery is from a legitimate and compliant source and that they are receiving, and potentially reoffering for transportation, a battery that is of a tested and approved type. PHMSA believes this may generate safety benefits if counterfeit batteries are more likely to rupture, catch fire or otherwise increase the risk of a dangerous incident.

6. Conclusion

PHMSA conducted a Small Business Analysis (SBA) for this final rule (see RIA in the docket for this rulemaking). Based on this analysis, PHMSA believes that some small businesses will be directly impacted by the lithium cells and batteries test summary requirement; however, PHMSA found particular firms and their associated industries are unlikely to experience significant impacts. In particular, PHMSA demonstrated that the average annual cost of the test summary document is less than one percent of the average annual revenue for each NAICS revenue category for which data was available. Please see the RIA for a more detailed analysis.

Comments from Amazon and NRF to the NPRM indicated that the requirement that subsequent distributors produce a test summary would have disproportionate impact on small businesses. While the commenters provided no quantitative data, PHMSA did review the initial estimation of burden on subsequent distributors in the SBA for the lithium cells and batteries test summary requirement to address this issue. Please see the RIA for this rulemaking in the docket.

Many companies, including small entities, will realize overall economic benefits as a result of the amendments in the final rule. As previously discussed, PHMSA expects the amendments in this rule to result in a net cost savings and ease the regulatory compliance burden for shippers engaged in domestic and international commerce, including trans-border shipments within North America. Additionally, the changes effected by this final rule will relieve U.S. companies, including small entities, competing in foreign markets, from the burden of complying with a dual system of regulations. Consequently, PHMSA certifies that this final rule does not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

PHMSA has analyzed this rule in accordance with the Paperwork Reduction Act of 1995 (PRA) (Pub. L. 96–511). PHMSA is revising the approved information collections under the following OMB Control Numbers: OMB Control No. 2137–0018, ''Inspection and Testing of Portable Tanks and Intermediate Bulk Containers;'' OMB Control No. 2137–0034, ''Hazardous Materials Shipping Papers & Emergency Response Information;'' OMB Control No. 2137–0557, ''Approvals for Hazardous Materials;'' OMB Control No. 2137–0572, ''Testing Requirements for Non-Bulk Packaging (Formerly: Testing Requirements for Packaging);'' OMB Control No. 2137–0559, ''Rail Carriers and Tank Car Tank Requirements, Rail Tank Car Tanks—Transportation of Hazardous Materials by Rail.''

OMB Control Number 2137–0018, ''Inspection and Testing of Portable Tanks and Intermediate Bulk Containers''

PHMSA anticipates that this final rule will result in an increase in burden due to the proposed requirement to indicate the water temperature during a hydraulic pressure test for rigid plastics and composite IBCs. PHMSA does not estimate an increase in the number of respondents or responses, because the proposed amendment only adds burden for respondents already pressure testing rigid plastics and composite IBCs. PHMSA estimates that it will take an average of 1 additional minute to add the additional information to the already required test report. This information collection currently accounts for 20 respondents completing 100 test reports per year at 6 minutes per response. Increasing the burden time to 7 minutes per response increases the burden by 33.33 hours. At a mean hourly wage of $38.77,[19] it is estimated to increase annual salary costs by $1,292.34. PHMSA does not anticipate this requirement will affect out-of-pocket expenses.

Annual Increase in Number of Respondents: 0.

Annual Increase in Number of Responses: 0.

Annual Increase in Burden Hours: 33.33.

Annual Increase in Salary Costs: $1,292.34.

Annual Increase in Burden Costs: $0.

OMB Control Number 2137–0034, ''Hazardous Materials Shipping Papers & Emergency Response Information''

PHMSA estimates that this rulemaking will result in an overall increase in burden attributed to the proposed requirement to create a test summary for lithium cells and batteries manufactured after January 1, 2008. Lithium cell or battery manufacturers will need to create a test summary for all the previously manufactured lithium cells and batteries. Following the publication of the final rule, PHMSA will revise the annual burden, as a test summary will only need to be created following manufacture of a new lithium cell and battery. Because this final rule accounts for previously manufactured lithium cells and batteries, PHMSA believes that the burden will substantially decrease for subsequent years after a final rule goes into effect.

In the NPRM, PHMSA estimated the requirement to create a test summary for lithium cells and batteries manufactured after June 30, 2003 would result in an overall increase in burden. In response to comments received in the NPRM, discussed in more detail above, PHMSA is adopting a requirement to require a test summary for lithium cells and batteries manufactured after January 1, 2008. This will result in less lithium cells and batteries requiring test summaries than estimated in the NPRM. Cells and batteries that ceased being manufactured between June 30, 2003 and December 31, 2007 would not require a test summary or subsequent distribution to downstream distributors. In addition, PHMSA is changing the implementation date for this provision from year 2020 to year 2022. During the voluntary compliance period of the final rule, lithium cell or battery

[19] Occupation labor rates based on 2017 Occupational and Employment Statistics Survey (OES) for ''First-line supervisors of transportation and material moving workers, except aircraft cargo handling (53–1048)'' in the Plastics and Rubber Products Manufacturing industry. The hourly mean wage for this occupation ($26.48) is adjusted to reflect the total costs of employee compensation (*i.e.,* benefits) based on the BLS Employer Costs for Employee Compensation Summary, which indicates that wages for civilian workers are 68.3 percent of total compensation (total wage = wage rate/wage % of total compensation).

manufacturers will need to create a test summary for all of the previously manufactured lithium cells and batteries; after the final rule goes into effect, lithium cell or battery manufacturers will need to create a test summary for newly manufactured lithium cells and batteries. Therefore, PHMSA is adding two information collections associated with this OMB Control Number—one for lithium cells and batteries manufactured from January 1, 2008 to a final rule implementation date and one accounting for the annual manufacture of new lithium cells and batteries after a final rule compliance date.

In the preliminary RIA, PHMSA identified 73 domestic lithium cell or battery manufacturers per U.S. Census' Annual Survey of Manufactures (NAICS code 335912).[20] PHMSA looked at publicly available company websites for 35 domestic companies known to manufacture lithium cells or batteries.[21] Of the 35 domestic lithium cell or battery manufacturers websites that were reviewed, 14 provided product information (*e.g.,* specification sheets or safety data sheets) for specific lithium cells or batteries the company currently manufactures or sells. Based on the information provided on these 14 company websites, the mean number of lithium cell and battery design types currently manufactured by these domestic manufacturers is 32. PHMSA estimated in the preliminary RIA that the number of batteries and cells currently manufactured that were tested between June 30, 2003 and the estimated date of a final rule publication by each domestic lithium cell or battery manufacture to be 80 per manufacturer (32 lithium cells or batteries manufactured × 2.5).[22] Therefore, 5,840 new test summaries must be created for lithium cells or batteries (73 manufacturers × 80 lithium cells or batteries).

The time to create a test summary is estimated conservatively at 30 minutes per document. PHMSA personnel obtained various existing test reports for lithium cells and batteries and completed sample test summary documents using these test reports with an average time to complete of 13 minutes. In these exercises, the test reports contained almost all the information required for completion of the test summary. PHMSA expected this to be the case for most test summaries and assumes that test reports will be readily available for most design types, but to account for the procuring of any missing information where required, we have estimated the test summary completion time to be 30 minutes. Therefore, PHMSA estimated in the preliminary RIA that this proposal will increase burden by 2,920 hours (5,840 test reports × 30 minutes).

To determine the projected salary cost for preparing new test summaries, PHMSA estimated in the preliminary RIA a mean hourly wage rate of approximately $67.03 [23] for a total of $195,727.76 in salary cost (2,920 burden hours × $67.03). PHMSA does not estimate any out-of-pocket expenses for the creation of the test summary.

As noted above, comments received to the NPRM indicated that applying the test summary requirements to batteries manufactured after June 30, 2003 is too long of a time frame to include. For the reasons explained above, PHMSA is changing this provision to require a test summary for lithium cells and batteries manufactured after January 1, 2008. Therefore, cells and batteries that ceased being manufactured between June 30, 2003 and December 31, 2007 will not require a test summary or subsequent distribution to downstream distributors. No comments were received regarding our estimation of the number of domestic cell and battery manufacturers, the number of design types they make, or the time it takes to develop a test summary. Therefore, PHMSA is utilizing the preliminary RIA figures for these items and adjusting to account for the final rule applicability date change.

This final rule extends the applicability date for this provision from year 2020 to year 2022. This increases the compliance time from one year to two years, which results in a reduction of the costs estimated with this provision at the NPRM stage. In the preliminary RIA, PHMSA estimated that the number of batteries and cells currently manufactured—that were tested between June 30, 2003 and the estimated date of a final rule publication—by each domestic lithium cell or battery manufacture to be 80 per manufacturer and that 5,840 new test summaries would need to be created for lithium cells or batteries. To account for the change in not requiring the creation and distribution of test summaries from batteries and cells manufactured between June 30, 2003 to January 1, 2008, PHMSA is reducing the uncertainty multiplier utilized to determine the number of test summaries required from 2.5 to 2.0. Based on the uncertainties noted below, PHMSA estimates the number of batteries and cells currently manufactured—that were tested between January 1, 2008 and the estimated compliance date of a final rule—by each domestic lithium cell or battery manufacture to be 64 per manufacturer (32 lithium cells or batteries manufactured × 2). This change results in a reduction in the number of test summaries required from 5,840 to 4,672 (32 lithium cells or batteries per manufacturer × 2 × 73 manufacturers). Therefore, PHMSA estimates that this requirement will increase the total burden by 2,336 hours (4,672 test reports × 30 minutes).

Uncertainties:

—Information on company websites generally only accounts for battery and cells that are currently actively offered for sale by the company. The test summary requirement would be applicable to all batteries and cells manufactured after January 1, 2008. Thus, the information available on manufacturer websites does not account for these previously made cells and batteries.

—While several websites did show component cells for sale, others did not. It is difficult to know if some battery manufacturers that only list completed batteries on their websites also make their own cells.

—PHMSA identified 14 domestic lithium battery cell and battery manufacturers with usable information on design types on their websites as a representative sample. Companies that did not provide individual product listings on their websites were not included in the above calculations. The companies that were researched constitute a representative sample of lithium cell and battery manufacturers because they make cells and batteries for automobiles, military, medical, and portable electronic devices.

To calculate the total salary cost for preparing new test summaries, PHMSA estimates in this final analysis a mean

[20] 2015 County Business Patterns. ''Geography Area Series: County Business Patterns by Legal Form of Organization.'' 2016 Annual Survey of Manufactures. Annual Survey of Manufactures: General Statistics: Statistics for Industry Groups and Industries: 2016 and 2015.

[21] Only 35 of the identified domestic lithium cell and battery manufacturers had websites with usable information containing battery or cell design types.

[22] 2.5 is a multiplier to account for the uncertainties noted in the RIA submitted to the docket for this rulemaking.

[23] Occupation labor rates based on 2017 Occupational and Employment Statistics Survey (OES) for ''Electrical Engineers (17–2070)'' in the Other Electrical Equipment and Component Manufacturing industry. The hourly mean wage for this occupation ($45.78) is adjusted to reflect the total costs of employee compensation (*i.e.,* benefits) based on the BLS Employer Costs for Employee Compensation Summary, which indicates that wages for civilian workers are 68.3 percent of total compensation (total wage = wage rate/wage % of total compensation).

hourly wage rate of approximately $67.0278,[24] for a total of $156,577 in salary cost, reduced from the total salary cost estimated at the NPRM stage of $195,721.23. Because there is a two year compliance date, PHMSA estimates that half of the test summary will be created in the first year. Therefore, to estimate first year burden, PHMSA divided the estimated number of responses by 2, resulting in half of the estimated annual burden hours and costs.

Annual Increase in Number of Respondents: 73.

Annual Increase in Number of Responses: 2,336.

Annual Increase in Burden Hours: 1,168.

Annual Increase in Salary Costs: $78,288.

Annual Increase in Burden Costs: $0.

This test summary requirement is also anticipated to increase the burden for recordkeeping requirements. As detailed in the new requirements, the test summary must be made available for every cell or battery design type, including to subsequent distributors, upon request. For the purposes of this analysis, PHMSA assumes that in order to make a test summary available, manufacturers and downstream distributors of lithium cells and batteries will choose the alternative that requires the least amount of recordkeeping burden possible. PHMSA believes the least burdensome method is to make the test summaries available on company websites by utilizing links to battery manufacturer websites where the information is made available. This method presumes that cell and battery manufacturers and distributors maintain infrastructure such as websites that have storage capacity to link to these reports.

To estimate the burden hours and salary costs for this recordkeeping requirement, in the preliminary RIA, PHMSA examined entities in NAICS codes for battery retailers, wholesalers, and merchants (NAICS 453998 & 423610) and identified the percentage of entities in each NAICS industry that is involved in distributing batteries based on the sub-NAICS product series information provided in the 2012 Economic Census by Industry. PHMSA multiplied this percent by the more recent, 2016 County Business Patterns estimate of the total number of entities to estimate the number of potentially impacted respondents. Based on these calculations, PHMSA estimated that 5,644 downstream distributors of lithium cells and batteries comprised of product manufacturers and distributors/retailers, in addition to the 73 domestic manufacturers identified above could be subject to additional recordkeeping requirements as a result of this proposal. PHMSA further estimated that product manufacturers utilize cells and batteries from an average of five different cell or battery manufacturers. Lastly, PHMSA estimated that distributors and retail outlets utilize cells and batteries from an average of 20 cell or battery manufacturers. See Table 5 for a breakdown of the lithium cell and battery supply chain, the number of estimated entities, and the number of estimated test summaries that are required to be made available.

As noted above, to account for the change in requiring creation and distribution of test summaries from batteries and cells manufactured June 30, 2003 to January 1, 2008, PHMSA is reducing the uncertainty multiplier utilized in the preliminary RIA to determine the number of test summaries required from 2.5 to 2.0. This change results in a reduction in the number of test summaries required from 5,840 to 4,672. See below the breakdown of the lithium cell and battery supply chain, the number of estimated entities, and the number of estimated test summaries required to be made available.

TABLE 5

Supply chain	Number of respondents	Individual recordkeeping responses
Cells/Batteries to product manufacturers	73	5,840
Product manufacturers to distributors/retailers	5,224	26,120
Distributors/retailers to customer	420	8,400
Total	5,790	40,360

PHMSA estimated in the preliminary RIA that ensuring test summaries are available will take 5 minutes per report utilizing the electronic methods noted above.[25] This results in a total recordkeeping requirement of 3,363.33 annual burden hours (40,360 responses × 5 minutes). At an estimated mean hourly annual salary wage of approximately $67.03 [26] PHMSA estimates the salary cost for recordkeeping will increase by $225,444.01. PHMSA does not estimate that this will result in a increase in any out-of-pocket expenses.

Comments to the NPRM from Amazon indicated that the requirement that subsequent distributors produce a test summary would have disproportionate impact on small businesses. While the commenter provided no quantitative information, PHMSA has reviewed our initial estimation of burden on subsequent distributors (both large and small) and revised our estimated impact. The initial review of impacts adequately accounts for the time required to ensure a test summary exists in the least burdensome method of compliance noted above. However, we are amending our estimated impact to account for additional time that may be needed to verify that appropriate information exists, either after initial procurement of the document or link and verification on request of subsequent downstream distributors. This additional time will add another 2 minutes to each test summary increasing the annual burden hours from 5 minutes a response to 7 minutes

[24] Occupation labor rates based on 2017 Occupational and Employment Statistics Survey (OES) for ''Electrical Engineers (17–2070)'' in the Other Electrical Equipment and Component Manufacturing industry. The hourly mean wage for this occupation ($45.78) is adjusted to reflect the total costs of employee compensation (*i.e.,* benefits) based on the BLS Employer Costs for Employee Compensation Summary, which indicates that wages for civilian workers are 68.3 percent of total compensation (total wage $67.0278 = wage rate $45.78/wage % of total compensation 68.3%).

[25] Estimated time to create a link to another website where the information is hosted.

[26] Occupation labor rates based on 2017 Occupational and Employment Statistics Survey (OES) for ''Electrical Engineers (17–2070)'' in the Other Electrical Equipment and Component Manufacturing industry. The hourly mean wage for this occupation ($45.78) is adjusted to reflect the total costs of employee compensation (*i.e.,* benefits) based on the BLS Employer Costs for Employee Compensation Summary, which indicates that wages for civilian workers are 68.3 percent of total compensation (total wage = wage rate/wage % of total compensation).

a response.[27] This results in a total recordkeeping requirement of 4,572.4 hours (39,192 responses × 7 minutes). At an estimated mean hourly wage of $67.03,[28] PHMSA estimates the total cost for recordkeeping increases to $306,478 from the preliminary estimate with recordkeeping requirement of $225,437. To estimate the annual increases in the number of respondents, responses and in the burden hours and costs, PHMSA divides the total estimated burden by 2, the number of years of voluntary compliance with this provision due to the change in the implementation date as noted above.

Annual Increase in Number of Respondents: 5,790.

Annual Increase in Number of Responses: 19,596.

Annual Increase in Burden Hours: 2,286.

Annual Increase in Salary Costs: $153,239.

Annual Increase in Burden Costs: $0.

PHMSA is adding additional requirements that would affect the burden for OMB Control No. 2137–0034, but PHMSA believes that the overall effect on the number of respondents and burden hours are negligible in relation to the number of respondents and burden hours currently associated with this information collection. The revisions include: A new requirement to indicate ''TEMPERATURE CONTROLLED'' on a shipping paper if not already indicated in the proper shipping name, when appropriate; removing 1-dodecene to the list of marine pollutants in Appendix B to § 172.101; a new requirement to include the UN identification number for the material being offered, the name and address of the consignor and consignee, and a container packing certificate on a Dangerous Cargo Manifest for excepted packages containing Class 7 materials transported by vessel.

OMB Control Number 2137–0557, ''Approvals for Hazardous Materials''

We anticipate this final rule will increase the overall burden for this information collection request. PHMSA is adding special provision 347 to four explosive Division 1.4S entries on the HMT, which would require the articles to pass the 6(d) test from Part I of the UN Manual of Tests and Criteria to maintain Compatibility Group ''S'' classification. It is estimated that this will increase the number of annual respondents by 54. PHMSA estimates that each respondent will submit 10 applications each year, for a total increase of 540 annual responses (54 respondents × 10 responses). PHMSA estimates that each application will take 4.75 hours to complete, for a total increase of 2,565 annual burden hours (2,500 response × 4.75 hours). Please see the RIA submitted to the docket for this rulemaking for more information. At a mean hourly wage of $79.06,[29] PHMSA estimates an increase of $202,797 in salary costs. PHMSA does not estimate any additional out-of-pocket expenses.

Annual Increase in Number of Respondents: 54.

Annual Increase in Number of Responses: 540.

Annual Increase in Burden Hours: 2,565.

Annual Increase in Salary Costs: $202,797.

Annual Increase in Burden Costs: $0.

PHMSA is also adding additional requirements that would affect the burden for OMB Control No. 2137–0557, but PHMSA believes that the overall effect on the number of respondents and burden hours are negligible in relation to the number of respondents and burden hours associated with this OMB Control Number. PHMSA expects a minimal increase due to the proposed revision of special provision A105, which would allow a person to obtain approval from the Associate Administrator for Hazardous Materials Safety if the quantity of hazardous materials exceeds the quantity limits and applicability provisions of § 173.222(c). PHMSA also expects a minimal decrease in the number of approval applicants based on the adoption of a new entry in the § 173.224 Self-Reactive Materials Table and the adoption of three new entries in the § 173.225 Organic Peroxide Table. Respondents wishing to offer these materials in transportation, are no longer required to obtain approval from the Associate Administrator for Hazardous Materials Safety.

OMB Control No. 2137–0572, ''Testing Requirements for Non-Bulk Packaging (Formerly: Testing Requirements for Packaging)''

PHMSA estimates this rulemaking will result in an increase in burden due to the proposed requirement to include the water temperature during the hydraulic pressure test for plastic non-bulk packagings. PHMSA does not estimate an increase in the number of respondents or responses, because the proposed amendment only adds burden to persons currently pressure testing plastic non-bulk packagings.

OMB Control Number 2137–0572, as currently approved by OMB, is divided into five Information Collections (IC), one of which is identified as Testing Requirements for Non-Bulk Packaging. This IC is specific to the requirements in § 178.601 for creating the test report. As mentioned in the approved supporting statement (see *reginfo.gov*), PHMSA has estimated that 5,000 persons will complete this requirement based on historic stakeholder feedback. It's important to note, that this IC is not specific to each packaging type, instead it is for all persons testing non-bulk packaging.

In the approved IC, PHMSA estimated a total of 2 hours for the creation of each test report. Because the change in requirement is only for a small subset of the 5,000 respondents, PHMSA estimated an increase of 1 minute to determine the appropriate water temperature and note in the existing test report. This accounts for a reasonable average increase for all persons completing the test report. At a mean hourly wage of $68.58,[30] it is estimated to increase annual salary costs of $17,145 (5,000 × 3 = 15,000 responses × 1 min/= 15,000 minutes) (15,000 minutes/60 = 250 hours × $68.58 = $17,145). PHMSA does not anticipate this requirement to affect out-of-pocket expenses.

Annual Increase in Number of Respondents: 0.

Annual Increase in Number of Responses: 0.

[27] Additional 2 minutes per record to address additional time that may be needed to verify that appropriate information exists.

[28] Occupation labor rates based on 2017 Occupational and Employment Statistics Survey (OES) for ''Electrical Engineers (17–2070)'' in the Other Electrical Equipment and Component Manufacturing industry. The hourly mean wage for this occupation ($45.78) is adjusted to reflect the total costs of employee compensation (*i.e.,* benefits) based on the BLS Employer Costs for Employee Compensation Summary, which indicates that wages for civilian workers are 68.3 percent of total compensation (total wage = wage rate/wage % of total compensation).

[29] Occupation labor rates based on 2017 Occupational and Employment Statistics Survey (OES) for ''Chemical Engineers (17–2041)'' in the Chemical Manufacturing industry. The hourly mean wage for this occupation ($54) is adjusted to reflect the total costs of employee compensation based on the BLS Employer Costs for Employee Compensation Summary, which indicates that wages for civilian workers are 68.3 percent of total compensation (total wage = wage rate/wage % of total compensation).

[30] Occupation labor rates based on 2017 Occupational and Employment Statistics Survey (OES) for ''Transportation, Storage, and Distribution Managers (11–3071)'' in the Transportation and Warehousing industry. The hourly mean wage for this occupation ($48.43) is adjusted to reflect the total costs of employee compensation based on the BLS Employer Costs for Employee Compensation Summary, which indicates that wages for civilian workers are 68.3 percent of total compensation (total wage = wage rate/wage % of total compensation).

Annual Increase in Burden Hours: 250.

Annual Increase in Salary Costs: $17,145.

Annual Increase in Burden Costs: $0.

OMB Control No. 2137–0559 ''Rail Carrier and Tank Car Tank Requirements, Rail Tank Car Tanks—Transportation of Hazardous Materials by Rail''

PHMSA anticipates this final rule will result in a decrease in burden because of the proposed requirement to recognize Transport Canada issued Temporary Certificates for one time movements of non-compliant tank cars, in lieu of a DOT-issued OTMA when the tank car shipment's origin or destination is in Canada. Data from the FRA indicates that in calendar year 2017 there were 214 one-time movement requests for tank car shipments with an origin or destination in Canada. PHMSA estimates that half of these movements will operate under a Temporary Certificate issued by Transport Canada, and thus not require PHMSA approval. Therefore, PHMSA estimates there will be a decrease in 54 annual respondents. Each of these respondents is estimated to annually request two OTMAs, for a decrease of 108 responses. PHMSA estimates that each application requires 4.75 hours to complete, resulting in a reduction of 513 burden hours. At an estimated mean hourly wage of $68.58,[31] this reduction is expected to save $35,181.54 in salary cost. PHMSA estimates there is no reduction in out-of-pocket expenses.

Annual Decrease in Number of Respondents: 54.

Annual Decrease in Number of Responses: 108.

Annual Decrease in Burden Hours: 513.

Annual Decrease in Salary Costs: $35,181.54.

Annual Decrease in Burden Costs: $0.

PHMSA will submit the revised information collection and recordkeeping requirements to OMB for approval.

H. Regulation Identifier Number (RIN)

A RIN is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

I. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act (UMRA) of 1995, Public Law 104–4, establishes significance thresholds for the direct costs of regulations on state, local, or tribal governments or the private sector that trigger certain agency reporting requirements. The statutory thresholds established in UMRA were $50 million for intergovernmental mandates and $100 million for private-sector mandates in 1996. According to the Congressional Budget Office, the thresholds for 2019, which are adjusted annually for inflation, are $82 million and $164 million, respectively, for intergovernmental and private-sector mandates.[32] This final rule results in cost savings of approximately $55,000 to $2,100,000 per year at a 7 percent discount rate and is the least burdensome alternative that achieves the objective of the rule. It is not significant under UMRA. Therefore, PHMSA is not required to prepare a written statement.

J. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4375), and implementing regulations by the Council on Environmental Quality (CEQ) (40 CFR part 1500), require that Federal agencies consider the consequences of major Federal actions and prepare a detailed statement on actions that significantly affect quality of the human environment. The CEQ regulations require Federal agencies to conduct an environmental review considering (1) the need for the action, (2) alternatives to the action, (3) probable environmental impacts of the action and alternatives, and (4) the agencies and persons consulted during the consideration process.

1. Need for the Action

This final rule amends the HMR (49 CFR parts 171–180) to maintain alignment with international standards, in part, by incorporating the 20th Revised Edition of the UN Model Regulations, Amendment 39–18 to the IMDG Code, the 2019–2020 ICAO Technical Instructions, and Transport Canada's newest amendments to TDG Regulations.

This action is necessary to incorporate changes adopted in the IMDG Code, the ICAO Technical Instructions, and the UN Model Regulations, effective January 1, 2019. If the changes in this final rule are not adopted in the HMR, U.S. companies—including numerous small entities competing in foreign markets—would be at an economic disadvantage because they would be required to comply with a dual system of regulations. The changes to the HMR contained in this rulemaking are intended to avoid this result.

The intended effect of this action is to align the HMR with international transport standards and requirements to the extent practicable in accordance with Federal hazmat law (see 49 U.S.C. 5120). When considering the adoption of international standards under the HMR, PHMSA reviews and evaluates each amendment on its own merit, on its overall impact on transportation safety, and on the economic implications associated with its adoption. The rule harmonizes the HMR with international standards without diminishing the level of safety currently provided by the HMR or imposing undue burdens on the regulated public. PHMSA has provided a brief summary of each revision and the justification for the revision in this rule.

2. Alternatives

In developing this rulemaking, PHMSA is considering the following alternatives:

Alternative (1): No Action Alternative

If PHMSA were to take no action, current regulations would remain in place and no new provisions would be added.

Alternative (2): Preferred Alternative

This alternative is the adoption of this final rule. The amendments included in this alternative are more fully addressed in the preamble and regulatory text sections of this final rule.

3. Environmental Impacts

Hazardous materials are substances that may pose a threat to public safety or the environment during transportation because of their physical, chemical, or nuclear properties. Under the HMR, hazardous materials are transported by aircraft, vessel, rail, and highway. The hazardous materials regulatory system is a risk management system that is prevention-oriented and focused on identifying a safety hazard and reducing the probability and quantity of a hazardous material release.

[31] Occupation labor rates based on 2017 Occupational and Employment Statistics Survey (OES) for ''Transportation, Storage, and Distribution Managers (11–3071)'' in the Transportation and Warehousing industry. The hourly mean wage for this occupation ($46.84) is adjusted to reflect the total costs of employee compensation based on the BLS Employer Costs for Employee Compensation Summary, which indicates that wages for civilian workers are 68.3 percent of total compensation (total wage = wage rate/wage % of total compensation).

[32] *https://www.cbo.gov/publication/51335.*

The potential for environmental damage or contamination exists when packages of hazardous materials are involved in accidents or en route incidents resulting from cargo shifts, valve failures, package failures, loading, unloading, collisions, handling problems, or deliberate sabotage. The release of hazardous materials can cause the loss of ecological resources (*e.g.,* wildlife habitats) and the contamination of air, aquatic environments, and soil. Contamination of soil can lead to the contamination of ground water. Compliance with the HMR substantially reduces the possibility of accidental release of hazardous materials.

Alternative (1): No Action Alternative

If PHMSA takes no action, the current regulations would remain in place and no new provisions would be added. With this alternative, efficiencies gained through harmonization with updates to international transport standards—including regulated substances, definitions, packagings, stowage requirements/codes, flexibilities allowed, enhanced markings, segregation requirements, etc.—would not be realized. Taking no action would mean enhanced and clarified regulatory requirements intended to decrease the risk of environmental and safety incidents would not be adopted. PHMSA believes these amendments will increase standardization and consistency of regulations, which will result in greater protection of human health and the environment. Consistency between United States and international regulations enhances the safety and environmental protection of international hazardous materials transportation through a better understanding of the regulations, an increased level of industry compliance, the smooth flow of hazardous materials from their points of origin to their points of destination, and consistent emergency response procedures in the event of a hazardous materials incident. The HMR authorize shipments prepared in accordance with the ICAO Technical Instructions from transport by aircraft and for transport by motor vehicle either before or after being transported by aircraft. Similarly, the HMR authorize shipments prepared in accordance with the IMDG Code if all or part of the transportation is by vessel. The authorizations to use the ICAO Technical Instructions and the IMDG Code are subject to certain conditions and limitations outlined in part 171 subpart C.

Harmonization will result in more targeted and effective training, thereby facilitating enhanced environmental protection. This rule will reduce inconsistent hazardous materials regulations, which hamper compliance training efforts. For ease of compliance with appropriate regulations, air and vessel carriers engaged in the transportation of hazardous materials generally elect to comply with the ICAO Technical Instructions and IMDG Code, as appropriate.

Not adopting the proposed environmental and safety requirements in the final rule under the No Action Alternative would result in a lost opportunity for reducing environmental and safety-related incidents.

Alternative (2): Preferred Alternative

PHMSA selected the preferred alternative. Potential environmental impacts of each proposed amendment in the preferred alternative are discussed as follows:

1. *Incorporation by Reference:* PHMSA is updating references to various international hazardous materials transport standards including, in part, the 2019–2020 ICAO Technical Instructions; Amendment 39–18 to the IMDG Code; the 20th Revised Edition of the UN Model Regulations; Amendment 1 to the 6th Revised Edition of the UN Manual of Tests and Criteria; and the latest amendments to the Transport Canada TDG Regulations. Additionally, PHMSA is adding three new references to standards and updating six other references to standards applicable to the manufacture use and requalification of pressure vessels published by the ISO.

PHMSA believes these amendments will increase standardization and consistency of regulations, which will result in greater protection of human health and the environment. Consistency between United States and international regulations enhances the safety and environmental protection of international hazardous materials transportation through a better understanding of the regulations, an increased level of industry compliance, the smooth flow of hazardous materials from their points of origin to their points of destination, and consistent emergency response procedures in the event of a hazardous materials incident. The HMR authorize shipments prepared in accordance with the ICAO Technical Instructions from transport by aircraft and for transport by motor vehicle either before or after being transported by aircraft. Similarly, the HMR authorize shipments prepared in accordance with the IMDG Code if all or part of the transportation is by vessel. The authorizations to use the ICAO Technical Instructions and the IMDG Code are subject to certain conditions and limitations outlined in part 171 subpart C.

Harmonization will result in more targeted and effective training, thereby facilitating enhanced environmental protection. This rule will reduce inconsistent hazardous materials regulations, which hamper compliance training efforts. For ease of compliance with appropriate regulations, air and vessel carriers engaged in the transportation of hazardous materials generally elect to comply with the ICAO Technical Instructions and IMDG Code, as appropriate.

2. *Consistent with amendments adopted into the UN Model Regulations, PHMSA is revising the Hazardous Materials Table in § 172.101 to include 12 new n.o.s. entries for articles containing dangerous goods and adding defining criteria, authorized packagings, and safety requirements for transportation of these articles.* Inclusion of the new entries in the HMT allows for identification of appropriate packaging for 12 n.o.s. entries, which is intended to reduce the likelihood of release of hazardous materials that threaten human health and safety and the environment.

3. *PHMSA is making amendments to the HMT to add, revise, or remove certain proper shipping names, packing groups, special provisions, packaging authorizations, bulk packaging requirements, and vessel stowage requirements. Amendments to HMT proper shipping names include: Requiring additional 6(d) testing for certain explosive articles; adding an entry for ''Lithium batteries installed in cargo transport unit''; and adding two new entries for ''Toxic solid, flammable, inorganic, n.o.s.'' Additionally, we also propose to add and revise special provisions, large packaging authorizations, and intermediate bulk container (IBC) authorizations consistent with the UN Model Regulations to provide a wider range of packaging options to shippers of hazardous materials.*

Inclusion of entries in the HMT reflects a degree of danger associated with a particular material and identifies appropriate packaging. These inclusions in the HMT provide a greater level of protection against release and consistency across borders. These provisions are not expected to have a material impact on the environment.

4. *Changes to the corrosivity classification procedures to include methods that do not involve testing for making a corrosivity classification determination for mixtures.*

This amendment permits additional flexibility for classifying corrosive

mixtures and provides offerors the ability to make a classification and packing group assignment without having to conduct physical tests. This allowance does not compromise environmental protection or safety. The increased use of not-test methods for classification of mixtures results in less product being utilized to conduct physical testing, less clean-up and disposal that occurs after testing, which provide environmental benefits along with expanded alternatives to traditional testing methods.

5. *Consistent with amendments adopted into the UN Model Regulations, PHMSA is requiring the creation of a lithium cell or battery test summary.*

PHMSA believes that these amendments provide important additional information to downstream shippers and consumers of lithium batteries, including a standardized set of elements that provide traceability and accountability that lithium cells and batteries offered for transport contain specific information on the required UN tests. Testing standards for lithium batteries help ensure design types are subject to as many as eight separate tests designed to assess their ability to withstand the anticipated rigors incurred during transport. Increased availability of documentation indicating that cells and batteries are of a tested type could lead to a decrease in the number of illegitimate lithium batteries that can present a hazard to users and the environment.

6. *Amendments to the HMR regarding the segregation of lithium cells and batteries offered for transport or transported on aircraft in relation to other hazardous materials.*

PHMSA believes that the amendments requiring lithium batteries to be segregated from other listed dangerous goods would enhance safety and environmental protection by decreasing the risk posed by a fire involving lithium batteries or another hazardous material. The segregation requirements are intended to avoid the cumulative effects of a fire involving both goods simultaneously. PHMSA believes that this amendment will provide for a net increase in environmental protection and safety by potentially lessening the severity of a fire aboard an aircraft, thus preventing damage to human health and the natural environment.

Summary

In summary, consistency between these international regulations and the HMR allows shippers and carriers to train their hazmat employees in a single set of requirements for classification, packaging, hazard communication, handling, stowage, etc., thereby minimizing the possibility of improperly preparing and transporting a shipment of hazardous materials because of differences between domestic and international regulations. These changes closely mirror changes in the Dangerous Goods List of the 20th Revised Edition of the UN Model Regulations, the 2019–2020 ICAO Technical Instructions, and Amendment 39–18 to the IMDG Code. It is important for the domestic HMR to mirror these international standards regarding the entries in the HMT to ensure consistent naming conventions across modes and international borders.

In some instances, the changes in this final rule may result in a streamlining or reduction in burden to industry. However, in each case, PHMSA believes that those changes are consistent with safety and will not significantly increase the risk of release. Most of the proposed regulations in this final rule increase protections aimed at avoiding safety and environmental risks.

4. Agencies Consulted

PHMSA has coordinated with the FAA, the FMCSA, the FRA, and the U.S. Coast Guard in the development of this final rule. PHMSA considered the views expressed in comments to the NPRM submitted by members of the public, state and local governments, and industry.

5. Conclusion

PHMSA has determined that no significant environmental impacts will result from this the adoption of this final rule. The provisions of the rule build on current regulatory requirements in order to enhance the transportation safety and security of shipments of hazardous materials transported by highway, rail, aircraft, and vessel, thereby reducing the risks of an accidental or intentional release of hazardous materials and consequent environmental damage. PHMSA received no comments specially addressing the environmental impacts of the changes made in this final rule.

K. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), and at *http://www.dot.gov/privacy.*

L. International Trade Analysis and Executive Order 13609

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standards have a legitimate domestic objective, such as the protection of safety, and do not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards, and where appropriate, that they be the basis for U.S. standards. PHMSA notes the purpose is to ensure the safety of the American public and has assessed the effects of this final rule to ensure that it does not exclude imports that meet this objective. The final rule will have positive impacts on international trade because it increases the level of harmonization between U.S. regulations and international standards, which is also consistent with the policy in Executive Order 13609, ''Promoting International Regulatory Cooperation,'' 77 FR 26413. As a result, this final rule is not considered as creating an unnecessary obstacle to foreign commerce.

M. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs Federal agencies to use voluntary consensus standards in their regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specification of materials, test methods, or performance requirements) that are developed or adopted by voluntary consensus standard bodies. This final rule involves multiple voluntary consensus standards that are identified and discussed in the section-by-section analysis for § 171.7.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference,

Reporting and recordkeeping requirements.

49 CFR Part 172

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

49 CFR Part 173

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

49 CFR Part 174

Hazardous materials transportation, Rail carriers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 175

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

49 CFR Part 176

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

49 CFR Part 178

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

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, PHMSA amends 49 CFR chapter I as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

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

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4; Pub. L. 104–134, section 31001; Pub. L 114–74 section 4 (28 U.S.C. 2461 note); 49 CFR 1.81 and 1.97.

■ 2. In § 171.7:

■ a. Add paragraph (s)(2);

■ b. Revise paragraphs (t)(1) and (v)(2);

■ c. Redesignate paragraphs (w)(53) through (68) as follows:

Old	New
(w)(53) through (60) ..	(w)(54) through (61).
(w)(61) through (63) ..	(w)(63) through (65).
(w)(64) and (65)	(w)((67) and (68).
(w)(66)	(w)(70).
(w)(67) and (68)	(w)(73) and (74).

■ d. Add paragraphs (w)(53), (62), and (66) and paragraphs (w)(71), (72) and (75) through (77);

■ e. Revise paragraphs (aa)(1) through (4);

■ f. Add paragraphs (bb)(1) (xx), (xxi), and (xxii) and (bb)(2); and

■ g. Revise paragraphs (dd)(1) through (3).

The revisions and additions read as follows:

§ 171.7 Reference material.

* * * * *

(s) * * *

(2) Code of Conduct on the Safety and Security of Radioactive Sources (International Atomic Energy Agency Code of Conduct), copyright 2004, into § 172.800.

(t) * * *

(1) ICAO Doc 9284, Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), 2019–2020 Edition, copyright 2018, into §§ 171.8; 171.22; 171.23; 171.24; 172.101; 172.202; 172.401; 172.407; 172.512; 172.519; 172.602; 173.56; 173.320; 175.10, 175.33; 178.3.

* * * * *

(v) * * *

(2) International Maritime Dangerous Goods Code (IMDG Code), Incorporating Amendment 39–18 (English Edition), Volumes 1 and 2, 2018 Edition, copyright 2018, into §§ 171.22; 171.23; 171.25; 172.101; 172.202; 172.203 172.401; 172.407; 172.502; 172.519; 172.602; 173.21; 173.56; 176.2; 176.5; 176.11; 176.27; 176.30; 176.83; 176.84; 176.140; 176.720; 176.906; 178.3; 178.274.

(w) * * *

* * * * *

(53) ISO 11118:2015(E), Gas cylinders—Non-refillable metallic gas cylinders—Specification and test methods, Second edition, 2015–09–15, into §§ 173.301b; 178.71.

* * * * *

(62) ISO 11120:2015(E), Gas cylinders—Refillable seamless steel tubes of water capacity between 150 l and 3000 l—Design, construction and testing, Second Edition, 2015–02–01, into §§ 178.71; 178.75.

* * * * *

(66) ISO 11623:2015(E), Gas cylinders—Composite construction—Periodic inspection and testing, Second edition, 2015–12–01, into § 180.207.

* * * * *

(69) ISO 14246:2014(E), Gas cylinders—Cylinder valves—Manufacturing tests and examination, Second Edition, 2014–06–15, into § 178.71.

* * * * *

(71) ISO 16148:2016(E), Gas cylinders—Refillable seamless steel gas cylinders and tubes—Acoustic emission examination (AT) and follow-up ultrasonic examination (UT) for periodic inspection and testing, Second Edition, 2016–04–15, into § 180.207.

(72) ISO 17871:2015(E), Gas cylinders—Quick-release cylinder valves—Specification and type testing, First Edition, 2015–08–15, into 173.301b.

* * * * *

(75) ISO 21172–1:2015(E), Gas cylinders—Welded steel pressure drums up to 3 000 litres capacity for the transport of gases—Design and construction—Part 1: Capacities up to 1 000 litres, First edition, 2015–04–01, into § 178.71.

(76) ISO 22434:2006(E), Transportable gas cylinders—Inspection and maintenance of cylinder valves, First Edition, 2006–09–01, into § 180.207.

(77) ISO/TR 11364:2012(E), Gas cylinders—Compilation of national and international valve stem/gas cylinder neck threads and their identification and marking system, First Edition, 2012–12–01, into § 178.71.

* * * * *

(aa) * * *

(1) Test No. 404: Acute Dermal Irritation/Corrosion, OECD Guidelines for the Testing of Chemicals, adopted 28 July 2015, into § 173.137.

(2) Test No. 430: In Vitro Skin Corrosion: Transcutaneous Electrical Resistance Test (TER), OECD Guidelines for the Testing of Chemicals, adopted 28 July 2015, into § 173.137.

(3) Test No. 431: In Vitro Skin Corrosion: Reconstructed Human Epidermis (RHE) Test Method, OECD Guidelines for the Testing of Chemicals, adopted 28 July 2015, into § 173.137.

(4) Test No. 435: In Vitro Membrane Barrier Test Method for Skin Corrosion, OECD Guidelines for the Testing of Chemicals, adopted 28 July 2015, into § 173.137.

(bb) * * *

(1) * * *

(xx) SOR/2016–95 June 1, 2016;

(xxi) SOR/2017–137 July 12, 2017.

(xxii) SOR/2017–253 December 13, 2017.

(2) Containers for Transport of Dangerous Goods by Rail, TP 14877E, 12/2013, into § 171.12.

* * * * *

(dd) * * *

(1) UN Recommendations on the Transport of Dangerous Goods, Model Regulations (UN Recommendations), 20th revised edition, Volumes I and II, ST/SG/AC.10/1/Rev.20(Vol.I) and (Vol.II), (2017), into §§ 171.8; 171.12; 172.202; 172.401; 172.407; 172.502; 172.519; 173.22; 173.24; 173.24b; 173.40; 173.56; 173.192; 173.302b; 173.304b; 178.75; 178.274.

(2) UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, (Manual of Tests and Criteria), into §§ 171.24, 172.102; 173.21; 173.56; 173.57; 173.58; 173.60; 173.115; 173.124; 173.125; 173.127; 173.128; 173.137; 173.185; 173.220; 173.221; 173.224; 173.225; 173.232; part 173, appendix H; 175.10; 176.905; 178.274:

(i) Sixth Revised Edition (2015);

(ii) Sixth Revised Edition, Amendment 1, ST/SG/AC.10/11/Rev.6/.Amend.1 (2017).

(3) Globally Harmonized System of Classification and Labelling of Chemicals (GHS), Seventh Revised Edition, ST/SG/AC.10/30/Rev.7 (2017), into § 172.401.

* * * * *

■ 3. In § 171.8,:

■ a. Add the definition for ''UN pressure drum'' in alphabetical order; and

■ b. Revise the definition of ''UN pressure receptacle''.

The addition and revision read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

UN pressure drum means a welded transportable pressure receptacle of a water capacity exceeding 150 L (39.6 gallons) and not more than 1,000 L (264.2 gallons) (*e.g.* cylindrical receptacles equipped with rolling hoops, spheres on skids).

UN pressure receptacle means a UN cylinder, drum, or tube.

* * * * *

■ 4. In § 171.12, paragraphs (a)(1), (a)(3)(v), (a)(4), and (a)(4)(i) are revised to read as follows:

§ 171.12 North American Shipments.

(a) * * *

(1) A hazardous material transported from Canada to the United States, from the United States to Canada, or transiting the United States to Canada or a foreign destination may be offered for transportation or transported by motor carrier and rail in accordance with the Transport Canada TDG Regulations (IBR, see § 171.7) or an equivalency certificate (permit for equivalent level of safety) issued by Transport Canada as an alternative to the TDG Regulations, as authorized in § 171.22, provided the requirements in §§ 171.22 and 171.23, as applicable, and this section are met. In addition, a cylinder, pressure drum, MEGC, cargo tank motor vehicle, portable tank or rail tank car authorized by the Transport Canada TDG Regulations may be used for transportation to, from, or within the United States provided the cylinder, pressure drum, MEGC, cargo tank motor vehicle, portable tank or rail tank car conforms to the applicable requirements of this section. Except as otherwise provided in this subpart and subpart C of this part, the requirements in parts 172, 173, and 178 of this subchapter do not apply for a material transported in accordance with the Transport Canada TDG Regulations.

* * * * *

(3) * * *

(v) Rail tank cars must conform to the requirements of Containers for Transport of Dangerous Goods by Rail (IBR, see § 171.7).

(4) *Cylinders, Pressure Drums, and MEGCs.* When the provisions of this subchapter require that a DOT specification or a UN pressure receptacle must be used for a hazardous material, a packaging authorized by the Transport Canada TDG Regulations may be used only if it corresponds to the DOT specification or UN standard authorized by this subchapter. Unless otherwise excepted in this subchapter, a cylinder (including a UN pressure receptacle) or MEGC may not be transported unless—

(i) The packaging is a UN pressure receptacle or MEGC marked with the letters ''CAN'' for Canada as a country of manufacture or a country of approval or is a cylinder that was manufactured, inspected and tested in accordance with a DOT specification or a UN standard prescribed in part 178 of this subchapter, except that cylinders (including UN pressure receptacles) not conforming to these requirements must meet the requirements in § 171.23. Each cylinder (including UN pressure receptacles) must conform to the applicable requirements in part 173 of this subchapter for the hazardous material involved.

* * * * *

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

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

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96 and 1.97.

■ 6. In § 172.101:

■ a. Paragraph (e) is revised;

■ b. The Hazardous Materials Table is amended by removing the entries under ''[REMOVE]'', by adding the entries under ''[ADD]'' and revising entries under ''[REVISE]'' in the appropriate alphabetical sequence; and

■ c. In appendix B to § 172.101, the List of Marine Pollutants is amended by revising the entry for Dodecene.

The revisions and additions read as follows:

§ 172.101 Purpose and use of the hazardous materials table.

* * * * *

(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 transportation outside of the United States. 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 in the United States. Those preceded by the letters ''ID'' are associated with proper shipping names recognized by the ICAO Technical Instructions (see § 171.7 of this subchapter for availability).

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification No.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***) Exceptions	Non-bulk	Bulk	(9) Quantity limitations (see §§ 173.27 and 175.75) Passenger aircraft/rail	Cargo aircraft only	(10) Vessel stowage Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	[REMOVE]												
	*			*	*	*	*	*	*				
	Chemical kits	9	UN3316	II	9	15	161	161	None	10 kg	10 kg	A.	
				III	9	15	161	161	None	10 kg	10 kg	A.	
	*			*	*	*	*	*	*				
	First aid kits	9	UN3316	II	9	15	161	161	None	10 kg	10 kg	A.	
	First aid kits	9	UN3316	III	9	15	161	161	None	10 kg	10 kg	A.	
	*			*	*	*	*	*	*				
	2-Dimethylaminoethyl acrylate	6.1	UN3302	II	6.1	IB2, T7, TP2	153	202	243	5 L	60 L	D	25
	*			*	*	*	*	*	*				
	[ADD]												
	*			*	*	*	*	*	*				
G	Articles containing a substance liable to spontaneous combustion, n.o.s.	4.2	UN3542			131, 391	None	214	214	Forbidden	Forbidden.		
G	Articles containing a substance which in contact with water emits flammable gases, n.o.s.	4.3	UN3543			131, 391	None	214	214	Forbidden	Forbidden.		
G	Articles containing corrosive substance, n.o.s.	8	UN3547			391	None	232	232	Forbidden	Forbidden	B.	
G	Articles containing flammable gas, n.o.s.	2.1	UN3537			391	None	232	232	Forbidden	Forbidden	D.	
G	Articles containing flammable liquid, n.o.s.	3	UN3540			391	None	232	232	Forbidden	Forbidden	B.	
G	Articles containing flammable solid, n.o.s.	4.1	UN3541			391	None	232	232	Forbidden	Forbidden	B.	
G	Articles containing miscellaneous dangerous goods, n.o.s.	9	UN3548			391	None	232	232	Forbidden	Forbidden	A.	
G	Articles containing non-flammable, non-toxic gas, n.o.s.	2.2	UN3538			391	None	232	232	Forbidden	Forbidden	A.	
G	Articles containing organic peroxide, n.o.s.	5.2	UN3545			131, 391	None	214	214	Forbidden	Forbidden.		
G	Articles containing oxidizing substance, n.o.s.	5.1	UN3544			131, 391	None	214	214	Forbidden	Forbidden.		
G	Articles containing toxic gas, n.o.s	2.3	UN3539			131, 391	None	214	214	Forbidden	Forbidden.		
G	Articles containing toxic substance, n.o.s.	6.1	UN3546			391	None	232	232	Forbidden	Forbidden	B.	
	*			*	*	*	*	*	*				
	Chemical kit	9	UN3316		9	15	161	161	None	10 kg	10 kg	A.	
	*			*	*	*	*	*	*				
	2-Dimethylaminoethyl acrylate, stabilized.	6.1	UN3302	II	6.1	387, IB2, T7, TP2	153	202	243	5 L	60 L	D	25
	*			*	*	*	*	*	*				
	First aid kit	9	UN3316		9	15	161	161	None	10 kg	10 kg	A.	
	*			*	*	*	*	*	*				
	Lithium batteries installed in cargo transport unit *lithium ion batteries or lithium metal batteries.*	9	UN3536			389				Forbidden	Forbidden	A.	
	*			*	*	*	*	*	*				
G	Toxic solid, flammable, inorganic, n.o.s.	6.1	UN3535	I	6.1. 4.1	IB6, T6, TP33	None	211	242	1 kg	15 kg	B.	
				II	6.1, 4.1	IB8, IP2, IP4, T3, TP33.	153	212	242	15 kg	50 kg	B.	
	*			*	*	*	*	*	*				
	[REVISE]												

*			*	*	*	*	*	*					
Acetic acid, glacial *or* Acetic acid solution, *with more than 80 percent acid, by mass.*	8	UN2789	II	8, 3	A3, A7, A10, B2, IB2, T7, TP2.	154	202	243	1 L	30 L	A	53, 58
Acetic acid solution, *not less than 50 percent but not more than 80 percent acid, by mass.*	8	UN2790	II	8	148, A3, A7, A10, B2, IB2, T7, TP2.	154	202	242	1 L	30 L	A	53, 58
Acetic acid solution, *with more than 10 percent and less than 50 percent acid, by mass.*	8	UN2790	III	8	148, IB3, T4, TP1	154	203	242	5 L	60 L	A	53, 58
Acetic anhydride	8	UN1715	II	8, 3	A3, A7, A10, B2, IB2, T7, TP2.	154	202	243	1 L	30 L	A	40, 53, 58
*			*	*	*	*	*	*					
Acetyl bromide	8	UN1716	II	8	B2, IB2, T8, TP2	154	202	242	1 L	30 L	C	40, 53, 58
Acetyl chloride	3	UN1717	II	3, 8	A3, A7, IB1, N34, T8, TP2.	150	202	243	1 L	5 L	B	40, 53, 58
*			*	*	*	*	*	*					
Acetyl iodide	8	UN1898	II	8	B2, IB2, T7, TP2, TP13.	154	202	242	1 L	30 L	C	40, 53, 58
*			*	*	*	*	*	*					
Acrylic acid, stabilized	8	UN2218	II	8, 3	387, B2, IB2, T7, TP2	154	202	243	1 L	30 L	C	25, 40, 53, 58
*			*	*	*	*	*	*					
Adhesives, *containing a flammable liquid.*	3	UN1133	I	3	T11, TP1, TP8, TP27	150	201	243	1 L	30 L	B.	
			II	3	149, B52, IB2, T4, TP1, TP8.	150	173	242	5 L	60 L	B.	
			III	3	B1, B52, IB3, T2, TP1	150	173	242	60 L	220 L	A.	
*			*	*	*	*	*	*					
Alkali metal amalgam, solid	4.3	UN3401	I	4.3	IB4, IP1, N40, T9, TP7, TP33, W31.	None	211	242	Forbidden	15 kg	D	13, 52, 148
*			*	*	*	*	*	*					
Alkaline earth metal amalgams, solid	4.3	UN3402	I	4.3	A19, N34, N40, T9, TP7, TP33, W31.	None	211	242	Forbidden	15 kg	D	13, 52, 148
*			*	*	*	*	*	*					
Alkyl sulfonic acids, liquid *or* Aryl sulfonic acids, liquid *with more than 5 percent free sulfuric acid.*	8	UN2584	II	8	B2, IB2, T8, TP2, TP13.	154	202	242	1 L	30 L	B	53, 58
Alkyl sulfonic acids, liquid *or* Aryl sulfonic acids, liquid *with not more than 5 percent free sulfuric acid.*	8	UN2586	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	B	53, 58
Alkyl sulfonic acids, solid *or* Aryl sulfonic acids, solid, *with more than 5 percent free sulfuric acid.*	8	UN2583	II	8	IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	A	53, 58
Alkyl sulfonic acids, solid *or* Aryl sulfonic acids, solid *with not more than 5 percent free sulfuric acid.*	8	UN2585	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58
*			*	*	*	*	*	*					
Alkylsulfuric acids	8	UN2571	II	8	B2, IB2, T8, TP2, TP13, TP28.	154	202	242	1 L	30 L	C	14, 53, 58
*			*	*	*	*	*	*					
Allyl chloroformate	6.1	UN1722	I	6.1, 3, 8	2, B9, B14, B32, N41, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	21, 40, 53, 58, 100
*			*	*	*	*	*	*					
Allyl iodide	3	UN1723	II	3, 8	A3, IB1, N34, T7, TP2, TP13.	150	202	243	1 L	5 L	B	40, 53, 58
*			*	*	*	*	*	*					
Allylamine	6.1	UN2334	I	6.1, 3	2, B9, B14, B32, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 52
Allyltrichlorosilane, stabilized	8	UN1724	II	8, 3	387, A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	243	Forbidden	30 L	C	25, 40, 53, 58

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification No.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***) Exceptions	Non-bulk	Bulk	(9) Quantity limitations (see §§ 173.27 and 175.75) Passenger aircraft/rail	Cargo aircraft only	(10) Vessel stowage Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*		*	*	*	*	*	*				
	Aluminum bromide, anhydrous	8	UN1725	II	8	IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	A	40, 53, 58
	Aluminum bromide, solution	8	UN2580	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
		*		*	*	*	*	*	*				
	Aluminum chloride, anhydrous	8	UN1726	II	8	IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	A	40, 53, 58
	Aluminum chloride, solution	8	UN2581	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
		*		*	*	*	*	*	*				
	Aluminum hydride	4.3	UN2463	I	4.3	A19, N40, W31	None	211	242	Forbidden	15 kg	E	13, 148
		*		*	*	*	*	*	*				
	Aluminum phosphide	4.3	UN1397	I	4.3, 6.1	A8, A19, N40, W31	None	211	242	Forbidden	15 kg	E	13, 40, 52, 85, 148
		*		*	*	*	*	*	*				
	Aluminum powder, uncoated	4.3	UN1396	II	4.3	A19, A20, IB7, IP2, IP21, T3, TP33, W31, W40.	151	212	242	15 kg	50 kg	A	13, 39, 52, 53, 148
				III	4.3	A19, A20, IB8, IP21, T1, TP33, W31.	151	213	241	25 kg	100 kg	A	13, 39, 52, 53, 148
		*		*	*	*	*	*	*				
	Aluminum silicon powder, uncoated	4.3	UN1398	III	4.3	A1, A19, B136, IB8, IP4, T1, TP33, W31.	151	213	241	25 kg	100 kg	A	13, 39, 40, 52, 53, 85, 103, 148
		*		*	*	*	*	*	*				
	2-(2-Aminoethoxy) ethanol	8	UN3055	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	52
	N-Aminoethylpiperazine	8	UN2815	III	8, 6.1	IB3, T4, TP1	154	203	241	5 L	60 L	B	12, 25, 40, 52
		*		*	*	*	*	*	*				
	Ammonium hydrogen sulfate	8	UN2506	II	8	IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	A	40, 53, 58
	Ammonium hydrogendifluoride, solid	8	UN1727	II	8	IB8, IP2, IP4, N34, T3, TP33.	154	212	240	15 kg	50 kg	A	25, 40, 52, 53, 58
	Ammonium hydrogendifluoride, solution.	8	UN2817	II	8, 6.1	IB2, N34, T8, TP2, TP13.	154	202	243	1 L	30 L	B	40, 53, 58
				III	8, 6.1	IB3, N3, T4, TP1, TP13.	154	203	241	5 L	60 L	B	40, 53, 58, 95
		*		*	*	*	*	*	*				
A W	Ammonium nitrate based fertilizer	9	UN2071	III	9	132, B136, IB8, IP3	155	213	240	200 kg	200 kg	A.	
		*		*	*	*	*	*	*				
	Amyl acid phosphate	8	UN2819	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
		*		*	*	*	*	*	*				
	Amylamines	3	UN1106	II	3, 8	IB2, T7, TP1	150	202	243	1 L	5 L	B	52
				III	3, 8	B1, IB3, T4, TP1	150	203	242	5 L	60 L	A	52
	Amyltrichlorosilane	8	UN1728	II	8	A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58
		*		*	*	*	*	*	*				
	Anisoyl chloride	8	UN1729	II	8	B2, B4, IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	A	40, 53, 58
		*		*	*	*	*	*	*				
	Antimony pentachloride, liquid	8	UN1730	II	8	B2, IB2, T7, TP2	None	202	242	1 L	30 L	C	40, 53, 58
	Antimony pentachloride, solutions	8	UN1731	II	8	B2, IB2, T7, TP2	154	202	242	1 L	30 L	C	40, 53, 58
				III	8	IB3, T4, TP1	154	203	241	5 L	60 L	C	40, 53, 58

	Antimony pentafluoride	8	UN1732	II	8, 6.1	A3, A7, A10, IB2, N3, N36, T7, TP2.	None	202	243	Forbidden	30 L	D	40, 44, 53, 58, 89, 100, 141
	*			*	*	*	*	*		*			
	Antimony trichloride, liquid	8	UN1733	II	8	B2, IB2	154	202	242	1 L	30 L	C	40, 53, 58
	Antimony trichloride, solid	8	UN1733	II	8	IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	A	40, 53, 58
	*			*	*	*	*	*		*			
G	Articles, explosive, n.o.s	1.4S	UN0349		1.4S	101, 148, 347, 382	None	62	None	25 kg	100 kg	01	25
	*			*	*	*	*	*		*			
G	Articles, explosive, n.o.s	1.1C	UN0462		1.1C	101	None	62	None	Forbidden	Forbidden	03	25
G	Articles, explosive, n.o.s	1.1D	UN0463		1.1D	101	None	62	None	Forbidden	Forbidden	03	25
G	Articles, explosive, n.o.s	1.1E	UN0464		1.1E	101	None	62	None	Forbidden	Forbidden	03	25
G	Articles, explosive, n.o.s	1.1F	UN0465		1.1F	101	None	62	None	Forbidden	Forbidden	03	25
G	Articles, explosive, n.o.s	1.2C	UN0466		1.2C	101	None	62	None	Forbidden	Forbidden	03	25
G	Articles, explosive, n.o.s	1.2D	UN0467		1.2D	101	None	62	None	Forbidden	Forbidden	03	25
G	Articles, explosive, n.o.s	1.2E	UN0468		1.2E	101	None	62	None	Forbidden	Forbidden	03	25
G	Articles, explosive, n.o.s	1.2F	UN0469		1.2F	101	None	62	None	Forbidden	Forbidden	03	25
G	Articles, explosive, n.o.s	1.3C	UN0470		1.3C	101	None	62	None	Forbidden	Forbidden	03	25
	*			*	*	*	*	*		*			
G	Articles, explosive, n.o.s	1.4F	UN0472		1.4F	101	None	62	None	Forbidden	Forbidden	03	25
	*			*	*	*	*	*		*			
	Batteries, wet, filled with acid, *electric storage*.	8	UN2794		8	A51	159	159	159	30 kg	No limit	A	53, 58, 146
	*			*	*	*	*	*		*			
	Benzotrichloride	8	UN2226	II	8	B2, IB2, T7, TP2	154	202	242	1 L	30 L	A	40, 53, 58
	*			*	*	*	*	*		*			
	Benzoyl chloride	8	UN1736	II	8	B2, IB2, T8, TP2, TP13.	154	202	242	1 L	30 L	C	40, 53, 58
	Benzyl bromide	6.1	UN1737	II	6.1, 8	A3, A7, IB2, N33, N34, T8, TP2, TP13.	None	202	243	1 L	30 L	D	13, 40, 53, 58
	Benzyl chloride	6.1	UN1738	II	6.1, 8	A3, A7, B70, IB2, N33, N42, T8, TP2, TP13.	None	202	243	1 L	30 L	D	13, 40, 53, 58
	Benzyl chloride *unstabilized*	6.1	UN1738	II	6.1, 8	A3, A7, B8, B11, IB2, N33, N34, N43, T8, TP2, TP13.	153	202	243	1 L	30 L	D	13, 40, 53, 58
	Benzyl chloroformate	8	UN1739	I	8	B4, N41, T10, TP2, TP13.	None	201	243	Forbidden	2.5 L	D	40, 53, 58
	*			*	*	*	*	*		*			
	Benzyldimethylamine	8	UN2619	II	8, 3	B2, IB2, T7, TP2	154	202	243	1 L	30 L	A	25, 40, 52
	*			*	*	*	*	*		*			
	Bombs, photo-flash	1.1F	UN0037		1.1F			62	None	Forbidden	Forbidden	03	25
	Bombs, photo-flash	1.1D	UN0038		1.1D			62	62	Forbidden	Forbidden	03	25
	*			*	*	*	*	*		*			
	Bombs, *with bursting charge*	1.1F	UN0033		1.1F			62	None	Forbidden	Forbidden	03	25
	Bombs, *with bursting charge*	1.1D	UN0034		1.1D			62	62	Forbidden	Forbidden	03	25
	Bombs, *with bursting charge*	1.2D	UN0035		1.2D			62	62	Forbidden	Forbidden	03	25
	Bombs, *with bursting charge*	1.2F	UN0291		1.2F			62	None	Forbidden	Forbidden	03	25
	*			*	*	*	*	*		*			
	Boosters, *without detonator*	1.1D	UN0042		1.1D	148	None	62	None	Forbidden	Forbidden	03	25
	Boosters, *without detonator*	1.2D	UN0283		1.2D		None	62	None	Forbidden	Forbidden	03	25
	*			*	*	*	*	*		*			
+	Boron tribromide	8	UN2692	I	8, 6.1	2, B9, B14, B32, N34, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	C	12, 25, 53, 58
	*			*	*	*	*	*		*			
	Boron trifluoride acetic acid complex, liquid.	8	UN1742	II	8	B2, B6, IB2, T8, TP2	154	202	242	1 L	30 L	A	53, 58
	Boron trifluoride acetic acid complex, solid.	8	UN3419	II	8	B2, B6, IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	A	53, 58
	*			*	*	*	*	*		*			
	Boron trifluoride diethyl etherate	8	UN2604	I	8, 3	A19, T10, TP2, W31	None	201	243	0.5 L	2.5 L	D	40, 53, 58

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	Boron trifluoride dihydrate	8	UN2851	II	8	IB2, T7, TP2	154	212	240	15 kg	50 kg	B	12, 25, 40, 53, 58
		*		*	*	*	*	*	*				
	Boron trifluoride propionic acid complex, liquid.	8	UN1743	II	8	B2, IB2, T8, TP2	154	202	242	1 L	30 L	A	53, 58
	Boron trifluoride propionic acid complex, solid.	8	UN3420	II	8	B2, IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	A	53, 58
		*		*	*	*	*	*	*				
+	Bromine	8	UN1744	I	8, 6.1	1, B9, B85, N34, N43, T22, TP2, TP10, TP13.	None	226	249	Forbidden	Forbidden	D	12, 25, 40, 53, 58, 66, 74, 89, 90
		*		*	*	*	*	*	*				
+	Bromine pentafluoride	5.1	UN1745	I	5.1, 6.1, 8	1, B9, B14, B30, T22, TP2, TP13, TP38, TP44.	None	228	244	Forbidden	Forbidden	D	25, 40, 53, 58, 66, 90
+	Bromine solutions	8	UN1744	I	8, 6.1	1, B9, B85, N34, N43, T22, TP2, TP10, TP13.	None	226	249	Forbidden	Forbidden	D	12, 25, 40, 53, 58, 66, 74, 89, 90
+	Bromine solutions	8	UN1744	I	8, 6.1	2, B9, B85, N34, N43, T22, TP2, TP10, TP13.	None	227	249	Forbidden	Forbidden	D	12, 25, 40, 53, 58, 66, 74, 89, 90
+	Bromine trifluoride	5.1	UN1746	I	5.1, 6.1, 8	2, B9, B14, B32, T22, TP2, TP13, TP38, TP45.	None	228	244	Forbidden	Forbidden	D	25, 40, 53, 58, 66, 90
		*		*	*	*	*	*	*				
	Bromoacetic acid, solid	8	UN3425	II	8	A7, IB8, IP2, IP4, N34, T3, TP33.	154	212	240	15 kg	50 kg	A	53, 58
	Bromoacetic acid solution	8	UN1938	II	8	A7, B2, IB2, T7, TP2	154	202	242	1 L	30 L	A	40, 53, 58
				III	8	B2, IB3, T7, TP2	154	203	241	5 L	60 L	A	40, 53, 58
		*		*	*	*	*	*	*				
	Bromoacetyl bromide	8	UN2513	II	8	B2, IB2, T8, TP2	154	202	242	1 L	30 L	C	40, 53, 58
		*		*	*	*	*	*	*				
	Bursters, *explosive*	1.1D	UN0043		1.1D		None	62	None	Forbidden	Forbidden	03	25
		*		*	*	*	*	*	*				
	Butyl acid phosphate	8	UN1718	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
		*		*	*	*	*	*	*				
	n-Butyl chloroformate	6.1	UN2743	I	6.1, 8, 3	2, B9, B14, B32, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	A	12, 13, 21, 25, 40, 53, 58, 100
		*		*	*	*	*	*	*				
	n-Butylamine	3	UN1125	II	3, 8	IB2, T7, TP1	150	202	242	1 L	5 L	B	40, 52
		*		*	*	*	*	*	*				
	Butyltrichlorosilane	8	UN1747	II	8, 3	A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	243	Forbidden	30 L	C	40, 53, 58
		*		*	*	*	*	*	*				
	Butyric acid	8	UN2820	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	12, 25, 53, 58
	Butyric anhydride	8	UN2739	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
		*		*	*	*	*	*	*				
	Butyryl chloride	3	UN2353	II	3, 8	IB2, T8, TP2, TP13	150	202	243	1 L	5 L	C	40, 53, 58
	Cacodylic acid	6.1	UN1572	II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	E	52, 53, 58

*			*	*	*	*	*	*					
Calcium carbide	4.3	UN1402	I	4.3	A1, A8, B55, B59, IB4, IP1, N34, T9, TP7, TP33, W31.	None	211	242	Forbidden	15 kg	B	13, 52, 148
			II	4.3	A1, A8, B55, B59, IB7, IP2, IP21, N34, T3, TP33, W31, W40.	151	212	241	15 kg	50 kg	B	13, 52, 148
*			*	*	*	*	*	*					
Calcium cyanamide *with more than 0.1 percent of calcium carbide.*	4.3	UN1403	III	4.3	A1, A19, IB8, IP4, T1, TP33, W31.	151	213	241	25 kg	100 kg	A	13, 52, 148
*			*	*	*	*	*	*					
Calcium hydride	4.3	UN1404	I	4.3	A19, N40, W31	None	211	242	Forbidden	15 kg	E	13, 52, 148
*			*	*	*	*	*	*					
Calcium phosphide	4.3	UN1360	I	4.3, 6.1	A8, A19, N40, W31	None	211	242	Forbidden	15 kg	E	13, 40, 52, 85, 148
*			*	*	*	*	*	*					
Calcium silicide	4.3	UN1405	II	4.3	A19, IB7, IP2, IP21, T3, TP33, W31.	151	212	241	15 kg	50 kg	B	13, 52, 85, 103, 148
			III	4.3	A1, A19, IB8, IP21, T1, TP33, W31.	151	213	241	25 kg	100 kg	B	13, 52, 85, 103, 148
*			*	*	*	*	*	*					
Caproic acid	8	UN2829	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
*			*	*	*	*	*	*					
Cartridges for weapons, blank	1.1C	UN0326		1.1C		None	62	None	Forbidden	Forbidden	03	25
Cartridges for weapons, blank	1.2C	UN0413		1.2C		None	62	None	Forbidden	Forbidden	03	25
Cartridges for weapons, blank *or* Cartridges, small arms, blank.	1.3C	UN0327		1.3C		None	62	None	Forbidden	Forbidden	03	25
*			*	*	*	*	*	*					
Cartridges for weapons, inert projectile.	1.2C	UN0328		1.2C		None	62	62	Forbidden	Forbidden	03	25
*			*	*	*	*	*	*					
Cartridges for weapons, inert projectile *or* Cartridges, small arms.	1.3C	UN0417		1.3C		None	62	None	Forbidden	Forbidden	03	25
Cartridges for weapons, *with bursting charge.*	1.1F	UN0005		1.1F		None	62	None	Forbidden	Forbidden	03	25
Cartridges for weapons, *with bursting charge.*	1.1E	UN0006		1.1E		None	62	62	Forbidden	Forbidden	03	25
Cartridges for weapons, *with bursting charge.*	1.2F	UN0007		1.2F		None	62	None	Forbidden	Forbidden	03	25
Cartridges for weapons, *with bursting charge.*	1.2E	UN0321		1.2E		None	62	62	Forbidden	Forbidden	03	25
Cartridges for weapons, *with bursting charge.*	1.4F	UN0348		1.4F		None	62	None	Forbidden	Forbidden	03	25
*			*	*	*	*	*	*					
Cartridges, oil well	1.3C	UN0277		1.3C		None	62	62	Forbidden	Forbidden	03	25
*			*	*	*	*	*	*					
Cartridges, power device	1.3C	UN0275		1.3C		None	62	62	Forbidden	75 kg	03	25
*			*	*	*	*	*	*					
Cartridges, power device	1.2C	UN0381		1.2C		None	62	62	Forbidden	Forbidden	03	25
*			*	*	*	*	*	*					
Cases, combustible, empty, without primer.	1.3C	UN0447		1.3C		None	62	None	Forbidden	Forbidden	03	25
*			*	*	*	*	*	*					
Cesium *or* Caesium	4.3	UN1407	I	4.3	A7, A19, IB4, IP1, N34, N40, W31.	None	211	242	Forbidden	15 kg	D	13, 52, 148
*			*	*	*	*	*	*					
Charges, bursting, plastics bonded	1.1D	UN0457		1.1D		None	62	None	Forbidden	Forbidden	03	25
Charges, bursting, plastics bonded	1.2D	UN0458		1.2D		None	62	None	Forbidden	Forbidden	03	25
*			*	*	*	*	*	*					
Charges, demolition	1.1D	UN0048		1.1D		None	62	62	Forbidden	Forbidden	03	25

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification No.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***) Exceptions	Non-bulk	Bulk	(9) Quantity limitations (see §§ 173.27 and 175.75) Passenger aircraft/rail	Cargo aircraft only	(10) Vessel stowage Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	Charges, depth	1.1D	UN0056		1.1D		None	62	62	Forbidden	Forbidden	03	25
	*	*	*	*	*	*	*	*	*				
	Charges, explosive, commercial *without detonator.*	1.1D	UN0442		1.1D		None	62	None	Forbidden	Forbidden	03	25
	Charges, explosive, commercial *without detonator.*	1.2D	UN0443		1.2D		None	62	None	Forbidden	Forbidden	03	25
	*	*	*	*	*	*	*	*	*				
	Charges, propelling	1.1C	UN0271		1.1C		None	62	None	Forbidden	Forbidden	03	25
	Charges, propelling	1.3C	UN0272		1.3C		None	62	None	Forbidden	Forbidden	03	25
	Charges, propelling	1.2C	UN0415		1.2C		None	62	None	Forbidden	Forbidden	03	25
	*	*	*	*	*	*	*	*	*				
	Charges, propelling, for cannon	1.3C	UN0242		1.3C		None	62	None	Forbidden	Forbidden	03	25
	Charges, propelling, for cannon	1.1C	UN0279		1.1C		None	62	None	Forbidden	Forbidden	03	25
	Charges, propelling, for cannon	1.2C	UN0414		1.2C		None	62	None	Forbidden	Forbidden	03	25
	*	*	*	*	*	*	*	*	*				
	Charges, shaped, *without detonator*	1.1D	UN0059		1.1D		None	62	None	Forbidden	Forbidden	03	25
	Charges, shaped, *without detonator*	1.2D	UN0439		1.2D		None	62	None	Forbidden	Forbidden	03	25
	*	*	*	*	*	*	*	*	*				
	Charges, supplementary explosive	1.1D	UN0060		1.1D		None	62	None	Forbidden	Forbidden	03	25
	*	*	*	*	*	*	*	*	*				
	Chloric acid aqueous solution, *with not more than 10 percent chloric acid.*	5.1	UN2626	II	5.1	IB2, T4, TP1, W31	None	229	None	Forbidden	Forbidden	D	53, 56, 58
	*	*	*	*	*	*	*	*	*				
	Chloroacetic acid, molten	6.1	UN3250	II	6.1, 8	IB1, T7, TP3, TP28	None	202	243	Forbidden	Forbidden	C	40, 53, 58
	Chloroacetic acid, solid	6.1	UN1751	II	6.1, 8	A3, A7, IB8, IP2, IP4, N34, T3, TP33.	153	212	242	15 kg	50 kg	C	40, 53, 58
	Chloroacetic acid, solution	6.1	UN1750	II	6.1, 8	A7, IB2, N34, T7, TP2	153	202	243	1 L	30 L	C	40, 53, 58
	*	*	*	*	*	*	*	*	*				
	Chloroacetyl chloride	6.1	UN1752	I	6.1, 8	2, B3, B8, B9, B14, B32, B77, N34, N43, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 53, 58
	*	*	*	*	*	*	*	*	*				
G	Chloroformates, toxic, corrosive, flammable, n.o.s.	6.1	UN2742	II	6.1, 8, 3	5, IB1, T7, TP2	153	202	243	1 L	30 L	A	12, 13, 21, 25, 40, 53, 58,100
G	Chloroformates, toxic, corrosive, n.o.s	6.1	UN3277	II	6.1, 8	IB2, T8, TP2, TP13, TP28.	153	202	243	1 L	30 L	A	12, 13, 25, 40, 53, 58
	Chloromethyl chloroformate	6.1	UN2745	II	6.1, 8	IB2, T7, TP2, TP13	153	202	243	1 L	30 L	A	12, 13, 25, 40, 53, 58
	*	*	*	*	*	*	*	*	*				
	Chlorophenyltrichlorosilane	8	UN1753	II	8	A7, B2, B6, N34, T10, TP2, TP7.	None	206	242	Forbidden	30 L	C	40, 53, 58
	*	*	*	*	*	*	*	*	*				
	Chloroplatinic acid, solid	8	UN2507	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58
	*	*	*	*	*	*	*	*	*				
	2-Chloropropionic acid	8	UN2511	III	8	IB3, T4, TP2	154	203	241	5 L	60 L	A	8, 53, 58
	*	*	*	*	*	*	*	*	*				
	Chlorosilanes, corrosive, flammable, n.o.s.	8	UN2986	II	8, 3	T14, TP2, TP7, TP13, TP27.	None	206	243	Forbidden	30 L	C	40, 53, 58
	Chlorosilanes, corrosive, n.o.s	8	UN2987	II	8	B2, T14, TP2, TP7, TP13, TP27.	None	206	242	Forbidden	30 L	C	40, 53, 58

	Chlorosilanes, flammable, corrosive, n.o.s.	3	UN2985	II	3, 8	T14, TP2, TP7, TP13, TP27.	None	206	243	Forbidden	5 L	B	40, 53, 58
G	Chlorosilanes, toxic, corrosive, flammable, n.o.s.	6.1	UN3362	II	6.1, 8, 3	T14, TP2, TP7, TP13, TP27.	None	206	243	Forbidden	30 L	C	40, 53, 58, 125
G	Chlorosilanes, toxic, corrosive, n.o.s	6.1	UN3361	II	6.1, 8	T14, TP2, TP7, TP13, TP27.	None	206	243	Forbidden	30 L	C	40, 53, 58
	Chlorosilanes, water-reactive, flammable, corrosive, n.o.s.	4.3	UN2988	I	4.3, 3, 8	A2, T14, TP2, TP7, TP13, W31.	None	201	244	Forbidden	1 L	D	13, 21, 40, 49, 53, 58, 100, 147, 148
+	Chlorosulfonic acid *(with or without sulfur trioxide).*	8	UN1754	I	8, 6.1	2, B9, B10, B14, B32, T20, TP2, TP38, TP45.	None	227	244	Forbidden	Forbidden	C	40, 53, 58
	*			*	*	*	*	*	*				
	Chromic acid solution	8	UN1755	II	8	B2, IB2, T8, TP2	154	202	242	1 L	30 L	C	40, 44, 53, 58, 89, 100, 141
				III	8	IB3, T4, TP1	154	203	241	5 L	60 L	C	40, 44, 53, 58, 89, 100, 141
	*			*	*	*	*	*	*				
	Chromic fluoride, solid	8	UN1756	II	8	IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	A	52, 53, 58
	Chromic fluoride, solution	8	UN1757	II	8	B2, IB2, T7, TP2	154	202	242	1 L	30 L	A	53, 58
				III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
	*			*	*	*	*	*	*				
	Chromium oxychloride	8	UN1758	I	8	A7, B10, N34, T10, TP2.	None	201	243	0.5 L	2.5 L	C	40, 53, 58, 66, 74, 89, 90
	*			*	*	*	*	*	*				
	Chromosulfuric acid	8	UN2240	I	8	A7, B4, B6, N34, T10, TP2, TP13.	None	201	243	0.5L	2.5L	B	40, 53, 58, 66, 74, 89, 90
	*			*	*	*	*	*	*				
G	Components, explosive train, n.o.s	1.4S	UN0384		1.4S	101, 347	None	62	None	25 kg	100 kg	01	25
	*			*	*	*	*	*	*				
	Copper chloride	8	UN2802	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58
	*			*	*	*	*	*	*				
A,W	Copra	4.2	UN1363	III	4.2	B136, IB8, IP3, IP7	None	213	241	Forbidden	Forbidden	A	13, 25, 119
	Cord, detonating, *flexible*	1.1D	UN0065		1.1D	102, 148	63(a)	62	None	Forbidden	Forbidden	03	25
	*			*	*	*	*	*	*				
	Cord, detonating *or* Fuze, detonating *metal clad.*	1.2D	UN0102		1.2D		None	62	None	Forbidden	Forbidden	03	25
	Cord, detonating *or* Fuze, detonating *metal clad.*	1.1D	UN0290		1.1D		None	62	None	Forbidden	Forbidden	03	25
	*			*	*	*	*	*	*				
G	Corrosive liquid, acidic, inorganic, n.o.s.	8	UN3264	I	8	B10, T14, TP2, TP27	None	201	243	0.5 L	2.5 L	B	40, 53, 58
				II	8	386, B2, IB2, T11, TP2, TP27.	154	202	242	1 L	30 L	B	40, 53, 58
				III	8	IB3, T7, TP1, TP28	154	203	241	5 L	60 L	A	40, 53, 58
G	Corrosive liquid, acidic, organic, n.o.s	8	UN3265	I	8	B10, T14, TP2, TP27	None	201	243	0.5 L	2.5 L	B	40, 53, 58
				II	8	148, B2, IB2, T11, TP2, TP27.	154	202	242	1 L	30 L	B	40, 53, 58
				III	8	386, IB3, T7, TP1, TP28.	154	203	241	5 L	60 L	A	40, 53, 58
	*			*	*	*	*	*	*				
G	Corrosive solid, acidic, inorganic, n.o.s.	8	UN3260	I	8	IB7, IP1, T6, TP33	None	211	242	1 kg	25 kg	B	53, 58
				II	8	IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	B	53, 58
				III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58
G	Corrosive solid, acidic, organic, n.o.s	8	UN3261	I	8	IB7, IP1, T6, TP33	None	211	242	1 kg	25 kg	B	53, 58
				II	8	IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	B	53, 58

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification No.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***) Exceptions	Non-bulk	Bulk	(9) Quantity limitations (see §§ 173.27 and 175.75) Passenger aircraft/rail	Cargo aircraft only	(10) Vessel stowage Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
				III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58
		*		*	*	*	*	*	*				
	Crotonic acid, liquid	8	UN3472	III	8	IB8, T1	154	203	241	5 L	60 L	A	12, 25, 53, 58
	Crotonic acid, solid	8	UN2823	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	12, 25, 53, 58
		*		*	*	*	*	*	*				
	Cupriethylenediamine solution	8	UN1761	II	8, 6.1	IB2, T7, TP2	154	202	243	1 L	30 L	A	52
				III	8, 6.1	IB3, T7, TP1, TP28	154	203	242	5 L	60 L	A	52, 95
		*		*	*	*	*	*	*				
	Cyanuric chloride	8	UN2670	II	8	IB8, IP2, IP4, T3, TP33.	None	212	240	15 kg	50 kg	A	12, 25, 40, 53, 58
		*		*	*	*	*	*	*				
	Cyclobutyl chloroformate	6.1	UN2744	II	6.1, 8, 3	IB1, T7, TP2, TP13	153	202	243	1 L	30 L	A	12, 13, 21, 25, 40, 53, 58, 100
		*		*	*	*	*	*	*				
	Cyclohexenyltrichlorosilane	8	UN1762	II	8	A7, B2, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58
		*		*	*	*	*	*	*				
	Cyclohexylamine	8	UN2357	II	8, 3	IB2, T7, TP2	None	202	243	1 L	30 L	A	40, 52
	Cyclohexyltrichlorosilane	8	UN1763	II	8	A7, B2, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58
		*		*	*	*	*	*	*				
	Di-n-amylamine	3	UN2841	III	3, 6.1	B1, IB3, T4, TP1	150	203	242	60 L	220 L	A	52
		*		*	*	*	*	*	*				
	Di-n-butylamine	8	UN2248	II	8, 3	IB2, T7, TP2	None	202	243	1 L	30 L	A	52
		*		*	*	*	*	*	*				
	Diallylamine	3	UN2359	II	3, 6.1, 8	IB2, T7, TP1	150	202	243	1 L	5 L	B	21, 40, 52, 100
		*		*	*	*	*	*	*				
	Dibenzyldichlorosilane	8	UN2434	II	8	B2, T10, TP2, TP7, TP13.	154	206	242	Forbidden	30 L	C	40, 53, 58
		*		*	*	*	*	*	*				
	Dichloroacetic acid	8	UN1764	II	8	A3, A7, B2, IB2, N34, T8, TP2.	154	202	242	1 L	30 L	A	53, 58
		*		*	*	*	*	*	*				
	Dichloroacetyl chloride	8	UN1765	II	8	A3, A7, B2, B6, IB2, N34, T7, TP2.	154	202	242	1 L	30 L	D	40, 53, 58
		*		*	*	*	*	*	*				
	Dichlorophenyltrichlorosilane	8	UN1766	II	8	A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58
		*		*	*	*	*	*	*				
	Dicyclohexylamine	8	UN2565	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	52
		*		*	*	*	*	*	*				
	Diethylamine	3	UN1154	II	3, 8	A3, IB2, N34, T7, TP1	150	202	243	1 L	5 L	E	40, 52
	2-Diethylaminoethanol	8	UN2686	II	8, 3	B2, IB2, T7, TP2	None	202	243	1 L	30 L	A	52
	3-Diethyamino-propylamine	3	UN2684	III	3, 8	B1, IB3, T4, TP1	150	203	242	5 L	60 L	A	52

	*		*	*	*	*	*	*					
Diethyldichlorosilane	8	UN1767	II	8, 3	A7, B6, N34, T10, TP2, TP7, TP13.	None	206	243	Forbidden	30 L	C	40, 53, 58
	*		*	*	*	*	*	*					
N,N-Diethylethylenediamine	8	UN2685	II	8, 3	IB2, T7, TP2	None	202	243	1 L	30 L	A	52
	*		*	*	*	*	*	*					
Diethylthiophosphoryl chloride	8	UN2751	II	8	B2, IB2, T7, TP2	None	212	240	15 kg	50 kg	D	12, 25, 40, 53, 58
	*		*	*	*	*	*	*					
Difluorophosphoric acid, anhydrous	8	UN1768	II	8	A7, B2, IB2, N5, N34, T8, TP2.	None	202	242	1 L	30 L	A	40, 53, 58
	*		*	*	*	*	*	*					
Diisobutylamine	3	UN2361	III	3, 8	B1, IB3, T4, TP1	150	203	242	5 L	60 L	A	52
	*		*	*	*	*	*	*					
Diisooctyl acid phosphate	8	UN1902	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
	*		*	*	*	*	*	*					
Diisopropylamine	3	UN1158	II	3, 8	IB2, T7, TP1	150	202	243	1 L	5 L	B	52
	*		*	*	*	*	*	*					
Dimethyl-N-propylamine	3	UN2266	II	3, 8	IB2, T7, TP2, TP13	150	202	243	1 L	5 L	B	40, 52
Dimethyl sulfate	6.1	UN1595	I	6.1, 8	2, B9, B14, B32, B77, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 53, 58
	*		*	*	*	*	*	*					
Dimethyl thiophosphoryl chloride	6.1	UN2267	II	6.1, 8	IB2, T7, TP2	153	202	243	1 L	30 L	B	25, 53, 58
Dimethylamine, anhydrous	2.1	UN1032		2.1	N87, T50	None	304	314, 315	Forbidden	150 kg	D	40, 52
	*		*	*	*	*	*	*					
2-Dimethylaminoethanol	8	UN2051	II	8, 3	B2, IB2, T7, TP2	154	202	243	1 L	30 L	A	52
	*		*	*	*	*	*	*					
Dimethylcarbamoyl chloride	8	UN2262	II	8	B2, IB2, T7, TP2	154	202	242	1 L	30 L	A	40, 53, 58
	*		*	*	*	*	*	*					
N,N-Dimethylcyclohexylamine	8	UN2264	II	8, 3	B2, IB2, T7, TP2	154	202	243	1 L	30 L	A	40, 52
	*		*	*	*	*	*	*					
	*		*	*	*	*	*	*					
Diphenyldichlorosilane	8	UN1769	II	8	A7, B2, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58
Diphenylmethyl bromide	8	UN1770	II	8	IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	D	40, 53, 58
	*		*	*	*	*	*	*					
Dipropylamine	3	UN2383	II	3, 8	IB2, T7, TP1	150	202	243	1 L	5 L	B	25, 52
	*		*	*	*	*	*	*					
Dodecyltrichlorosilane	8	UN1771	II	8	A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58
	*		*	*	*	*	*	*					
Ethyl chloroformate	6.1	UN1182	I	6.1, 3, 8	2, B9, B14, B32, N34, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	21, 40, 53, 58, 100
	*		*	*	*	*	*	*					
+ Ethyl chlorothioformate	8	UN2826	II	8, 6.1, 3	2, B9, B14, B32, T20, TP2, TP38, TP45.	None	227	244	Forbidden	Forbidden	A	40, 53, 58
	*		*	*	*	*	*	*					
Ethylamine	2.1	UN1036		2.1	B77, N87, T50	None	321	314, 315	Forbidden	150 kg	D	40, 52
	*		*	*	*	*	*	*					
Ethyldichlorosilane	4.3	UN1183	I	4.3, 8, 3	A2, A7, N34, T14, TP2, TP7, TP13, W31.	None	201	244	Forbidden	1 L	D	21, 40, 49, 53, 58, 100

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification No.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***) Exceptions	Non-bulk	Bulk	(9) Quantity limitations (see §§ 173.27 and 175.75) Passenger aircraft/rail	Cargo aircraft only	(10) Vessel stowage Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*		*	*	*	*	*	*				
	2-Ethylhexyl chloroformate	6.1	UN2748	II	6.1, 8	IB2, T7, TP2, TP13	153	202	243	1 L	30 L	A	12, 13, 25, 40, 53, 58
	2-Ethylhexylamine	3	UN2276	III	3, 8	B1, IB3, T4, TP1	150	203	242	5 L	60 L	A	40, 52
		*		*	*	*	*	*	*				
	Ethylphenyldichlorosilane	8	UN2435	II	8	A7, B2, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	53, 58
		*		*	*	*	*	*	*				
	Ferric chloride, anhydrous	8	UN1773	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58
	Ferric chloride, solution	8	UN2582	III	8	B15, IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
		*		*	*	*	*	*	*				
	Ferrous metal borings *or* Ferrous metal shavings *or* Ferrous metal turnings *or* Ferrous metal cuttings *in a form liable to self-heating.*	4.2	UN2793	III	4.2	A1, A19, B134, B136, IB8, IP3, IP7, IP21, W100.	None	213	241	25 kg	100 kg	A	13, 148
		*		*	*	*	*	*	*				
A,W	Fish meal, stabilized *or* Fish scrap, stabilized.	9	UN2216	III	None	155, B136, IB8, IP3, T1, TP33.	155	218	218	Forbidden	Forbidden	B	25, 88, 122, 128
		*		*	*	*	*	*	*				
	Fluoroacetic acid	6.1	UN2642	I	6.1	IB7, IP1, T6, TP33	None	211	242	1 kg	15 kg	E	53, 58
		*		*	*	*	*	*	*				
	Fluoroboric acid	8	UN1775	II	8	A7, B2, B15, IB2, N3, N34, T7, TP2.	154	202	242	1 L	30 L	A	53, 58
	Fluorophosphoric acid anhydrous	8	UN1776	II	8	A7, B2, IB2, N3, N34, T8, TP2.	None	202	242	1 L	30 L	A	53, 58
		*		*	*	*	*	*	*				
	Fluorosilicic acid	8	UN1778	II	8	A7, B2, B15, IB2, N3, N34, T8, TP2.	None	202	242	1 L	30 L	A	53, 58
	Fluorosulfonic acid	8	UN1777	I	8	A7, A10, B6, B10, N3, N36, T10, TP2.	None	201	243	0.5 L	2.5 L	D	40, 53, 58
		*		*	*	*	*	*	*				
	Formic acid *with not less than 10% but not more than 85% acid by mass.*	8	UN3412	II	8	IB2, T7, TP2	154	202	242	1 L	30 L	A	40, 53, 58
	Formic acid *with not less than 5% but less than 10% acid by mass.*	8	UN3412	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	40, 53, 58
	Formic acid *with more than 85% acid by mass.*	8	UN1779	II	8, 3	B2, B28, IB2, T7, TP2	154	202	242	1 L	30 L	A	40, 53, 58
	Fracturing devices, explosive, *without detonators for oil wells.*	1.1D	UN0099		1.1D		None	62	62	Forbidden	Forbidden	03	25
		*		*	*	*	*	*	*				
	Fumaryl chloride	8	UN1780	II	8	B2, IB2, T7, TP2	154	202	242	1 L	30 L	C	8, 40, 53, 58
		*		*	*	*	*	*	*				
	Furfurylamine	3	UN2526	III	3, 8	B1, IB3, T4, TP1	150	203	242	5 L	60 L	A	40, 52
		*		*	*	*	*	*	*				
	Fuzes, detonating	1.4S	UN0367		1.4S	116, 347	None	62	None	25 kg	100 kg	01	25
	Fuzes, detonating, *with protective features.*	1.1D	UN0408		1.1D		None	62	None	Forbidden	Forbidden	03	25
	Fuzes, detonating, *with protective features.*	1.2D	UN0409		1.2D		None	62	None	Forbidden	Forbidden	03	25
		*		*	*	*	*	*	*				
	Grenades, *hand or rifle, with bursting charge.*	1.1D	UN0284		1.1D			62	None	Forbidden	Forbidden	03	25

Grenades, *hand or rifle, with bursting charge.*	1.2D	UN0285		1.2D			62	None	Forbidden	Forbidden	03	25
Grenades, *hand or rifle, with bursting charge.*	1.1F	UN0292		1.1F			62	None	Forbidden	Forbidden	03	25
Grenades, *hand or rifle, with bursting charge.*	1.2F	UN0293		1.2F			62	None	Forbidden	Forbidden	03	25
*		*	*	*	*	*	*	*				
Hexadecyltrichlorosilane	8	UN1781	II	8	A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58
*		*	*	*	*	*	*	*				
Hexafluorophosphoric acid	8	UN1782	II	8	A7, B2, IB2, N3, N34, T8, TP2.	None	202	242	1 L	30 L	A	53, 58
*		*	*	*	*	*	*	*				
Hexamethylenediamine, solid	8	UN2280	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	12, 25, 52
Hexamethylenediamine solution	8	UN1783	II	8	IB2, T7, TP2	None	202	242	1 L	30 L	A	52
			III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	52
*		*	*	*	*	*	*	*				
Hexyltrichlorosilane	8	UN1784	II	8	A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58
*		*	*	*	*	*	*	*				
Hydrobromic acid, *with more than 49 percent hydrobromic acid.*	8	UN1788	II	8	B2, B15, IB2, N41, T7, TP2.	154	202	242	Forbidden	Forbidden	C	53, 58
			III	8	IB3, T4, TP1	154	203	241	Forbidden	Forbidden	C	8, 53, 58
*		*	*	*	*	*	*	*				
Hydrochloric acid	8	UN1789	II	8	386, A3, B3, B15, B133, IB2, N41, T8, TP2.	154	202	242	1 L	30 L	C	53, 58
			III	8	A3, IB3, T4, TP1	154	203	241	5 L	60 L	C	8, 53, 58
*		*	*	*	*	*	*	*				
Hydrofluoric acid and Sulfuric acid mixtures.	8	UN1786	I	8, 6.1	A7, B15, B23, N5, N34, T10, TP2, TP13.	None	201	243	Forbidden	2.5 L	D	40, 53, 58
*		*	*	*	*	*	*	*				
Hydrofluoric acid, *with more than 60 percent strength.*	8	UN1790	I	8, 6.1	A7, B4, B15, B23, N5, N34, T10, TP2, TP13.	None	201	243	0.5 L	2.5 L	D	12, 25, 40, 53, 58
Hydrofluoric acid, *with not more than 60 percent strength.*	8	UN1790	II	8, 6.1	A7, B15, IB2, N5, N34, T8, TP2.	154	202	243	1 L	30 L	D	12, 25, 40, 53, 58
*		*	*	*	*	*	*	*				
Hydrogen fluoride, anhydrous	8	UN1052	I	8.6.1	3, B7, B46, B77, N86, T10, TP2.	None	163	244	Forbidden	Forbidden	D	40, 53, 58
*		*	*	*	*	*	*	*				
Hydrogendifluoride, solid, n.o.s	8	UN1740	II	8	IB8, IP2, IP4, N3, N34, T3, TP33.	None	212	240	15 kg	50 kg	A	25, 40, 52, 53, 58
			III	8	IB8, IP3, N3, N34, T1, TP33.	154	213	240	25 kg	100 kg	A	25, 40, 52, 53, 58
*		*	*	*	*	*	*	*				
Hydroxylamine sulfate	8	UN2865	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	52, 53, 58
Hypochlorite solutions	8	UN1791	II	8	148, A7, B2, B15, IB2, IP5, N34, T7, TP2, TP24.	154	202	242	1 L	30 L	B	26, 53, 58
			III	8	386, IB3, N34, T4, TP2, TP24.	154	203	241	5 L	60 L	B	26, 53, 58
*		*	*	*	*	*	*	*				
3,3′-Iminodipropylamine	8	UN2269	III	8	IB3, T4, TP2	154	203	241	5 L	60 L	A	52
*		*	*	*	*	*	*	*				
Iodine monochloride, liquid	8	UN3498	II	8	IB2, T7, TP2	154	202	242	1 L	30 L	D	40, 53, 58, 66, 74, 89, 90
Iodine monochloride, solid	8	UN1792	II	8	B6, IB8, IP2, IP4, N41, T7, TP2.	None	212	240	Forbidden	50 kg	D	40, 53, 58, 66, 74

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	Iodine pentafluoride	5.1	UN2495	I	5.1, 6.1, 8		None	205	243	Forbidden	Forbidden	D	25, 40, 52, 53, 58, 66, 90
	Isobutylamine	* 3	UN1214	* II	* 3, 8	* IB2, T7, TP1	* 150	* 202	* 243	* 1 L	5 L	B	40, 52
	Isobutyryl chloride	* 3	UN2395	* II	* 3, 8	* IB1, T7, TP2	* 150	* 202	* 243	* 1 L	5 L	C	40, 53, 58
	Isophoronediamine	* 8	UN2289	* III	* 8	* IB3, T4, TP1	* 154	* 203	* 241	* 5 L	60 L	A	52
	Isopropyl acid phosphate	* 8	UN1793	* III	* 8	* IB2, T4, TP1	* 154	* 213	* 240	* 25 kg	100 kg	A	53, 58
	Isopropyl chloroformate	* 6.1	UN2407	* I	* 6.1, 3, 8	* 2, B9, B14, B32, B77, T20, TP2, TP13, TP38, TP44.	* None	* 227	* 244	* Forbidden	Forbidden	B	21, 40, 53, 58, 100
	Isopropylamine	* 3	UN1221	* I	* 3, 8	* T11, TP2	* None	* 201	* 243	* 0.5 L	2.5 L	E	52
D	Jet perforating guns, charged *oil well with detonator.*	* 1.1D	NA0124	*	* 1.1D	* 55, 56	* None	* 62	* None	* Forbidden	Forbidden	03	25, 154
D	Jet perforating guns, charged *oil well, with detonator.*	1.4D	NA0494		1.4D	55, 56	None	62	None	Forbidden	Forbidden	02	25, 154
	Jet perforating guns, charged, *oil well, without detonator.*	1.4D	UN0494		1.4D	55, 114	None	62	None	Forbidden	300 kg	02	25, 154
	Jet perforating guns, charged *oil well without detonator.*	1.1D	UN0124		1.1D	55	None	62	None	Forbidden	Forbidden	03	25, 154
	Lead sulfate *with more than 3 percent free acid.*	* 8	UN1794	* II	* 8	* IB8, IP2, IP4, T3, TP33.	* 154	* 212	* 240	* 15 kg	50 kg	A	53, 58
	Lithium	* 4.3	UN1415	* I	* 4.3	* A7, A19, IB4, IP1, N45, T9, TP7, TP33, W31.	* 151	* 211	* 244	* Forbidden	15 kg	D	13, 52, 148
	Lithium aluminum hydride	* 4.3	UN1410	* I	* 4.3	* A19, W31	* None	* 211	* 242	* Forbidden	15 kg	E	13, 52, 148
	Lithium borohydride	* 4.3	UN1413	* I	* 4.3	* A19, N40, W31	* None	* 211	* 242	* Forbidden	15 kg	E	13, 52, 148
	Lithium hydride	* 4.3	UN1414	* I	* 4.3	* A19, N40, W31	* None	* 211	* 242	* Forbidden	15 kg	E	13, 52, 148
	Lithium ion batteries *including lithium ion polymer batteries.*	* 9	UN3480	*	* 9	* 388, 422, A54, A100	* 185	* 185	* 185	* Forbidden	35 kg	A.	
	Lithium ion batteries contained in equipment *including lithium ion polymer batteries.*	9	UN3481		9	181, 388, 422, A54	185	185	185	5 kg	35 kg	A.	
	Lithium ion batteries packed with equipment *including lithium ion polymer batteries.*	9	UN3481		9	181, 388, 422, A54	185	185	185	5 kg	35 kg	A.	
	Lithium metal batteries *including lithium alloy batteries.*	9	UN3090		9	388, 422, A54	185	185	185	Forbidden	35 kg	A.	
	Lithium metal batteries contained in equipment *including lithium alloy batteries.*	9	UN3091		9	181, 388, 422, A54, A101.	185	185	185	5 kg	35 kg	A.	

	Lithium metal batteries packed with equipment *including lithium alloy batteries.*	9	UN3091		9	181, 388, 422, A54	185	185	185	5 kg	35 kg	A.		
	*	*		*	*	*	*	*	*					
	Lithium nitride	4.3	UN2806	I	4.3	A19, IB4, IP1, N40, W31.	None	211	242	Forbidden	15 kg	E.		
	*	*		*	*	*	*	*	*					
	Magnesium aluminum phosphide	4.3	UN1419	I	4.3, 6.1	A19, N34, N40, W31	None	211	242	Forbidden	15 kg	E	13, 40, 52, 85, 148	
	*	*		*	*	*	*	*	*					
	Magnesium hydride	4.3	UN2010	I	4.3	A19, N40, W31	None	211	242	Forbidden	15 kg	E	13, 52, 148	
	*	*		*	*	*	*	*	*					
	Magnesium phosphide	4.3	UN2011	I	4.3, 6.1	A19, N40, W31	None	211	None	Forbidden	15 kg	E	13, 40, 52, 85, 148	
	Magnesium, powder *or* Magnesium alloys, powder.	4.3	UN1418	I	4.3, 4.2	A19, B56, W31	None	211	244	Forbidden	15 kg	A	13, 39, 52, 148	
				II	4.3, 4.2	A19, B56, IB5, IP2, T3, TP33, W31, W40.	None	212	241	15 kg	50 kg	A	13, 39, 52, 148	
				III	4.3, 4.2	A19, B56, IB8, IP4, T1, TP33, W31.	None	213	241	25 kg	100 kg	A	13, 39, 52, 148	
	*	*		*	*	*	*	*	*					
	Maleic anhydride	8	UN2215	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58, 95, 102	
	Maleic anhydride, molten	8	UN2215	III	8	T4, TP3	None	213	240	Forbidden	Forbidden	A	53, 58, 95, 102	
	*	*		*	*	*	*	*	*					
G	Metal hydrides, water reactive, n.o.s	4.3	UN1409	I	4.3	A19, N34, N40, W31	None	211	242	Forbidden	15 kg	D	13, 52, 148	
				II	4.3	A19, IB4, N34, N40, T3, TP33, W31, W40.	151	212	242	15 kg	50 kg	D	13, 52, 148	
	*	*		*	*	*	*	*	*					
G	Metallic substance, water-reactive, n.o.s.	4.3	UN3208	I	4.3	A7, IB4, W31	None	211	242	Forbidden	15 kg	E	13, 40, 148	
				II	4.3	A7, IB7, IP2, IP21, T3, TP33, W31, W40.	151	212	242	15 kg	50 kg	E	13, 40, 148	
				III	4.3	A7, IB8, IP21, T1, TP33, W31.	151	213	241	25 kg	100 kg	E	13, 40, 148	
G	Metallic substance, water-reactive, self-heating, n.o.s.	4.3	UN3209	I	4.3, 4.2	A7, W31	None	211	242	Forbidden	15 kg	E	13, 40, 148	
				II	4.3, 4.2	A7, IB5, IP2, T3, TP33, W31, W40.	None	212	242	15 kg	50 kg	E	13, 40, 148	
				III	4.3, 4.2	A7, IB8, IP4, T1, TP33, W31.	None	213	242	25 kg	100 kg	E	13, 40, 148	
	*	*		*	*	*	*	*	*					
	Methacrylic acid, stabilized	8	UN2531	II	8	41, 387, IB2, T7, TP1, TP18, TP30.	154	202	242	1 L	30 L	C	25, 40, 53, 58	
	*	*		*	*	*	*	*	*					
	Methanesulfonyl chloride	6.1	UN3246	I	6.1, 8	2, B9, B14, B32, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 53, 58	
	*	*		*	*	*	*	*	*					
	Methyl chloroformate	6.1	UN1238	I	6.1, 3, 8	1, B9, B14, B30, N34, T22, TP2, TP13, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	21, 40, 53, 58, 100	
	*	*		*	*	*	*	*	*					
	Methylamine, anhydrous	2.1	UN1061		2.1	N87, T50	306	304	314, 315	Forbidden	150 kg	B	40, 52	
	*	*		*	*	*	*	*	*					
	N-Methylbutylamine	3	UN2945	II	3, 8	IB2, T7, TP1	150	202	243	1 L	5 L	B	40, 52	
	*	*		*	*	*	*	*	*					
	Methyldichlorosilane	4.3	UN1242	I	4.3, 8, 3	A2, A7, B6, B77, N34, T14, TP2, TP7, TP13, W31.	None	201	243	Forbidden	1 L	D	21, 40, 49, 53, 58, 100	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*		*	*	*	*	*	*				
	Methylphenyldichlorosilane	8	UN2437	II	8	T10, TP2, TP7, TP13	None	206	242	Forbidden	30 L	C	40, 53, 58
		*		*	*	*	*	*	*				
	Methyltrichlorosilane	3	UN1250	II	3, 8	A7, B6, B77, N34, T10, TP2, TP7, TP13.	None	206	243	Forbidden	5 L	B	40, 53, 58
		*		*	*	*	*	*	*				
	Mines *with bursting charge*	1.1F	UN0136		1.1F			62	None	Forbidden	Forbidden	03	25
	Mines *with bursting charge*	1.1D	UN0137		1.1D			62	62	Forbidden	Forbidden	03	25
	Mines *with bursting charge*	1.2D	UN0138		1.2D			62	62	Forbidden	Forbidden	03	25
	Mines *with bursting charge*	1.2F	UN0294		1.2F			62	None	Forbidden	Forbidden	03	25
		*		*	*	*	*	*	*				
	Molybdenum pentachloride	8	UN2508	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	C	40, 53, 58
		*		*	*	*	*	*	*				
	Nitrating acid mixtures, spent *with more than 50 percent nitric acid.*	8	UN1826	I	8, 5.1	A7, T10, TP2, TP13	None	158	243	Forbidden	2.5 L	D	40, 53, 58, 66
	Nitrating acid mixtures spent *with not more than 50 percent nitric acid.*	8	UN1826	II	8	A7, B2, IB2, T8, TP2	None	158	242	Forbidden	30 L	D	40, 53, 58
	Nitrating acid mixtures *with more than 50 percent nitric acid.*	8	UN1796	I	8, 5.1	A7, T10, TP2, TP13	None	158	243	Forbidden	2.5 L	D	40, 53, 58, 66
	Nitrating acid mixtures *with not more than 50 percent nitric acid.*	8	UN1796	II	8	A7, B2, IB2, T8, TP2, TP13.	None	158	242	Forbidden	30 L	D	40, 53, 58
	Nitric acid *other than red fuming, with at least 65 percent, but not more than 70 percent nitric acid.*	8	UN2031	II	8, 5.1	B2, B47, B53, IB2, IP15, T8, TP2.	None	158	242	Forbidden	30 L	D	53, 58, 66, 74, 89, 90
	Nitric acid *other than red fuming, with more than 20 percent and less than 65 percent nitric acid.*	8	UN2031	II	8	A212, B2, B47, B53, IB2, IP15, T8, TP2.	None	158	242	Forbidden	30 L	D	44, 53, 58, 66, 74, 89, 90
	Nitric acid *other than red fuming with not more than 20 percent nitric acid.*	8	UN2031	II	8	B2, B47, B53, IB2, T8, TP2.	None	158	242	1 L	30 L	D	53, 58
+	Nitric acid, red fuming	8	UN2032	I	8, 5.1, 6.1	2, B9, B32, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 53, 58, 66, 74, 89, 90
	Nitric acid *other than red fuming, with more than 70 percent nitric acid.*	8	UN2031	I	8, 5.1	B47, B53, T10, TP2, TP12, TP13.	None	158	243	Forbidden	2.5 L	D	44, 53, 58, 66, 89, 90, 110, 111
		*		*	*	*	*	*	*				
	Nitrobenzenesulfonic acid	8	UN2305	II	8	B2, B4, IB8, IP2, IP4, T3, TP33.	154	202	242	1 L	30 L	A	53, 58
		*		*	*	*	*	*	*				
	Nitrocellulose with alcohol *with not less than 25 percent alcohol by mass, and with not more than 12.6 percent nitrogen, by dry mass.*	4.1	UN2556	II	4.1	W31	151	212	None	1 kg	15 kg	D	12, 25, 28, 36
		*		*	*	*	*	*	*				
	Nitrohydrochloric acid	8	UN1798	I	8	B10, N41, T10, TP2, TP13.	None	201	243	Forbidden	2.5 L	D	40, 53, 58, 66, 74, 89, 90
		*		*	*	*	*	*	*				
	Nitrosylsulfuric acid, liquid	8	UN2308	II	8	A3, A7, B2, IB2, N34, T8, TP2.	154	202	242	1 L	30 L	D	40, 53, 58, 66, 74, 89, 90
	Nitrosylsulphuric acid, solid	8	UN3456	II	8	IB8, IP2, IP4, T3, TP33.	154	212	240	15 kg	50 kg	D	40, 53, 58, 66, 74, 89, 90

	*		*	*	*	*	*	*					
Nonyltrichlorosilane	8	UN1799	II	8	A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58	
	*		*	*	*	*	*	*					
Octadecyltrichlorosilane	8	UN1800	II	8	A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58	
	*		*	*	*	*	*	*					
Octyltrichlorosilane	8	UN1801	II	8	A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58	
	*		*	*	*	*	*	*					
Paint *including paint, lacquer, enamel, stain, shellac solutions, varnish, polish, liquid filler and liquid lacquer base.*	3	UN1263	I	3	367, T11, TP1, TP8, TP27.	150	201	243	1 L	30 L	E.		
			II	3	149, 367, B52, B131, IB2, T4, TP1, TP8, TP28.	150	173	242	5 L	60 L	B.		
			III	3	367, B1, B52, B131, IB3, T2, TP1, TP29.	150	173	242	60 L	220 L	A.		
	*		*	*	*	*	*	*					
Paint related material *including paint thinning, drying, removing, or reducing compound.*	3	UN1263	I	3	367, T11, TP1, TP8, TP27.	150	201	243	1 L	30 L	E.		
			II	3	149, 367, B52, B131, IB2, T4, TP1, TP8, TP28.	150	173	242	5 L	60 L	B.		
			III	3	367, B1, B52, B131, IB3, T2, TP1, TP29.	150	173	242	60 L	220 L	A.		
	*		*	*	*	*	*	*					
Perchloric acid *with more than 50 percent but not more than 72 percent acid, by mass.*	5.1	UN1873	I	5.1, 8	A2, N41, T10, TP1	None	201	243	Forbidden	2.5 L	D	53, 58, 66	
Perchloric acid *with not more than 50 percent acid by mass.*	8	UN1802	II	8, 5.1	IB2, N41, T7, TP2	None	202	243	Forbidden	30 L	C	53, 58, 66	
	*		*	*	*	*	*	*					
Phenolsulfonic acid, liquid	8	UN1803	II	8	B2, IB2, N41, T7, TP2	154	202	242	1 L	30 L	C	14, 53, 58	
	*		*	*	*	*	*	*					
Phenyl chloroformate	6.1	UN2746	II	6.1, 8	IB2, T7, TP2, TP13	153	202	243	1 L	30 L	A	12, 13, 25, 40, 53, 58	
	*		*	*	*	*	*	*					
Phenyl phosphorus dichloride	8	UN2798	II	8	B2, B15, IB2, T7, TP2	154	202	242	Forbidden	30 L	B	40, 53, 58	
Phenyl phosphorus thiodichloride	8	UN2799	II	8	B2, B15, IB2, T7, TP2	154	202	242	Forbidden	30 L	B	40, 53, 58	
	*		*	*	*	*	*	*					
Phenylacetyl chloride	8	UN2577	II	8	B2, IB2, T7, TP2	154	202	242	1 L	30 L	C	40, 53, 58	
	*		*	*	*	*	*	*					
Phenyltrichlorosilane	8	UN1804	II	8	A7, B6, N34, T10, TP2, TP7, TP13.	None	206	242	Forbidden	30 L	C	40, 53, 58	
	*		*	*	*	*	*	*					
Phosphoric acid solution	8	UN1805	III	8	A7, IB3, N34, T4, TP1	154	203	241	5 L	60 L	A	53, 58	
Phosphoric acid, solid	8	UN3453	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58	
	*		*	*	*	*	*	*					
Phosphorous acid	8	UN2834	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	25, 53, 58	
	*		*	*	*	*	*	*					
Phosphorus oxybromide	8	UN1939	II	8	B8, IB8, IP2, IP4, N41, N43, T3, TP33.	None	212	240	Forbidden	50 kg	C	12, 25, 40, 53, 58	
Phosphorus oxybromide, molten	8	UN2576	II	8	B2, B8, IB1, N41, N43, T7, TP3, TP13.	None	202	242	Forbidden	Forbidden	C	40, 53, 58	
+ Phosphorous oxychloride	6.1	UN1810	I	6.1, 8	2, B9, B14, B32, B77, N34, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 53, 58	
Phosphorus pentabromide	8	UN2691	II	8	A7, IB8, IP2, IP4, N34, T3, TP33.	154	212	240	Forbidden	50 kg	B	12, 25, 40, 53, 55, 58	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification No.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***) Exceptions	Non-bulk	Bulk	(9) Quantity limitations (see §§ 173.27 and 175.75) Passenger aircraft/rail	Cargo aircraft only	(10) Vessel stowage Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	Phosphorus pentachloride	8	UN1806	II	8	A7, IB8, IP2, IP4, N34, T3, TP33.	None	212	240	Forbidden	50 kg	C	40, 44, 53, 58, 89, 100, 141
	*	*	*	*	*	*	*	*	*				
	Phosphorus pentoxide	8	UN1807	II	8	A7, IB8, IP2, IP4, N34, T3, TP33.	154	212	240	15 kg	50 kg	A	53, 58
	*	*	*	*	*	*	*	*	*				
	Phosphorus tribromide	8	UN1808	II	8	A3, A7, B2, B25, IB2, N34, N43, T7, TP2.	None	202	242	Forbidden	30 L	C	40, 53, 58
	Phosphorus trichloride	6.1	UN1809	I	6.1, 8	2, B9, B14, B15, B32, B77, N34, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	C	40, 53, 58
	Phosphorus trioxide	8	UN2578	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	12, 25, 53, 58
	*	*	*	*	*	*	*	*	*				
	Phthalic anhydride *with more than .05 percent maleic anhydride.*	8	UN2214	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58
	*	*	*	*	*	*	*	*	*				
	Potassium	4.3	UN2257	I	4.3	A7, A19, A20, B27, IB4, IP1, N6, N34, T9, TP7, TP33, W31.	151	211	244	Forbidden	15 kg	D	13, 52, 148
	*	*	*	*	*	*	*	*	*				
	Potassium borohydride	4.3	UN1870	I	4.3	A19, N40, W31	None	211	242	Forbidden	15 kg	E	13, 52, 148
	*	*	*	*	*	*	*	*	*				
	Potassium hydrogen sulfate	8	UN2509	II	8	A7, IB8, IP2, IP4, N34, T3, TP33.	154	212	240	15 kg	50 kg	A	53, 58
	Potassium hydrogendifluoride solid	8	UN1811	II	8, 6.1	IB8, IP2, IP4, N3, N34, T3, TP33.	154	212	240	15 kg	50 kg	A	25, 40, 52, 53, 58
	Potassium hydrogendifluoride solution	8	UN3421	II	8, 6.1	IB2, N3, N34, T7, TP2	154	202	243	1 L	30 L	A	25, 40, 52, 53, 58
				III	8, 6.1	IB3, N3, N34, T4, TP1	154	203	241	5 L	60 L	A	40, 52, 53, 58
	*	*	*	*	*	*	*	*	*				
	Potassium, metal alloys, solid	4.3	UN3403	I	4.3	A19, A20, B27, IB4, IP1, T9, TP7, TP33, W31.	None	211	244	Forbidden	15 kg	D	13, 52, 148
	*	*	*	*	*	*	*	*	*				
	Potassium phosphide	4.3	UN2012	I	4.3, 6.1	A19, N40, W31	None	211	None	Forbidden	15 kg	E	13, 40, 52, 85, 148
	*	*	*	*	*	*	*	*	*				
	Potassium sodium alloys, solid	4.3	UN3404	I	4.3	A19, B27, N34, N40, T9, TP7, TP33, W31.	None	211	244	Forbidden	15 kg	D	13, 52, 148
	*	*	*	*	*	*	*	*	*				
	Printing ink, *flammable or* Printing ink related material *(including printing ink thinning or reducing compound), flammable.*	3	UN1210	I	3	367, T11, TP1, TP8	150	173	243	1 L	30 L	E.	
				II	3	149, 367, IB2, T4, TP1, TP8.	150	173	242	5 L	60 L	B.	
				III	3	367, B1, IB3, T2, TP1	150	173	242	60 L	220 L	A.	
	*	*	*	*	*	*	*	*	*				
	Projectiles, *with burster or expelling charge.*	1.2D	UN0346		1.2D			62	62	Forbidden	Forbidden	03	25

*			*	*	*	*	*	*				
Projectiles, *with burster or expelling charge.*	1.2F	UN0426		1.2F			62	None	Forbidden	Forbidden	03	25
Projectiles, *with burster or expelling charge.*	1.4F	UN0427		1.4F			62	None	Forbidden	Forbidden	03	25
*			*	*	*	*	*	*				
Projectiles, *with bursting charge*	1.1F	UN0167		1.1F			62	None	Forbidden	Forbidden	03	25
Projectiles, *with bursting charge*	1.1D	UN0168		1.1D			62	62	Forbidden	Forbidden	03	25
Projectiles, *with bursting charge*	1.2D	UN0169		1.2D			62	62	Forbidden	Forbidden	03	25
Projectiles, *with bursting charge*	1.2F	UN0324		1.2F			62	None	Forbidden	Forbidden	03	25
*			*	*	*	*	*	*				
Propionic acid *with not less than 90% acid by mass.*	8	UN3463	II	8, 3	IB2, T7, TP2	154	202	243	1 L	30 L	A	53, 58
Propionic acid *with not less than 10% and less than 90% acid by mass.*	8	UN1848	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
Propionic anhydride	8	UN2496	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	53, 58
*			*	*	*	*	*	*				
Propionyl chloride	3	UN1815	II	3, 8	IB1, T7, TP1	150	202	243	1 L	5 L	B	40, 53, 58
*			*	*	*	*	*	*				
n-Propyl chloroformate	6.1	UN2740	I	6.1, 3, 8	2, B9, B14, B32, B77, N34, T20, TP2, TP13, TP38, TP44.	None	227	244	Forbidden	Forbidden	B	21, 40, 53, 58, 100
*			*	*	*	*	*	*				
Propylamine	3	UN1277	II	3, 8	A7, IB2, N34, T7, TP1	150	202	243	1 L	5 L	E	40, 52
*			*	*	*	*	*	*				
1,2-Propylenediamine	8	UN2258	II	8, 3	A3, IB2, N34, T7, TP2	None	202	243	1 L	30 L	A	40, 52
*			*	*	*	*	*	*				
Propyltrichlorosilane	8	UN1816	II	8, 3	A7, B2, B6, N34, T10, TP2, TP7, TP13.	None	206	243	Forbidden	30 L	C	40, 53, 58
*			*	*	*	*	*	*				
Pyrosulfuryl chloride	8	UN1817	II	8	B2, IB2, T8, TP2	154	202	242	1 L	30 L	C	40, 53, 58
*			*	*	*	*	*	*				
Radioactive material, excepted package-empty packaging.	7	UN2908		Empty	368	422, 428	422, 428	422, 428			A.	
*			*	*	*	*	*	*				
Radioactive material, low specific activity (LSA–I) *non fissile or fissile-excepted.*	7	UN2912		7	325, A56, T5, TP4, W7.	421, 422, 428.	427	427			A	95, 129
Radioactive material, low specific activity (LSA–II) non fissile or fissile-excepted.	7	UN3321		7	325, A56, T5, TP4, W7.	421, 422, 428.	427	427			A	95, 129
Radioactive material, low specific activity (LSA–III) *non fissile or fissile excepted.*	7	UN3322		7	325, A56, T5, TP4, W7.	421, 422, 428.	427	427			A	95, 150
Radioactive material, surface contaminated objects (SCO–I *or* SCO–II) *non fissile or fissile-excepted.*	7	UN2913		7	325, A56	421, 422, 428.	427	427			A	95
Radioactive material, transported under special arrangement, *non fissile or fissile excepted.*	7	UN2919		7	325, A56, 139						A	95, 105
*			*	*	*	*	*	*				
Radioactive material, Type A package *non-special form, non fissile or fissile-excepted.*	7	UN2915		7	325, A56, W7, W8	None	415, 418, 419.	415, 418, 419.			A	95, 130
*			*	*	*	*	*	*				
Radioactive material, Type B(M) package *non fissile or fissile-excepted.*	7	UN2917		7	325, A56		416	416			A	95, 105
*			*	*	*	*	*	*				
Radioactive material, Type B(U) package *non fissile or fissile-excepted.*	7	UN2916		7	325, A56		416	416			A	95, 105
Radioactive material, uranium hexafluoride *non fissile or fissile-excepted.*	7	UN2978		7, 6.1, 8		423	420, 427	420, 427			B	40, 74, 95, 132, 151, 153

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification No.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***) Exceptions	Non-bulk	Bulk	(9) Quantity limitations (see §§ 173.27 and 175.75) Passenger aircraft/rail	Cargo aircraft only	(10) Vessel stowage Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	Radioactive material, uranium hexafluoride, fissile.	7	UN2977		7, 6.1, 8		453	417, 420	417, 420			B	40, 74, 95, 132, 151, 153
	*		*	*	*	*	*	*	*				
	Resin Solution, *flammable*	3	UN1866	I	3	B52, T11, TP1, TP8, TP28.	150	201	243	1 L	30 L	E.	
				II	3	149, B52, IB2, T4, TP1, TP8.	150	173	242	5 L	60 L	B.	
				III	3	B1, B52, IB3, T2, TP1	150	173	242	60 L	220 L	A.	
	*		*	*	*	*	*	*	*				
	Rocket motors	1.3C	UN0186		1.3C	109	None	62	62	Forbidden	220 kg	03	25
	Rocket motors	1.1C	UN0280		1.1C	109	None	62	62	Forbidden	Forbidden	03	25
	*		*	*	*	*	*	*	*				
	Rockets, *with bursting charge*	1.1F	UN0180		1.1F		None	62	None	Forbidden	Forbidden	03	25
	Rockets, *with bursting charge*	1.1E	UN0181		1.1E		None	62	62	Forbidden	Forbidden	03	25
	Rockets, *with bursting charge*	1.2E	UN0182		1.2E		None	62	62	Forbidden	Forbidden	03	25
	Rockets, *with bursting charge*	1.2F	UN0295		1.2F		None	62	None	Forbidden	Forbidden	03	25
	Rockets, *with expelling charge*	1.2C	UN0436		1.2C		None	62	62	Forbidden	Forbidden	03	25
	Rockets, *with expelling charge*	1.3C	UN0437		1.3C		None	62	62	Forbidden	Forbidden	03	25
	*		*	*	*	*	*	*	*				
	Rockets, *with inert head*	1.3C	UN0183		1.3C		None	62	62	Forbidden	Forbidden	03	25
	Rockets, *with inert head*	1.2C	UN0502		1.2C		None	62	62	Forbidden	Forbidden	03	25, 5E
	*		*	*	*	*	*	*	*				
	Rubidium	4.3	UN1423	I	4.3	22, A7, A19, IB4, IP1, N34, N40, N45, W31.	None	211	242	Forbidden	15 kg	D	13, 52, 148
	*		*	*	*	*	*	*	*				
	Seed cake, *containing vegetable oil solvent extractions and expelled seeds, with not more than 10 percent of oil and when the amount of moisture is higher than 11 percent, with not more than 20 percent of oil and moisture combined.*	4.2	UN1386	III	None	B136, IB8, IP3, IP7, N7.	None	213	241	Forbidden	Forbidden	A	13, 25
I	Seed cake *with more than 1.5 percent oil and not more than 11 percent moisture.*	4.2	UN1386	III	None	B136, IB8, IP3, IP7, N7.	None	213	241	Forbidden	Forbidden	E	13, 25
I	Seed cake *with not more than 1.5 percent oil and not more than 11 percent moisture.*	4.2	UN2217	III	None	B136, IB8, IP3, IP7, N7.	None	213	241	Forbidden	Forbidden	A	13, 25, 120
	*		*	*	*	*	*	*	*				
	Selenic acid	8	UN1905	I	8	IB7, IP1, N34, T6, TP33.	None	211	242	Forbidden	25 kg	A	53, 58
	*		*	*	*	*	*	*	*				
	Selenium oxychloride	8	UN2879	I	8, 6.1	A7, N34, T10, TP2, TP13.	None	201	243	0.5 L	2.5 L	E	40, 53, 58
	*		*	*	*	*	*	*	*				
	Silicon tetrachloride	8	UN1818	II	8	A3, B2, B6, T10, TP2, TP7, TP13.	None	202	242	Forbidden	30 L	C	40, 53, 58
	*		*	*	*	*	*	*	*				
	Sludge, acid	8	UN1906	II	8	A3, A7, B2, IB2, N34, T8, TP2, TP28.	None	202	242	Forbidden	30 L	C	14, 53, 58

		*		*	*	*	*	*	*					
	Sodium	4.3	UN1428	I	4.3	A7, A8, A19, A20, B9, B48, B68, IB4, IP1, N34, T9, TP7, TP33, TP46, W31.	151	211	244	Forbidden	15 kg	D	13, 52, 148
		*		*	*	*	*	*	*					
	Sodium borohydride	4.3	UN1426	I	4.3	N40, W31	None	211	242	Forbidden	15 kg	E	13, 52, 148
		*		*	*	*	*	*	*					
	Sodium hydride	4.3	UN1427	I	4.3	A19, N40, W31	None	211	242	Forbidden	15 kg	E	13, 52, 148
	Sodium hydrogendifluoride	8	UN2439	II	8	IB8, IP2, IP4, N3, N34, T3, TP33.	154	212	240	15 kg	50 kg	A	12, 25, 40, 52, 53, 58
		*		*	*	*	*	*	*					
	Sodium phosphide	4.3	UN1432	I	4.3, 6.1	A19, N40, W31	None	211	None	Forbidden	15 kg	E	13, 40, 52, 85, 148
		*		*	*	*	*	*	*					
	Sounding devices, explosive	1.2F	UN0204		1.2F		None	62	62	Forbidden	Forbidden	03	25
	Sounding devices, explosive	1.1F	UN0296		1.1F		None	62	62	Forbidden	Forbidden	03	25
	Sounding devices, explosive	1.1D	UN0374		1.1D		None	62	62	Forbidden	Forbidden	03	25
	Sounding devices, explosive	1.2D	UN0375		1.2D		None	62	62	Forbidden	Forbidden	03	25
		*		*	*	*	*	*	*					
	Stannic chloride, anhydrous	8	UN1827	II	8	B2, IB2, T7, TP2	154	202	242	1 L	30 L	C	53, 58
	Stannic chloride pentahydrate	8	UN2440	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58
	Stannic phosphide	4.3	UN1433	I	4.3, 6.1	A19, N40, W31	None	211	242	Forbidden	15 kg	E	13, 40, 52, 85, 148
		*		*	*	*	*	*	*					
	Strontium phosphide	4.3	UN2013	I	4.3, 6.1	A19, N40, W31	None	211	None	Forbidden	15 kg	E	13, 40, 52, 85, 148
		*		*	*	*	*	*	*					
G	Substances, explosive, n.o.s	1.4S	UN0481		1.4S	101, 347	None	62	None	25 kg	75 kg	01	25
		*		*	*	*	*	*	*					
	Sulfamic acid	8	UN2967	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58
		*		*	*	*	*	*	*					
	Sulfur chlorides	8	UN1828	I	8	5, A7, A10, B10, B77, N34, T20, TP2.	None	201	243	Forbidden	2.5 L	C	40, 53, 58
		*		*	*	*	*	*	*					
+	Sulfur trioxide, stabilized	8	UN1829	I	8, 6.1	2, 387, B9, B14, B32, B49, B77, N34, T20, TP4, TP13, TP25, TP26, TP38, TP45.	None	227	244	Forbidden	Forbidden	A	25, 40, 53, 58
		*		*	*	*	*	*	*					
	Sulfuric acid, fuming *with less than 30 percent free sulfur trioxide.*	8	UN1831	I	8	A7, N34, T20, TP2,TP13.	None	201	243	Forbidden	2.5 L	C	14, 40, 53, 58
	Sulfuric acid, fuming *with 30 percent or more free sulfur trioxide.*	8	UN1831	I	8, 6.1	2, B9, B14, B32, B77, B84, N34, T20, TP2, TP12, TP13.	None	227	244	Forbidden	Forbidden	C	53, 58
	Sulfuric acid, spent	8	UN1832	II	8	A3, A7, B2, B83, B84, IB2, N34, T8, TP2.	None	202	242	Forbidden	30 L	C	14, 53, 58
	Sulfuric acid *with more than 51 percent acid.*	8	UN1830	II	8	A3, A7, B3, B83, B84, IB2, N34, T8, TP2.	154	202	242	1 L	30 L	C	14, 53, 58
	Sulfuric acid *with not more than 51% acid.*	8	UN2796	II	8	386, A3, A7, B2, B15, IB2, N6, N34, T8, TP2.	154	202	242	1 L	30 L	B	53, 58
		*		*	*	*	*	*	*					
	Sulfurous acid	8	UN1833	II	8	B3, IB2, T7, TP2	154	202	242	1 L	30 L	B	40, 53, 58
+	Sulfuryl chloride	6.1	UN1834	I	6.1, 8	1, B6, B9, B10, B14, B30, B77, N34, T22, TP2, TP13, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	40, 53, 58
		*		*	*	*	*	*	*					
	Tetrahydrophthalic anhydrides *with more than 0.05 percent of maleic anhydride.*	8	UN2698	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification No.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***) Exceptions	Non-bulk	Bulk	(9) Quantity limitations (see §§ 173.27 and 175.75) Passenger aircraft/rail	Cargo aircraft only	(10) Vessel stowage Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*		*	*	*	*	*	*				
	Thioglycolic acid	8	UN1940	II	8	A7, B2, IB2, N34, T7, TP2.	154	202	242	1 L	30 L	A	53, 58
		*		*	*	*	*	*	*				
	Thionyl chloride	8	UN1836	I	8	B6, B10, N34, T10, TP2, TP13.	None	201	243	Forbidden	Forbidden	C	40, 53, 58
		*		*	*	*	*	*	*				
	Thiophosphoryl chloride	8	UN1837	II	8	A3, A7, B2, B8, B25, IB2, N34, T7, TP2.	None	202	242	Forbidden	30 L	C	40, 53, 58
		*		*	*	*	*	*	*				
+	Titanium tetrachloride	6.1	UN1838	I	6.1, 8	2, B7, B9, B14, B32, B77, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 53, 58
	Titanium trichloride mixtures	8	UN2869	II	8	A7, IB8, IP2, IP4, N34, T3, TP33.	154	212	240	15 kg	50 kg	A	40, 53, 58
				III	8	A7, IB8, IP3, N34, T1, TP33.	154	213	240	25 kg	100 kg	A	40, 53, 58
		*		*	*	*	*	*	*				
	Torpedoes *with bursting charge*	1.1E	UN0329		1.1E			62	62	Forbidden	Forbidden	03	25
	Torpedoes *with bursting charge*	1.1F	UN0330		1.1F			62	None	Forbidden	Forbidden	03	25
	Torpedoes *with bursting charge*	1.1D	UN0451		1.1D			62	62	Forbidden	Forbidden	03	25
		*		*	*	*	*	*	*				
	Triallylamine	3	UN2610	III	3, 8	B1, IB3, T4, TP1	None	203	242	5 L	60 L	A	40, 52
		*		*	*	*	*	*	*				
	Trichloroacetic acid	8	UN1839	II	8	A7, IB8, IP2, IP4, N34, T3, TP33.	154	212	240	15 kg	50 kg	A	53, 58
	Trichloroacetic acid, solution	8	UN2564	II	8	A3, A7, B2, IB2, N34, T7, TP2.	154	202	242	1 L	30 L	B	53, 58
				III	8	A3, A7, IB3, N34, T4, TP1.	154	203	241	5 L	60 L	B	8, 53, 58
+	Trichloroacetyl chloride	8	UN2442	II	8, 6.1	2, B9, B14, B32, N34, T20, TP2, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 53, 58
		*		*	*	*	*	*	*				
	Trichlorosilane	4.3	UN1295	I	4.3, 3, 8	N34, T14, TP2, TP7, TP13, W31.	None	201	244	Forbidden	Forbidden	D	21, 40, 49, 53, 58, 100
		*		*	*	*	*	*	*				
	Trifluoroacetic acid	8	UN2699	I	8	A7, B4, N3, N34, N36, T10, TP2.	None	201	243	0.5 L	2.5 L	B	12, 25, 40, 53, 58
		*		*	*	*	*	*	*				
	Trimethylacetyl chloride	6.1	UN2438	I	6.1, 8, 3	2, B3, B9, B14, B32, N34, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	21, 25, 40, 53, 58, 100
	Trimethylamine, anhydrous	2.1	UN1083		2.1	N87, T50	306	304	314, 315	Forbidden	150 kg	B	40, 52
	Trimethylamine, aqueous solutions *with not more than 50 percent trimethylamine by mass.*	3	UN1297	I	3, 8	T11, TP1	None	201	243	0.5 L	2.5 L	D	40, 52, 135
				II	3, 8	B1, IB2, T7, TP1	150	202	243	1 L	5 L	B	40, 41, 52
				III	3, 8	B1, IB3, T7, TP1	150	203	242	5 L	60 L	A	40, 41, 52
		*		*	*	*	*	*	*				
	Trimethylchlorosilane	3	UN1298	II	3, 8	A3, A7, B77, N34, T10, TP2, TP7, TP13.	None	206	243	Forbidden	5 L	E	40, 53, 58
	Trimethylcyclohexylamine	8	UN2326	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	52

		*		*		*		*		*				
	Trimethylhexamethylenediamines	8	UN2327	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A	52
		*		*		*		*		*				
	Tripropylamine	3	UN2260	III	3, 8	B1, IB3, T4, TP1	150	203	242	5 L	60 L	A	40, 52
		*		*		*		*		*				
	Uranium hexafluoride, radioactive material, excepted package, *less than 0.1 kg per package, non-fissile or fissile-excepted.*	6.1	UN3507	I	6.1, 7, 8	369	420	None	None	Less than .1 kg.	Less than .1 kg.	A	132, 152
		*		*		*		*		*				
	Valeryl chloride	8	UN2502	II	8, 3	A3, A7, B2, IB2, N34, T7, TP2.	154	202	243	1 L	30 L	C	40, 53, 58
		*		*		*		*		*				
	Vanadium oxytrichloride	8	UN2443	II	8	A3, A7, B2, B16, IB2, N34, T7, TP2.	154	202	242	Forbidden	30 L	C	40, 53, 58
		*		*		*		*		*				
	Vanadium tetrachloride	8	UN2444	I	8	A7, B4, N34, T10, TP2	None	201	243	Forbidden	2.5 L	C	40, 53, 58
	Vanadium trichloride	8	UN2475	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	40, 53, 58
		*		*		*		*		*				
	Vinyltrichlorosilane	3	UN1305	II	3, 8	A3, A7, B6, N34, T10, TP2, TP7, TP13.	None	206	243	Forbidden	5 L	B	40, 53, 58
		*		*		*		*		*				
	Warheads, rocket *with burster or expelling charge.*	1.4F	UN0371		1.4F		None	62	None	Forbidden	Forbidden	03	25
	Warheads, rocket *with bursting charge.*	1.1D	UN0286		1.1D		None	62	62	Forbidden	Forbidden	03	25
	Warheads, rocket *with bursting charge.*	1.2D	UN0287		1.2D		None	62	62	Forbidden	Forbidden	03	25
	Warheads, rocket *with bursting charge.*	1.1F	UN0369		1.1F		None	62	None	Forbidden	Forbidden	03	25
	Warheads, torpedo *with bursting charge.*	1.1D	UN0221		1.1D		None	62	62	Forbidden	Forbidden	03	25
		*		*		*		*		*				
G	Water-reactive solid, n.o.s	4.3	UN2813	I	4.3	IB4, N40, T9, TP7, TP33, W31.	None	211	242	Forbidden	15 kg	E	13, 40, 148
				II	4.3	B132, IB7, IP2, IP21, T3, TP33, W31, W40.	151	212	242	15 kg	50 kg	E	13, 40, 148
				III	4.3	B132, IB8, IP21, T1, TP33, W31.	151	213	241	25 kg	100 kg	E	13, 40, 148
		*		*		*		*		*				
	Zinc ashes	4.3	UN1435	III	4.3	A1, A19, B136, IB8, IP4, T1, TP33, W100.	151	213	241	25 kg	100 kg	A	13, 148
		*		*		*		*		*				
	Zinc chloride, anhydrous	8	UN2331	III	8	IB8, IP3, T1, TP33	None	213	240	25 kg	100 kg	A	53, 58
	Zinc chloride, solution	8	UN1840	III	8	IB3, T4, TP2	154	203	241	5 L	60 L	A	53, 58
		*		*		*		*		*				
	Zinc phosphide	4.3	UN1714	I	4.3, 6.1	A19, N40, W31	None	211	None	Forbidden	15 kg	E	13, 40, 52, 85, 148
		*		*		*		*		*				
	Zirconium tetrachloride	8	UN2503	III	8	IB8, IP3, T1, TP33	154	213	240	25 kg	100 kg	A	53, 58

* * * * *

Appendix B to § 172.101—List of Marine Pollutants

* * * * *

LIST OF MARINE POLLUTANTS

S. M. P. (1)	Marine pollutant (2)
*	* * * * *
	Dodecene (except 1-dodecene).
*	* * * * *

* * * * *

■ 7. In § 172.102:
■ a. In paragraph (c)(1):
■ i. Special provisions 132, 150, 238, the first sentence of special provision 369, and special provision 387 are revised;
■ ii. Special provisions 325, 388, 389, and 391 are added; and
■ iii. Special provisions 421 and 422 are revised;
■ b. In paragraph (c)(2), special provisions A56 and A105 are revised;
■ c. In paragraph (c)(3), special provision B136 is added;
■ d. In paragraph (c)(8)(ii), special provision TP10 is revised; and
■ e. In paragraph (c)(9), special provision W32 is removed.

The additions and revisions read as follows:

§ 172.102 Special Provisions.

* * * * *

(c) * * *

(1) * * *

132 This description may only be used for ammonium nitrate-based compound fertilizers. They must be classified in accordance with the procedure as set out in the Manual of Tests and Criteria, part III, section 39 (IBR, *see* § 171.7 of this subchapter). Fertilizers meeting the criteria for this identification number are only subject to the requirements of this subchapter when offered for transportation and transported by air or vessel.

* * * * *

150 This description may only be used for ammonium nitrate-based fertilizers. They must be classified in accordance with the procedure as set out in the Manual of Tests and Criteria, part III, section 39 (IBR, *see* § 171.7 of this subchapter).

* * * * *

238 Neutron radiation detectors: Neutron radiation detectors containing non-pressurized boron trifluoride gas in excess of 1 gram (0.035 ounces) and radiation detection systems containing such neutron radiation detectors as components may be transported by highway, rail, vessel, or cargo aircraft in accordance with the following:

a. Each radiation detector must meet the following conditions:

(1) The pressure in each neutron radiation detector must not exceed 105 kPa absolute at 20 °C (68 °F);

(2) The amount of gas must not exceed 13 grams (0.45 ounces) per detector; and

(3) Each neutron radiation detector must be of welded metal construction with brazed metal to ceramic feed through assemblies. These detectors must have a minimum burst pressure of 1800 kPa as demonstrated by design type qualification testing; and

(4) Each detector must be tested to a 1×10^{-10} cm³/s leaktightness standard before filling.

b. Radiation detectors transported as individual components must be transported as follows:

(1) They must be packed in a sealed intermediate plastic liner with sufficient absorbent or adsorbent material to absorb or adsorb the entire gas contents.

(2) They must be packed in strong outer packagings and the completed package must be capable of withstanding a 1.8 meter (5.9 feet) drop without leakage of gas contents from detectors.

(3) The total amount of gas from all detectors per outer packaging must not exceed 52 grams (1.83 ounces).

c. Completed neutron radiation detection systems containing detectors meeting the conditions of paragraph a of this special provision must be transported as follows:

(1) The detectors must be contained in a strong sealed outer casing;

(2) The casing must contain include sufficient absorbent or adsorbent material to absorb or adsorb the entire gas contents;

(3) The completed system must be packed in strong outer packagings capable of withstanding a 1.8 meter (5.9 feet) drop test without leakage unless a system's outer casing affords equivalent protection.

d. Except for transportation by aircraft, neutron radiation detectors and radiation detection systems containing such detectors transported in accordance with paragraph a of this special provision are not subject to the labeling and placarding requirements of part 172 of this subchapter.

e. When transported by highway, rail, vessel, or as cargo on an aircraft, neutron radiation detectors containing not more than 1 gram of boron trifluoride, including those with solder glass joints are not subject to any other requirements of this subchapter provided they meet the requirements in paragraph a of this special provision and are packed in accordance with paragraph b of this special provision. Radiation detection systems containing such detectors are not subject to any other requirements of this subchapter provided they are packed in accordance with paragraph c of this special provision.

* * * * *

325 In the case of non-fissile or fissile-excepted uranium hexafluoride, the material must be classified under UN 2978.

* * * * *

369 In accordance with § 173.2a of this subchapter, this radioactive material in an excepted package possessing toxic and corrosive properties is classified in Division 6.1 with radioactivity and corrosive subsidiary risks. * * *

* * * * *

387 When materials are stabilized by temperature control, the provisions of § 173.21(f) of this subchapter apply. When chemical stabilization is employed, the person offering the material for transport shall ensure that the level of stabilization is sufficient to prevent the material as packaged from dangerous polymerization at 50 °C (122 °F). If chemical stabilization becomes ineffective at lower temperatures within the anticipated duration of transport, temperature control is required and is forbidden by aircraft. In making this determination factors to be taken into consideration include, but are not limited to, the capacity and geometry of the packaging and the effect of any insulation present, the temperature of the material when offered for transport, the duration of the journey, and the ambient temperature conditions typically encountered in the journey (considering also the season of year), the effectiveness and other properties of the stabilizer employed, applicable operational controls imposed by regulation (*e.g.,* requirements to protect from sources of heat, including other cargo carried at a temperature above ambient) and any other relevant factors. The provisions of this special provision will be effective until January 2, 2023, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register**.

388 a. Lithium batteries containing both primary lithium metal cells and rechargeable lithium ion cells that are not designed to be externally charged, must meet the following conditions:

i. The rechargeable lithium ion cells can only be charged from the primary lithium metal cells;

ii. Overcharge of the rechargeable lithium ion cells is precluded by design;

iii. The battery has been tested as a primary lithium battery; and

iv. Component cells of the battery must be of a type proved to meet the respective testing requirements of the Manual of Tests and Criteria, part III, subsection 38.3 (IBR, see § 171.7 of this subchapter).

b. Lithium batteries conforming to paragraph a. of this special provision must be assigned to UN Nos. 3090 or 3091, as appropriate. When such batteries are transported in accordance with § 173.185(c), the total lithium content of all lithium metal cells contained in the battery must not exceed 1.5 g and the total capacity of all lithium ion cells contained in the battery must not exceed 10 Wh.

389 This entry only applies to lithium ion batteries or lithium metal batteries installed in a cargo transport unit and designed only to provide power external to the cargo transport unit. The lithium batteries must meet the requirements of § 173.185(a) and contain the necessary systems to prevent overcharge and over discharge between the batteries. The batteries must be securely attached to the interior structure of the cargo transport unit (*e.g.,* by means of placement in racks, cabinets, etc.) in such a manner as to prevent short circuits, accidental operation, and significant movement relative to the cargo transport unit under the shocks, loadings, and vibrations normally incident to transport. Hazardous materials necessary for the safe and proper operation of the cargo transport unit (*e.g.,* fire extinguishing systems and air conditioning systems), must be properly secured to or installed in the cargo transport unit and are not otherwise subject to this subchapter. Hazardous materials not necessary for the safe and proper operation of the cargo transport unit must not be transported within the cargo transport unit. The batteries inside the cargo transport unit are not subject to marking or labelling requirements of part 172 subparts D and E of this subchapter. The cargo transport unit shall display the UN number in a manner in accordance with § 172.332 of this subchapter and be placarded on two opposing sides. For transportation by aircraft, cargo transport units may only be offered for transportation and transported under conditions approved by the Associate Administrator.

391 Except for articles being transported by motor vehicle as a material of trade in accordance with § 173.6 of this subchapter, articles containing hazardous materials of Division 2.3, or Division 4.2, or Division 4.3, or Division 5.1, or Division 5.2, or Division 6.1 (substances with an inhalation toxicity of Packing Group I) and articles containing more than one of the following hazards: (1) Gases of Class 2; (2) Liquid desensitized explosives of Class 3; or (3) Self-reactive substances and solid desensitized explosives of Division 4.1, may only be offered for transportation and transported under conditions approved by the Associate Administrator.

* * * * *

421 This entry will no longer be effective on January 2, 2023, unless we terminate it earlier or extend it beyond that date by notice of a final rule in the **Federal Register**.

422 When labelling is required, the label to be used must be the label shown in § 172.447. When a placard is displayed, the placard must be the placard shown in § 172.560.

(2) * * *

A56 Radioactive material with a subsidiary hazard of Division 4.2, Packing Group I, must be transported in Type B packages when offered for transportation by aircraft. Where the subsidiary hazard material is ''Forbidden'' in column (9A) or (9B) of the § 172.101 Table, the radioactive material may only be offered for transportation and transported by aircraft under conditions approved by the Associate Administrator.

* * * * *

A105 a. This entry applies to machinery or apparatus containing hazardous materials as a residue or as an integral element of the machinery or apparatus. It must not be used for machinery or apparatus for which a proper shipping name already exists in the § 172.101 Table.

b. Where the quantity of hazardous materials contained as an integral element in machinery or apparatus exceeds the limits permitted by § 173.222(c)(2), and the hazardous materials meet the provisions of § 173.222(c), the machinery or apparatus may be transported by aircraft only with the prior approval of the Associate Administrator.

* * * * *

(3) * * *

B136 Non-specification closed bulk bins are authorized.

* * * * *

(8) * * *

(ii) * * *

TP10 A lead lining, not less than 5 mm thick, which shall be tested annually, or another suitable lining material approved by the competent authority, is required. A portable tank may be offered for transport after the date of expiry of the last lining inspection for a period not to exceed three months for purposes of performing the next required test or inspection, after emptying but before cleaning.

* * * * *

■ 8. In § 172.203, paragraph (o) is revised to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(o) *Organic peroxides, polymerizing substances, and self-reactive materials.* The description on a shipping paper for a Division 4.1 (polymerizing substance and self-reactive) material or a Division 5.2 (organic peroxide) material must include the following additional information, as appropriate:

(1) If notification or competent authority approval is required, the shipping paper must contain a statement of approval of the classification and conditions of transport.

(2) For Division 4.1 (polymerizing substance and self-reactive) and Division 5.2 (organic peroxide) materials that require temperature control during transport, the words ''TEMPERATURE CONTROLLED'' must be added as part of the proper shipping name, unless already part of the proper shipping name. The control and emergency temperature must be included on the shipping paper.

(3) The word ''SAMPLE'' must be included in association with the basic description when a sample of a Division 4.1 (self-reactive) material (see § 173.224(c)(3) of this subchapter) or Division 5.2 (organic peroxide) material (see § 173.225(b)(2) of this subchapter) is offered for transportation.

* * * * *

■ 9. In § 172.407, paragraph (c)(1) is revised to read as follows:

§ 172.407 Label specifications.

* * * * *

(c) * * *

(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 approximately 5 mm (.2 inches) inside and parallel to the edge. The 5 mm (.2 inches) measurement is from the outside edge of the label to the outside of the solid line forming the inner border.

(i) If the size of the package so requires, the dimensions of the label

and its features may be reduced proportionally provided the symbol and other elements of the label remain clearly visible.

(ii) Where dimensions are not specified, all features shall be in approximate proportion to those shown in §§ 172.411 through 172.448 of this subpart, as appropriate.

(iii) [Reserved]

(iv) For domestic transportation, a packaging labeled prior to January 1, 2017, and in conformance with the requirements of this paragraph in effect on December 31, 2014, may continue in service until the end of its useful life.

* * * * *

■ 10. In, § 172.514 paragraphs (a) and (c)(3) are revised and paragraph (d) is added to read as follows:

§ 172.514 Bulk packagings.

(a) Except as provided in paragraphs (c) and (d) of this section, each person who offers for transportation a bulk packaging which contains a hazardous material, shall affix the placards specified for the material in §§ 172.504 and 172.505.

* * * * *

(c) * * *

(3) A bulk packaging other than a portable tank, cargo tank, flexible bulk container, or tank car (*e.g.,* a bulk bag or box) with a volumetric capacity of less than 18 cubic meters (640 cubic feet);

* * * * *

(d) A flexible bulk container may be placarded in two opposing positions.

■ 11. In § 172.604, paragraph (d)(2) is revised to read as follows:

§ 172.604 Emergency response telephone number.

* * * * *

(d) * * *

(2) Materials properly described under the following shipping names:

(i) Battery powered equipment.

(ii) Battery powered vehicle.

(iii) Carbon dioxide, solid.

(iv) Castor bean.

(v) Castor flake.

(vi) Castor meal.

(vii) Castor pomace.

(viii) Consumer commodity.

(ix) Dry ice.

(x) Engine, fuel cell, flammable gas powered.

(xi) Engine, fuel cell, flammable liquid powered.

(xii) Engine, internal combustion.

(xiii) Engine, internal combustion, flammable gas powered.

(xiv) Engine, internal combustion, flammable liquid powered.

(xv) Fish meal, stabilized.

(xvi) Fish scrap, stabilized.

(xvii) Krill Meal, PG III.

(xviii) Machinery, internal combustion.

(xix) Machinery, fuel cell, flammable gas powered.

(xx) Machinery, fuel cell, flammable liquid powered.

(xxi) Machinery, internal combustion, flammable gas powered.

(xxii) Machinery, internal combustion, flammable liquid powered.

(xxiii) Refrigerating machine.

(xxiv) Vehicle, flammable gas powered.

(xxv) Vehicle, flammable liquid powered.

(xxvi) Wheelchair, electric.

* * * * *

■ 12. In § 172.800, paragraph (b)(15) is revised to read as follows:

§ 172.800 Purpose and applicability.

* * * * *

(b) * * *

(15) International Atomic Energy Agency Code of Conduct (IBR, see § 171.7) Category 1 and 2 materials, Nuclear Regulatory Commission, Category 1 and Category 2 radioactive materials as listed in Table 1, Appendix A to 10 CFR part 37, and Highway Route Controlled quantities as defined in 49 CFR 173.403.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

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

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96 and 1.97.

■ 14. In § 173.2a, revise paragraph (a) introductory text to read as follows:

§ 173.2a Classification of a material having more than one hazard.

(a) *Classification of a material having more than one hazard.* Except as provided in paragraph (c) of this section, a material not specifically listed in the § 172.101 Table or assigned to an entry of articles containing hazardous materials (UN3537 to UN3548) that meets the definition of more than one hazard class or division 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:

* * * * *

■ 15. In § 173.6, paragraph (a)(7) is added and paragraph (b)(3) is revised to read as follows:

§ 173.6 Materials of trade exceptions.

* * * * *

(a) * * *

(7) For a material or article for which Column (5) of the Hazardous Materials Table in § 172.101 of this subchapter does not indicate a packing group. Authorized amounts are:

(i) For Classes or Divisions indicated in paragraph (a)(1) of this section, the amounts shown in paragraph (a)(1)(ii).

(ii) For Division 4.3, the amounts shown in paragraph (a)(3) of this section.

(b) * * *

(3) Outer packagings are not required for receptacles (*e.g.,* cans and bottles) or articles that are secured against shifting in cages, carts, bins, boxes, or compartments or by other means.

* * * * *

■ 16. In § 173.21, revise paragraph (f) introductory text and paragraph (f)(1) to read as follows:

§ 173.21 Forbidden materials and packages.

* * * * *

(f) A package containing a material which is likely to decompose with a self-accelerated decomposition temperature (SADT) or polymerize with a self-accelerated polymerization temperature (SAPT) of 50 °C (122 °F) or less, with an evolution of a dangerous quantity of heat or gas when decomposing or polymerizing, unless the material is stabilized or inhibited in a manner to preclude such evolution. The SADT and SAPT may be determined by any of the test methods described in Part II of the UN Manual of Tests and Criteria (IBR, see § 171.7 of this subchapter).

(1) A package meeting the criteria of paragraph (f) of this section may be required to be shipped under controlled temperature conditions. The control temperature and emergency temperature for a package shall be as specified in the table in this paragraph (f)(1) based upon the SADT or SAPT of the material. The control temperature is the temperature above which a package of the material may not be offered for transportation or transported. The emergency temperature is the temperature at which, due to imminent danger, emergency measures must be initiated.

TABLE 1 TO PARAGRAPH (f)(1)—DERIVATION OF CONTROL AND EMERGENCY TEMPERATURE

SADT/SAPT [1]	Control temperatures	Emergency temperature
SADT/SAPT ≤20 °C (68 °F)	20 °C (36 °F) below SADT/SAPT	10 °C (18 °F) below SADT/SAPT.
20 °C (68 °F) <SADT/SAPT ≤35 °C (95 °F)	15 °C (27 °F) below SADT/SAPT	10 °C (18 °F) below SADT/SAPT.
35 °C (95 °F) <SADT/SAPT ≤ 50 °C (122 °F)	10 °C (18 °F) below SADT/SAPT	5 °C (9 °F) below SADT/SAPT.
50 °C (122 °F) <SADT/SAPT	(2)	(2)

[1] Self-accelerating decomposition temperature or Self-accelerating polymerization temperature.
[2] Temperature control not required.

(i) The provisions concerning polymerizing substances in paragraph (f) will be effective until January 2, 2023.

(ii) [Reserved]

* * * * *

■ 17. Effective January 2, 2023, in § 173.21, revise paragraph (f) introductory text and paragraph (f)(1) to read as follows:

§ 173.21 Forbidden materials and packages.

* * * * *

(f) A package containing a material which is likely to decompose with a self-accelerated decomposition temperature (SADT) of 50 °C (122 °F) or less, or polymerize at a temperature of 54 °C (130 °F) or less with an evolution of a dangerous quantity of heat or gas when decomposing or polymerizing, unless the material is stabilized or inhibited in a manner to preclude such evolution. The SADT may be determined by any of the test methods described in Part II of the UN Manual of Tests and Criteria (IBR, see § 171.7 of this subchapter).

(1) A package meeting the criteria of paragraph (f) of this section may be required to be shipped under controlled temperature conditions. The control temperature and emergency temperature for a package shall be as specified in the table in this paragraph based upon the SADT of the material. The control temperature is the temperature above which a package of the material may not be offered for transportation or transported. The emergency temperature is the temperature at which, due to imminent danger, emergency measures must be initiated.

TABLE 1 TO PARAGRAPH (f)(1)—METHOD OF DETERMINING CONTROL AND EMERGENCY TEMPERATURE

SADT [1]	Control temperatures	Emergency temperature
SADT ≤20 °C (68 °F)	20 °C (36 °F) below SADT	10 °C (18 °F) below SADT.
20 °C (68 °F) <SADT ≤35 °C (95 °F)	15 °C (27 °F) below SADT	10 °C (18 °F) below SADT.
35 °C (95 °F) <SADT ≤50 °C (122 °F)	10 °C (18 °F) below SADT	5 °C (9 °F) below SADT.
50 °C (122 °F) <SADT	(2)	(2)

[1] Self-accelerating decomposition temperature.
[2] Temperature control not required.

* * * * *

■ 18. In § 173.62:

■ a. Amend paragraph (b) by revising the heading of the Explosives Table; and

■ b. Amend paragraph (c), by revising the heading of the Table of Packing Methods, and Packing Instruction US 1 to read as follows:

§ 173.62 Specific packaging requirements for explosives.

* * * * *

(b) * * *

Table 1 to Paragraph (b): Explosives Table

* * * * *

(c) * * *

TABLE 2 TO PARAGRAPH (c): TABLE OF PACKING METHODS

Packing instruction	Inner packagings	Intermediate packagings	Outer packagings
*	*	*	*

US 1.

1. A jet perforating gun, charged, oil well may be transported under the following conditions:
   a. Initiation devices carried on the same motor vehicle or offshore supply vessel must be segregated; each kind from every other kind, and from any gun, tool or other supplies, unless approved in accordance with § 173.56. Segregated initiation devices must be carried in a container having individual pockets for each such device or in a fully enclosed steel container lined with a non-sparking material. No more than two segregated initiation devices per gun may be carried on the same motor vehicle.
   b. Each shaped charge affixed to the gun may not contain more than 112 g (4 ounces) of explosives.
   c. Each shaped charge if not completely enclosed in glass or metal, must be fully protected by a metal cover after installation in the gun.
   d. A jet perforating gun classed as 1.1D or 1.4D may be transported by highway by private or contract carriers engaged in oil well operations.
      (i) A motor vehicle transporting a gun must have specially built racks or carrying cases designed and constructed so that the gun is securely held in place during transportation and is not subject to damage by contact, one to the other or any other article or material carried in the vehicle; and
      (ii) The assembled gun packed on the vehicle may not extend beyond the body of the motor vehicle.
   e. A jet perforating gun classed as 1.4D may be transported by a private offshore supply vessel only when the gun is carried in a motor vehicle as specified in paragraph (d) of this packing method or on offshore well tool pallets provided that:
      (i) All the conditions specified in paragraphs (a), (b), and (c) of this packing method are met;
      (ii) The total explosive contents do not exceed 95 kg (209.43 pounds) per tool pallet;

TABLE 2 TO PARAGRAPH (c): TABLE OF PACKING METHODS—Continued

Packing instruction	Inner packagings	Intermediate packagings	Outer packagings
(iii) Each cargo vessel compartment may contain up to 95 kg (209.43 pounds) of explosive content if the segregation requirements in § 176.83(b) of this subchapter are met; and (iv) When more than one vehicle or tool pallet is stowed ''on deck'' a minimum horizontal separation of 3 m (9.8 feet) must be provided.			

■ 19. In § 173.121, paragraph (b)(1)(iii) is revised to read as follows:

§ 173.121 Class 3—Assignment of packing group.

* * * * *

(b) * * *

(1) * * *

(iii) The capacity of the packaging is not more than 450 L (119 gallons); except that for transportation by passenger aircraft, the capacity of the packaging is not more than 30 L (7.9 gallons) and for transportation by cargo aircraft, the capacity of the packaging is not more than 100 L (26.3 gallons); and

* * * * *

■ 20. In § 173.124, paragraph (a)(4)(iv) is revised to read as follows:

§ 173.124 Class 4, Divisions 4.1, 4.2 and 4.3—Definitions.

* * * * *

(a) * * *

(4) * * *

(iv) The provisions concerning polymerizing substances in paragraph (a)(4) will be effective until January 2, 2023.

* * * * *

■ 21. In § 173.127, paragraph (a)(1) is revised and (a)(3) is added to read as follows:

§ 173.127 Class 5, Division 5.1—Definition and assignment of packing groups.

(a) * * *

(1) A solid material, except for solid ammonium nitrate based fertilizer (see paragraph (a)(3) of this section), is classed as a Division 5.1 material if, when tested in accordance with the UN Manual of Tests and Criteria (IBR, see § 171.7 of this subchapter):

(i) If test O.1 is used (UN Manual of Tests and Criteria, sub-section 34.4.1), the mean burning time is less than or equal to the burning time of a 3:7 potassium bromate/cellulose mixture; or

(ii) If test O.3 is used (UN Manual of Tests and Criteria, sub-section 34.4.3), the mean burning rate is greater than or equal to the burning rate of a 1:2 calcium peroxide/cellulose mixture.

* * * * *

(3) Solid ammonium nitrate-based fertilizers must be classified in accordance with the procedure as set out in the UN Manual of Tests and Criteria, Part III, Section 39.

* * * * *

■ 22. In § 173.134, paragraph (a)(4) is revised to read as follows:

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

(a) * * *

(4) *Patient specimens* means those collected directly from humans or animals and transported for research, diagnosis, investigational activities, or disease treatment or prevention. *Patient specimens* includes excreta, secreta, blood and its components, tissue and tissue swabs, body parts, and specimens in transport media (*e.g.,* transwabs, culture media, and blood culture bottles).

* * * * *

■ 23. In § 173.136, paragraph (a) is revised to read as follows:

§ 173.136 Class 8—Definitions.

(a) For the purpose of this subchapter, ''corrosive material'' (Class 8) means a liquid or solid that causes irreversible damage to human skin at the site of contact within a specified period of time. A liquid, or a solid which may become liquid during transportation, that has a severe corrosion rate on steel or aluminum based on the criteria in § 173.137(c)(2) is also a corrosive material. Whenever practical, *in vitro* test methods authorized in § 173.137 of this part or historical data authorized in paragraph (c) of this section should be used to determine whether a material is corrosive.

* * * * *

■ 24. Section 173.137 is revised to read as follows:

§ 173.137 Class 8—Assignment of packing group.

The packing group of a Class 8 material is indicated in Column 5 of the § 172.101 Table. When the § 172.101 Table provides more than one packing group for a Class 8 material, the packing group must be determined using data obtained from tests conducted in accordance with the OECD Guidelines for the Testing of Chemicals, Number 435, ''*In Vitro* Membrane Barrier Test Method for Skin Corrosion'' (IBR, *see* § 171.7 of this subchapter) or Number 404, ''Acute Dermal Irritation/Corrosion'' (IBR, *see* § 171.7 of this subchapter). A material that is determined not to be corrosive in accordance with OECD Guideline for the Testing of Chemicals, Number 430, ''*In Vitro* Skin Corrosion: Transcutaneous Electrical Resistance Test (TER)'' (IBR, *see* § 171.7 of this subchapter) or Number 431, ''*In Vitro* Skin Corrosion: Reconstructed Human Epidermis (RHE) Test Method'' (IBR, *see* § 171.7 of this subchapter) may be considered not to be corrosive to human skin for the purposes of this subchapter without further testing. However, a material determined to be corrosive in accordance with Number 430 or Number 431 must be further tested using Number 435 or Number 404. The packing group assignment using data obtained from tests conducted in accordance with OECD Guideline Number 404 or Number 435 must be as follows:

(a) *Packing Group I.* Materials that cause irreversible damage to intact skin tissue within an observation period of up to 60 minutes, starting after the exposure time of three minutes or less.

(b) *Packing Group II.* Materials, other than those meeting Packing Group I criteria, that cause irreversible damage to intact skin tissue within an observation period of up to 14 days, starting after the exposure time of more than three minutes but not more than 60 minutes.

(c) *Packing Group III.* Materials, other than those meeting Packing Group I or II criteria—

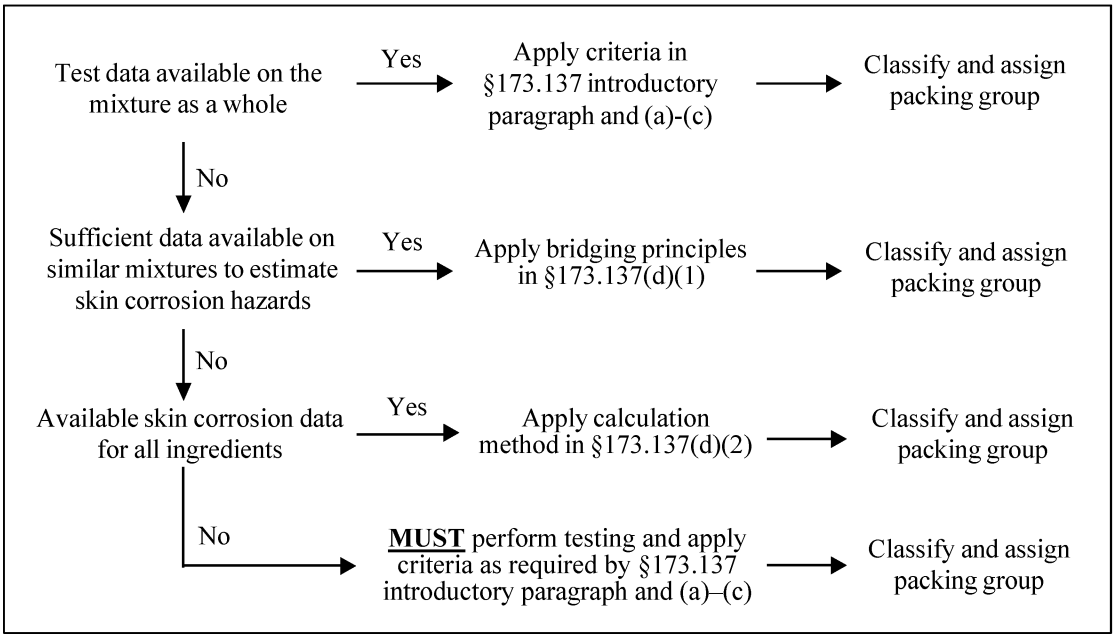
(1) That cause irreversible damage to intact skin tissue within an observation period of up to 14 days, starting after the exposure time of more than 60 minutes but not more than 4 hours; or

(2) That do not cause irreversible damage to intact skin tissue but exhibit a corrosion on either steel or aluminum surfaces exceeding 6.25 mm (0.25 inch) a year at a test temperature of 55 °C (130 °F) when tested on both materials. The corrosion may be determined in accordance with the UN Manual of Tests and Criteria (IBR, see § 171.7 of this subchapter) or other equivalent test methods.

(d) *Alternative packing group assignment methods for mixtures.* For

mixtures it is necessary to obtain or derive information that allows the criteria to be applied to the mixture for the purpose of classification and assignment of packing groups. The approach to classification and assignment of packing groups is tiered, and is dependent upon the amount of information available for the mixture itself, for similar mixtures and/or for its ingredients. The flow chart in Figure 1 to paragraph (d) outlines the process to be followed:

Figure 1 to paragraph (d): Step-wise approach to classify and assign packing group of corrosive mixtures



(1) *Bridging principles.* Where a mixture has not been tested to determine its skin corrosion potential, but there is sufficient data on both the individual ingredients and similar tested mixtures to adequately classify and assign a packing group for the mixture, this data will be used in accordance with the following bridging principles. This ensures that the classification process uses the available data to the greatest extent possible in characterizing the hazards of the mixture.

(i) *Dilution.* If a tested mixture is diluted with a diluent, which does not meet the criteria for Class 8 and does not affect the packing group of other ingredients, then the new diluted mixture may be assigned to the same packing group as the original tested mixture. In certain cases, diluting a mixture or substance may lead to an increase in the corrosive properties. If this is the case, this bridging principle cannot be used.

(ii) *Batching.* The skin corrosion potential of a tested production batch of a mixture can be assumed to be substantially equivalent to that of another untested production batch of the same commercial product when produced by or under the control of the same manufacturer, unless there is reason to believe there is significant variation such that the skin corrosion potential of the untested batch has changed. If the latter occurs, a new classification is necessary.

(iii) *Concentration of mixtures of packing group I.* If a tested mixture meeting the criteria for inclusion in Packing Group I is concentrated, the more concentrated untested mixture may be assigned to Packing Group I without additional testing.

(iv) *Interpolation within one packing group.* For three mixtures (A, B and C) with identical ingredients, where mixtures A and B have been tested and are in the same skin corrosion packing group, and where untested mixture C has the same Class 8 ingredients as mixtures A and B but has concentrations of Class 8 ingredients intermediate to the concentrations in mixtures A and B, then mixture C is assumed to be in the same skin corrosion packing group as A and B.

(v) *Substantially similar mixtures.* Given the following:

(A) Two mixtures: (A+B) and (C+B);

(B) The concentration of ingredient B is the same in both mixtures;

(C) The concentration of ingredient A in mixture (A+B) equals the concentration of ingredient C in mixture (C+B);

(D) Data on skin corrosion for ingredients A and C are available and substantially equivalent, *i.e.,* they are the same skin corrosion packing group and do not affect the skin corrosion potential of B.

(E) If the above mixture (A+B) or (C+B) is already classified based on test data, then the other mixture may be assigned to the same packing group.

(2) *Calculation method based on the classification of the substances.* Where a mixture has not been tested to determine its skin corrosion potential, nor is sufficient data available on similar mixtures, the corrosive properties of the substances in the mixture shall be considered to classify and assign a packing group. Applying the calculation method is only allowed if there are no synergistic effects that make the mixture more corrosive than the sum of its substances. This restriction applies only if Packing Group II or III would be assigned to the mixture.

(i) All Class 8 ingredients present at a concentration of ≥1% shall be taken into account, or <1% if these ingredients are still relevant for

classifying the mixture to be corrosive to skin.

(ii) To determine whether a mixture containing corrosive substances must be considered a corrosive mixture and to assign a packing group, the calculation method in the flow chart in Appendix I must be applied. For this calculation method, generic concentration limits apply where 1% is used in the first step for the assessment of the packing group I substances, and where 5% is used for the other steps respectively.

(iii) When a specific concentration limit (SCL) is assigned to a substance following its entry in the Hazardous Materials Table or in a special provision, this limit shall be used instead of the generic concentration limits (GCL).

(iv) The following formula must be used for each step of the calculation process. The criterion for a packing group is fulfilled when the result of the calculation is ≥ 1. The generic concentration limits to be used for the evaluation in each step of the calculation method are those found in Appendix I of this part. Where applicable, the generic concentration limit shall be substituted by the specific concentration limit assigned to the substance(s) (SCLi), and the adapted formula is a weighted average of the different concentration limits assigned to the different substances in the mixture:

$$\frac{PGx_1}{GCL} + \frac{PGx_2}{SCL_2} + \ldots + \frac{PGx_i}{SCL_i} \geq 1$$

PG x_i = concentration of substance 1, 2 . . .*i* in the mixture, assigned to packing group x (I, II or III)
GCL = generic concentration limit
SCL_i = specific concentration limit assigned to substance *i*

Note to § 173.137: When an initial test on either a steel or aluminum surface indicates the material being tested is corrosive, the follow up test on the other surface is not required.

■ 25. In § 173.159, paragraphs (a)(2)(i) through (iii) and (d)(1) are revised to read as follows:

§ 173.159 Batteries, wet.

(a) * * *

(2) * * *

(i) Packaging each battery or each battery-powered device when practicable, in fully enclosed inner packagings made of electrically non-conductive material;

(ii) Separating or packaging batteries and battery-powered devices in a manner to prevent contact with other batteries, devices or electrically conductive materials (*e.g.,* metal) in the packagings; or

(iii) Ensuring exposed terminals are protected with electrically non-conductive caps, electrically non-conductive tape, or by other appropriate means; and;

* * * * *

(d) * * *

(1) Electric storage batteries are firmly secured to skids or pallets capable of withstanding the shocks normally incident to transportation are authorized for transportation by rail, highway, or vessel. 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 907 kg (2,000 pounds), a superimposed weight of 1,814 kg (4,000 pounds). Battery terminals must not be relied upon to support any part of the superimposed weight and must not short out if an electrically conductive material is placed in direct contact with them.

* * * * *

■ 26. Revise § 173.185 to read as follows:

§ 173.185 Lithium cells and batteries.

As used in this section, *consignment* means one or more packages of hazardous materials accepted by an operator from one shipper at one time and at one address, receipted for in one lot and moving to one consignee at one destination address. *Equipment* means the device or apparatus for which the lithium cells or batteries will provide electrical power for its operation. *Lithium cell(s)* or *battery(ies)* includes both lithium metal and lithium ion chemistries. *Medical device* means an instrument, apparatus, implement, machine, contrivance, implant, or in vitro reagent, including any component, part, or accessory thereof, which is intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, of a person.

(a) *Classification.* (1) Each lithium cell or battery must be of the type proven to meet the criteria in part III, sub-section 38.3 of the UN Manual of Tests and Criteria (IBR; see § 171.7 of this subchapter). Lithium cells and batteries are subject to these tests regardless of whether the cells used to construct the battery are of a tested type. A single cell battery as defined in part III, sub-section 38.3 of the UN Manual of Tests and Criteria is considered a ''cell'' and must be offered for transportation in accordance with the requirements for cells.

(i) Cells and batteries manufactured according to a type meeting the requirements of sub-section 38.3 of the UN Manual of Tests and Criteria, Revision 3, Amendment 1 or any subsequent revision and amendment applicable at the date of the type testing may continue to be transported, unless otherwise provided in this subchapter.

(ii) Cell and battery types only meeting the requirements of the UN Manual of Tests and Criteria, Revision 3, are no longer valid. However, cells and batteries manufactured in conformity with such types before July 2003 may continue to be transported if all other applicable requirements are fulfilled.

(2) Each person who manufactures lithium cells or batteries must create a record of satisfactory completion of the testing (*e.g.* test report) required by this paragraph prior to offering the lithium cell or battery for transport and must:

(i) Maintain this record for as long as that design is offered for transportation and for one year thereafter; and

(ii) Make this record available to an authorized representative of the Federal, state or local government upon request.

(3) Beginning January 1, 2022 each manufacturer and subsequent distributor of lithium cells or batteries manufactured on or after January 1, 2008, must make available a test summary. The test summary must include the following elements:

(i) Name of cell, battery, or product manufacturer, as applicable;

(ii) Cell, battery, or product manufacturer's contact information to include address, telephone number, email address, and website for more information;

(iii) Name of the test laboratory, to include address, telephone number, email address, and website for more information;

(iv) A unique test report identification number;

(v) Date of test report;

(vi) Description of cell or battery to include at a minimum;

(A) Lithium ion or lithium metal cell or battery;

(B) Mass of cell or battery;

(C) Watt-hour rating, or lithium content;

(D) Physical description of the cell/battery; and

(E) Cell or battery model number or, alternatively, if the test summary is established for a product containing a cell or battery, the product model number.

(vii) List of tests conducted and results (*i.e.,* pass/fail);

(viii) Reference to assembled battery testing requirements (if applicable);

(ix) Reference to the revised edition of the UN Manual of Tests and Criteria used and to amendments thereto, if any; and

(x) Signature with name and title of signatory as an indication of the validity of information provided.

(4) Except for cells or batteries meeting the requirements of paragraph (c) of this section, each lithium cell or battery must:

(i) Incorporate a safety venting device or be designed to preclude a violent rupture under conditions normally incident to transport;

(ii) Be equipped with means of preventing external short circuits; and

(iii) Be equipped with a means of preventing dangerous reverse current flow (*e.g.,* diodes or fuses) if a battery contains cells, or a series of cells that are connected in parallel.

(b) *Packaging.* (1) Each package offered for transportation containing lithium cells or batteries, including lithium cells or batteries packed with, or contained in, equipment, must meet all applicable requirements of subpart B of this part.

(2) Lithium cells or batteries, including lithium cells or batteries packed with, or contained in, equipment, must be packaged in a manner to prevent:

(i) Short circuits;

(ii) Damage caused by movement or placement within the package; and

(iii) Accidental activation of the equipment.

(3) For packages containing lithium cells or batteries offered for transportation:

(i) The lithium cells or batteries must be placed in non-metallic inner packagings that completely enclose the cells or batteries, and separate the cells or batteries from contact with equipment, other devices, or electrically conductive materials (*e.g.,* metal) in the packaging.

(ii) The inner packagings containing lithium cells or batteries must be placed in one of the following packagings meeting the requirements of part 178, subparts L and M, of this subchapter at the Packing Group II level:

(A) Metal (4A, 4B, 4N), wooden (4C1, 4C2, 4D, 4F), fiberboard (4G), or solid plastic (4H1, 4H2) box;

(B) Metal (1A2, 1B2, 1N2), plywood (1D), fiber (1G), or plastic (1H2) drum;

(C) Metal (3A2, 3B2) or plastic (3H2) jerrican.

(iii) When packed with equipment, lithium cells or batteries must:

(A) Be placed in inner packagings that completely enclose the cell or battery, then placed in an outer packaging. The completed package for the cells or batteries must meet the Packing Group II performance requirements as specified in paragraph (b)(3)(ii) of this section; or

(B) Be placed in inner packagings that completely enclose the cell or battery, then placed with equipment in a package that meets the Packing Group II performance requirements as specified in paragraph (b)(3)(ii) of this section.

(4) When lithium cells or batteries are contained in equipment:

(i) The outer packaging, when used, must be constructed of suitable material of adequate strength and design in relation to the capacity and intended use of the packaging, unless the lithium cells or batteries are afforded equivalent protection by the equipment in which they are contained;

(ii) Equipment must be secured to prevent damage caused by movement within the outer packaging and be packed so as to prevent accidental operation during transport; and

(iii) Any spare lithium cells or batteries packed with the equipment must be packaged in accordance with paragraph (b)(3) of this section.

(5) Lithium batteries that weigh 12 kg (26.5 pounds) or more and have a strong, impact-resistant outer casing and assemblies of such batteries, may be packed in strong outer packagings; in protective enclosures (for example, in fully enclosed or wooden slatted crates); or on pallets or other handling devices, instead of packages meeting the UN performance packaging requirements in paragraphs (b)(3)(ii) and (b)(3)(iii) of this section. Batteries or battery assemblies must be secured to prevent inadvertent movement, and the terminals may not support the weight of other superimposed elements. Batteries or battery assemblies packaged in accordance with this paragraph may be transported by cargo aircraft if approved by the Associate Administrator.

(6) Except for transportation by aircraft, the following rigid large packagings are authorized for a single battery, and for a single item of equipment containing batteries, meeting provisions in paragraphs (b)(1) and (2) of this section and the requirements of part 178, subparts P and Q, of this subchapter at the Packing Group II level:

(i) Metal (50A, 50B, 50N) metal packagings must be fitted with an electrically non-conductive lining material (*e.g.,* plastics) of adequate strength for the intended use;

(ii) Rigid plastic (50H);

(iii) Wooden (50C, 50D, 50F);

(iv) Rigid fiberboard (50G).

(7) For transportation by aircraft, lithium cells and batteries must not be packed in the same outer packaging with substances and articles of Class 1 (explosives) other than Division 1.4S, Division 2.1 (flammable gases), Class 3 (flammable liquids), Division 4.1 (flammable solids), or Division 5.1 (oxidizers).

(c) *Exceptions for smaller cells or batteries.* Other than as specifically stated below, a package containing lithium cells or batteries, or lithium cells or batteries packed with, or contained in, equipment, that meets the conditions of this paragraph is excepted from the requirements in subparts C through H of part 172 of this subchapter and the UN performance packaging requirements in paragraphs (b)(3)(ii) and (iii) of this section under the following conditions and limitations.

(1) *Size limits.* (i) The Watt-hour (Wh) rating may not exceed 20 Wh for a lithium ion cell or 100 Wh for a lithium ion battery. After December 31, 2015, each lithium ion battery subject to this provision must be marked with the Watt-hour rating on the outside case.

(ii) The lithium content may not exceed 1 g for a lithium metal cell or 2 g for a lithium metal battery.

(iii) Except when lithium cells or batteries are packed with or contained in equipment in quantities not exceeding 5 kg net weight, the outer package that contains lithium cells or batteries must be appropriately marked: ''PRIMARY LITHIUM BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT'', ''LITHIUM METAL BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT'', ''LITHIUM ION BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT'' or labeled with a ''CARGO AIRCRAFT ONLY'' label specified in § 172.448 of this subchapter.

(iv) For transportation by highway or rail only, the lithium content of the cell and battery may be increased to 5 g for a lithium metal cell or 25 g for a lithium metal battery and 60 Wh for a lithium

ion cell or 300 Wh for a lithium ion battery, provided the outer package is marked: ''LITHIUM BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD AIRCRAFT AND VESSEL.''

(v) The marking specified in paragraphs (c)(1)(iii) and (iv) of this section must have a background of contrasting color, and the letters in the marking must be:

(A) At least 6 mm (0.25 inch) in height on packages having a gross weight of 30 kg (66 pounds) or less, except that smaller font may be used as necessary when package dimensions so require.

(B) At least 12 mm (0.5 inch) in height on packages having a gross weight of more than 30 kg (66 pounds).

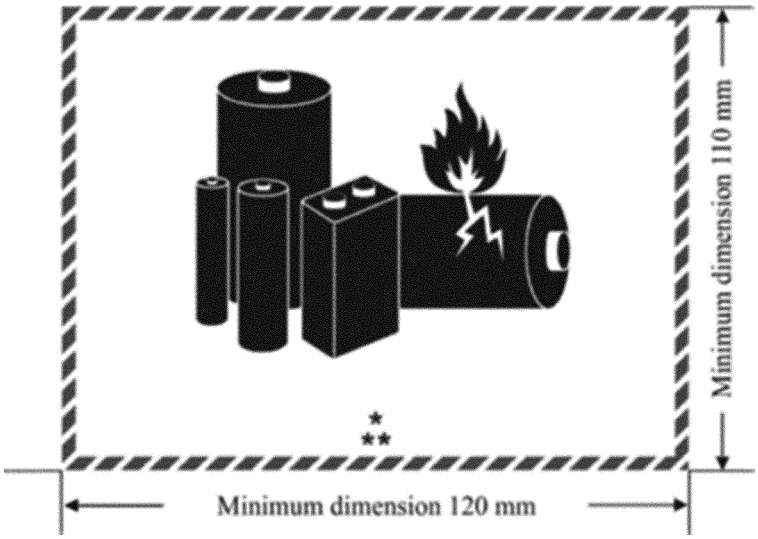
(vi) Except when lithium cells or batteries are packed with, or contained in, equipment, each package must not exceed 30 kg (66 pounds) gross weight.

(2) *Packaging.* Lithium cells and batteries must be packed in inner packagings that completely enclose the cell or battery then placed in a strong rigid outer package unless the cell or battery is contained in equipment and is afforded equivalent protection by the equipment in which it is contained. Except when lithium cells or batteries are contained in equipment, each package of lithium cells or batteries, or the completed package when packed with equipment, must be capable of withstanding a 1.2 meter drop test, in any orientation, without damage to the cells or batteries contained in the package, without shifting of the contents that would allow battery-to-battery (or cell-to-cell) contact, and without release of the contents of the package.

(3) *Hazard communication.* Each package must display the lithium battery mark except when a package contains button cell batteries installed in equipment (including circuit boards), or no more than four lithium cells or two lithium batteries contained in equipment, where there are not more than two packages in the consignment.

(i) The mark must indicate the UN number: ''UN3090'' for lithium metal cells or batteries; or ''UN3480'' for lithium ion cells or batteries. Where the lithium cells or batteries are contained in, or packed with, equipment, the UN number ''UN3091'' or ''UN3481,'' as appropriate, must be indicated. Where a package contains lithium cells or batteries assigned to different UN numbers, all applicable UN numbers must be indicated on one or more marks. The package must be of such size that there is adequate space to affix the mark on one side without the mark being folded.

Figure 1 to paragraph (c)(3)(i)



(A) The mark must be in the form of a rectangle with hatched edging. The mark must be not less than 120 mm (4.7 inches) wide by 110 mm (4.3 inches) high and the minimum width of the hatching must be 5 mm (0.2 inches), except marks of 105 mm (4.1 inches) wide by 74 mm (2.9 inches) high may be used on a package containing lithium batteries when the package is too small for the larger mark;

(B) The symbols and letters must be black on white or suitable contrasting background and the hatching must be red;

(C) The ''*'' must be replaced by the appropriate UN number(s) and the ''**'' must be replaced by a telephone number for additional information; and

(D) Where dimensions are not specified, all features shall be in approximate proportion to those shown.

(ii) [Reserved]

(iii) When packages are placed in an overpack, the lithium battery mark shall either be clearly visible through the overpack or be reproduced on the outside of the overpack and the overpack shall be marked with the word ''OVERPACK''. The lettering of the ''OVERPACK'' mark shall be at least 12 mm (0.47 inches) high.

(4) *Air transportation.* (i) For transportation by aircraft, lithium cells and batteries may not exceed the limits in the following Table 1 to paragraph (c)(4)(i). The limits on the maximum number of batteries and maximum net quantity of batteries in the following table may not be combined in the same package:

TABLE 1 TO PARAGRAPH (c)(4)(i)

Contents	Lithium metal cells and/or batteries with a lithium content not more than 0.3 g	Lithium metal cells with a lithium content more than 0.3 g but not more than 1 g	Lithium metal batteries with a lithium content more than 0.3 g but not more than 2 g	Lithium ion cells and/or batteries with a watt-hour rating not more than 2.7 Wh	Lithium ion cells with a watt-hour rating more than 2.7 Wh but not more than 20 Wh	Lithium ion batteries with a watt-hour rating more than 2.7 Wh but not more than 100 Wh
Maximum number of cells/batteries per package.	No Limit	8 cells	2 batteries	No Limit	8 cells	2 batteries.
Maximum net quantity (mass) per package.	2.5 kg	n/a	n/a	2.5 kg	n/a	n/a.

(ii) Not more than one package prepared in accordance with this paragraph (c)(4) may be placed into an overpack. When a package is required to display the ''CARGO AIRCRAFT ONLY'' label, the paragraph (c)(1)(iii) mark, or the paragraph (c)(3)(i) lithium battery mark and the package is placed in an overpack, the appropriate label or mark must either be clearly visible through the overpack, or the label or mark must also be affixed on the outside of the overpack, and the overpack must be marked with the word ''OVERPACK''. The lettering of the ''OVERPACK'' mark shall be at least 12 mm (0.47 inches) high.

(iii) A shipper is not permitted to offer for transport more than one package prepared in accordance with the provisions of this paragraph in any single consignment.

(iv) Each shipment with packages required to display the paragraph (c)(3)(i) lithium battery mark must include an indication on the air waybill of compliance with this paragraph (c)(4) (or the applicable ICAO Technical Instructions Packing Instruction), when an air waybill is used.

(v) Packages and overpacks of lithium batteries prepared in accordance with this paragraph (c)(4) must be offered to the operator separately from cargo which is not subject to the requirements of this subchapter and must not be loaded into a unit load device before being offered to the operator.

(vi) For lithium batteries packed with, or contained in, equipment, the number of batteries in each package is limited to the minimum number required to power the piece of equipment, plus two spare sets, and the total net quantity (mass) of the lithium cells or batteries in the completed package must not exceed 5 kg. A ''set'' of cells or batteries is the number of individual cells or batteries that are required to power each piece of equipment.

(vii) Each person who prepares a package for transport containing lithium cells or batteries, including cells or batteries packed with, or contained in, equipment in accordance with the conditions and limitations of this paragraph (c)(4), must receive instruction on these conditions and limitations, corresponding to their functions.

(viii) Lithium cells and batteries must not be packed in the same outer packaging with other hazardous materials. Packages prepared in accordance with this paragraph (c)(4) must not be placed into an overpack with packages containing hazardous materials and articles of Class 1 (explosives) other than Division 1.4S, Division 2.1 (flammable gases), Class 3 (flammable liquids), Division 4.1 (flammable solids) or Division 5.1 (oxidizers).

(5) For transportation by aircraft, a package that exceeds the number or quantity (mass) limits in the table shown in paragraph (c)(4)(i) of this section, the overpack limit described in paragraph (c)(4)(ii) of this section, or the consignment limit described in paragraph (c)(4)(iii) of this section is subject to all applicable requirements of this subchapter, except that a package containing no more than 2.5 kg lithium metal cells or batteries or 10 kg lithium ion cells or batteries is not subject to the UN performance packaging requirements in paragraph (b)(3)(ii) of this section when the package displays both the lithium battery mark in paragraph (c)(3)(i) and the Class 9 Lithium Battery label specified in § 172.447 of this subchapter. This paragraph does not apply to batteries or cells packed with or contained in equipment.

(d) *Lithium cells or batteries shipped for disposal or recycling.* A lithium cell or battery, including a lithium cell or battery contained in equipment, that is transported by motor vehicle to a permitted storage facility or disposal site, or for purposes of recycling, is excepted from the testing and record keeping requirements of paragraph (a) and the UN performance packaging requirements in paragraphs (b)(3)(ii), (b)(3)(iii) and (b)(6) of this section, when packed in a strong outer packaging conforming to the applicable requirements of subpart B of this part. A lithium cell or battery that meets the size, packaging, and hazard communication conditions in paragraph (c)(1)–(3) of this section is excepted from subparts C through H of part 172 of this subchapter.

(e) *Low production runs and prototypes.* Low production runs (*i.e.,* annual production runs consisting of not more than 100 lithium cells or batteries), prototype lithium cells or batteries transported for purposes of testing, and equipment containing such cells or batteries are excepted from the testing and record keeping requirements of paragraph (a) of this section, provided:

(1) Except as provided in paragraph (e)(5) of this section, each cell or battery is individually packed in a non-metallic inner packaging, inside an outer packaging, and is surrounded by cushioning material that is non-combustible and electrically non-conductive, or contained in equipment. Equipment must be constructed or packaged in a manner as to prevent accidental operation during transport;

(2) Appropriate measures shall be taken to minimize the effects of vibration and shocks and prevent movement of the cells or batteries within the package that may lead to damage and a dangerous condition during transport. Cushioning material that is non-combustible and electrically non-conductive may be used to meet this requirement;

(3) The lithium cells or batteries are packed in inner packagings or contained in equipment. The inner packaging or equipment is placed in one of the following outer packagings that meet the requirements of part 178, subparts L and M, of this subchapter at the Packing Group I level. Cells and batteries, including equipment of different sizes, shapes or masses must be placed into an outer packaging of a tested design type listed in this section provided the total gross mass of the package does not

exceed the gross mass for which the design type has been tested. A cell or battery with a net mass of more than 30 kg is limited to one cell or battery per outer packaging;

(i) Metal (4A, 4B, 4N), wooden (4C1, 4C2, 4D, 4F), or solid plastic (4H2) box;

(ii) Metal (1A2, 1B2, 1N2), plywood (1D), or plastic (1H2) drum.

(4) For a single battery, and for a single item of equipment containing cells or batteries, the following rigid large packagings are authorized:

(i) Metal (50A, 50B, 50N) metal packagings must be fitted with an electrically non-conductive lining material (*e.g.,* plastics) of adequate strength for the intended use;

(ii) Rigid plastic (50H);

(iii) Plywood (50D).

(5) Lithium batteries, including lithium batteries contained in equipment, that weigh 12 kg (26.5 pounds) or more and have a strong, impact-resistant outer casing or assemblies of such batteries, may be packed in strong outer packagings, in protective enclosures (for example, in fully enclosed or wooden slatted crates), or on pallets or other handling devices, instead of packages meeting the UN performance packaging requirements in paragraphs (b)(3)(ii) and (iii) of this section. The battery or battery assembly must be secured to prevent inadvertent movement, and the terminals may not support the weight of other superimposed elements;

(6) Irrespective of the limit specified in column (9B) of the § 172.101 Hazardous Materials Table, the battery or battery assembly prepared for transport in accordance with this paragraph may have a mass exceeding 35 kg gross weight when transported by cargo aircraft;

(7) Batteries or battery assemblies packaged in accordance with this paragraph are not permitted for transportation by passenger-carrying aircraft, and may be transported by cargo aircraft only if approved by the Associate Administrator prior to transportation; and

(8) Shipping papers must include the following notation: ''Transport in accordance with § 173.185(e).''

(f) *Damaged, defective, or recalled cells or batteries.* Lithium cells or batteries that have been damaged or identified by the manufacturer as being defective for safety reasons, that have the potential of producing a dangerous evolution of heat, fire, or short circuit (*e.g.,* those being returned to the manufacturer for safety reasons) may be transported by highway, rail or vessel only, and must be packaged as follows:

(1) Each cell or battery must be placed in individual, non-metallic inner packaging that completely encloses the cell or battery;

(2) The inner packaging must be surrounded by cushioning material that is non-combustible, electrically non-conductive, and absorbent; and

(3) Each inner packaging must be individually placed in one of the following packagings meeting the applicable requirements of part 178, subparts L, M, P, and Q of this subchapter at the Packing Group I level:

(i) Metal (4A, 4B, 4N), wooden (4C1, 4C2, 4D, 4F), or solid plastic (4H2) box;

(ii) Metal (1A2, 1B2, 1N2), plywood (1D), or plastic (1H2) drum; or

(iii) For a single battery, and for a single item of equipment containing cells or batteries, the following rigid large packagings are authorized:

(A) Metal (50A, 50B, 50N);

(B) Rigid plastic (50H);

(C) Plywood (50D); and

(4) The outer package must be marked with an indication that the package contains a ''Damaged/defective lithium ion battery'' and/or ''Damaged/defective lithium metal battery'' as appropriate. The marking required by this paragraph must be in characters at least 12 mm (0.47 inches) high.

(g) *Limited exceptions to restrictions on air transportation of medical device batteries.* Irrespective of the quantity limitations described in column 9A of the § 172.101 Hazardous Materials Table of this subchapter, up to two replacement lithium cells or batteries specifically used for a medical device as defined in this section may be transported as cargo on a passenger aircraft. Packages containing these cells or batteries are not subject to the marking requirement in paragraph (c)(1)(iii) of this section or the ''CARGO AIRCRAFT ONLY'' label required by § 172.402(c) of this subchapter and may be transported as cargo on a passenger aircraft when approved by the Associate Administrator and provided the following conditions are met:

(1) The intended destination of the cells or batteries is not serviced daily by cargo aircraft if a cell or battery is required for medically necessary care; and

(2) Lithium ion cells or batteries for medical devices are excepted from the state of charge limitations in § 172.102, special provision A100, of this subchapter, provided each cell or battery is:

(i) Individually packed in an inner packaging that completely encloses the cell or battery;

(ii) Placed in a rigid outer packaging; and

(iii) Protected to prevent short circuits.

(h) *Approval.* A lithium cell or battery that does not conform to the provisions of this subchapter may be transported only under conditions approved by the Associate Administrator.

■ 27. In § 173.218, paragraph (c) is revised to read as follows:

§ 173.218 Fish meal or fish scrap.

* * * * *

(c) When fish scrap or fish meal is offered for transportation by vessel in bulk in freight containers, the fish scrap or fish meal shall contain at least 50 ppm (mg/kg) of ethoxyquin, 100 ppm (mg/kg) of butylated hydroxytoluene (BHT) or 250 ppm (mg/kg) of tocopherol based antioxidant at the time of shipment.

■ 28. In § 173.220, paragraph (b)(2)(ii)(C) is added and paragraph (d) is revised to read as follows:

§ 173.220 Internal combustion engines, vehicles, machinery containing internal combustion engines, battery-powered equipment or machinery, fuel cell-powered equipment or machinery.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(C) If a vehicle is powered by a flammable liquid and a flammable gas internal combustion engine, the requirements of paragraphs (b)(1) of this section must also be met.

* * * * *

(d) *Lithium batteries.* Except as provided in § 172.102, special provision A101, of this subchapter, vehicles, engines, and machinery powered by lithium metal batteries that are transported with these batteries installed are forbidden aboard passenger-carrying aircraft. Lithium batteries contained in vehicles, engines, or mechanical equipment must be securely fastened in the battery holder of the vehicle, engine, or mechanical equipment, and be protected in such a manner as to prevent damage and short circuits (*e.g.,* by the use of non-conductive caps that cover the terminals entirely). Except for vehicles, engines, or machinery transported by highway, rail, or vessel with prototype or low production lithium batteries securely installed, each lithium battery must be of a type that has successfully passed each test in the UN Manual of Tests and Criteria (IBR, *see* § 171.7 of this subchapter), as specified in § 173.185, unless approved by the Associate Administrator. Where a vehicle could possibly be handled in other than an upright position, the vehicle must be

secured in a strong, rigid outer packaging. The vehicle must be secured by means capable of restraining the vehicle in the outer packaging to prevent any movement during transport which would change the orientation or cause the vehicle to be damaged. Where the lithium battery is removed from the vehicle and is packed separate from the vehicle in the same outer packaging, the package must be consigned as ''UN 3481, Lithium ion batteries packed with equipment'' or ''UN 3091, Lithium metal batteries packed with equipment'' and prepared in accordance with the requirements specified in § 173.185.

* * * * *

■ 29. In § 173.222, paragraphs (c) and (d) are revised to read as follows:

§ 173.222 Dangerous goods in equipment, machinery or apparatus.

* * * * *

(c)(1) Except for transportation by aircraft, the total net quantity of hazardous materials contained in one item of machinery or apparatus must not exceed the following:

(i) In the case of solids or liquids, the limited quantity amount specified in the corresponding section referenced in Column (8A) of the § 172.101 Table;

(ii) 0.5 kg (1.1 pounds) in the case of Division 2.2 gases.

(iii) When machinery or apparatus contains multiple hazardous materials, the quantity of each hazardous material must not exceed the quantity specified in the corresponding section referenced in Column (8A) of the § 172.101 Table, or for gases, paragraph (c)(1)(ii) of this section.

(2) For transportation by aircraft, the total net quantity of hazardous materials contained in one item of machinery or apparatus must not exceed the following:

(i) 1 kg (2.2 pounds) in the case of solids;

(ii) 0.5 L (0.1 gallons) in the case of liquids;

(iii) 0.5 kg (1.1 pounds) in the case of Division 2.2 gases. Division 2.2 gases with subsidiary risks and refrigerated liquefied gases are not authorized;

(iv) A total quantity of not more than the aggregate of that permitted in paragraphs (c)(2)(i) through (iii) of this section, for each category of material in the package, when a package contains hazardous materials in two or more of the categories in paragraphs (c)(2)(i) through (iii) of this section; and

(d) Except for transportation by aircraft, when a package contains hazardous materials in two or more of the categories listed in paragraph (c)(1) of this section the total quantity required by § 172.202(c) of this subchapter to be entered on the shipping paper must be either the aggregate quantity, or the estimated quantity, of all hazardous materials, expressed as net mass.

■ 30. In § 173.224, revise paragraph (b)(4), the table to paragraph (b), and paragraph (c) to read as follows:

§ 173.224 Packaging and control and emergency temperatures for self-reactive materials.

* * * * *

(b) * * *

(4) *Packing method.* Column 4 specifies the highest packing method which is authorized for the self-reactive material. A packing method corresponding to a smaller package size may be used, but a packing method corresponding to a larger package size may not be used. The Table of Packing Methods in § 173.225(d) defines the packing methods. Bulk packagings for Type F self-reactive substances are authorized by § 173.225(f) for IBCs and § 173.225(h) for bulk packagings other than IBCs. The formulations listed in § 173.225(f) for IBCs and in § 173.225(g) for portable tanks may also be transported packed in accordance with packing method OP8, with the same control and emergency temperatures, if applicable. Additional bulk packagings are authorized if approved by the Associate Administrator.

* * * * *

SELF-REACTIVE MATERIALS TABLE

Self-reactive substance (1)	Identification No. (2)	Concentration (%) (3)	Packing method (4)	Control temperature (°C) (5)	Emergency temperature (6)	Notes (7)
Acetone-pyrogallol copolymer 2-diazo-1-naphthol-5-sulphonate	3228	100	OP8			
Azodicarbonamide formulation type B, temperature controlled	3232	<100	OP5			1
Azodicarbonamide formulation type C	3224	<100	OP6			
Azodicarbonamide formulation type C, temperature controlled	3234	<100	OP6			1
Azodicarbonamide formulation type D	3226	<100	OP7			
Azodicarbonamide formulation type D, temperature controlled	3236	<100	OP7			1
2,2′-Azodi(2,4-dimethyl-4-methoxyvaleronitrile)	3236	100	OP7	−5	+5	
2,2′-Azodi(2,4-dimethylvaleronitrile)	3236	100	OP7	+10	+15	
2,2′-Azodi(ethyl 2-methylpropionate)	3235	100	OP7	+20	+25	
1,1-Azodi(hexahydrobenzonitrile)	3226	100	OP7			
2,2-Azodi(isobutyronitrile)	3234	100	OP6	+40	+45	
2,2′-Azodi(isobutyronitrile) as a water based paste	3224	≤50	OP6			
2,2-Azodi(2-methylbutyronitrile)	3236	100	OP7	+35	+40	
Benzene-1,3-disulphonylhydrazide, as a paste	3226	52	OP7			
Benzene sulphohydrazide	3226	100	OP7			
4-(Benzyl(ethyl)amino)-3-ethoxybenzenediazonium zinc chloride	3226	100	OP7			
4-(Benzyl(methyl)amino)-3-ethoxybenzenediazonium zinc chloride	3236	100	OP7	+40	+45	
3-Chloro-4-diethylaminobenzenediazonium zinc chloride	3226	100	OP7			
2-Diazo-1-Naphthol sulphonic acid ester mixture	3226	<100	OP7			4

SELF-REACTIVE MATERIALS TABLE—Continued

Self-reactive substance	Identification No.	Concentration (%)	Packing method	Control temperature (°C)	Emergency temperature	Notes
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2-Diazo-1-Naphthol-4-sulphonyl chloride	3222	100	OP5			
2-Diazo-1-Naphthol-5-sulphonyl chloride	3222	100	OP5			
2,5-Dibutoxy-4-(4-morpholinyl)-Benzenediazonium, tetrachlorozincate (2:1)	3228	100	OP8			
2,5-Diethoxy-4-morpholinobenzenediazonium zinc chloride	3236	67 – 100	OP7	+35	+40	
2,5-Diethoxy-4-morpholinobenzenediazonium zinc chloride	3236	66	OP7	+40	+45	
2,5-Diethoxy-4-morpholinobenzenediazonium tetrafluoroborate	3236	100	OP7	+30	+35	
2,5-Diethoxy-4-(phenylsulphonyl)benzenediazonium zinc chloride	3236	67	OP7	+40	+45	
2,5-Diethoxy-4-(4-morpholinyl)-benzenediazonium sulphate	3226	100	OP7			
Diethylene glycol bis(allyl carbonate) + Diisopropylperoxydicarbonate	3237	≥88 + ≤12	OP8	– 10	0	
2,5-Dimethoxy-4-(4-methylphenylsulphony)benzenediazonium zinc chloride	3236	79	OP7	+40	+45	
4-Dimethylamino-6-(2-dimethylaminoethoxy)toluene-2-diazonium zinc chloride	3236	100	OP7	+40	+45	
4-(Dimethylamino)-benzenediazonium trichlorozincate (-1)	3228	100	OP8			
N,N′-Dinitroso-N, N′-dimethyl-terephthalamide, as a paste	3224	72	OP6			
N,N′-Dinitrosopentamethylenetetramine	3224	82	OP6			2
Diphenyloxide-4,4′-disulphohydrazide	3226	100	OP7			
Diphenyloxide-4,4′-disulphonylhydrazide	3226	100	OP7			
4-Dipropylaminobenzenediazonium zinc chloride	3226	100	OP7			
2-(N,N-Ethoxycarbonylphenylamino)-3-methoxy-4-(N-methyl-N-cyclohexylamino)benzenediazonium zinc chloride	3236	63 – 92	OP7	+40	+45	
2-(N,N-Ethoxycarbonylphenylamino)-3-methoxy-4-(N-methyl-N-cyclohexylamino)benzenediazonium zinc chloride	3236	62	OP7	+35	+40	
N-Formyl-2-(nitromethylene)-1,3-perhydrothiazine	3236	100	OP7	+45	+50	
2-(2-Hydroxyethoxy)-1-(pyrrolidin-1-yl)benzene-4-diazonium zinc chloride	3236	100	OP7	+45	+50	
3-(2-Hydroxyethoxy)-4-(pyrrolidin-1-yl)benzenediazonium zinc chloride	3236	100	OP7	+40	+45	
2-(N,N-Methylaminoethylcarbonyl)-4-(3,4-dimethyl-phenylsulphonyl)benzene diazonium zinc chloride	3236	96	OP7	+45	+50	
4-Methylbenzenesulphonylhydrazide	3226	100	OP7			
3-Methyl-4-(pyrrolidin-1-yl)benzenediazonium tetrafluoroborate	3234	95	OP6	+45	+50	
4-Nitrosophenol	3236	100	OP7	+35	+40	
Phosphorothioic acid, O-[(cyanophenyl methylene) azanyl] O,O-diethyl ester	3227	82 – 91 (Z isomer)	OP8			5
Self-reactive liquid, sample	3223		OP2			3
Self-reactive liquid, sample, temperature control	3233		OP2			3
Self-reactive solid, sample	3224		OP2			3
Self-reactive solid, sample, temperature control	3234		OP2			3
Sodium 2-diazo-1-naphthol-4-sulphonate	3226	100	OP7			
Sodium 2-diazo-1-naphthol-5-sulphonate	3226	100	OP7			
Tetramine palladium (II) nitrate	3234	100	OP6	+30	+35	

Notes:
1. The emergency and control temperatures must be determined in accordance with § 173.21(f).
2. With a compatible diluent having a boiling point of not less than 150 °C.

3. Samples may only be offered for transportation under the provisions of paragraph (c)(3) of this section.
4. This entry applies to mixtures of esters of 2-diazo-1-naphthol-4-sulphonic acid and 2-diazo-1-naphthol-5-sulphonic acid.
5. This entry applies to the technical mixture in n-butanol within the specified concentration limits of the (Z) isomer.

(c) *New self-reactive materials, formulations and samples.* (1) Except as provided for samples in paragraph (c)(3) or (4) of this section, no person may offer, accept for transportation, or transport a self-reactive material which is not identified by technical name in the Self-Reactive Materials Table of this section, or a formulation of one or more self-reactive materials which are identified by technical name in the table, unless the self-reactive material is assigned a generic type and shipping description and is approved by the Associate Administrator under the provisions of § 173.124(a)(2)(iii).

(2) Except as provided by an approval issued under § 173.124(a)(2)(iii), intermediate bulk and bulk packagings are not authorized.

(3) Samples of new self-reactive materials or new formulations of self-reactive materials identified in the Self-Reactive Materials Table in paragraph (b) of this section, for which complete test data are not available, and which are to be transported for further testing or product evaluation, may be assigned an appropriate shipping description for Self-reactive materials Type C, packaged and offered for transportation under the following conditions:

(i) Data available to the person offering the material for transportation must indicate that the sample would pose a level of hazard no greater than that of a self-reactive material Type B and that the control temperature, if any, is sufficiently low to prevent any dangerous decomposition and sufficiently high to prevent any dangerous phase separation;

(ii) The sample must be packaged in accordance with packing method OP2;

(iii) Packages of the self-reactive material may be offered for transportation and transported in a quantity not to exceed 10 kg (22 pounds) per transport vehicle; and

(iv) One of the following shipping descriptions must be assigned:

(A) Self-reactive, liquid, type C, 4.1, UN 3223.

(B) Self-reactive, solid, type C, 4.1, UN 3224.

(C) Self-reactive, liquid, type C, temperature controlled, 4.1, UN 3233.

(D) Self-reactive, solid, type C, temperature controlled, 4.1, UN 3234.

(4) Samples of organic substances carrying functional groups listed in tables A6.1 and/or A6.2 in Annex 6 (Screening Procedures) of the UN Manual of Tests and Criteria (IBR, see § 171.7 of this subchapter) may be transported under UN 3224 or UN 3223, as applicable, of Division 4.1 provided that:

(i) The samples do not contain any:

(A) Known explosives;

(B) Substances showing explosive effects in testing;

(C) Compounds designed with the view of producing a practical explosive or pyrotechnic effect;

(D) Components consisting of synthetic precursors of intentional explosives;

(ii) For mixtures, complexes or salts of inorganic oxidizing substances of Division 5.1 with organic material(s), the concentration of the inorganic oxidizing substance is:

(A) Less than 15 percent, by mass, if assigned to Packing Group I or II; or

(B) Less than 30 percent, by mass, if assigned to Packing Group III;

(iii) Available data does not allow a more precise classification;

(iv) The sample is not packed together with other goods;

(v) Must be packaged as follows:

(A) The quantity per individual inner cavity does not exceed 0.01 g for solids or 0.01 mL for liquids and the maximum net quantity per outer packaging does not exceed 20 g for solids or 20 mL for liquids, or in the case of mixed packing the sum of grams and mL does not exceed 20:

(*1*) The samples are carried in microtiter plates or multi-titer plates made of plastics, glass, porcelain or stoneware as an inner packaging;

(*2*) only combination packaging with outer packaging comprising boxes (4A, 4B, 4N, 4C1, 4C2, 4D, 4F, 4G, 4H1 and 4H2) are permitted; or

(B) The maximum content of each inner packaging does not exceed 1 g for solids or 1 mL for liquids and the maximum net quantity per outer packaging does not exceed 56 g for solids or 56 mL for liquids, or in the case of mixed packing the sum of grams and mL does not exceed 56:

(*1*) The individual substance is contained in an inner packaging of glass or plastics of maximum capacity of 30 mL placed in an expandable polyethylene foam matrix of at least 130 mm thickness having a density of 18 ± 1 g/L;

(*2*) Within the foam carrier, inner packagings are segregated from each other by a minimum distance of 40 mm and from the wall of the outer packaging by a minimum distance of 70 mm. The package may contain up to two layers of such foam matrices, each carrying up to twenty-eight inner packagings;

(*3*) The outer packaging consists only of corrugated fiberboard boxes (4G) having minimum dimensions of 60 cm (length) by 40.5 cm (width) by 30 cm (height) and minimum wall thickness of 1.3 cm.

(vi) When dry ice or liquid nitrogen is optionally used as a coolant for quality control measures, all applicable requirements of this subchapter must be met. Interior supports must be provided to secure the inner packagings in the original position after the ice or dry ice has dissipated. If ice is used, the outside packaging or overpack must be leakproof. If dry ice is used, the requirements in § 173.217 must be met. The inner and outer packagings must maintain their integrity at the temperature of the refrigerant used as well as the temperatures and the pressures which could result if refrigeration were lost.

■ 31. In § 173.225, revise the table to paragraph (c), the heading of the table to paragraph (d), paragraph (e), paragraph (g) introductory text, and the heading to the table to paragraph (g) to read as follows:

§ 173.225 Packaging requirements and other provisions for organic peroxides.

* * * * *

(c) * * *

(8) * * *

TABLE TO PARAGRAPH (c): ORGANIC PEROXIDE TABLE

Technical name	ID No.	Concentration (mass %)	Diluent (mass %)			Water (mass %)	Packing method	Temperature (°C)		Notes
			A	B	I			Control	Emergency	
(1)	(2)	(3)	(4a)	(4b)	(4c)	(5)	(6)	(7a)	(7b)	(8)
Acetyl acetone peroxide	UN3105	≤42	≥48	.....	.....	≥8	OP7	.....	.....	2
Acetyl acetone peroxide [as a paste]	UN3106	≤32	.....	.....	.....	.....	OP7	.....	.....	21

TABLE TO PARAGRAPH (c): ORGANIC PEROXIDE TABLE—Continued

Technical name	ID No.	Concentration (mass %)	Diluent (mass %)			Water (mass %)	Packing method	Temperature (°C)		Notes
			A	B	I			Control	Emergency	
(1)	(2)	(3)	(4a)	(4b)	(4c)	(5)	(6)	(7a)	(7b)	(8)
Acetyl cyclohexanesulfonyl peroxide	UN3112	≤82				≥12	OP4	−10	0	
Acetyl cyclohexanesulfonyl peroxide	UN3115	≤32		≥68			OP7	−10	0	
tert-Amyl hydroperoxide	UN3107	≤88	≥6			≥6	OP8			
tert-Amyl peroxyacetate	UN3105	≤62	≥38				OP7			
tert-Amyl peroxybenzoate	UN3103	≤100					OP5			
tert-Amyl peroxy-2-ethylhexanoate	UN3115	≤100					OP7	20	25	
tert-Amyl peroxy-2-ethylhexyl carbonate	UN3105	≤100					OP7			
tert-Amyl peroxy isopropyl carbonate	UN3103	≤77	≥23				OP5			
tert-Amyl peroxyneodecanoate	UN3115	≤77		≥23			OP7	0	10	
tert-Amyl peroxyneodecanoate	UN3119	≤47	≥53				OP8	0	10	
tert-Amyl peroxypivalate	UN3113	≤77		≥23			OP5	10	15	
tert-Amyl peroxypivalate	UN3119	≤32	≥68				OP8	10	15	
tert-Amyl peroxy-3,5,5-trimethylhexanoate.	UN3105	≤100					OP7			
tert-Butyl cumyl peroxide	UN3109	>42 − 100					OP8			9
tert-Butyl cumyl peroxide	UN3108	≤52			≥48		OP8			9
n-Butyl-4,4-di-(tert-butylperoxy)valerate	UN3103	>52 − 100					OP5			
n-Butyl-4,4-di-(tert-butylperoxy)valerate	UN3108	≤52			≥48		OP8			
tert-Butyl hydroperoxide	UN3103	>79 − 90				≥10	OP5			13
tert-Butyl hydroperoxide	UN3105	≤80	≥20				OP7			4, 13
tert-Butyl hydroperoxide	UN3107	≤79				>14	OP8			13, 16
tert-Butyl hydroperoxide	UN3109	≤72				≥28	OP8			13
tert-Butyl hydroperoxide [and] Di-tert-butylperoxide.	UN3103	<82 + >9				≥7	OP5			13
tert-Butyl monoperoxymaleate	UN3102	>52 − 100					OP5			
tert-Butyl monoperoxymaleate	UN3103	≤52	≥48				OP6			
tert-Butyl monoperoxymaleate	UN3108	≤52			≥48		OP8			
tert-Butyl monoperoxymaleate [as a paste].	UN3108	≤52					OP8			
tert-Butyl peroxyacetate	UN3101	>52 − 77	≥23				OP5			
tert-Butyl peroxyacetate	UN3103	>32 − 52	≥48				OP6			
tert-Butyl peroxyacetate	UN3109	≤32		≥68			OP8			
tert-Butyl peroxybenzoate	UN3103	>77 − 100					OP5			
tert-Butyl peroxybenzoate	UN3105	>52 − 77	≥23				OP7			1
tert-Butyl peroxybenzoate	UN3106	≤52			≥48		OP7			
tert-Butyl peroxybenzoate	UN3109	≤32	≥68				OP8			
tert-Butyl peroxybutyl fumarate	UN3105	≤52	≥48				OP7			
tert-Butyl peroxycrotonate	UN3105	≤77	≥23				OP7			
tert-Butyl peroxydiethylacetate	UN3113	≤100					OP5	20	25	
tert-Butyl peroxy-2-ethylhexanoate	UN3113	>52 − 100					OP6	20	25	
tert-Butyl peroxy-2-ethylhexanoate	UN3117	>32 − 52		≥48			OP8	30	35	
tert-Butyl peroxy-2-ethylhexanoate	UN3118	≤52			≥48		OP8	20	25	
tert-Butyl peroxy-2-ethylhexanoate	UN3119	≤32		≥68			OP8	40	45	
tert-Butyl peroxy-2-ethylhexanoate [and] 2,2-di-(tert-Butylperoxy)butane.	UN3106	≤12 + ≤14	≥14		≥60		OP7			
tert-Butyl peroxy-2-ethylhexanoate [and] 2,2-di-(tert-Butylperoxy)butane.	UN3115	≤31 + ≤36		≥33			OP7	35	40	
tert-Butyl peroxy-2-ethylhexylcarbonate	UN3105	≤100					OP7			
tert-Butyl peroxyisobutyrate	UN3111	>52 − 77		≥23			OP5	15	20	
tert-Butyl peroxyisobutyrate	UN3115	≤52		≥48			OP7	15	20	
tert-Butylperoxy isopropylcarbonate	UN3103	≤77	≥23				OP5			
1-(2-tert-Butylperoxy isopropyl)-3-isopropenylbenzene.	UN3105	≤77	≥23				OP7			
1-(2-tert-Butylperoxy isopropyl)-3-isopropenylbenzene.	UN3108	≤42			≥58		OP8			
tert-Butyl peroxy-2-methylbenzoate	UN3103	≤100					OP5			
tert-Butyl peroxyneodecanoate	UN3115	>77 − 100					OP7	−5	5	
tert-Butyl peroxyneodecanoate	UN3115	≤77		≥23			OP7	0	10	
tert-Butyl peroxyneodecanoate [as a stable dispersion in water].	UN3119	≤52					OP8	0	10	
tert-Butyl peroxyneodecanoate [as a stable dispersion in water (frozen)].	UN3118	≤42					OP8	0	10	
tert-Butyl peroxyneodecanoate	UN3119	≤32	≥68				OP8	0	10	
tert-Butyl peroxyneoheptanoate	UN3115	≤77	≥23				OP7	0	10	
tert-Butyl peroxyneoheptanoate [as a stable dispersion in water].	UN3117	≤42					OP8	0	10	
tert-Butyl peroxypivalate	UN3113	>67 − 77	≥23				OP5	0	10	
tert-Butyl peroxypivalate	UN3115	>27 − 67		≥33			OP7	0	10	
tert-Butyl peroxypivalate	UN3119	≤27		≥73			OP8	30	35	
tert-Butylperoxy stearylcarbonate	UN3106	≤100					OP7			
tert-Butyl peroxy-3,5,5-trimethylhexanoate.	UN3105	>37 − 100					OP7			
tert-Butyl peroxy-3,5,5-trimethlyhexanoate.	UN3106	≤42			≥58		OP7			
tert-Butyl peroxy-3,5,5-trimethylhexanoate.	UN3109	≤37		≥63			OP8			
3-Chloroperoxybenzoic acid	UN3102	>57 − 86			≥14		OP1			

TABLE TO PARAGRAPH (c): ORGANIC PEROXIDE TABLE—Continued

Technical name	ID No.	Concentration (mass %)	Diluent (mass %)			Water (mass %)	Packing method	Temperature (°C)		Notes
			A	B	I			Control	Emergency	
(1)	(2)	(3)	(4a)	(4b)	(4c)	(5)	(6)	(7a)	(7b)	(8)
3-Chloroperoxybenzoic acid	UN3106	≤57			≥3	≥40	OP7			
3-Chloroperoxybenzoic acid	UN3106	≤77			≥6	≥17	OP7			
Cumyl hydroperoxide	UN3107	>90 – 98	≤10				OP8			13
Cumyl hydroperoxide	UN3109	≤90	≥10				OP8			13, 15
Cumyl peroxyneodecanoate	UN3115	≤87	≥13				OP7	– 10	0	
Cumyl peroxyneodecanoate	UN3115	≤77		≥23			OP7	– 10	0	
Cumyl peroxyneodecanoate [as a stable dispersion in water].	UN3119	≤52					OP8	– 10	0	
Cumyl peroxyneoheptanoate	UN3115	≤77	≥23				OP7	– 10	0	
Cumyl peroxypivalate	UN3115	≤77		≥23			OP7	– 5	5	
Cyclohexanone peroxide(s)	UN3104	≤91				≥9	OP6			13
Cyclohexanone peroxide(s)	UN3105	≤72	≥28				OP7			5
Cyclohexanone peroxide(s) [as a paste]	UN3106	≤72					OP7			5, 21
Cyclohexanone peroxide(s)	Exempt	≤32		>68			Exempt			29
Diacetone alcohol peroxides	UN3115	≤57		≥26		≥8	OP7	40	45	5
Diacetyl peroxide	UN3115	≤27		≥73			OP7	20	25	8,13
Di-tert-amyl peroxide	UN3107	≤100					OP8			
([3R- (3R, 5aS, 6S, 8aS, 9R, 10R, 12S, 12aR**)]-Decahydro-10-methoxy-3, 6, 9-trimethyl-3, 12-epoxy-12H-pyrano [4, 3- j]-1, 2-benzodioxepin).	UN3106	≤100					OP7			
2,2-Di-(tert-amylperoxy)-butane	UN3105	≤57	≥43				OP7			
1,1-Di-(tert-amylperoxy)cyclohexane	UN3103	≤82	≥18				OP6			
Dibenzoyl peroxide	UN3102	>52 – 100			≤48		OP2			3
Dibenzoyl peroxide	UN3102	>77 – 94				≥6	OP4			3
Dibenzoyl peroxide	UN3104	≤77				≥23	OP6			
Dibenzoyl peroxide	UN3106	≤62			≥28	≥10	OP7			
Dibenzoyl peroxide [as a paste]	UN3106	>52 – 62					OP7			21
Dibenzoyl peroxide	UN3106	>35 – 52			≥48		OP7			
Dibenzoyl peroxide	UN3107	>36 – 42	≥18			≤40	OP8			
Dibenzoyl peroxide [as a paste]	UN3108	≤56.5				≥15	OP8			
Dibenzoyl peroxide [as a paste]	UN3108	≤52					OP8			21
Dibenzoyl peroxide [as a stable dispersion in water].	UN3109	≤42					OP8			
Dibenzoyl peroxide	Exempt	≤35			≥65		Exempt			29
Di-(4-tert-butylcyclohexyl)peroxydicarbonate.	UN3114	≤100					OP6	30	35	
Di-(4-tert-butylcyclohexyl)peroxydicarbonate [as a stable dispersion in water].	UN3119	≤42					OP8	30	35	
Di-(4-tert-butylcyclohexyl)peroxydicarbonate [as a paste].	UN3116	≤42					OP7	35	40	
Di-tert-butyl peroxide	UN3107	>52 – 100					OP8			
Di-tert-butyl peroxide	UN3109	≤52		≥48			OP8			24
Di-tert-butyl peroxyazelate	UN3105	≤52	≥48				OP7			
2,2-Di-(tert-butylperoxy)butane	UN3103	≤52	≥48				OP6			
1,6-Di-(tert-butylperoxycarbonyloxy)hexane.	UN3103	≤72	≥28				OP5			
1,1-Di-(tert-butylperoxy)cyclohexane	UN3101	>80 – 100					OP5			
1,1-Di-(tert-butylperoxy)cyclohexane	UN3103	>52 – 80	≥20				OP5			
1,1-Di-(tert-butylperoxy)-cyclohexane	UN3103	≤72		≥28			OP5			30
1,1-Di-(tert-butylperoxy)cyclohexane	UN3105	>42 – 52	≥48				OP7			
1,1-Di-(tert-butylperoxy)cyclohexane	UN3106	≤42	≥13		≥45		OP7			
1,1-Di-(tert-butylperoxy)cyclohexane	UN3107	≤27	≥25				OP8			22
1,1-Di-(tert-butylperoxy)cyclohexane	UN3109	≤42	≥58				OP8			
1,1-Di-(tert-Butylperoxy) cyclohexane	UN3109	≤37	≥63				OP8			
1,1-Di-(tert-butylperoxy)cyclohexane	UN3109	≤25	≥25	≥50			OP8			
1,1-Di-(tert-butylperoxy)cyclohexane	UN3109	≤13	≥13	≥74			OP8			
1,1-Di-(tert-butylperoxy)cyclohexane + tert-Butyl peroxy-2-ethylhexanoate.	UN3105	≤43 + ≤16	≥41				OP7			
Di-n-butyl peroxydicarbonate	UN3115	>27 – 52		≥48			OP7	– 15	– 5	
Di-n-butyl peroxydicarbonate	UN3117	≤27		≥73			OP8	– 10	0	
Di-n-butyl peroxydicarbonate [as a stable dispersion in water (frozen)].	UN3118	≤42					OP8	– 15	– 5	
Di-sec-butyl peroxydicarbonate	UN3113	>52 – 100					OP4	– 20	– 10	6
Di-sec-butyl peroxydicarbonate	UN3115	≤52		≥48			OP7	– 15	– 5	
Di-(tert-butylperoxyisopropyl) benzene(s).	UN3106	>42 – 100			≤57		OP7			1, 9
Di-(tert-butylperoxyisopropyl) benzene(s).	Exempt	≤42			≥58		Exempt			
Di-(tert-butylperoxy)phthalate	UN3105	>42 – 52	≥48				OP7			
Di-(tert-butylperoxy)phthalate [as a paste].	UN3106	≤52					OP7			21
Di-(tert-butylperoxy)phthalate	UN3107	≤42	≥58				OP8			
2,2-Di-(tert-butylperoxy)propane	UN3105	≤52	≥48				OP7			
2,2-Di-(tert-butylperoxy)propane	UN3106	≤42	≥13		≥45		OP7			

TABLE TO PARAGRAPH (c): ORGANIC PEROXIDE TABLE—Continued

Technical name	ID No.	Concentration (mass %)	Diluent (mass %)			Water (mass %)	Packing method	Temperature (°C)		Notes
			A	B	I			Control	Emergency	
(1)	(2)	(3)	(4a)	(4b)	(4c)	(5)	(6)	(7a)	(7b)	(8)
1,1-Di-(tert-butylperoxy)-3,3,5-trimethylcyclohexane.	UN3101	>90 – 100	.....	.....	.....	.....	OP5	.....	.....	.....
1,1-Di-(tert-butylperoxy)-3,3,5-trimethylcyclohexane.	UN3103	>57 – 90	≥10	.....	.....	.....	OP5	.....	.....	.....
1,1-Di-(tert-butylperoxy)-3,3,5-trimethylcyclohexane.	UN3103	≤77	.....	≥23	.....	.....	OP5	.....	.....	.....
1,1-Di-(tert-butylperoxy)-3,3,5-trimethylcyclohexane.	UN3103	≤90	.....	≥10	.....	.....	OP5	.....	.....	30
1,1-Di-(tert-butylperoxy)-3,3,5-trimethylcyclohexane.	UN3110	≤57	.....	.....	≥43	.....	OP8	.....	.....	.....
1,1-Di-(tert-butylperoxy)-3,3,5-trimethylcyclohexane.	UN3107	≤57	≥43	.....	.....	.....	OP8	.....	.....	.....
1,1-Di-(tert-butylperoxy)-3,3,5-trimethylcyclohexane.	UN3107	≤32	≥26	≥42	.....	.....	OP8	.....	.....	.....
Dicetyl peroxydicarbonate	UN3120	≤100	.....	.....	.....	.....	OP8	30	35	.....
Dicetyl peroxydicarbonate [as a stable dispersion in water].	UN3119	≤42	.....	.....	.....	.....	OP8	30	35	.....
Di-4-chlorobenzoyl peroxide	UN3102	≤77	.....	.....	.....	≥23	OP5	.....	.....	.....
Di-4-chlorobenzoyl peroxide	Exempt	≤32	.....	.....	≥68	.....	Exempt	.....	.....	29
Di-2,4-dichlorobenzoyl peroxide [as a paste].	UN3118	≤52	.....	.....	.....	.....	OP8	20	25	.....
Di-4-chlorobenzoyl peroxide [as a paste]	UN3106	≤52	.....	.....	.....	.....	OP7	.....	.....	21
Dicumyl peroxide	UN3110	>52 – 100	.....	.....	≤48	.....	OP8	.....	.....	9
Dicumyl peroxide	Exempt	≤52	.....	.....	≥48	.....	Exempt	.....	.....	29
Dicyclohexyl peroxydicarbonate	UN3112	>91 – 100	.....	.....	.....	.....	OP3	10	15	.....
Dicyclohexyl peroxydicarbonate	UN3114	≤91	.....	.....	.....	≥9	OP5	10	15	.....
Dicyclohexyl peroxydicarbonate [as a stable dispersion in water].	UN3119	≤42	.....	.....	.....	.....	OP8	15	20	.....
Didecanoyl peroxide	UN3114	≤100	.....	.....	.....	.....	OP6	30	35	.....
2,2-Di-(4,4-di(tert-butylperoxy)cyclohexyl)propane.	UN3106	≤42	.....	.....	≥58	.....	OP7	.....	.....	.....
2,2-Di-(4,4-di(tert-butylperoxy)cyclohexyl)propane.	UN3107	≤22	.....	≥78	.....	.....	OP8	.....	.....	.....
Di-2,4-dichlorobenzoyl peroxide	UN3102	≤77	.....	.....	.....	≥23	OP5	.....	.....	.....
Di-2,4-dichlorobenzoyl peroxide [as a paste with silicone oil].	UN3106	≤52	.....	.....	.....	.....	OP7	.....	.....	.....
Di-(2-ethoxyethyl) peroxydicarbonate	UN3115	≤52	.....	≥48	.....	.....	OP7	– 10	0	.....
Di-(2-ethylhexyl) peroxydicarbonate	UN3113	>77 – 100	.....	.....	.....	.....	OP5	– 20	– 10	.....
Di-(2-ethylhexyl) peroxydicarbonate	UN3115	≤77	.....	≥23	.....	.....	OP7	– 15	– 5	.....
Di-(2-ethylhexyl) peroxydicarbonate [as a stable dispersion in water].	UN3119	≤62	.....	.....	.....	.....	OP8	– 15	– 5	.....
Di-(2-ethylhexyl) peroxydicarbonate [as a stable dispersion in water].	UN3119	≤52	.....	.....	.....	.....	OP8	– 15	– 5	.....
Di-(2-ethylhexyl) peroxydicarbonate [as a stable dispersion in water (frozen)].	UN3120	≤52	.....	.....	.....	.....	OP8	– 15	– 5	.....
2,2-Dihydroperoxypropane	UN3102	≤27	.....	.....	≥73	.....	OP5	.....	.....	.....
Di-(1-hydroxycyclohexyl)peroxide	UN3106	≤100	.....	.....	.....	.....	OP7	.....	.....	.....
Diisobutyryl peroxide	UN3111	>32 – 52	.....	≥48	.....	.....	OP5	– 20	– 10	.....
Diisobutyryl peroxide [as a stable dispersion in water].	UN3119	≤42	.....	.....	.....	.....	OP8	– 20	– 10	.....
Diisobutyryl peroxide	UN3115	≤32	.....	≥68	.....	.....	OP7	– 20	– 10	.....
Diisopropylbenzene dihydroperoxide	UN3106	≤82	≥5	.....	.....	≥5	OP7	.....	.....	17
Diisopropyl peroxydicarbonate	UN3112	>52 – 100	.....	.....	.....	.....	OP2	– 15	– 5	.....
Diisopropyl peroxydicarbonate	UN3115	≤52	.....	≥48	.....	.....	OP7	– 20	– 10	.....
Diisopropyl peroxydicarbonate	UN3115	≤32	≥68	.....	.....	.....	OP7	– 15	– 5	.....
Dilauroyl peroxide	UN3106	≤100	.....	.....	.....	.....	OP7	.....	.....	.....
Dilauroyl peroxide [as a stable dispersion in water].	UN3109	≤42	.....	.....	.....	.....	OP8	.....	.....	.....
Di-(3-methoxybutyl) peroxydicarbonate	UN3115	≤52	.....	≥48	.....	.....	OP7	– 5	5	.....
Di-(2-methylbenzoyl)peroxide	UN3112	≤87	.....	.....	.....	≥13	OP5	30	35	.....
Di-(4-methylbenzoyl)peroxide [as a paste with silicone oil].	UN3106	≤52	.....	.....	.....	.....	OP7	.....	.....	.....
Di-(3-methylbenzoyl) peroxide + Benzoyl (3-methylbenzoyl) peroxide + Dibenzoyl peroxide.	UN3115	≤20 + ≤18 + ≤4	.....	≥58	.....	.....	OP7	35	40	.....
2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane.	UN3102	>82 – 100	.....	.....	.....	.....	OP5	.....	.....	.....
2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane.	UN3106	≤82	.....	.....	≥18	.....	OP7	.....	.....	.....
2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane.	UN3104	≤82	.....	.....	.....	≥18	OP5	.....	.....	.....
2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane.	UN3103	>90 – 100	.....	.....	.....	.....	OP5	.....	.....	.....
2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane.	UN3105	>52—90	≥10	.....	.....	.....	OP7	.....	.....	.....
2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane.	UN3108	≤77	.....	.....	≥23	.....	OP8	.....	.....	.....

TABLE TO PARAGRAPH (c): ORGANIC PEROXIDE TABLE—Continued

Technical name	ID No.	Concentration (mass %)	Diluent (mass %)			Water (mass %)	Packing method	Temperature (°C)		Notes
			A	B	I			Control	Emergency	
(1)	(2)	(3)	(4a)	(4b)	(4c)	(5)	(6)	(7a)	(7b)	(8)
2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane.	UN3109	≤52	≥48	.....	.....	.....	OP8	.....	.....	.....
2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane [as a paste].	UN3108	≤47	.....	.....	.....	.....	OP8	.....	.....	.....
2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3.	UN3101	>86 – 100	.....	.....	.....	.....	OP5	.....	.....	.....
2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3.	UN3103	>52 – 86	≥14	.....	.....	.....	OP5	.....	.....	.....
2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3.	UN3106	≤52	.....	.....	≥48	.....	OP7	.....	.....	.....
2,5-Dimethyl-2,5-di-(2-ethylhexanoylperoxy)hexane.	UN3113	≤100	.....	.....	.....	.....	OP5	20	25	.....
2,5-Dimethyl-2,5-dihydroperoxyhexane ..	UN3104	≤82	.....	.....	.....	≥18	OP6	.....	.....	.....
2,5-Dimethyl-2,5-di-(3,5,5-trimethylhexanoylperoxy)hexane.	UN3105	≤77	≥23	.....	.....	.....	OP7	.....	.....	.....
1,1-Dimethyl-3-hydroxybutylperoxyneoheptanoate.	UN3117	≤52	≥48	.....	.....	.....	OP8	0	10	.....
Dimyristyl peroxydicarbonate	UN3116	≤100	.....	.....	.....	.....	OP7	20	25	.....
Dimyristyl peroxydicarbonate [as a stable dispersion in water].	UN3119	≤42	.....	.....	.....	.....	OP8	20	25	.....
Di-(2-neodecanoylperoxyisopropyl)benzene.	UN3115	≤52	≥48	.....	.....	.....	OP7	– 10	0	.....
Di-(2-neodecanoyl-peroxyisopropyl) benzene, as stable dispersion in water.	UN3119	≤42	.....	.....	.....	.....	OP8	– 15	– 5	.....
Di-n-nonanoyl peroxide	UN3116	≤100	.....	.....	.....	.....	OP7	0	10	.....
Di-n-octanoyl peroxide	UN3114	≤100	.....	.....	.....	.....	OP5	10	15	.....
Di-(2-phenoxyethyl)peroxydicarbonate ...	UN3102	>85 – 100	.....	.....	.....	.....	OP5	.....	.....	.....
Di-(2-phenoxyethyl)peroxydicarbonate ...	UN3106	≤85	.....	.....	.....	≥15	OP7	.....	.....	.....
Dipropionyl peroxide	UN3117	≤27	.....	≥73	.....	.....	OP8	15	20	.....
Di-n-propyl peroxydicarbonate	UN3113	≤100	.....	.....	.....	.....	OP3	– 25	– 15	.....
Di-n-propyl peroxydicarbonate	UN3113	≤77	.....	≥23	.....	.....	OP5	– 20	– 10	.....
Disuccinic acid peroxide	UN3102	>72 – 100	.....	.....	.....	.....	OP4	.....	.....	18
Disuccinic acid peroxide	UN3116	≤72	.....	.....	.....	≥28	OP7	10	15	.....
Di-(3,5,5-trimethylhexanoyl) peroxide	UN3115	>52 – 82	≥18	.....	.....	.....	OP7	0	10	.....
Di-(3,5,5-trimethylhexanoyl)peroxide [as a stable dispersion in water].	UN3119	≤52	.....	.....	.....	.....	OP8	10	15	.....
Di-(3,5,5-trimethylhexanoyl) peroxide	UN3119	>38 – 52	≥48	.....	.....	.....	OP8	10	15	.....
Di-(3,5,5-trimethylhexanoyl)peroxide	UN3119	≤38	≥62	.....	.....	.....	OP8	20	25	.....
Ethyl 3,3-di-(tert-amylperoxy)butyrate	UN3105	≤67	≥33	.....	.....	.....	OP7	.....	.....	.....
Ethyl 3,3-di-(tert-butylperoxy)butyrate	UN3103	>77 – 100	.....	.....	.....	.....	OP5	.....	.....	.....
Ethyl 3,3-di-(tert-butylperoxy)butyrate	UN3105	≤77	≥23	.....	.....	.....	OP7	.....	.....	.....
Ethyl 3,3-di-(tert-butylperoxy)butyrate	UN3106	≤52	.....	.....	≥48	.....	OP7	.....	.....	.....
1-(2-ethylhexanoylperoxy)-1,3-Dimethylbutyl peroxypivalate.	UN3115	≤52	≥45	≥10	.....	.....	OP7	– 20	– 10	.....
tert-Hexyl peroxyneodecanoate	UN3115	≤71	≥29	.....	.....	.....	OP7	0	10	.....
tert-Hexyl peroxypivalate	UN3115	≤72	.....	≥28	.....	.....	OP7	10	15	.....
3-Hydroxy-1,1-dimethylbutyl peroxyneodecanoate.	UN3115	≤77	≥23	.....	.....	.....	OP7	– 5	5	.....
3-Hydroxy-1,1-dimethylbutyl peroxyneodecanoate [as a stable dispersion in water].	UN3119	≤52	.....	.....	.....	.....	OP8	– 5	5	.....
3-Hydroxy-1,1-dimethylbutyl peroxyneodecanoate.	UN3117	≤52	≥48	.....	.....	.....	OP8	– 5	5	.....
Isopropyl sec-butyl peroxydicarbonat + Di-sec-butyl peroxydicarbonate + Di-isopropyl peroxydicarbonate.	UN3111	≤52 + ≤28 + ≤22	.....	.....	.....	.....	OP5	– 20	– 10	.....
Isopropyl sec-butyl peroxydicarbonate + Di-sec-butyl peroxydicarbonate + Di-isopropyl peroxydicarbonate.	UN3115	≤32 + ≤15 – 18 + ≤12 – 15	≥38	.....	.....	.....	OP7	– 20	– 10	.....
Isopropylcumyl hydroperoxide	UN3109	≤72	≥28	.....	.....	.....	OP8	.....	.....	13
p-Menthyl hydroperoxide	UN3105	>72 – 100	.....	.....	.....	.....	OP7	.....	.....	13
p-Menthyl hydroperoxide	UN3109	≤72	≥28	.....	.....	.....	OP8	.....	.....	.....
Methylcyclohexanone peroxide(s)	UN3115	≤67	.....	≥33	.....	.....	OP7	35	40	.....
Methyl ethyl ketone peroxide(s)	UN3101	≤52	≥48	.....	.....	.....	OP5	.....	.....	5, 13
Methyl ethyl ketone peroxide(s)	UN3105	≤45	≥55	.....	.....	.....	OP7	.....	.....	5
Methyl ethyl ketone peroxide(s)	UN3107	≤40	≥60	.....	.....	.....	OP8	.....	.....	7
Methyl isobutyl ketone peroxide(s)	UN3105	≤62	≥19	.....	.....	.....	OP7	.....	.....	5, 23
Methyl isopropyl ketone peroxide(s)	UN3109	(See remark 31)	≥70	.....	.....	.....	OP8	.....	.....	31
Organic peroxide, liquid, sample	UN3103	.....	.....	.....	.....	.....	OP2	.....	.....	12
Organic peroxide, liquid, sample, temperature controlled.	UN3113	.....	.....	.....	.....	.....	OP2	.....	.....	12
Organic peroxide, solid, sample	UN3104	.....	.....	.....	.....	.....	OP2	.....	.....	12
Organic peroxide, solid, sample, temperature controlled.	UN3114	.....	.....	.....	.....	.....	OP2	.....	.....	12
3,3,5,7,7-Pentamethyl-1,2,4-Trioxepane	UN3107	≤100	.....	.....	.....	.....	OP8	.....	.....	.....

TABLE TO PARAGRAPH (c): ORGANIC PEROXIDE TABLE—Continued

Technical name	ID No.	Concentration (mass %)	Diluent (mass %)			Water (mass %)	Packing method	Temperature (°C)		Notes
			A	B	I			Control	Emergency	
(1)	(2)	(3)	(4a)	(4b)	(4c)	(5)	(6)	(7a)	(7b)	(8)
Peroxyacetic acid, type D, stabilized	UN3105	≤43	.....	.....	.....	.....	OP7	.....	.....	13, 20
Peroxyacetic acid, type E, stabilized	UN3107	≤43	.....	.....	.....	.....	OP8	.....	.....	13, 20
Peroxyacetic acid, type F, stabilized	UN3109	≤43	.....	.....	.....	.....	OP8	.....	.....	13, 20, 28
Peroxyacetic acid or peracetic acid [with not more than 7% hydrogen peroxide].	UN3107	≤36	.....	.....	.....	≥15	OP8	.....	.....	13, 20, 28
Peroxyacetic acid or peracetic acid [with not more than 20% hydrogen peroxide].	Exempt	≤6	.....	.....	.....	≥60	Exempt	.....	.....	28
Peroxyacetic acid or peracetic acid [with not more than 26% hydrogen peroxide].	UN3109	≤17	.....	.....	.....	.....	OP8	.....	.....	13, 20, 28
Peroxylauric acid	UN3118	≤100	.....	.....	.....	.....	OP8	35	40	.....
1-Phenylethyl hydroperoxide	UN3109	≤38	.....	≥62	.....	.....	OP8	.....	.....	.....
Pinanyl hydroperoxide	UN3105	>56 – 100	.....	.....	.....	.....	OP7	.....	.....	13
Pinanyl hydroperoxide	UN3109	≤56	≥44	.....	.....	.....	OP8	.....	.....	.....
Polyether poly-tert-butylperoxycarbonate	UN3107	≤52	.....	≥48	.....	.....	OP8	.....	.....	.....
Tetrahydronaphthyl hydroperoxide	UN3106	≤100	.....	.....	.....	.....	OP7	.....	.....	.....
1,1,3,3-Tetramethylbutyl hydroperoxide	UN3105	≤100	.....	.....	.....	.....	OP7	.....	.....	.....
1,1,3,3-Tetramethylbutyl peroxy-2-ethylhexanoate.	UN3115	≤100	.....	.....	.....	.....	OP7	15	20	.....
1,1,3,3-Tetramethylbutyl peroxyneodecanoate.	UN3115	≤72	.....	≥28	.....	.....	OP7	– 5	5	.....
1,1,3,3-Tetramethylbutyl peroxyneodecanoate [as a stable dispersion in water].	UN3119	≤52	.....	.....	.....	.....	OP8	– 5	5	.....
1,1,3,3-tetramethylbutyl peroxypivalate	UN3115	≤77	≥23	.....	.....	.....	OP7	0	10	.....
3,6,9-Triethyl-3,6,9-trimethyl-1,4,7-triperoxonane.	UN3110	≤17	≥18	.....	≥65	.....	OP8	.....	.....	.....
3,6,9-Triethyl-3,6,9-trimethyl-1,4,7-triperoxonane.	UN3105	≤42	≥58	.....	.....	.....	OP7	.....	.....	26

Notes:

1. For domestic shipments, OP8 is authorized.
2. Available oxygen must be <4.7%.
3. For concentrations <80% OP5 is allowed. For concentrations of at least 80% but <85%, OP4 is allowed. For concentrations of at least 85%, maximum package size is OP2.
4. The diluent may be replaced by di-tert-butyl peroxide.
5. Available oxygen must be ≤9% with or without water.
6. For domestic shipments, OP5 is authorized.
7. Available oxygen must be ≤8.2% with or without water.
8. Only non-metallic packagings are authorized.
9. For domestic shipments this material may be transported under the provisions of paragraph (h)(3)(xii) of this section.
10. [Reserved]
11. [Reserved]
12. Samples may only be offered for transportation under the provisions of paragraph (b)(2) of this section.
13. ''Corrosive'' subsidiary risk label is required.
14. [Reserved]
15. No ''Corrosive'' subsidiary risk label is required for concentrations below 80%.
16. With <6% di-tert-butyl peroxide.
17. With ≤8% 1-isopropylhydroperoxy-4-isopropylhydroxybenzene.
18. Addition of water to this organic peroxide will decrease its thermal stability.
19. [Reserved]
20. Mixtures with hydrogen peroxide, water and acid(s).
21. With diluent type A, with or without water.
22. With ≥36% diluent type A by mass, and in addition ethylbenzene.
23. With ≥19% diluent type A by mass, and in addition methyl isobutyl ketone.
24. Diluent type B with boiling point >100 C.
25. No ''Corrosive'' subsidiary risk label is required for concentrations below 56%.
26. Available oxygen must be ≤7.6%.
27. Formulations derived from distillation of peroxyacetic acid originating from peroxyacetic acid in a concentration of not more than 41% with water, total active oxygen less than or equal to 9.5% (peroxyacetic acid plus hydrogen peroxide).
28. For the purposes of this section, the names ''Peroxyacetic acid'' and ''Peracetic acid'' are synonymous.
29. Not subject to the requirements of this subchapter for Division 5.2.
30. Diluent type B with boiling point >130 °C (266 °F).
31. Available oxygen ≤6.7%.

(d) * * *

(4) * * *

Table to Paragraph (d): Maximum Quantity per Packaging/Package

* * * * *

(e) *Organic Peroxide IBC Table.* The following Organic Peroxide IBC Table specifies, by technical name, those organic peroxides that are authorized for transportation in certain IBCs and not subject to the approval provisions of § 173.128 of this part. The formulations listed below may also be transported packed in accordance with packing method OP8 of this section, with the same control and emergency temperatures, if applicable. Additional requirements for authorized IBCs are found in paragraph (f) of this section.

TABLE TO PARAGRAPH (e): ORGANIC PEROXIDE IBC TABLE

UN No.	Organic peroxide	Type of IBC	Maximum quantity (liters)	Control temperature	Emergency temperature
3109 ..	ORGANIC PEROXIDE, TYPE F, LIQUID:				
	tert-Butyl cumyl peroxide	31HA1	1000	.....	.....
	tert-Butyl hydroperoxide, not more than 72% with water	31A	1250	.....	.....
		31HA1	1000	.....	.....
	tert-Butyl peroxyacetate, not more than 32% in diluent type A	31A	1250	.....	.....
		31HA1	1000	.....	.....
	tert-Butyl peroxybenzoate, not more than 32% in diluent type A	31A	1250	.....	.....
	tert-Butyl peroxy-3,5,5-trimethylhexanoate, not more than 37% in diluent type A.	31A	1250	.....	.....
		31HA1	1000	.....	.....
	Cumyl hydroperoxide, not more than 90% in diluent type A	31HA1	1250	.....	.....
	Dibenzoyl peroxide, not more than 42% as a stable dispersion	31H1	1000	.....	.....
	2,5-Dimethyl-2,5-di(tert-butylperoxy)hexane, not more than 52% in diluent type A.	31HA1	1000	.....	.....
	Di-tert-butyl peroxide, not more than 52% in diluent type B	31A	1250	.....	.....
		31HA1	1000	.....	.....
	1,1-Di-(tert-Butylperoxy) cyclohexane, not more than 37% in diluent type A.	31A	1250	.....	.....
	1,1-Di-(tert-butylperoxy) cyclohexane, not more than 42% in diluent type A	31H1	1000	.....	.....
	Dicumyl peroxide, less than or equal to 100%	31A	1250	.....	.....
		31HA1	1000	.....	.....
	Dilauroyl peroxide, not more than 42%, stable dispersion, in water	31HA1	1000	.....	.....
	Isopropyl cumyl hydroperoxide, not more than 72% in diluent type A	31HA1	1250	.....	.....
	p-Menthyl hydroperoxide, not more than 72% in diluent type A	31HA1	1250	.....	.....
	Peroxyacetic acid, stabilized, not more than 17%	31A	1500	.....	.....
		31H1	1500	.....	.....
		31H2	1500	.....	.....
		31HA1	1500	.....	.....
	Peroxyacetic acid, not more than 26% hydrogen peroxide	31A	1500	.....	.....
		31HA1	1500	.....	.....
	Peroxyacetic acid, type F, stabilized	31A	1500	.....	.....
		31HA1	1500	.....	.....
	3,6,9-Triethyl-3,6,9-trimethyl-1,4,7-triperoxonane not more than 27% diluent type A.	31HA1	1000	.....	.....
3110 ..	ORGANIC PEROXIDE TYPE F, SOLID:				
	Dicumyl peroxide, less than or equal to 100%	31A	2000	.....	.....
		31H1	.....	.....	.....
		31HA1	.....	.....	.....
3119 ..	ORGANIC PEROXIDE, TYPE F, LIQUID, TEMPERATURE CONTROLLED:				
	tert-Amyl peroxy-2-ethylhexanoate, not more than 62% in a diluent type A	31HA1	1000	+15 °C	+20 °C
	tert-Amyl peroxypivalate, not more than 32% in diluent type A	31A	1250	+10 °C	+15 °C
	tert-Butyl peroxy-2-ethylhexanoate, not more than 32% in diluent type B	31HA1	1000	+30 °C	+35 °C
		31A	1250	+30 °C	+35 °C
	tert-Butyl peroxyneodecanoate, not more than 32% in diluent type A	31A	1250	0 °C	+10 °C
	tert-Butyl peroxyneodecanoate, not more than 52%, stable dispersion, in water.	31A	1250	−5 °C	+5 °C
	tert-Butyl peroxypivalate, not more than 27% in diluent type B	31HA1	1000	+10 °C	+15 °C
		31A	1250	+10 °C	+15 °C
	Cumyl peroxyneodecanoate, not more than 52%, stable dispersion, in water.	31A	1250	−15 °C	−5 °C
	Di-(4-tert-butylcyclohexyl) peroxydicarbonate, not more than 42%, stable dispersion, in water.	31HA1	1000	+30 °C	+35 °C
	Dicetyl peroxydicarbonate, not more than 42%, stable dispersion, in water	31HA1	1000	+30 °C	+35 °C
	Dicyclohexylperoxydicarbonate, not more than 42% as a stable dispersion, in water.	31A	1250	+10 °C	+15 °C
	Di-(2-ethylhexyl) peroxydicarbonate, not more than 62%, stable dispersion, in water.	31A	1250	−20 °C	−10 °C
		31HA1	1000	−20 °C	−10 °C
	Diisobutyryl peroxide, not more than 28% as a stable dispersion in water	31HA1	1000	−20 °C	−10 °C
		31A	1250	−20 °C	−10 °C
	Diisobutyryl peroxide, not more than 42% as a stable dispersion in water	31HA1	1000	−25 °C	−15 °C
		31A	1250	−25 °C	−15 °C
	Dimyristyl peroxydicarbonate, not more than 42%, stable dispersion, in water.	31HA1	1000	+15 °C	+20 °C
	Di-(2-neodecanoylperoxyisopropyl) benzene, not more than 42%, stable dispersion, in water.	31A	1250	−15 °C	−5 °C
	Di-(3,5,5-trimethylhexanoyl) peroxide, not more than 52% in diluent type A	31HA1	1000	+10 °C	+15 °C
		31A	1250	+10 °C	+15 °C
	Di-(3,5,5-trimethylhexanoyl) peroxide, not more than 52%, stable dispersion, in water.	31A	1250	+10 °C	+15 °C

TABLE TO PARAGRAPH (e): ORGANIC PEROXIDE IBC TABLE—Continued

UN No.	Organic peroxide	Type of IBC	Maximum quantity (liters)	Control temperature	Emergency temperature
	3-Hydroxy-1,1-dimethylbutyl peroxy-neodecanoate, not more than 52%, stable dispersion, in water.	31A	1250	−15 °C	−5 °C
	1,1,3,3-Tetramethylbutyl peroxy-2-ethylhexanoate, not more than 67%, in diluent type A.	31HA1	1000	+15 °C	+20 °C
	1,1,3,3-Tetramethylbutyl peroxyneodecanoate, not more than 52%, stable dispersion, in water.	31A	1250	−5 °C	+5 °C
		31HA1	1000	−5 °C	+5 °C

* * * * *

(g) *Organic Peroxide Portable Tank Table.* The following Organic Peroxide Portable Tank Table provides certain portable tank requirements and identifies, by technical name, those organic peroxides that are authorized for transportation in the bulk packagings listed in paragraph (h) of this section. Organic peroxides listed in this table, provided they meet the specific packaging requirements found in paragraph (h) of this section, are not subject to the approval provisions of § 173.128 of this part. In addition, the formulations listed below may also be transported packed in accordance with packing method OP8 of this section, with the same control and emergency temperatures, if applicable.

Table to Paragraph (g): Organic Peroxide Portable Tank Table

* * * * *

■ 32. Section 173.232 is added to subpart E to read as follows:

§ 173.232 Articles containing hazardous materials, n.o.s.

(a) Articles containing hazardous materials may be classified as otherwise provided by this subchapter under the proper shipping name for the hazardous materials they contain or in accordance with this section. For the purposes of this section, ''article'' means machinery, apparatus, or other devices containing one or more hazardous materials (or residues thereof) that are an integral element of the article, necessary for its functioning, and that cannot be removed for the purpose of transport. An inner packaging is not an article. For articles that do not have an existing proper shipping name and that contain only hazardous materials within the permitted limited quantity amounts specified in column (8A) of the § 172.101 Table, see UN3363, Dangerous goods in machinery or apparatus, as prescribed in § 172.102(c)(1), Special provision 136, and § 173.222.

(b) Such articles may contain batteries. Lithium batteries that are integral to the article must be of a type proven to meet the testing requirements of the UN Manual of Tests and Criteria, Part III, subsection 38.3 (IBR, *see* § 171.7 of this subchapter), except when otherwise specified by this subchapter.

(c) This section does not apply to articles for which a more specific proper shipping name already exists in the § 172.101 Table. This section does not apply to hazardous materials of Class 1, Division 6.2, Class 7, or radioactive material contained in articles.

(d) Articles containing hazardous materials must be assigned to the appropriate class or division determined by the hazards present using, where applicable, the precedence criteria prescribed in § 173.2a for each of the hazardous materials contained in the article. If hazardous materials classified as Class 9 are contained within the article, all other hazardous materials present in the article must be considered to present a higher hazard.

(e) Subsidiary hazards must be representative of the primary hazard posed by the other hazardous materials contained within the article. When only one item of hazardous materials is present in the article, the subsidiary hazard(s), if any, is the subsidiary hazard(s) identified in column 6 of the § 172.101 Table. If the article contains more than one item of hazardous materials and these could react dangerously with one another during transport, each of the hazardous materials must be enclosed separately.

(f)(1) Packagings must conform to the Packing Group II performance level. The following packagings are authorized:

(i) Drums (1A2, 1B2, 1N2, 1H2, 1D, 1G);

(ii) Boxes (4A, 4B, 4N, 4C1, 4C2, 4D, 4F, 4G, 4H1, 4H2); and

(iii) Jerricans (3A2, 3B2, 3H2).

(2) In addition, for robust articles, the following non-specification packagings are authorized:

(i) Strong outer packagings constructed of suitable material and of adequate strength and design in relation to the packaging capacity and its intended use. Each package must conform to the packaging requirements of subpart B of this part, except for the requirements in §§ 173.24(a)(1) and 173.27(e).

(ii) Articles may be transported unpackaged or on pallets when the hazardous materials are afforded equivalent protection by the article in which they are contained.

(g) The nature of the containment must be as follows—

(1) In the event of damage to the receptacles containing the hazardous materials, no leakage of the hazardous materials from the machinery or apparatus is possible. A leakproof liner may be used to satisfy this requirement.

(2) Receptacles containing hazardous materials must be secured and cushioned so as to prevent their breakage or leakage and to control their movement within the machinery or apparatus during normal conditions of transportation. Cushioning material must not react dangerously with the content of the receptacles. Any leakage of the contents must not substantially impair the protective properties of the cushioning material.

(3) Receptacles for gases, their contents, and filling densities must conform to the applicable requirements of this subchapter, unless otherwise approved by the Associate Administrator.

■ 33. In § 173.301b, paragraphs (c)(1) and (d)(1) are revised to read as follow:

§ 173.301b Additional general requirements for shipment of UN pressure receptacles.

* * * * *

(c) * * *

(1) When the use of a valve is prescribed, the valve must conform to the requirements in ISO 10297:2014(E) (IBR, *see* § 171.7 of this subchapter). Quick release cylinder valves for specification and type testing must conform to the requirements in ISO 17871:2015(E) Gas cylinders—Quick-release cylinder valves—Specification and type testing (IBR, *see* § 171.7 of this subchapter). Until December 31, 2020, the manufacture of a valve conforming to the requirements in ISO

10297:2006(E) is authorized. Until December 31, 2008, the manufacture of a valve conforming to the requirements in ISO 10297:1999(E) (IBR, *see* § 171.7 of this subchapter) is authorized.

* * * * *

(d) * * *

(1) When the use of a valve is prescribed, the valve must conform to the requirements in ISO 11118:2015(E), (IBR, *see* § 171.7 of this subchapter). Manufacture of valves to ISO 13340:2001(E) is authorized until December 31, 2020;

* * * * *

■ 34. In § 173.304b, paragraph (b)(5) is revised to read as follows:

§ 173.304b Additional requirements for shipment of liquefied compressed gases in UN pressure receptacles.

* * * * *

(b) * * *

(5) For liquefied gases charged with compressed gases, both components—the liquefied gas and the compressed gas—must be taken into consideration in the calculation of the internal pressure in the pressure receptacle. The maximum mass of contents per liter of water capacity shall not exceed 95 percent of the density of the liquid phase at 50 °C (122 °F); in addition, the liquid phase shall not completely fill the pressure receptacle at any temperature up to 60 °C (140 °F). When filled, the internal pressure at 65 °C (149 °F) shall not exceed the test pressure of the pressure receptacles. The vapor pressures and volumetric expansions of all substances in the pressure receptacles shall be considered. The maximum filling limits may be determined using the procedure in (3)(e) of P200 of the UN Recommendations.

* * * * *

■ 35. In, § 173.422 paragraphs (d) and (e) are revised and paragraph (f) is added to read as follows:

§ 173.422 Additional requirements for excepted packages containing Class 7 (radioactive) materials.

* * * * *

(d) The training requirements of subpart H of part 172 of this subchapter;

(e) For a material that meets the definition of a hazardous substance or a hazardous waste, the shipping paper requirements of subpart C of part 172 of this subchapter, except that such shipments are not subject to shipping paper requirements applicable to Class 7 (radioactive) materials in §§ 172.202(a)(5), 172.202(a)(6), 172.203(d) and 172.204(c)(4); and

(f) For transportation by vessel—

(1) The following information must be shown on a special transport document such as a bill of lading, air waybill, or other similar document:

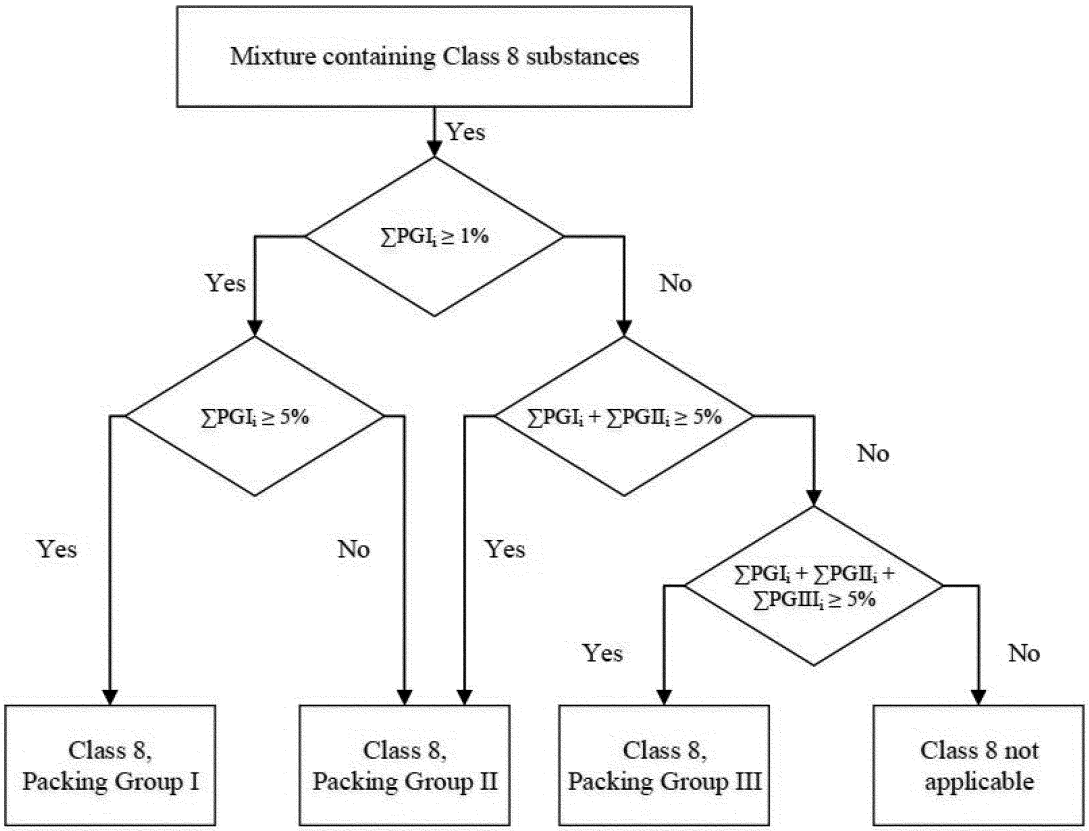
(i) The UN identification number for the material preceded by the letters ''UN'', as shown in column (4) of the Hazardous Materials Table in § 172.101 of this subchapter; and

(ii) The name and address of the consignor and the consignee.

(2) The certificate requirements in § 176.27 must be met.

■ 36. Add appendix I to part 173 to read as follows:

Appendix I to Part 173—Calculation Method



PART 174—CARRIAGE BY RAIL

■ 37. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 33 U.S.C. 1321; 49 CFR 1.81 and 1.97.

■ 38. Revise § 174.50 to read as follows:

§ 174.50 Nonconforming or leaking packages.

A leaking non-bulk package may not be forwarded until repaired,

reconditioned, or overpacked in accordance with § 173.3 of this subchapter. Except as otherwise provided in this section, a bulk packaging that no longer conforms to this subchapter may not be forwarded by rail unless repaired or approved for movement by the Associate Administrator for Safety, Federal Railroad Administration, or for cross-border movements to or from Canada, moved in accordance with the TDG Regulations (*see* § 171.12) or a Temporary Certificate issued by the Competent Authority of Canada, as applicable. For FRA Approval, notification and approval must be in writing, or through telephonic or electronic means, with subsequent written confirmation provided within two weeks. For the applicable address and telephone number, *see* § 107.117(d)(4) of this chapter. A leaking bulk package containing a hazardous material may be moved without repair or approval only so far as necessary to reduce or to eliminate an immediate threat or harm to human health or to the environment when it is determined its movement would provide greater safety than allowing the package to remain in place. In the case of a liquid leak, measures must be taken to prevent the spread of liquid.

PART 175—CARRIAGE BY AIRCRAFT

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

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81 and 1.97.

■ 40. In § 175.10, revise paragraphs (a)(2), (3), (14), (15), (a)(17)(v) introductory text, paragraphs (a)(18) and (19), and add paragraph (a)(26) to read as follows:

§ 175.10 Exceptions for passengers, crewmembers, and air operators.

(a) * * *

(2) One packet of safety matches or a lighter intended for use by an individual when carried on one's person or in carry-on baggage only. Lighter fuel, lighter refills, and lighters containing unabsorbed liquid fuel (other than liquefied gas) are not permitted on one's person or in carry-on or checked baggage. For lighters powered by lithium batteries (*e.g.,* laser plasma lighters, tesla coil lighters, flux lighters, arc lighters and double arc lighters), each battery must be of a type which meets the requirements of each test in the UN Manual of Tests and Criteria, Part III, Subsection 38.3 (IBR, *see* § 171.7 of this subchapter). The lighters must be equipped with a safety cap or similar means of protection to prevent unintentional activation of the heating element while on board the aircraft. Recharging of the devices and/or the batteries on board the aircraft is not permitted. Each battery must not exceed the following:

(i) For lithium metal batteries, a lithium content of 2 grams; or

(ii) For lithium ion batteries, a Watt-hour (Wh) rating of 100 Wh.

(3) Medical devices that contain radioactive materials (*e.g.,* cardiac pacemaker) implanted or externally fitted in humans or animals and radiopharmaceuticals that have been injected or ingested as the result of medical treatment.

* * * * *

(14) Battery powered heat-producing devices (*e.g.,* battery-operated equipment such as diving lamps and soldering equipment) as checked or carry-on baggage and with the approval of the operator of the aircraft. The heating element, the battery, or other component (*e.g.,* fuse) must be isolated to prevent unintentional activation during transport. Any battery that is removed must be carried in accordance with the provisions for spare batteries in paragraph (a)(18) of this section.

Each installed or spare lithium battery:

(i) For a lithium metal battery, a lithium content must not exceed 2 grams; or

(ii) For a lithium ion battery, the Watt-hour rating must not exceed 100 Wh.

(15) A wheelchair or other battery-powered mobility aid equipped with a non-spillable battery or a dry sealed battery when carried as checked baggage, provided—

(i) The battery conforms to the requirements of § 173.159a(d) of this subchapter for non-spillable batteries;

(ii) The battery conforms to the requirements of § 172.102(c)(1), special provision 130 of this subchapter for dry sealed batteries, as applicable;

(iii) Visual inspection including removal of the battery, where necessary, reveals no obvious defects (removal of the battery from the housing should be performed by qualified airline personnel only);

(iv) The battery is disconnected and the battery terminals are protected to prevent short circuits, unless the wheelchair or mobility aid design provides an effective means of preventing unintentional activation;

(v) The non-spillable battery is—

(A) Securely attached to the wheelchair or mobility aid;

(B) Removed and placed in a strong, rigid packaging marked ''NONSPILLABLE BATTERY'' (unless fully enclosed in a rigid housing that is properly marked); or

(C) Is handled in accordance with paragraph (a)(16)(iv) of this section; and

(vi) The dry sealed battery is—

(A) Securely attached to the wheelchair or mobility aid; or

(B) Removed and placed in a strong, rigid packaging marked with the words ''not restricted'' in accordance with § 172.102(c)(2), special provision 130, of this subchapter;

(vii) A maximum of one spare battery that conforms to the requirements in (a)(15)(i) or (ii) may be carried per passenger if handled in accordance with paragraph (a)(15)(v) or (vi) of this section, as applicable.

* * * * *

(17) * * *

(v) Where a lithium ion battery-powered wheelchair or other mobility aid does not provide adequate protection to the battery:

* * * * *

(18) Except as provided in § 173.21 of this subchapter, portable electronic devices (*e.g.,* watches, calculating machines, cameras, cellular phones, laptop and notebook computers, camcorders, medical devices, etc.) containing dry cells or dry batteries (including lithium cells or batteries) and spare dry cells or batteries for these devices, when carried by passengers or crew members for personal use. Portable electronic devices powered by lithium batteries may be carried in either checked or carry-on baggage. When carried in checked baggage, portable electronic devices powered by lithium batteries must be completely switched off (not in sleep or hibernation mode) and protected to prevent unintentional activation or damage. Spare lithium batteries must be carried in carry-on baggage only. Each installed or spare lithium battery must be of a type proven to meet the requirements of each test in the UN Manual of Tests and Criteria, Part III, Sub-section 38.3, and each spare lithium battery must be individually protected so as to prevent short circuits (*e.g.,* by placement in original retail packaging, by otherwise insulating terminals by taping over exposed terminals, or placing each battery in a separate plastic bag or protective pouch). In addition, each installed or spare lithium battery:

(i) For a lithium metal battery, the lithium content must not exceed 2 grams. With the approval of the operator, portable medical electronic devices (*e.g.,* automated external defibrillators (AED), nebulizer, continuous positive airway pressure (CPAP), etc.) may contain lithium metal

batteries exceeding 2 grams, but not exceeding 8 grams. With the approval of the operator, no more than two lithium metal batteries each exceeding 2 grams, but not exceeding 8 grams, may be carried as spare batteries for portable medical electronic devices in carry-on baggage and must be carried with the portable medical electronic device the spare batteries are intended to operate;

(ii) For a lithium ion battery, the Watt-hour rating must not exceed 100 Wh. With the approval of the operator, portable electronic devices may contain lithium ion batteries exceeding 100 Wh, but not exceeding 160 Wh and no more than two individually protected lithium ion batteries each exceeding 100 Wh, but not exceeding 160 Wh, may be carried per person as spare batteries in carry-on baggage.

(iii) For a non-spillable battery, the battery and equipment must conform to § 173.159a(d). Each battery must not exceed a voltage greater than 12 volts and a watt-hour rating of not more than 100 Wh. No more than two individually protected spare batteries may be carried. Such equipment and spare batteries must be carried in checked or carry-on baggage.

(iv) Articles containing lithium metal or lithium ion cells or batteries the primary purpose of which is to provide power to another device must be carried as spare batteries in accordance with the provisions of this paragraph.

(19) Except as provided in § 173.21 of this subchapter, battery-powered portable electronic smoking devices (*e.g.,* e-cigarettes, e-cigs, e-cigars, e-pipes, e-hookahs, personal vaporizers, electronic nicotine delivery systems) when carried by passengers or crewmembers for personal use must be carried on one's person or in carry-on baggage only. Measures must be taken to prevent unintentional activation of the heating element while on board the aircraft. Spare lithium batteries also must be carried on one's person or in carry-on baggage only and must be individually protected so as to prevent short circuits (by placement in original retail packaging or by otherwise insulating terminals, *e.g.,* by taping over exposed terminals or placing each battery in a separate plastic bag or protective pouch). Each lithium battery must be of a type which meets the requirements of each test in the UN Manual of Tests and Criteria, Part III, Subsection 38.3. Recharging of the devices and/or the batteries on board the aircraft is not permitted. Each installed or spare lithium battery:

(i) For a lithium metal battery, the lithium content must not exceed 2 grams; or

(ii) For a lithium ion battery, the Watt-hour rating must not exceed 100 Wh.

* * * * *

(26) Baggage equipped with lithium battery(ies) must be carried as carry-on baggage unless the battery(ies) is removed from the baggage. Removed battery(ies) must be carried in accordance with the provision for spare batteries prescribed in paragraph (a)(18) of this section. The provisions of this paragraph do not apply to baggage equipped with lithium batteries not exceeding:

(i) For lithium metal batteries, a lithium content of 0.3 grams; or

(ii) For lithium ion batteries, a Watt-hour rating of 2.7 Wh.

* * * * *

■ 41. In § 175.33, paragraphs (a)(13)(i) and (iii) are revised to read as follows:

§ 175.33 Shipping paper and notification of pilot-in-command.

(a) * * *

(13)(i) For UN3480, Lithium ion batteries, and UN3090, Lithium metal batteries, the information required by paragraph (a) of this section may be replaced by the UN number, proper shipping name, hazard class, total quantity at each specific loading location, the airport at which the package(s) is to be unloaded, and whether the package must be carried on cargo-only aircraft.

* * * * *

(iii) For UN3480, UN3481, UN3090, and UN3091 prepared in accordance with § 173.185(c), except those prepared in accordance with § 173.185(c)(5), are not required to appear on the information to the pilot-in-command.

* * * * *

■ 42. In § 175.78, paragraph (b) is revised and paragraph (c)(8) is added to read as follows:

§ 175.78 Stowage compatibility of cargo.

* * * * *

(b)(1) At a minimum, the segregation instructions prescribed in the following Segregation Table must be followed to maintain acceptable segregation between packages containing hazardous materials with different hazards. The Segregation Table instructions apply whether or not the class or division is the primary or subsidiary risk.

(2) Packages and overpacks containing articles of Identification Numbers UN3090 and UN3480 prepared in accordance with § 173.185(b)(3) and (c)(4)(vi) must not be stowed on an aircraft next to, in contact with, or in a position that would allow interaction with packages or overpacks containing hazardous materials that bear a Class 1 (other than Division 1.4S), Division 2.1, Class 3, Division 4.1, or Division 5.1 hazard label. To maintain acceptable segregation between packages and overpacks, the segregation requirements shown in the Segregation Table must be followed. The segregation requirements apply based on all hazard labels applied to the package or overpack, irrespective of whether the hazard is the primary or subsidiary hazard.

TABLE TO PARAGRAPH (b): SEGREGATION TABLE

Hazard label	Class or division										
	1	2.1	2.2, 2.3	3	4.1	4.2	4.3	5.1	5.2	8	9 see (b)(2)
1	Note 1	Note 2	Note 2	Note 2	Note 2	Note 2	Note 2	Note 2	Note 2	Note 2	Note 2
2.1	Note 2										X
2.2, 2.3	Note 2										
3	Note 2							X (Note 3)			X
4.1	Note 2										X
4.2	Note 2							X			
4.3	Note 2									X	
5.1	Note 2			X (Note 3)		X					X
5.2	Note 2										
8	Note 2						X				
9 see (b)(2)	Note 2	X		X	X			X			

* * * * *

(c) * * *

(8) Note 3. ''Note 3'' at the intersection of a row and column means that UN 3528, Engines, internal combustion, flammable liquid powered; Engines, fuel cell, flammable liquid powered; Machinery internal combustion, flammable liquid powered; and Machinery, fuel cell, flammable liquid powered need not be segregated from packages containing dangerous goods in Division 5.1.

PART 176—CARRIAGE BY VESSEL

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

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 44. In § 176.30, paragraph (a)(9) is added to read as follows:

§ 176.30 Dangerous cargo manifest.

* * * * *

(a) * * *

(9) For excepted packages containing Class 7 materials only the following information is required:

(i) The UN identification number for the material preceded by the letters ''UN'';

(ii) The name and address of the consignor and the consignee; and

(iii) The stowage location of the hazardous material on board the vessel.

* * * * *

■ 45. In § 176.84, add provisions 151, 152, 153, and 154 to the table in paragraph (b) to read as follows:

§ 176.84 Other requirements for stowage, cargo handling, and segregation for cargo vessels and passenger vessels.

* * * * *

(b) * * *

Code	Provisions
*	* * * * * *
151	Segregation as for Class 7.
152	Segregation as for Class 8. However, in relation to Class 7, no segregation needs to be applied.
153	Stow ''separated longitudinally by an intervening complete compartment or hold from'' Divisions 1.1, 1.2, and 1.5.
154	Notwithstanding the stowage category indicated in column 10A of the § 172.101 Table, may be stowed in accordance with the provisions of packing instruction US 1 in § 173.62.

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

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

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 47. In § 178.71:

■ a. Revise paragraph (d)(2);

■ b. Revise parargah (f) introductory text,

■ c. Add paragraph (f)(4); and

■ d. Revise paragraphs (i), (j), and (q)(12).

The addition and revisions read as follows:

§ 178.71 Specifications for UN pressure receptacles.

* * * * *

(d) * * *

(2) Service equipment must be configured, or designed, to prevent damage that could result in the release of the pressure receptacle contents during normal conditions of handling and transport. Manifold piping leading to shut-off valves must be sufficiently flexible to protect the valves and the piping from shearing or releasing the pressure receptacle contents. The filling and discharge valves and any protective caps must be secured against unintended opening. The valves must conform to ISO 10297:2014(E) or, for non-refillable pressure receptacles valves manufactured until December 31, 2020, ISO 13340:2001(E) (IBR, *see* § 171.7 of this subchapter), and be protected as specified in § 173.301b(f) of this subchapter. Until December 31, 2020, the manufacture of a valve conforming to the requirements in ISO 10297:2006(E) (IBR, *see* § 171.7 of this subchapter) is authorized. Until December 31, 2008, the manufacture of a valve conforming to the requirements in ISO 10297:1999(E) (IBR, *see* § 171.7 of this subchapter) is authorized. Additionally, valves must be initially inspected and tested in accordance with ISO 14246:2014(E) Gas cylinders—Cylinder valves—Manufacturing tests and examinations (IBR, *see* § 171.7 of this subchapter).

* * * * *

(f) *Design and construction requirements for UN refillable welded cylinders and UN pressure drums.* In addition to the general requirements of this section, UN refillable welded cylinders and UN pressure drums must conform to the following ISO standards, as applicable:

* * * * *

(4) ISO 21172–1:2015(E) Gas cylinders—Welded steel pressure drums up to 3,000 litres capacity for the transport of gases—Design and construction—Part 1: Capacities up to 1,000 litres (IBR, *see* § 171.7 of this subchapter). Irrespective of section 6.3.3.4 of this standard, welded steel gas pressure drums with dished ends convex to pressure may be used for the transport of corrosive substances provided all applicable additional requirements are met.

* * * * *

(i) *Design and construction requirements for UN non-refillable metal cylinders.* In addition to the general requirements of this section, UN non-refillable metal cylinders must conform to ISO 11118:2015(E) Gas cylinders—Non-refillable metallic gas cylinders—Specification and test methods (IBR, *see* § 171.7 of this subchapter). Until December 31, 2020, cylinders conforming to ISO 11118:1999(E) Gas cylinders—Non-refillable metallic gas cylinders—Specification and test methods (IBR, *see* § 171.7 of this subchapter) are authorized.

(j) *Design and construction requirements for UN refillable seamless steel tubes.* In addition to the general requirements of this section, UN refillable seamless steel tubes must conform to ISO 11120:2015(E) Gas cylinders—Refillable seamless steel tubes of water capacity between 150 L and 3,000 L—Design, construction and testing (IBR, *see* § 171.7 of this subchapter). Until December 31, 2022, UN refillable seamless steel tubes may be manufactured in accordance with ISO 11120: Gas cylinders—Refillable seamless steel tubes of water capacity between 150 L and 3,000 L—Design, construction and testing (IBR, *see* § 171.7 of this subchapter)

* * * * *

(q) * * *

(12) Identification of the cylinder thread type (*e.g.,* 25E). Information on the marks that may be used for identifying threads for cylinders is given in ISO/TR 11364, Gas Cylinders—Compilation of national and international valve stem/gas cylinder neck threads and their identification and marking system (IBR, *see* § 171.7 of this subchapter).

* * * * *

■ 48. In § 178.75, paragraph (d)(3)(v) is revised to read as follows:

§ 178.75 Specifications for MEGCs.

* * * * *

(d) * * *

(3) * * *

(v) ISO 11120:2015(E) Gas cylinders—Refillable seamless steel tubes of water capacity between 150 L and 3000 L—Design, construction and testing (IBR, *see* § 171.7 of this subchapter). Until December 31, 2022, pressure receptacles of a MEGC may be constructed and tested in accordance with ISO 11120:1999(E) Gas cylinders—Refillable seamless steel tubes of water capacity between 150 L and 3000 L—Design, construction and testing (IBR, *see* § 171.7 of this subchapter).

* * * * *

■ 49. In § 178.601, paragraph (l)(2)(viii) is revised to read as follows:

§ 178.601 General requirements.

* * * * *

(1) * * *

(2) * * *

(viii) Characteristics of test contents, including for plastic packagings subject to the hydrostatic pressure test in § 178.605 of this subpart, the temperature of the water used;

* * * * *

■ 50. In § 178.801, paragraph (l)(2)(viii) is revised to read as follows:

§ 178.801 General Requirements.

* * * * *

(1) * * *

(2) * * *

(viii) Characteristics of test contents, including for rigid plastics and composite IBCs subject to the hydrostatic pressure test in § 178.814 of this subpart, the temperature of the water used;

* * * * *

■ 51. In § 178.810, paragraph (c)(2) is revised to read as follows:

§ 178.810 Drop test.

* * * * *

(c) * * *

(2) IBC design types with a capacity of 0.45 cubic meters (15.9 cubic feet) or less must be subject to an additional drop test. The same IBC or a different IBC of the same design may be used for each drop.

* * * * *

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

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

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 53. In § 180.207, paragraphs (a)(2) and (d)(1) and (4) are revised and paragraph (d)(6) is added to read as follows:

§ 180.207 Requirements for requalification of UN pressure receptacles.

* * * * *

(a) * * *

(2) No pressure receptacle due for requalification may be filled with a hazardous material and offered for transportation in commerce unless that pressure receptacle has been successfully requalified and marked in accordance with this subpart or requalified and marked by a facility registered by Transport Canada in accordance with the Transport Canada TDG Regulations (IBR, *see* § 171.7 of this subchapter). A pressure receptacle may be requalified at any time during or before the month and year that the requalification is due. However, a pressure receptacle filled before the requalification becomes due may remain in service until it is emptied. In accordance with the Transport Canada TDG Regulations a CAN marked UN cylinder may be requalified in the United States by a domestic requalifier, provided the requirements in §§ 178.69, 178.70, and 178.71, as applicable, are met.

* * * * *

(d) * * *

(1) Seamless steel: Each seamless steel UN pressure receptacle, including MEGC's pressure receptacles, must be requalified in accordance with ISO 6406:2005(E) (IBR, *see* § 171.7 of this subchapter). However, UN cylinders with a tensile strength greater than or equal to 950 MPa must be requalified by ultrasonic examination in accordance with ISO 6406:2005(E). For seamless steel cylinders and tubes, the internal inspection and hydraulic pressure test may be replaced by a procedure conforming to ISO 16148:2016(E) (IBR, *see* § 171.1).

* * * * *

(4) Composite UN cylinders: Each composite cylinder must be inspected and tested in accordance with ISO 11623:2015(E) (IBR, *see* § 171.7 of this subchapter). Until December 31, 2020, ISO 11623:2002(E) (IBR, *see* § 171.7 of this subchapter) may be used.

* * * * *

(6) Valves: Inspection and maintenance of cylinder valves must be carried out in accordance with ISO 22434:2006 Transportable gas cylinders—Inspection and maintenance of cylinder valves (IBR, *see* § 171.7 of this subchapter).

■ 54. In § 180.217, paragraph (a) is revised to read as follows:

§ 180.217 Requalification requirements for MEGCs.

(a) *Periodic inspections.* Each MEGC must be given an initial visual inspection and test in accordance with § 178.75(i) of this subchapter before being put into service for the first time. After the initial inspection, a MEGC must be inspected at least once every five years in accordance with this subpart or by a facility registered by Transport Canada in accordance with the Transport Canada TDG Regulations (IBR, *see* § 171.7 of this subchapter).

* * * * *

Issued in Washington, DC on March 19, 2020, under authority delegated in 49 CFR 1.97.

Howard R. Elliott,

Administrator, Pipeline and Hazardous Materials Safety Administration.

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FEDERAL REGISTER

Vol. 85 Monday,

No. 91 May 11, 2020

Part III

The President

Proclamation 10027—National Day of Prayer, 2020

Proclamation 10028—National Nurses Day, 2020

Federal Register
Vol. 85, No. 91
Monday, May 11, 2020

Presidential Documents

Title 3—

The President

Proclamation 10027 of May 6, 2020

National Day of Prayer, 2020

By the President of the United States of America

A Proclamation

On this National Day of Prayer, Americans reaffirm that prayer guides and strengthens our Nation, and we express, with humility and gratitude, our ''firm reliance on the protection of divine Providence.'' As one Nation under God, we share a legacy of faith that sustains and inspires us and a heritage of religious liberty. Today, we join together and lift up our hearts, remembering the words of 1 John 5:14 that tell us when ''we ask anything according to His will, He hears us.''

From our earliest days, our dependence upon God has brought us to seek His divine counsel and unfailing wisdom. Our leaders have often encouraged their fellow citizens to seek wisdom from God and have recognized God's power to lead our Nation ahead to brighter days. When the prospects for our independence seemed bleak, General George Washington proclaimed a national day of ''fasting, humiliation and prayer, humbly to supplicate the mercy of Almighty God.'' Following the devastating destruction of the Civil War, President Lincoln delivered his second inaugural address and invoked the power of prayer to ''bind up the nation's wounds.'' And more than 100 years later, President Reagan noted our long reliance on prayer throughout our history, writing that ''through the storms of revolution, Civil War, and the great world wars as well as during times of disillusionment and disarray, the Nation has turned to God in prayer for deliverance.''

Today, as much as ever, our prayerful tradition continues as our Nation combats the coronavirus. During the past weeks and months, our heads have bowed at places outside of our typical houses of worship, whispering in silent solitude for God to renew our spirit and carry us through unforeseen and seemingly unbearable hardships. Even though we have been unable to gather together in fellowship with our church families, we are still connected through prayer and the calming reassurance that God will lead us through life's many valleys. In the midst of these trying and unprecedented times, we are reminded that just as those before us turned to God in their darkest hours, so must we seek His wisdom, strength, and healing hand. We pray that He comforts those who have lost loved ones, heals those who are sick, strengthens those on the front lines, and reassures all Americans that through trust in Him, we can overcome all obstacles.

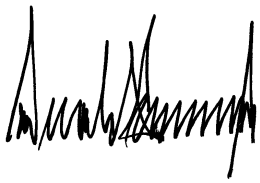
May we never forget that prayer guides and empowers our Nation and that all things are possible with God. In times of prosperity, strife, peace, and war, Americans lean on His infinite love, grace, and understanding. Today, on this National Day of Prayer, let us come together and pray to the Almighty that through overcoming this coronavirus pandemic, we develop even greater faith in His divine providence.

In 1988, the Congress, by Public Law 100–307, as amended, called on the President to issue each year a proclamation designating the first Thursday in May as a National Day of Prayer, ''on which the people of the United States may turn to God in prayer and meditation at churches, in groups, and as individuals.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim May 7, 2020, as a National Day of Prayer.

I encourage all Americans to observe this day, reflecting on the blessings our Nation has received and the importance of prayer, with appropriate programs, ceremonies, and activities in their houses of worship, communities, and places of work, schools, and homes consistent with the White House's ''Guidelines for Opening up America Again.''

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of May, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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Presidential Documents

Proclamation 10028 of May 6, 2020

National Nurses Day, 2020

By the President of the United States of America

A Proclamation

Every day, nurses provide quality, compassionate, and critical care to patients during both routine medical visits and in times of great vulnerability, fear, and uncertainty. Over the past weeks and months, as our nurses have worked heroically on the frontlines of the coronavirus response, their contributions to the health and well-being of our citizenry have been exponentially magnified. On National Nurses Day, we honor and celebrate the extraordinary men and women who devote themselves to this vital and noble profession.

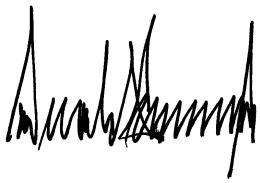
Nursing is not merely a vocation; it is a special calling to serve others selflessly, particularly in times when help is needed most. Throughout our Nation's history, in times of war, natural disaster, medical emergencies, and both epidemics and pandemics, nurses have rushed in—undaunted by danger, personal sacrifice, and discomfort to provide hope, help, and healing to people in need.

Few times has our reliance on nurses been more profoundly evident than during the coronavirus outbreak. In the midst of this crisis, nurses have displayed incredible examples of humanity, selflessness, and sacrifice as they have fought to care for their fellow citizens and save lives. Nationwide, in hospitals, clinics, and other treatment centers where Americans are suffering from the virus, these warriors have steadfastly provided remarkable care and vital assistance to patients. In spite of fatigue and the threat to their own health, nurses soldier on in combat against this invisible enemy. Often the first to treat patients in our hospitals, they provide critical support to doctors, alleviating burdens throughout our healthcare system. They are adaptable and capable of enduring and overcoming unbearable hardship, immeasurable stress, tremendously long hours, and extreme mental and emotional exhaustion so that others may live. Nurses are awe-inspiring and truly worthy of admiration and praise.

Nurses reflect the character of America and epitomize the inexhaustible capacity of the human spirit. These remarkable caregivers exhibit professional expertise, selfless dedication, unrelenting advocacy, and unsurpassed mercy, strength, and compassion. On this National Nurses Day, Melania and I urge all citizens to join us in offering our wholehearted gratitude, uncompromising support, and utmost respect to these invaluable healthcare professionals.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 6, 2020, as National Nurses Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of May, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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