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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 40, 46, 70, 200, 270, 275, 290, and 295

[T.D. ATF-460]

RIN 1512-AC39

Manufacture of Tobacco Products and Cigarette Papers and Tubes, Recodification of Regulations (2001R-57P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is recodifying the regulations pertaining to the manufacture of tobacco products and cigarette papers and tubes. The purpose of this recodification is to reissue the regulations in part 270 of title 27 of the Code of Federal Regulations (27 CFR part 270) as 27 CFR part 40. This change improves the organization of title 27.

DATES: This rule is effective on July 27, 2001.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202-927-9347) or e-mail at LMGesser@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

As a part of continuing efforts to reorganize the part numbering system of title 27 CFR, ATF is removing part 270, in its entirety, and is recodifying the regulations as 27 CFR part 40. This change improves the organization of title 27 CFR.

DERIVATION TABLE FOR PART 40

| The requirements of: | Are derived from: |
|----------------------|-------------------|
| Subpart A | |
| Sec: | |
| 40.1 | 270.1 |
| 40.2 | 270.2 |
| Subpart B | |
| 40.11 | 270.11 |

DERIVATION TABLE FOR PART 40—Continued

| The requirements of: | Are derived from: |
|----------------------|-------------------|
| Subpart C | |
| 40.21 | 270.21 |
| 40.22 | 270.22 |
| 40.23 | 270.23 |
| 40.24 | 270.24 |
| 40.25 | 270.25 |
| 40.25a | 270.25a |
| 40.26 | 270.26 |
| 40.27 | 270.27 |
| Subpart Ca | |
| 40.31 | 270.31 |
| 40.32 | 270.32 |
| 40.33 | 270.33 |
| 40.34 | 270.34 |
| 40.35 | 270.35 |
| 40.36 | 270.36 |
| Subpart D | |
| 40.41 | 270.41 |
| 40.42 | 270.42 |
| 40.43 | 270.43 |
| 40.44 | 270.44 |
| 40.45 | 270.45 |
| 40.46 | 270.46 |
| 40.47 | 270.47 |
| 40.48 | 270.48 |
| 40.49 | 270.49 |
| Subpart E | |
| 40.61 | 270.61 |
| 40.61a | 270.61a |
| 40.62 | 270.62 |
| 40.63 | 270.63 |
| 40.64 | 270.64 |
| 40.65 | 270.65 |
| 40.66 | 270.66 |
| 40.67 | 270.67 |
| 40.68 | 270.68 |
| 40.69 | 270.69 |
| 40.70 | 270.70 |
| 40.71 | 270.71 |
| 40.72 | 270.72 |
| 40.73 | 270.73 |
| 40.74 | 270.74 |
| 40.75 | 270.75 |
| 40.76 | 270.76 |
| Subpart F | |
| 40.91 | 270.91 |
| 40.92 | 270.92 |
| 40.93 | 270.93 |
| 40.101 | 270.101 |
| 40.102 | 270.102 |
| 40.103 | 270.103 |
| 40.104 | 270.104 |
| 40.111 | 270.111 |
| 40.112 | 270.112 |
| 40.113 | 270.113 |
| 40.114 | 270.114 |
| Subpart G | |
| 40.131 | 270.131 |
| 40.132 | 270.132 |
| 40.133 | 270.133 |

DERIVATION TABLE FOR PART 40—Continued

| The requirements of: | Are derived from: |
|----------------------|-------------------|
| 40.134 | 270.134 |
| 40.135 | 270.135 |
| 40.136 | 270.136 |
| 40.137 | 270.137 |
| 40.138 | 270.138 |
| 40.139 | 270.139 |
| 40.140 | 270.140 |
| Subpart H | |
| 40.161 | 270.161 |
| 40.162 | 270.162 |
| 40.163 | 270.163 |
| 40.164 | 270.164 |
| 40.165 | 270.165 |
| 40.165a | 270.165a |
| 40.166 | 270.166 |
| 40.167 | 270.167 |
| 40.168 | 270.168 |
| 40.169 | 270.169 |
| 40.170 | 270.170 |
| 40.171 | 270.171 |
| 40.181 | 270.181 |
| 40.182 | 270.182 |
| 40.183 | 270.183 |
| 40.184 | 270.184 |
| 40.185 | 270.185 |
| 40.186 | 270.186 |
| 40.187 | 270.187 |
| 40.201 | 270.201 |
| 40.202 | 270.202 |
| 40.203 | 270.203 |
| 40.211 | 270.211 |
| 40.212 | 270.212 |
| 40.213 | 270.213 |
| 40.214 | 270.214 |
| 40.215 | 270.215 |
| 40.216 | 270.216 |
| 40.116a | 270.116a |
| 40.116b | 270.116b |
| 40.116c | 270.116c |
| 40.217 | 270.217 |
| 40.231 | 270.231 |
| 40.232 | 270.232 |
| 40.233 | 270.233 |
| 40.234 | 270.234 |
| 40.235 | 270.235 |
| 40.236 | 270.236 |
| 40.251 | 270.251 |
| 40.252 | 270.252 |
| 40.253 | 270.253 |
| 40.254 | 270.254 |
| 40.255 | 270.255 |
| Subpart I | |
| 40.281 | 270.281 |
| 40.282 | 270.282 |
| 40.283 | 270.283 |
| 40.284 | 270.284 |
| 40.285 | 270.285 |
| 40.286 | 270.286 |
| 40.287 | 270.287 |
| 40.301 | 270.301 |
| 40.311 | 270.311 |

DERIVATION TABLE FOR PART 40—
Continued

| The requirements of: | Are derived from: |
|----------------------|-------------------|
| 40.312 | 270.312 |
| 40.313 | 270.313 |
| Subpart J | |
| 40.331 | 270.331 |
| 40.332 | 270.332 |

Subpart K

| | |
|--------------|---------|
| 40.351 | 270.351 |
| 40.352 | 270.352 |
| 40.353 | 270.353 |
| 40.354 | 270.354 |
| 40.355 | 270.355 |
| 40.356 | 270.356 |
| 40.357 | 270.357 |
| 40.358 | 270.358 |
| 40.359 | 270.359 |
| 40.360 | 270.360 |
| 40.361 | 270.361 |
| 40.371 | 270.371 |
| 40.372 | 270.372 |
| 40.373 | 270.373 |
| 40.374 | 270.374 |
| 40.375 | 270.375 |
| 40.382 | 270.382 |
| 40.383 | 270.383 |
| 40.384 | 270.384 |
| 40.385 | 270.385 |
| 40.386 | 270.386 |
| 40.387 | 270.387 |
| 40.391 | 270.391 |
| 40.392 | 270.392 |
| 40.393 | 270.393 |
| 40.394 | 270.394 |
| 40.395 | 270.395 |
| 40.396 | 270.396 |
| 40.397 | 270.397 |
| 40.401 | 270.401 |
| 40.402 | 270.402 |
| 40.403 | 270.403 |
| 40.404 | 270.404 |
| 40.405 | 270.405 |
| 40.406 | 270.406 |
| 40.407 | 270.407 |
| 40.408 | 270.408 |
| 40.409 | 270.409 |
| 40.410 | 270.410 |
| 40.421 | 270.421 |
| 40.422 | 270.422 |
| 40.423 | 270.423 |
| 40.424 | 270.424 |
| 40.425 | 270.425 |
| 40.426 | 270.426 |
| 40.431 | 270.431 |
| 40.432 | 270.432 |
| 40.433 | 270.433 |
| 40.434 | 270.434 |
| 40.435 | 270.435 |
| 40.441 | 270.441 |
| 40.451 | 270.451 |
| 40.452 | 270.452 |
| 40.453 | 270.453 |
| 40.454 | 270.454 |
| 40.461 | 270.461 |
| 40.471 | 270.471 |
| 40.472 | 270.472 |
| 40.473 | 270.473 |
| 40.474 | 270.474 |

DERIVATION TABLE FOR PART 40—
Continued

| The requirements of: | Are derived from: |
|----------------------|-------------------|
| 40.475 | 270.475 |
| 40.476 | 270.476 |
| 40.477 | 270.477 |
| 40.478 | 270.478 |

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act (5 U.S.C. 553), the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. We sent a copy of this final rule to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

This final rule is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this final rule is not subject to the analysis required by this Executive Order.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly, because of the nature of this final rule, good cause is found that it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 40

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

27 CFR Part 46

Cigars and cigarettes, Claims, Excise taxes, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

27 CFR Part 70

Administrative practice and procedure, Claims, Excise taxes, Freedom of information, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 200

Administrative practice and procedure, Alcohol and alcoholic beverages, Tobacco.

27 CFR Part 270

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

27 CFR Part 275

Cigars and cigarettes, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Virgin Islands, Warehouses.

27 CFR Part 290

Aircraft, Armed forces, Cigars and cigarettes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Vessels, Warehouses.

27 CFR Part 295

Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Tobacco.

Authority and Issuance

ATF is amending title 27 of the Code of Federal Regulations as follows:

PART 46—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Paragraph 1. The authority citation for 27 CFR part 46 continues to read as follows:

Authority: 18 U.S.C. 2341–2346, 26 U.S.C. 5708, 5751, 5761–5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805, 44 U.S.C. 3504(h), 49 U.S.C. 782, unless otherwise noted.

§ 46.72 [Amended]

Par. 2. Amend the definition of “Sale price” in § 46.72 by removing the reference to “§§ 270.22 or 275.39” and adding, in its place, a reference to “§ 40.22 or § 275.39.”

§§ 46.166 and 46.167 [Amended]

Par. 3. Remove the reference to “parts 270 and 275,” each place it appears, and add, in its place, a reference to “parts 40 and 275,” in the following places:

- a. Section 46.166; and
- b. Section 46.167, paragraphs (a) and (c)

§ 46.255 [Amended]

Par. 4. Amend paragraph (a) of § 46.255 by removing the reference to “part 270” and adding, in its place, a reference to “part 40.”

PART 70—PROCEDURE AND ADMINISTRATION

Par. 5. The authority citation for 27 CFR part 70 continues to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331–6343, 6401–6404, 6407, 6416, 6423, 6501–6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656–6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601–7606, 7608–7610, 7622, 7623, 7653, 7805.

§ 70.431 [Amended]

Par. 6. Amend paragraph (b)(2) of § 70.431 by removing the reference to “Part 270” and adding, in its place, a reference to “Part 40.”

PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS

Par. 7. The authority citation for 27 CFR part 200 continues to read as follows:

Authority: 26 U.S.C. 7805, 27 U.S.C. 204.

§ 200.49b [Amended]

Par. 8. Amend paragraph (b) of § 200.49b by removing the reference to “§ 270.61” and adding, in its place, a reference to “§ 40.61.”

PART 275—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 9. The authority citation for 27 CFR part 275 continues to read as follows:

Authority: 18 U.S.C. 2342; 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5712, 5713, 5721, 5722, 5723, 5741, 5754, 5761, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 275.39 [Amended]

Par. 10. Amend § 275.39 by removing the reference to “§ 270.22(b)” and adding, in its place, a reference to “§ 40.22(b).”

§§ 275.63, 275.82, 275.85, 275.85a, 275.86, 275.115a and 275.140 [Amended]

Par. 11. Remove the reference to “part 270,” each place it appears, and add, in its place, a reference to “part 40,” in the following places:

- a. Section 275.63(a);
- b. Section 275.82(b);
- c. Section 275.85(b);
- d. Section 275.85a(c);
- e. Section 275.86(a);
- f. Section 275.115a(a)(1) and (b)(1); and
- g. Section 275.140.

PART 290—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Par. 12. The authority citation for 27 CFR part 290 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 290.11 [Amended]

Par. 13. Amend the definition of “Sale price” in § 290.11 by removing the reference to “§§ 270.22 or 275.39” and adding, in its place, a reference to “§ 40.22 or § 275.39.”

§ 290.67 [Amended]

Par. 14. Amend paragraph (b) of § 290.67 by removing the reference to “§ 270.21” and adding, in its place, a reference to “§ 40.21.”

§ 290.184 [Amended]

Par. 15. Amend § 290.184 by removing the reference to “§ 270.65” and adding, in its place, a reference to “§ 40.65.”

§ 290.243 [Amended]

Par. 16. Amend § 290.243 by removing the reference to “§ 270.199” and adding, in its place, a reference to “§ 40.199.”

PART 295—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX FOR USE OF THE UNITED STATES

Par. 17. The authority citation for 27 CFR part 295 continues to read as follows:

Authority: 26 U.S.C. 5703, 5704, 5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805, 44 U.S.C. 3504(h).

§ 295.11 [Amended]

Par. 18. Amend the definition of “Sale price” in § 295.11 by removing the reference to “§§ 270.22 or 275.39” and adding, in its place, a reference to “§ 40.22 or § 275.39.”

§§ 295.34 and 295.51 [Amended]

Par. 19. Remove the reference to “part 270” and add, in its place, a reference to “part 40,” in the following places:

- a. Section 295.34; and
- b. Section 295.51(a), introductory text.

§ 295.42 [Amended]

Par. 20. Amend § 295.42 by removing the reference to “§ 270.65” and adding, in its place, a reference to “§ 40.65.”

§ 295.45c [Amended]

Par. 21. Amend § 295.45c as follows:

- a. In paragraph (b), remove the reference to “§§ 270.212 and 270.216b(b)” and add, in its place, a reference to “§§ 40.212 and 40.216b(b)”;
- and
- b. In paragraph (c), remove the reference to “§ 270.216b(a)” and add, in its place, a reference to “§ 40.216b(a).”

PART 270—MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 22. The authority citation for 27 CFR part 270 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Part 270 [Transferred to Subchapter B and Redesignated as Part 40]

Par. 23. Transfer 27 CFR part 270 to Subchapter B and redesignate as 27 CFR part 40.

PART 40—MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 24. The authority citation for the newly redesignated 27 CFR part 40 reads as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 40.11 [Amended]

Par. 25. Amend § 40.11 as follows:

a. In the definition of “Appropriate ATF officer,” remove the reference to “ATF Order 1130.15, Delegation Order—Delegation of Certain of the Director’s Authorities in 27 CFR Parts 46, 270, and 275” and add, in its place, a reference to “ATF Order 1130.30, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 40—Manufacture of Tobacco Products and Cigarette Papers and Tubes”; and

b. In the definition of “Sale price,” remove the reference to “§ 270.22” and add, in its place, a reference to “§ 40.22.”

§§ 40.21, 40.183, and 40.187 [Amended]

Par. 26. Remove the reference to “§ 270.22” and add, in its place, a reference to “§ 40.22,” in the following places:

a. Section 40.21(b);

b. Section 40.183(e); and

c. Section 40.187.

§ 40.31 [Amended]

Par. 27. Amend paragraph (a) of § 40.31 by removing the reference to “§ 270.32” and adding, in its place, a reference to “§ 40.32.”

§ 40.32 [Amended]

Par. 28. Amend paragraph (b) of § 40.32 by removing the reference to “§ 270.31” and adding, in its place, a reference to “§ 40.31.”

§ 40.33 [Amended]

Par. 29. Amend § 40.33 as follows:

a. In paragraph (b)(3), remove the reference to “§ 270.34” and add, in its place, a reference to “§ 40.34”; and

b. In paragraph (c)(2), remove the reference to “§ 270.185” and add, in its place, a reference to “§ 40.185.”

§ 40.35 [Amended]

Par. 30. Amend paragraph (a) of § 40.35 by removing the reference to “§ 270.33(c)(2)” and adding, in its place, a reference to “§ 40.33(c)(2).”

§ 40.49 [Amended]

Par. 31. Amend § 40.49 as follows:

a. Remove the reference to “part 270” and add, in its place, a reference to “part 40”; and

b. Remove the reference to “ATF Order 1130.15, Delegation Order—

Delegation of Certain of the Director’s Authorities in 27 CFR Parts 46, 270, and 275” and add, in its place, a reference to “ATF Order 1130.30, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 40—Manufacture of Tobacco Products and Cigarette Papers and Tubes.”

§ 40.62 [Amended]

Par. 32. Amend § 40.62 as follows:

a. Remove the reference to “§ 270.11” and add, in its place, a reference to “§ 40.11”; and

b. Remove the reference to “§ 270.75” and add, in its place, a reference to “§ 40.75.”

§§ 40.63, 40.64 and 40.65 [Amended]

Par. 33. Remove the reference to “§ 270.62” and add, in its place, a reference to “§ 40.62,” in the following places:

a. Section 40.63;

b. Section 40.64; and

c. Section 40.65.

§ 40.67 [Amended]

Par. 34. Amend § 40.67 by removing the reference to “§ 270.134” and adding, in its place, a reference to “§ 40.134.”

§§ 40.68 and 40.103 [Amended]

Par. 35. Remove the reference to “§ 270.63” and add, in its place, a reference to “§ 40.63,” in the following places:

a. Section 40.68; and

b. Section 40.103.

§ 40.71 [Amended]

Par. 36. Amend § 40.71 by removing the reference to “§ 270.70” and adding, in its place, a reference to “§ 40.70.”

§ 40.72 [Amended]

Par. 37. Amend § 40.72 by removing the reference to “§ 270.47,” each place it appears, and adding, in its place, a reference to “§ 40.47.”

§§ 40.92 and 40.212 [Amended]

Par. 38. Remove the reference to “§ 270.65” and add, in its place, a reference to “§ 40.65,” in the following places:

a. Section 40.92; and

b. Section 40.212.

§ 40.101 [Amended]

Par. 39. Amend § 40.101 as follows:

a. Remove the reference to “§ 270.201” and add, in its place, a reference to “§ 40.201”; and

b. Remove the reference to “§ 270.69” and add, in its place, a reference to “§ 40.69”; and

c. Remove the reference to “§ 270.137” and add, in its place, a reference to “§ 40.137.”

§ 40.102 [Amended]

Par. 40. Amend § 40.102 as follows:

a. Remove the reference to “§ 270.69” and add, in its place, a reference to “§ 40.69”; and

b. Remove the reference to “§§ 270.201 and 270.202” each place it appears and add, in its place, a reference to “§§ 40.201 and 40.202.”

§ 40.104 [Amended]

Par. 41. Amend § 40.104 by removing the reference to “§§ 270.201 and 270.202” and adding, in its place, a reference to “§§ 40.201 and 40.202.”

§ 40.111 [Amended]

Par. 42. Amend § 40.111 by removing the reference to “§ 270.137” and adding, in its place, a reference to “§ 40.137.”

§ 40.113 [Amended]

Par. 43. Amend § 40.113 by removing the reference to “§§ 270.201 and 207.202” and adding, in its place, a reference to “§§ 40.201 and 40.202.”

§ 40.114 [Amended]

Par. 44. Amend § 40.114 by removing the reference to “§ 270.69” and adding, in its place, a reference to “§ 40.69.”

§ 40.134 [Amended]

Par. 45. Amend § 40.134 as follows:

a. Remove the reference to “§ 270.67” and add, in its place, a reference to “§ 40.67”; and

b. Remove the reference to “§ 270.133” and add, in its place, a reference to “§ 40.133.”

§ 40.135 [Amended]

Par. 46. Amend § 40.135 as follows:

a. Remove the reference to “§ 270.133 or § 270.134” and add, in its place, a reference to “§ 40.133 or § 40.134”; and

b. Remove the reference to “§ 270.136” and add, in its place, a reference to “§ 40.136.”

§ 40.136 [Amended]

Par. 47. Amend § 40.136 in paragraph (d) by removing the reference to “§ 270.133 or § 270.134” and adding, in its place, a reference to “§ 40.133 or § 40.134.”

§ 40.140 [Amended]

Par. 48. Amend § 40.140 by removing the reference to “§ 270.132” and adding, in its place, a reference to “§ 40.132.”

§ 40.162 [Amended]

Par. 49. Amend § 40.162 by removing the reference to “§ 270.165” and adding, in its place, a reference to “§ 40.165.”

§ 40.163 [Amended]

Par. 50. Amend § 40.163 by removing the reference to “section 270.164” and adding, in its place, a reference to “§ 40.164.”

§ 40.164 [Amended]

Par. 51. Amend § 40.164 as follows:

a. In paragraph (a)(2), remove the reference to “§ 270.165a” and add, in its place, a reference to “§ 40.165a”;

b. In paragraph (d)(2), remove the reference to “§ 270.165(a)” and add, in its place, a reference to “§ 40.165(a)”;

c. In paragraph (d)(2), remove the reference to “§ 270.164(a)(1),” each place it appears, and add, in its place, a reference to “§ 40.164(a)(1)”;

d. In paragraph (d)(2), remove the reference to “§ 270.164(b),” each place it appears, and add, in its place, a reference to “§ 40.164(b).”

§ 40.165 [Amended]

Par. 52. Amend paragraph (a) of § 40.165 as follows:

a. Remove the reference to “§ 270.164” and add, in its place, a reference to “§ 40.164”; and

b. Remove the reference to “§ 270.164(c)” and add, in its place, a reference to “§ 40.164(c).”

§ 40.165a [Amended]

Par. 53. Amend § 40.165a as follows:

a. In paragraphs (a)(1) and (b)(3), remove the reference to “§ 270.168” and add, in its place, a reference to “§ 40.168”; and

b. In paragraph (b)(2), remove the reference to “§ 270.165 or § 270.167” and add, in its place, a reference to “§ 40.165 or § 40.167.”

§ 40.166 [Amended]

Par. 54. Amend § 40.166 as follows:

a. Remove the reference to “§ 270.167” and add, in its place, a reference to “§ 40.167”; and

b. Remove the reference to “§ 270.165a” and add, in its place, a reference to “§ 40.165a.”

§ 40.167 [Amended]

Par. 55. Amend § 40.167 as follows:

a. In paragraph (a), remove the reference to “§ 270.162” and add, in its place, a reference to “§ 40.162”; and

b. In paragraph (b), remove the reference to “§ 270.165a” and add, in its place, a reference to “§ 40.165a.”

§ 40.168 [Amended]

Par. 56. Amend § 40.168 as follows:

a. Remove the reference to “§ 270.165a” and add, in its place, a reference to “§ 40.165a”; and

b. Remove the reference to “§ 270.166” and add, in its place, a reference to “§ 40.166.”

§ 40.181 [Amended]

Par. 57. Amend § 40.181 as follows:

a. Remove the reference to “§§ 270.182 and 270.183” and add, in its place, a reference to “§§ 40.182 and 40.183”; and

b. Remove the reference to “§§ 270.184 and 270.186,” each place it appears, and add, in its place, a reference to “§§ 40.184 and 40.186.”

§ 40.216c [Amended]

Par. 58. Amend § 40.216c as follows:

a. In paragraph (b), remove the reference to “§§ 270.212 and 270.216(b)” and add, in its place, a reference to “§§ 40.212 and 40.216(b)”;

b. In paragraph (c), remove the reference to “§ 270.216(a)” and add, in its place, a reference to “§ 40.216(a).”

§ 40.251 [Amended]

Par. 59. Amend § 40.251 as follows:

a. Remove the reference to “§ 270.114” and add, in its place, a reference to “§ 40.114”; and

b. Remove the reference to “§§ 270.183 and 270.202” and add, in its place, a reference to “§§ 40.183 and 40.202.”

§§ 40.252 and 40.253 [Amended]

Par. 60. Remove the reference to “§§ 270.311 and 270.313” and add, in its place, a reference to “§§ 40.311 and 40.313,” in the following places:

a. Section 40.252; and

b. Section 40.253.

§ 40.254 [Amended]

Par. 61. Amend § 40.254 as follows:

a. Remove the reference to “§ 270.217” and add, in its place, a reference to “§ 40.217”; and

b. Remove the reference to “§§ 270.311 and 270.313” and add, in its place, a reference to “§§ 40.311 and 40.313.”

§ 40.255 [Amended]

Par. 62. Amend § 40.255 as follows:

a. Remove the reference to “§ 270.183” and add, in its place, a reference to “§ 40.183”;

b. Remove the reference to “§ 270.286,” each place it appears, and add, in its place, a reference to “§ 40.286”; and

c. Remove the reference to “§ 270.287,” each place it appears, and add, in its place, a reference to “§ 40.287.”

§ 40.282 [Amended]

Par. 63. Amend § 40.282 as follows:

a. Remove the reference to “§ 270.301” and add, in its place, a reference to “§ 40.301”; and

b. Remove the reference to “§ 270.311” and add, in its place, a reference to “§ 40.311.”

§ 40.283 [Amended]

Par. 64. Amend § 40.283 as follows:

a. Remove the reference to “§ 270.301” and add, in its place, a reference to “§ 40.301”; and

b. Remove the reference to “§§ 270.311 and 270.313” and add, in its place, a reference to “§§ 40.311 and 40.313.”

§ 40.286 [Amended]

Par. 65. Amend § 40.286 by removing the reference to “§ 270.164” and adding, in its place, a reference to “§ 40.164.”

§ 40.287 [Amended]

Par. 66. Amend § 40.287 by removing the reference to “§ 270.255” and adding, in its place, a reference to “§ 40.255.”

§ 40.301 [Amended]

Par. 67. Amend § 40.301 by removing the reference to “§ 270.282 or § 270.283” and adding, in its place, a reference to “§ 40.282 or § 40.283.”

§ 40.311 [Amended]

Par. 68. Amend § 40.311 as follows:

a. In paragraph (a), remove the reference to “§ 270.282 or § 270.283” and add, in its place, a reference to “§ 40.282 or § 40.283”; and

b. In paragraph (b), remove the reference to “§ 270.185” and add, in its place, a reference to “§ 40.185.”

§ 40.313 [Amended]

Par. 69. Amend § 40.313 as follows:

a. Remove the reference to “§ 270.282” and add, in its place, a reference to “§ 40.282”; and

b. Remove the reference to “§ 270.283,” each place it appears, and add, in its place, a reference to “§ 40.283.”

§ 40.331 [Amended]

Par. 70. Amend § 40.331 by removing the reference to “§ 270.201 and § 270.202” and add, in its place, a reference to “§§ 40.201 and 40.202.”

§ 40.355 [Amended]

Par. 71. Amend paragraphs (e) and (g)(2) of § 40.355 by removing the reference to “§ 270.357” and adding, in its place, a reference to “§ 40.357.”

§ 40.357 [Amended]

Par. 72. Amend paragraphs (a)(1), (b)(2), and (b)(3) of § 40.357 by removing the reference to “§ 270.355” and adding, in its place, a reference to “§ 40.355.”

§ 40.371 [Amended]

Par. 73. Amend paragraph (a) of § 40.371 by removing the reference to “§ 270.372” and adding, in its place, a reference to “§ 40.372.”

§ 40.372 [Amended]

Par. 74. Amend paragraph (b) of § 40.372 by removing the reference to “§ 270.371” and adding, in its place, a reference to “§ 40.371.”

§ 40.373 [Amended]

Par. 75. Amend § 40.373 as follows:
a. In paragraph (b)(3), remove the reference to “§§ 270.359–361” and add, in its place, a reference to “§§ 40.359–361”; and
b. In paragraph (c)(2), remove the reference to “§ 270.371” and add, in its place, a reference to “§ 40.371.”

§ 40.374 [Amended]

Par. 76. Amend paragraph (a) of § 40.374 by removing the reference to “§ 270.373(c)(2)” and adding, in its place, a reference to “§ 40.373(c)(2).”

§ 40.396 [Amended]

Par. 77. Amend § 40.396 as follows:
a. Remove the reference to “§ 270.407” and add, in its place, a reference to “§ 40.407”;
b. Remove the reference to “§§ 270.434 and 270.426” and add, in its place, a reference to “§§ 40.434 and 40.426”; and
c. Remove the reference to “§§ 270.432 and 270.423” and add, in its place, a reference to “§§ 40.432 and 40.423.”

§ 40.397 [Amended]

Par. 78. Amend § 40.397 as follows:
a. Remove the reference to “§ 270.407” and add, in its place, a reference to “§ 40.407”; and
b. Remove the reference to “§§ 270.434 and 270.426” and add, in its place, a reference to “§§ 40.434 and 40.426.”

§ 40.402 [Amended]

Par. 79. Amend § 40.402 by removing the reference to “§ 270.401(c)” and adding, in its place, a reference to “§ 40.401(c).”

§ 40.404 [Amended]

Par. 80. Amend § 40.404 by removing the reference to “§ 270.452” and adding, in its place, a reference to “§ 40.452.”

§ 40.405 [Amended]

Par. 81. Amend § 40.405 by removing the reference to “§ 270.404” and adding, in its place, a reference to “§ 40.404.”

§ 40.410 [Amended]

Par. 82. Amend § 40.410 by removing the reference to “§ 270.403” and adding, in its place, a reference to “§ 40.403.”

§ 40.421 [Amended]

Par. 83. Amend paragraph (a)(4) of § 40.421 by removing the reference to “§ 270.451” and adding, in its place, a reference to “§ 40.451.”

§ 40.461 [Amended]

Par. 84. Amend § 40.461 by removing the reference to “§§ 270.434 and 270.426” and adding, in its place, a reference to “§§ 40.434 and 40.426.”

§ 40.472 [Amended]

Par. 85. Amend § 40.472 as follows:
a. Remove the reference to “§ 270.475” and add, in its place, a reference to “§ 40.475”; and
b. Remove the reference to “§ 270.476” and add, in its place, a reference to “§ 40.476.”

§ 40.473 [Amended]

Par. 86. Amend § 40.473 as follows:
a. Remove the reference to “§ 270.475” and add, in its place, a reference to “§ 40.475”; and
b. Remove the reference to “§§ 270.476, and 270.477” and add, in its place, a reference to “§§ 40.476 and 40.477.”

§§ 40.475 and 40.476 [Amended]

Par. 87. Remove the reference to “§ 270.472 or § 270.473” and add, in its place, a reference to “§ 40.472 or § 40.473,” in the following places:
a. Section 40.475; and
b. Section 40.476.

§ 40.478 [Amended]

Par. 88. Amend § 40.478 by removing the reference to “§ 270.473,” each place it appears, and adding, in its place, a reference to “§ 40.473.”

Signed: April 19, 2001.

Bradley A. Buckles,
Director.

Approved: May 2, 2001.

Timothy Skud,
Acting Deputy Assistant Secretary,
(Regulatory, Tariff and Trade Enforcement).
[FR Doc. 01–18394 Filed 7–26–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD05–01–006]

RIN 2115–AE84

Regulated Navigation Area; Cape Fear River and Northeast Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DOT.

ACTION: Interim rule; request for comments.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area (RNA) for the Cape Fear River and Northeast Cape Fear River. This action is necessary because of the extensive channel-deepening project involving dredging, drilling, and blasting being undertaken by the U. S. Army Corps of Engineers. The RNA is needed to ensure the safety of vessels transiting the Cape Fear River and Northeast Cape Fear River during dredging, drilling, and blasting operations associated with the deepening project.

DATES: This interim rule becomes effective on August 1, 2001. Comments must be received on or before October 25, 2001.

ADDRESSES: You may mail comments and related material to the Waterways Management Branch (CGD05–01–006), Coast Guard Marine Safety Office Wilmington, 1502 23rd Street, Wilmington, NC 28405. Or deliver comments to the Marine Safety Office at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The Waterways Management Branch of Coast Guard Marine Safety Office Wilmington maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD05–01–006) and are available for inspection or copying at the Coast Guard Marine Safety Office Wilmington, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign David Dixon, Asst. Chief, Port Operations Department, Coast Guard Marine Safety Office Wilmington at (910) 772–2208, or the Waterways Management Branch at (910) 772–2180.

SUPPLEMENTARY INFORMATION:**Request for Comments**

The Coast Guard has added a provision to the interim rule that was