

International Claims Settlement Act of 1949.

**Authority:** Sec.1705(a)(2), Pub. L. 114–328, 114th Cong., 130 Stat. 2644.

### § 510.1 Definitions

For purposes of this subchapter:

*Personal injury* means a discernible injury (such as disfigurement, scarring, or burns) that is more serious than a superficial injury.

*Severe personal injury* means loss of a limb, dismemberment, paralysis, or any injury of a similar type or that is comparable in severity.

### § 510.2 Time for filing.

Claims for payments under the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114–328 (the “Act”), must be filed not later than one year after the date on which the Commission publishes the notice described in section 1705(b)(2)(B) of the Act.

### § 510.3 Applicability of administrative provisions concerning claims under the International Claims Settlement Act of 1949.

To the extent they are not inconsistent with the provisions of the Act, the following provisions of subchapter C of this chapter shall be applicable to claims under this subchapter: §§ 509.2, 509.3, 509.4, 509.5, and 509.6.

Brian M. Simkin,  
Chief Counsel.

[FR Doc. 2017–06461 Filed 3–31–17; 8:45 am]

BILLING CODE 4410–BA–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket Nos. 10–90, 14–58; CC Docket No. 01–92; FCC 16–33]

### Connect America Fund, ETC Annual Reports and Certifications, Developing a Unified Inter-carrier Compensation Regime

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects errors in a **Federal Register** document that corrected errors to an original **Federal Register** document that adopted significant reforms to place the universal service program on solid footing for the next decade to “preserve and advance” voice and broadband service in areas served by rate-of-return carriers. The document was published in the **Federal Register** on March 20, 2017.

**DATES:** Effective April 3, 2017.

**FOR FURTHER INFORMATION CONTACT:** Alexander Minard, Wireline Competition Bureau, (202) 418–7400.

**SUPPLEMENTARY INFORMATION:** This summary contains corrections to a **Federal Register** document, 82 FR 14338 (March 20, 2017).

### Corrections

In final rule FR Doc. 2017–04715, published March 20, 2017 (82 FR 14338), make the following correction:

#### § 54.303 [Corrected]

■ 1. On page 14339, in the first column, amendatory instruction 3 is corrected to read “In § 54.303, revise paragraphs (a)(1), (b), (c)(2), (e), and (f)(1) to read as follows:”

Federal Communications Commission.

Marlene H. Dortch,  
Secretary.

[FR Doc. 2017–06485 Filed 3–31–17; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 270, and 272**

[Docket No. FRA–2016–0021; Notice No. 2]

RIN 2130–AC65

### Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act for a Violation of a Federal Railroad Safety Law, Federal Railroad Administration Safety Regulation or Order, or the Hazardous Material Transportation Laws or Regulations, Orders, Special Permits, and Approvals Issued Under Those Laws

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, FRA is adjusting the minimum, maximum, and aggravated maximum penalties it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority. FRA is also adjusting the minimum penalty, ordinary maximum penalty,

and aggravated maximum penalty that it will apply when assessing a civil monetary penalty for a knowing violation of the Federal hazardous material transportation laws or a regulation, special permit, order, or approval issued under those laws. The aggravated maximum penalty under the hazardous material transportation laws is available only for a violation that results in death, serious illness, or severe injury to any person or substantial destruction of property.

**DATES:** This final rule is effective April 3, 2017.

**FOR FURTHER INFORMATION CONTACT:** Veronica Chittim, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Mail Stop 10, Washington, DC 20590 (telephone 202–493–0273), [veronica.chittim@dot.gov](mailto:veronica.chittim@dot.gov).

**SUPPLEMENTARY INFORMATION:** On November 2, 2015, President Barack Obama signed the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Inflation Act). Public Law 114–74, sec. 701. This amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Act) that required each agency to (1) adjust by regulation each maximum civil monetary penalty (CMP), or range of minimum and maximum CMPs, within that agency’s jurisdiction by October 23, 1996, and (2) adjust those penalty amounts once every four years thereafter, to reflect inflation. See Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461, note, as amended by sec. 31001(s)(1) of the Debt Collection Improvement Act of 1996, Public Law 104–134, April 26, 1996, 110 Stat. 1321–373. Under the 2015 Inflation Act, agencies must make annual inflation adjustments, starting January 15, 2017, based on Office of Management and Budget (OMB) guidance.

In the 2015 Inflation Act, Congress recognized the important role CMPs play in deterring violations of Federal laws, regulations, and orders and determined that inflation has diminished the impact of these penalties. In the Inflation Act, Congress countered the effect that inflation has had on the CMPs by having the agencies charged with enforcement responsibility administratively adjust the CMPs.

FRA is authorized as the delegate of the Secretary of Transportation (Secretary) to enforce the Federal railroad safety statutes, regulations, and orders, including the civil penalty provisions codified primarily at 49 U.S.C. ch. 213. See 49 U.S.C. 103 and 49 CFR 1.89; 49 U.S.C. chs. 201–213. FRA currently has safety regulations in 34 parts of the CFR that contain

provisions establishing the agency's authority to impose civil penalties if a person violates any requirement in the pertinent portion of a statute or the CFR. In this final rule, FRA is amending each of the separate regulatory provisions and the corresponding footnotes in each Schedule of Civil Penalties appended to those regulations to raise the minimum CMP to \$853, ordinary maximum CMP to \$27,904, and aggravated maximum CMP to \$111,616. Where applicable, FRA is also amending the corresponding appendices to those regulatory provisions which outline FRA enforcement policy. See 49 CFR part 209, app. A; 49 CFR part 228, app. A.

FRA is also publishing this final rule under 49 U.S.C. 5123 and 5124, which authorize civil and criminal penalties for violations of the Federal hazardous material transportation laws or a regulation, order, special permit, or approval issued under those laws. The Pipeline and Hazardous Materials Safety Administration (PHMSA) issues the hazardous material transportation regulations. 49 CFR 1.96(b)(1). However, FRA is authorized, as the Secretary's delegate, to enforce the hazardous material statutes, regulations and orders, including the civil penalty provisions codified primarily at 49 U.S.C. 5123. 49 CFR 1.89(j). In this final rule, FRA amends all references to the minimum and maximum civil penalties in 49 CFR part 209, app. B, to raise the minimum CMP for hazardous materials training violations<sup>1</sup> from \$463 to \$471; the ordinary maximum CMP per violation from \$77,114 to \$78,376; and the aggravated maximum CMP from \$179,933 to \$182,877.

### Description of the Adjustment Calculation

The 2015 Inflation Act requires FRA to calculate the inflation adjustment by increasing the maximum CMP, or the range of minimum and maximum CMPs, based on the Consumer Price Index for the month of October 2016, not seasonally adjusted. OMB guidance, M-17-11, "Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015," dated Dec. 16, 2016, states that after applying the multiplier of 1.01636, FRA must round the penalty levels to the nearest dollar.<sup>2</sup>

<sup>1</sup> There is no minimum CMP for other hazardous materials violations not related to training. See Moving Ahead for Progress in the 21st Century Act, Public Law 112-141, July 6, 2012, sec. 33010; 78 FR 9845, Feb. 12, 2013.

<sup>2</sup> Available at [https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11\\_0.pdf](https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf). See also Public Law 114-74, sec. 701.

As the following calculations show, after calculating the inflation adjustment, FRA determined the minimum CMP for rail safety violations should increase to \$853; the ordinary maximum CMP should increase to \$27,904; and the aggravated maximum CMP should increase to \$111,616. FRA also determined the minimum CMP for hazardous materials training violations should increase to \$471; the ordinary maximum CMP per hazardous material violation should increase to \$78,376; and the aggravated maximum CMP per hazardous material violation should increase to \$182,877.

### Calculations To Determine CMP Updates for 2017

#### 1. Minimum Rail Safety CMP of \$839 Raised to \$853

FRA evaluated the minimum rail safety CMP as the 2015 Inflation Act requires. Based on the following calculations, FRA concluded it should increase from \$839 to \$853. The 2016 multiplier of 1.01636 times \$839 equals \$852.73, or \$853 rounded to the nearest dollar. The inflation adjusted minimum penalty is \$853, and applies to all the rail safety statutes, regulations, and orders. This new FRA minimum penalty will apply to penalties assessed on or after January 15, 2017.

#### 2. Ordinary Maximum Rail Safety CMP of \$27,455 Raised to \$27,904

FRA evaluated the ordinary maximum rail safety CMP as the 2015 Inflation Act requires. Based on the following calculations, FRA determined it should increase from \$27,455 to \$27,904. The 2016 multiplier of 1.01636 times \$27,455 equals \$27,904.16, or \$27,904 rounded to the nearest dollar. The inflation adjusted ordinary maximum penalty is \$27,904, and applies to all the rail safety statutes, regulations, and orders. This new FRA ordinary maximum penalty will apply to penalties assessed on or after January 15, 2017.

#### 3. Aggravated Maximum Rail Safety CMP of \$109,819 Raised to \$111,616

FRA also evaluated the maximum CMP for an aggravated rail safety violation and determined it should increase from \$109,819 to \$111,616, as the following calculations show. The 2016 multiplier of 1.01636 times \$109,819 equals \$111,615.64, or \$111,616 rounded to the nearest dollar. The inflation adjusted aggravated maximum penalty is \$111,616, and applies to all the rail safety statutes, regulations, and orders. This new FRA aggravated maximum penalty will apply

to penalties assessed on or after January 15, 2017.

#### 4. Minimum CMP of \$463 for Hazardous Materials Training Violations Raised to \$471

FRA evaluated the minimum CMP for hazardous materials training violations and determined it should increase from \$463 to \$471 as the following calculations show. The 2016 multiplier of 1.01636 times \$463 equals \$470.57, or \$471 rounded to the nearest dollar. The inflation adjusted minimum penalty for hazardous materials training violations is \$471, and applies to all violations of the hazardous materials statutes, regulations, special permits, approvals, and orders related to training. This new FRA minimum penalty for training violations will apply to penalties assessed on or after January 15, 2017.

#### 5. Ordinary Maximum Hazardous Materials CMP of \$77,114 Raised to \$78,376

FRA evaluated the ordinary maximum hazardous materials CMP as the 2015 Inflation Act requires. Based on the following calculations, FRA determined it should increase from \$77,114 to \$78,376. The 2016 multiplier of 1.01636 times \$77,114 equals \$78,375.59, or \$78,376 rounded to the nearest dollar. The inflation adjusted ordinary maximum penalty is \$78,376, and applies to all violations of the hazardous materials transportation statutes, regulations, special permits, approvals, and orders. This new FRA ordinary maximum penalty will apply to penalties assessed on or after January 15, 2017.

#### 6. Aggravated Maximum Hazardous Materials CMP of \$179,933 Raised to \$182,877

FRA also evaluated the maximum hazardous materials CMP for an aggravated violation and determined, based on the following calculations, it should increase from \$179,933 to \$182,877. The 2016 multiplier of 1.01636 times \$179,933 equals \$182,876.70, or \$182,877 rounded to the nearest dollar. The inflation adjusted aggravated maximum penalty is \$182,877, and applies to all violations of the hazardous materials transportation statutes, regulations, special permits, approvals, and orders. This new FRA aggravated maximum penalty will apply to penalties assessed on or after January 15, 2017.

### Public Participation

FRA is proceeding to a final rule without a notice of proposed rulemaking or an opportunity for public

comment. The adjustments the 2015 Inflation Act requires are ministerial acts over which FRA has no discretion, making public comment unnecessary. As such, notice and comment procedures are “impracticable, unnecessary, or contrary to the public interest” under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B). FRA is issuing these amendments as a final rule applicable to all future rail safety and hazardous materials transportation civil penalty cases under its authority to cite for violations that occur on or after the effective date of this final rule.

### Regulatory Impact

#### A. Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

FRA evaluated this final rule consistent with Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT policies and procedures. In this final rule, FRA solely implements the annual inflation adjustment following the guidance in OMB memorandum M-17-11. As such, OMB has determined that agency regulations like this final rule are not considered a significant regulatory action under section 3(f) of Executive Order 12866. Further, this rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, Feb. 26, 1979) because it is limited to ministerial acts over which the agency has no discretion, and the economic impact of the final rule is minimal to the extent that preparation of a regulatory evaluation is not warranted.

#### B. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980 (RFA), Public Law 96-354, as amended, and codified as amended at 5 U.S.C. 601-612, and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking), require agency review of proposed and final rules to assess their impact on “small entities” for purposes of the RFA. An agency must prepare a regulatory flexibility analysis unless it determines and certifies that a rule is not expected to have a significant economic impact on a substantial number of small entities. FRA does not expect this final rule will have a significant economic impact on a substantial number of small entities. Although this final rule will apply to railroads, hazardous materials shippers, and others that are considered small

entities, there is no economic impact on any person who complies with the Federal railroad safety laws and the regulations and orders issued under those laws, and the Federal hazardous materials laws and the regulations, special permits, approvals, and orders issued under those laws.

In addition, FRA has determined the RFA does not apply to this rulemaking. The 2015 Inflation Act requires FRA to make annual adjustments and does not require FRA to publish an NPRM or provide for notice and comment under the APA. The Small Business Administration’s A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act (2003), provides that:

If, under the APA or any rule of general applicability governing federal grants to state and local governments, the agency is required to publish a general notice of proposed rulemaking (NPRM), the RFA must be considered [citing 5 U.S.C. 604(a)] . . . . If an NPRM is not required, the RFA does not apply.

Therefore, because the 2015 Inflation Act does not require an NPRM for this rulemaking, the RFA does not apply.

#### C. Federalism

This final rule will not have a substantial effect on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Thus, consistent with Executive Order 13132 (Federalism), FRA is not required to prepare a Federalism assessment.

#### D. Paperwork Reduction Act

There are no new information collection requirements in this final rule to submit for OMB review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### E. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of \$156,000,000 or more in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

#### F. Environmental Impact

FRA has evaluated this final rule under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), other environmental statutes,

related regulatory requirements, and its “Procedures for Considering Environmental Impacts” (FRA’s NEPA Procedures) (64 FR 28545, May 26, 1999). FRA has determined that this final rule is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA’s NEPA Procedures, “Promulgation of railroad safety rules and policy statements that do not result in significantly increased emissions of air or water pollutants or noise or increased traffic congestion in any mode of transportation.” See 64 FR 28547, May 26, 1999. Categorical exclusions (CEs) are actions identified in an agency’s NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4.

In analyzing the applicability of a CE, the agency must also consider whether extraordinary circumstances warrant a more detailed environmental review through the preparation of an EA or EIS. See *id.* The purpose of this rulemaking is to comply with the Inflation Act, as amended by the 2015 Inflation Act. Specifically, FRA is adjusting the minimum, maximum, and aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority. FRA is also adjusting the minimum, maximum, and aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a Federal hazardous materials law, regulation, special permit, approval, or order. Under section 4(c) and (e) of FRA’s NEPA Procedures, FRA has concluded no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review.

FRA does not anticipate any environmental impacts from this requirement and finds there are no extraordinary circumstances present in connection with this final rule.

#### G. Executive Order 12898 (Environmental Justice)

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and DOT Order 5610.2(a) (91 FR 27534, May 10, 2012) require DOT agencies to achieve environmental justice as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects,

of their programs, policies, and activities on minority populations and low-income populations. The DOT Order instructs DOT agencies to address compliance with Executive Order 12898 and requirements within the DOT Order in rulemaking activities, as appropriate. FRA has evaluated this final rule under Executive Order 12898 and the DOT Order and has determined that it would not cause disproportionately high and adverse human health and environmental effects on minority populations or low-income populations.

*H. Executive Order 13175 (Tribal Consultation)*

FRA has evaluated this final rule under the principles and criteria contained in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, dated November 6, 2000. The final rule would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal laws. Therefore, the funding and consultation requirements of Executive Order 13175 do not apply, and FRA is not required to prepare a tribal summary impact statement.

**List of Subjects**

*49 CFR Part 209*

Administrative practice and procedure, Hazardous materials transportation, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 213*

Bridges, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 214*

Bridges, Occupational safety and health, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 215*

Freight, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 216*

Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 217*

Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 218*

Occupational safety and health, Penalties, Railroad employees, Railroad

safety, Reporting and recordkeeping requirements.

*49 CFR Part 219*

Alcohol abuse, Drug abuse, Drug testing, Penalties, Railroad safety, Reporting and recordkeeping requirements, Safety, Transportation.

*49 CFR Part 220*

Penalties, Radio, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 221*

Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 222*

Administrative practice and procedure, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 223*

Glazing standards, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 224*

Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 225*

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 227*

Noise control, Occupational safety and health, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 228*

Penalties, Railroad employees, Reporting and recordkeeping requirements.

*49 CFR Part 229*

Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 230*

Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 231*

Penalties, Railroad safety.

*49 CFR Part 232*

Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 233*

Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 234*

Highway safety, Penalties, Railroad safety, Reporting and recordkeeping

requirements, State and local governments.

*49 CFR Part 235*

Administrative practice and procedure, Penalties, Railroad safety, Railroad signals, Reporting and recordkeeping requirements.

*49 CFR Part 236*

Penalties, Positive train control, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 237*

Bridges, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 238*

Fire prevention, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 239*

Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 240*

Administrative practice and procedure, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 241*

Communications, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 242*

Administrative practice and procedure, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 243*

Administrative practice and procedure, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 244*

Administrative practice and procedure, Penalties, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 270*

Penalties; Railroad safety; Reporting and recordkeeping requirements; and System safety.

*49 CFR Part 272*

Penalties, Railroad employees, Railroad safety, Railroads, Safety, Transportation.

**The Final Rule**

In consideration of the foregoing, parts 209, 213, 214, 215, 216, 217, 218,

219, 220, 221, 222, 223, 224, 225, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 270, and 272 of subtitle B, chapter II of title 49 of the Code of Federal Regulations are amended as follows:

#### **PART 209—[AMENDED]**

■ 1. The authority citation for part 209 continues to read as follows:

**Authority:** 49 U.S.C. 5123, 5124, 20103, 20107, 20111, 20112, 20114; 28 U.S.C. 2461, note; and 49 CFR 1.89.

■ 2. Revise § 209.103(a) and (c) to read as follows:

#### **§ 209.103 Minimum and maximum penalties.**

(a) A person who knowingly violates a requirement of the Federal hazardous materials transportation laws, an order issued thereunder, subchapter A or C of chapter I, subtitle B, of this title, or a special permit or approval issued under subchapter A or C of chapter I, subtitle B, of this title is liable for a civil penalty of not more than \$78,376 for each violation, except that—

(1) The maximum civil penalty for a violation is \$182,877 if the violation results in death, serious illness, or severe injury to any person, or substantial destruction of property and

(2) A minimum \$471 civil penalty applies to a violation related to training.

\* \* \* \* \*

(c) The maximum and minimum civil penalties described in paragraph (a) of this section apply to violations occurring on or after April 3, 2017.

■ 3. Revise the last sentence of § 209.105(c) to read as follows:

#### **§ 209.105 Notice of probable violation.**

(c) \* \* \* In an amended notice, FRA may change the civil penalty amount proposed to be assessed up to and including the maximum penalty amount of \$78,376 for each violation, except that if the violation results in death, serious illness or severe injury to any person, or substantial destruction of property, FRA may change the penalty amount proposed to be assessed up to and including the maximum penalty amount of \$182,877.

#### **§ 209.409 [Amended]**

■ 4. Amend § 209.409 as follows:

■ a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;

■ b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and

■ c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

■ 5. In appendix A to part 209, amend the section “Penalty Schedules; Assessment of Maximum Penalties” by:

■ a. Adding a sentence to the end of the sixth paragraph;

■ b. Revising the third sentence of the seventh paragraph; and

■ c. Revising the first sentence of the tenth paragraph.

The revisions and additions read as follows:

#### **Appendix A to Part 209—Statement of Agency Policy Concerning Enforcement of the Federal Railroad Safety Laws**

\* \* \* \* \*

#### **Penalty Schedules; Assessment of Maximum Penalties**

\* \* \* \* \*

\* \* \* Under the 2015 Inflation Act, effective April 3, 2017, the minimum civil monetary penalty was raised from \$839 to \$853, the ordinary maximum civil monetary penalty was raised from \$27,455 to \$27,904, and the aggravated maximum civil monetary penalty was raised from \$109,819 to \$111,616.

\* \* \* For each regulation or order, the schedule shows two amounts within the \$853 to \$27,904 range in separate columns, the first for ordinary violations, the second for willful violations (whether committed by railroads or individuals). \* \* \*

\* \* \* \* \*

Accordingly, under each of the schedules (ordinarily in a footnote), and regardless of the fact that a lesser amount might be shown in both columns of the schedule, FRA reserves the right to assess the statutory maximum penalty of up to \$111,616 per violation where a pattern of repeated violations or a grossly negligent violation has created an imminent hazard of death or injury or has caused death or injury. \* \* \*

\* \* \* \* \*

■ 6. Amend appendix B to part 209 as follows:

■ a. In the introductory text, revise the second sentence of the first paragraph, the last sentence of the second paragraph, and the fifth sentence of the third paragraph; and

■ b. In the table “CIVIL PENALTY ASSESSMENT GUIDELINES”:

■ i. Revise footnote 1;

■ ii. Under the heading “PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGES,” revise the entry for “173.24(b)(1) and 173.24(b)(2) and 173.24(f)(1) and 173.24(f)(1)(ii)” and the introductory text for entry “173.24(c)”;

and

■ iii. Revise footnote 2.

The revisions read as follows:

#### **Appendix B to Part 209—Federal Railroad Administration Guidelines for Initial Hazardous Materials Assessments**

\* \* \* The guideline penalty amounts reflect the best judgment of the FRA Office of Railroad Safety (RRS) and of the Safety Law Division of the Office of Chief Counsel (RCC) on the relative severity of the various violations routinely encountered by FRA inspectors on a scale of amounts up to the maximum \$78,376 penalty, except the maximum civil penalty is \$182,877 if the violation results in death, serious illness or severe injury to any person, or substantial destruction of property, and a minimum \$471 penalty applies to a violation related to training. \* \* \*

\* \* \* When a violation of the Federal hazardous material transportation law, an order issued thereunder, the Hazardous Materials Regulations or a special permit, approval, or order issued under those regulations results in death, serious illness or severe injury to any person, or substantial destruction of property, a maximum penalty of at least \$78,376 and up to and including \$182,877 shall always be assessed initially.

\* \* \* In fact, FRA reserves the express authority to amend the NOPV to seek a penalty of up to \$78,376 for each violation, and up to \$182,877 for any violation resulting in death, serious illness or severe injury to any person, or substantial destruction of property, at any time prior to issuance of an order. \* \* \*

#### **CIVIL PENALTY ASSESSMENT GUIDELINES**

\* \* \* \* \*

<sup>1</sup> Any person who violates an emergency order issued under the authority of 49 U.S.C. Ch. 201 is subject to a civil penalty of at least \$853 and not more than \$27,904 per violation, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused a death or injury, a penalty not to exceed \$111,616 per violation may be assessed. Each day that the violation continues is a separate offense. 49 U.S.C. 21301; 28 U.S.C. 2461, note.

49 CFR section	Description	Guideline amount <sup>2</sup>
<b>PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGES</b>		
173.24(b)(1) and 173.24(b)(2) and .....	Securing closures: These subsections are the general “no leak” standard for all packagings. Sec. 173.24(b) deals primarily with <i>packaging</i> as a whole, while § 173.24(f) focuses on <i>closures</i> . Use § 173.31(d) for tank cars, when possible.	
173.24(f)(1) and 173.24(f)(1)(ii) .....	Cite the sections accordingly, using both the leak/non-leak criteria and the package size considerations to reach the appropriate penalty. <i>Any actual leak will aggravate the guideline by, typically, 50%; a leak with contact with a human being will aggravate by at least 100%, up to the maximum of \$78,376, and up to \$182,877 if the violation results in death, serious illness or injury or substantial destruction of property. For intermodal (IM) portable tanks and other tanks of that size range, use the tank car penalty amounts, as stated in § 173.31.</i>	
	—Small bottle or box .....	1,000
	—55-gallon drum .....	2,500
	—Larger container, e.g., IBC; not portable tank or tank car .....	5,000
	—IM portable tank, cite § 173.24(f) and use the penalty amounts for tank cars: Residue, generally, § 173.29(a) and, loaded, § 173.31(d).	
	—Residue adhering to outside of package (i.e., portable tanks, tank cars, etc.) .....	5,000
173.24(c) .....	Use of package not meeting specifications, including required stencils and markings. The most specific section for the package involved should be cited (see below). The penalty guideline should be adjusted for the size of the container. <i>Any actual leak will aggravate the guideline by, typically, 50%; a leak with contact with a human being will aggravate by at least 100%, up to the maximum of \$78,376, and up to \$182,877 if the violation results in death, serious illness or injury or substantial destruction of property.</i>	

<sup>2</sup>A person who knowingly violates the hazardous material transportation law or a regulation, order, special permit, or approval issued thereunder, is subject to a civil penalty of up to \$78,376 for each violation, except that the maximum civil penalty for a violation is \$182,877 if the violation results in death, serious illness, or severe injury to any person or substantial destruction of property; and a minimum \$471 civil penalty applies to a violation related to training. Each day that the violation continues is a separate offense. 49 U.S.C. 5123; 28 U.S.C. 2461, note.

**PART 213—[AMENDED]**

■ 7. The authority citation for part 213 continues to read as follows:  
**Authority:** 49 U.S.C. 20102–20114 and 20142; Sec. 403, Div. A, Public Law 110–432, 122 Stat. 4885; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 213.15 [Amended]**

■ 8. In § 213.15, amend paragraph (a) as follows:  
 ■ a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;  
 ■ b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and  
 ■ c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 214—[AMENDED]**

■ 9. The authority citation for part 214 continues to read as follows:  
**Authority:** 49 U.S.C. 20103, 20107, 21301, 31304, 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 214.5 [Amended]**

■ 10. Amend § 214.5 as follows:  
 ■ a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;  
 ■ b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and  
 ■ c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 215—[AMENDED]**

■ 11. The authority citation for part 215 continues to read as follows:  
**Authority:** 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 215.7 [Amended]**

■ 12. Amend § 215.7 as follows:  
 ■ a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;  
 ■ b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and  
 ■ c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**Appendix B to Part 215—[Amended]**

■ 13. In appendix B to part 215, footnote 1, remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”.

**PART 216—[AMENDED]**

■ 14. The authority citation for part 216 continues to read as follows:  
**Authority:** 49 U.S.C. 20102–20104, 20107, 20111, 20133, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 216.7 [Amended]**

■ 15. Amend § 216.7 as follows:  
 ■ a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;  
 ■ b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and  
 ■ c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 217—[AMENDED]**

■ 16. The authority citation for part 217 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 217.5 [Amended]**

■ 17. Amend § 217.5 as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 218—[AMENDED]**

■ 18. The authority citation for part 218 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 218.9 [Amended]**

■ 19. Amend § 218.9 as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 219—[AMENDED]**

■ 20. The authority citation for part 219 continues to read as follows:

**Authority:** 49 U.S.C. 20102–20103, 20107, 20140, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 219.9 [Amended]**

■ 21. In § 219.9, amend paragraph (a) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 220—[AMENDED]**

■ 22. The authority citation for part 220 continues to read as follows:

**Authority:** 49 U.S.C. 20102–20103, 20103, note, 20107, 21301–21302, 20701–20703, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 220.7 [Amended]**

■ 23. Amend § 220.7 as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 221—[AMENDED]**

■ 24. The authority citation for part 221 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 221.7 [Amended]**

■ 25. Amend § 221.7 as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 222—[AMENDED]**

■ 26. The authority citation for part 222 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20153, 21301, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 222.11 [Amended]**

■ 27. Amend § 222.11 as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 223—[AMENDED]**

■ 28. The authority citation for part 223 continues to read as follows:

**Authority:** 49 U.S.C. 20102–20103, 20133, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 223.7 [Amended]**

■ 29. Amend § 223.7 as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 224—[AMENDED]**

■ 30. The authority citation for part 224 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20148 and 21301; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 224.11 [Amended]**

■ 31. In § 224.11, amend paragraph (a) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 225—[AMENDED]**

■ 32. The authority citation for part 225 continues to read as follows:

**Authority:** 49 U.S.C. 103, 322(a), 20103, 20107, 20901–20902, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 225.29 [Amended]**

■ 33. Amend § 225.29 as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 227—[AMENDED]**

■ 34. The authority citation for part 227 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20103, note, 20701–20702; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 227.9 [Amended]**

■ 35. In § 227.9, amend paragraph (a) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 228—[AMENDED]**

■ 36. The authority citation for part 228 continues to read as follows:

**Authority:** 49 U.S.C. 103, 20103, 20107, 21101–21109; Sec. 108, Div. A, Public Law 110–432, 122 Stat. 4860–4866, 4893–4894; 49 U.S.C. 21301, 21303, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 228.6 [Amended]**

■ 37. In § 228.6, amend paragraph (a) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”;
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

■ 38. In appendix A to part 228, below the heading “GENERAL PROVISIONS,” amend the “Penalty” paragraph by adding a sentence at the end of the paragraph to read as follows:

**Appendix A to Part 228—Requirements of the Hours of Service Act: Statement of Agency Policy and Interpretation**

\* \* \* \* \*

**GENERAL PROVISIONS**

\* \* \* \* \*

*Penalty.* \* \* \* Under the 2015 Inflation Act, effective April 3, 2017, the minimum civil monetary penalty was raised from \$839 to \$853, the ordinary maximum civil monetary penalty was raised from \$27,455 to \$27,904, and the aggravated maximum civil monetary penalty was raised from \$109,819 to \$111,616.

\* \* \* \* \*

**PART 229—[AMENDED]**

■ 39. The authority citation for part 229 continues to read as follows:

**Authority:** 49 U.S.C. 103, 322(a), 20103, 20107, 20901–02, 21301, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 229.7 [Amended]**

■ 40. In § 229.7, amend paragraph (b) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”;
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**Appendix B to Part 229—[Amended]**

■ 41. In appendix B to part 229, footnote 1, remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”.

**PART 230—[AMENDED]**

■ 42. The authority citation for part 230 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20702; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 230.4 [Amended]**

■ 43. In § 230.4, amend paragraph (a) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”;
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 231—[AMENDED]**

■ 44. The authority citation for part 231 continues to read as follows:

**Authority:** 49 U.S.C. 20102–20103, 20107, 20131, 20301–20303, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 231.0 [Amended]**

■ 45. In § 231.0, amend paragraph (f) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”;
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 232—[AMENDED]**

■ 46. The authority citation for part 232 continues to read as follows:

**Authority:** 49 U.S.C. 20102–20103, 20107, 20133, 20141, 20301–20303, 20306, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 232.11 [Amended]**

■ 47. In § 232.11, amend paragraph (a) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”;
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**Appendix A to Part 232—[Amended]**

■ 48. In appendix A to part 232, footnote 1, remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”.

**PART 233—[AMENDED]**

■ 49. The authority citation for part 233 continues to read as follows:

**Authority:** 49 U.S.C. 504, 522, 20103, 20107, 20501–20505, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 233.11 [Amended]**

■ 50. Amend § 233.11 as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”;
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 234—[AMENDED]**

■ 51. The authority citation for part 234 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20152, 20160, 21301, 21304, 21311, 22501 note; Pub. L. 110–432, Div. A., Sec. 202, 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 234.6 [Amended]**

■ 52. In § 234.6, amend paragraph (a) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”;
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 235—[AMENDED]**

■ 53. The authority citation for part 235 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 235.9 [Amended]**

■ 54. Amend § 235.9 as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”;
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**PART 236—[AMENDED]**

■ 55. The authority citation for part 236 continues to read as follows:

**Authority:** 49 U.S.C. 20102–20103, 20107, 20133, 20141, 20157, 20301–20303, 20306, 20501–20505, 20701–20703, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.89.

**§ 236.0 [Amended]**

■ 56. In § 236.0, amend paragraph (f) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;

- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

#### **PART 237—[AMENDED]**

- 57. The authority citation for part 237 continues to read as follows:

**Authority:** 49 U.S.C. 20102–20114; Public Law 110–432, Div. A, Sec. 417; 28 U.S.C. 2461, note; and 49 CFR 1.89.

#### **§ 237.7 [Amended]**

- 58. In § 237.7, amend paragraph (a) as follows:
  - a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
  - b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
  - c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

#### **PART 238—[AMENDED]**

- 59. The authority citation for part 238 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20133, 20141, 20302–20303, 20306, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.89.

#### **§ 238.11 [Amended]**

- 60. In § 238.11, amend paragraph (a) as follows:
  - a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
  - b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
  - c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

#### **Appendix A to Part 238—[Amended]**

- 61. In appendix A to part 238, footnote 1, remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”.

#### **PART 239—[AMENDED]**

- 62. The authority citation for part 239 continues to read as follows:

**Authority:** 49 U.S.C. 20102–20103, 20105–20114, 20133, 21301, 21304, and 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

#### **§ 239.11 [Amended]**

- 63. Amend § 239.11 as follows:
  - a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;

- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

#### **PART 240—[AMENDED]**

- 64. The authority citation for part 240 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20135, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

#### **§ 240.11 [Amended]**

- 65. In § 240.11, amend paragraph (a) as follows:
  - a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
  - b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
  - c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

#### **PART 241—[AMENDED]**

- 66. The authority citation for part 241 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 21301, 21304, 21311; 28 U.S.C. 2461, note; 49 CFR 1.89.

#### **§ 241.15 [Amended]**

- 67. In § 241.15, amend paragraph (a) as follows:
  - a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
  - b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
  - c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

#### **PART 242—[AMENDED]**

- 68. The authority citation for part 242 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20135, 20138, 20162, 20163, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

#### **§ 242.11 [Amended]**

- 69. In § 242.11, amend paragraph (a) as follows:
  - a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
  - b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
  - c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

#### **PART 243—[AMENDED]**

- 70. The authority citation for part 243 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20131–20155, 20162, 20301–20306, 20701–20702, 21301–21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

#### **§ 243.7 [Amended]**

- 71. In § 243.7, amend paragraph (a) as follows:
  - a. Remove the numerical amount “\$869” and add in its place the numerical amount “\$853”;
  - b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
  - c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

#### **PART 244—[AMENDED]**

- 72. The authority citation for part 244 is revised to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 21301; 5 U.S.C. 553 and 559; 28 U.S.C. 2461, note; and 49 CFR 1.89.

#### **§ 244.5 [Amended]**

- 73. In § 244.5, amend paragraph (a) as follows:
  - a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
  - b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
  - c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

#### **PART 270—[AMENDED]**

- 74. The authority citation for part 270 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20106–20107, 20118–20119, 20156, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

#### **§ 270.7 [Amended]**

- 75. In § 270.7, amend paragraph (a) as follows:
  - a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
  - b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
  - c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.
- 76. In appendix A to part 270, footnote 1 is revised to read as follows:

#### **Appendix A to Part 270—Schedule of Civil Penalties**

\* \* \* \* \*

<sup>1</sup> A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to the statutory maximum for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

## PART 272—[AMENDED]

■ 77. The authority citation for part 272 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20109, note; 28 U.S.C. 2461, note; 49 CFR 1.89; and sec. 410, Div. A, Pub. L. 110–432, 122 Stat. 4888.

### § 272.11 [Amended]

■ 78. In § 272.11, amend paragraph (a) as follows:

- a. Remove the numerical amount “\$839” and add in its place the numerical amount “\$853”;
- b. Remove the numerical amount “\$27,455” and add in its place the numerical amount “\$27,904”; and
- c. Remove the numerical amount “\$109,819” and add in its place the numerical amount “\$111,616”.

**Patrick Warren,**

*Acting Administrator.*

[FR Doc. 2017–06220 Filed 3–31–17; 8:45 am]

BILLING CODE 4910–06–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 150121066–5717–02]

RIN 0648–XF284

#### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; General Category Fishery

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS closes the coastwide General category fishery for large medium and giant Atlantic bluefin tuna (BFT) until the General category reopens on June 1, 2017. This action is being taken to prevent any further overharvest of the available adjusted General category January 2017 BFT subquota.

**DATES:** Effective 11:30 p.m., local time, March 29, 2017, through May 31, 2017.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin or Brad McHale, 978–281–9260.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the

authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended.

NMFS is required, under regulations at § 635.28(a)(1), to file a closure notice for publication with the Office of the Federal Register when a BFT quota is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year or for a specified period as indicated in the notification, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

The base quota for the General category is 466.7 mt. See § 635.27(a). Each of the General category time periods (January, June through August, September, October through November, and December) is allocated a portion of the annual General category quota. Although it is called the “January” subquota, the regulations allow the General category fishery under this quota to continue until the subquota is reached or March 31, whichever comes first. Based on the General category base quota of 466.7 mt, the subquotas for each time period are as follows: 24.7 mt for January; 233.3 mt for June through August; 123.7 mt for September; 60.7 mt for October through November; and 24.3 mt for December. Any unused General category quota rolls forward within the fishing year, which coincides with the calendar year, from one time period to the next, and is available for use in subsequent time periods. Effective January 1, 2017, NMFS transferred 16.3 mt of the 24.3-mt General category quota allocated for the December 2017 period to the January 2017 period, resulting in an adjusted subquota of 41 mt for the January period and a subquota of 8 mt for the December 2017 period (81 FR 91873, December 19, 2016). Effective March 2, 2017, NMFS transferred 40 mt from the Reserve category to the General category January 2017 subquota period, resulting in an adjusted subquota of 81

mt for the January period (82 FR 12747, March 7, 2017).

Based on the best available landings information for the General category BFT fishery, NMFS has determined that the adjusted General category January 2017 subquota of 81 mt has been reached (*i.e.*, as of March 27, reported landings total approximately 82.4 mt). Therefore, retaining, possessing, or landing large medium or giant BFT by persons aboard vessels permitted in the Atlantic tunas General and HMS Charter/Headboat categories (while fishing commercially) must cease at 11:30 p.m. local time on March 29, 2017. The General category will reopen automatically on June 1, 2017, for the June through August 2017 subperiod. This action applies to Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels when fishing commercially for BFT, and is taken consistent with the regulations at § 635.28(a)(1). The intent of this closure is to prevent any further overharvest of the available General category January BFT subquota.

Fishermen may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize their survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the “Careful Catch and Release” brochure available at [www.nmfs.noaa.gov/sfa/hms/](http://www.nmfs.noaa.gov/sfa/hms/). General, HMS Charter/Headboat, Harpoon, and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing [hmspermits.noaa.gov](http://hmspermits.noaa.gov) or by using the Android or iPhone app.

#### Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. These fisheries are currently underway and the quota for