Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it has only a domestic impact and is not subject to the Trade Agreements Act requirements.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of $141.3 million.

This rulemaking action does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this regulation.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312 and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 18, 2001). We have determined that it is not a "significant regulatory action" under the Order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Alcohol abuse, Aviation safety Drug abuse, Reporting and recordkeeping requirements, Security measures.

The Amendment

■ Accordingly, the Federal Aviation Administration amends part 65 of the Federal Aviation Regulations (14 CFR Part 65) as follows:

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 5 U.S.C. 8335(a); 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701–44703; 49 U.S.C. 44707; 49 U.S.C. 44709–44711; 49 U.S.C. 45102–45103; 49 U.S.C. 45301–45302.

■ 2. Amend § 65.111 by revising the introductory text of paragraph (b); redesignating existing paragraphs (c), (d) and (e) as paragraphs (d), (e) and (f), respectively; and adding a new paragraph (c) to read as follows:

§ 65.111 Certificate required.

* * * * *

(b) No person may pack any main parachute of a dual-parachute system to be used for intentional parachute jumping in connection with civil aircraft of the United States unless that person—

* * * * *

(c) No person may maintain or alter any main parachute of a dual-parachute system to be used for intentional parachute jumping in connection with civil aircraft of the United States unless that person—

(1) Has an appropriate current certificate issued under this subpart; or

(2) Is under the supervision of a current certificated parachute rigger;

* * * * *

Issued in Washington, DC, on May 25, 2010.

J. Randolph Babbitt,

Administrator.

[FR Doc. 2010–13388 Filed 6–2–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF 17F; AG Order No. 3160–2010 (2008R–10P)]

Decision-Making Authority Regarding the Denial, Suspension, or Revocation of a Federal Firearms License, or Imposition of a Civil Fine

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice has adopted as final, without change, an interim rule that amended the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") to delegate to the Director of ATF the authority to serve as the deciding official regarding the denial, suspension, or revocation of federal firearms licenses, or the imposition of a civil fine. Under the interim rule, the Director has the flexibility to delegate to another ATF official the authority to decide a revocation or denial matter, or may exercise that authority himself. Because the Director can redelegate authority to take action as the final agency decision-maker to Headquarters officials, field officials, or some combination thereof, such flexibility allows ATF to more efficiently conduct denial, suspension, and revocation hearings, and make the determination whether to impose a civil fine. This gives the agency the ability to ensure consistency in decision-making and to address any case backlogs that may occur.

DATES: This rule is effective August 2, 2010.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Department of Justice; 99 New York Avenue, NE., Washington, DC 20226; telephone: 202–648–7094.

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the provisions of the Gun Control Act of 1968 ("the Act"), 18 U.S.C. Chapter 44. He has delegated that responsibility to the Director of ATF, subject to the direction of the Attorney General and the Deputy Attorney General. 28 CFR 0.130(a). ATF has promulgated regulations that implement the provisions of the Act in 27 CFR part 478.

The regulations in Subpart E of Part 478, §§ 478.71–78, relate to proceedings involving federal firearms licenses, including the denial, suspension, and revocation of a license, and the imposition of a civil fine. Prior to the 2009 amendments under the interim rule, § 478 provided as follows: Under § 478.71, whenever the Director of Industry Operations ("DIO") had reason to believe that an applicant was not qualified to receive a license under the provisions of § 478.47, he could issue a notice of denial, on ATF Form 4498, to the applicant. The notice would set forth the matters of fact and law relied upon in determining that the application should be denied, and would afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing was filed within such time, the application would be disapproved and a copy, so marked, would be returned to the applicant.

Under § 478.72, an applicant who had been denied an original or renewal license could file a request with the DIO for a hearing to review the denial of the application. On conclusion of the hearing and after consideration of all relevant facts and circumstances presented by the applicant or his representative, the DIO would render a decision confirming or reversing the denial of the application. If the decision was that the denial should stand, a certified copy of the DIO's findings and conclusions would be furnished to the applicant with a final notice of denial, ATF Form 4501. In addition, a copy of the application, marked "Disapproved," would be furnished to the applicant. If the decision was that the license applied for should be issued, the applicant would be so notified, in writing, and the license would be issued.

Section 478.73 provided that whenever the DIO had reason to believe that a firearms licensee had willfully violated any provision of the Act or part 478, a notice of revocation of the license (ATF Form 4500), could be issued. In addition, a notice of revocation, suspension, or imposition of a civil fine could be issued on Form 4500 whenever the DIO had reason to believe that a licensee had knowingly transferred a firearm to an unlicensed person and knowingly failed to comply with the requirements of 18 U.S.C. 922(t)(1), relating to a NICS (National Instant Criminal Background Check System) background check.

As specified in § 478.74, a licensee who had received a notice of suspension or revocation of a license, or imposition of a civil fine, could file a request for a hearing with the DIO. On conclusion of the hearing and after consideration of all the relevant presentations made by the licensee or the licensee's representative, the DIO would render a decision and prepare a brief summary of the findings and conclusions on which the decision was based. If the decision was that the license should be revoked or, in actions under 18 U.S.C. 922(t)(5), that the license should be revoked or suspended, or that a civil fine should be imposed, a certified copy of the summary would be furnished to the licensee with the final notice of revocation, suspension, or imposition of a civil fine on ATF Form 4501. If the decision was that the license should not be revoked, or, in actions under 18 U.S.C. 922(t)(5), that the license should not be revoked or suspended, and a civil fine should not be imposed, the licensee would be notified in writing.

Under § 478.76, an applicant or licensee could be represented by an attorney, certified public accountant, or other person recognized to practice before ATF, provided certain requirements were met. The DIO could be represented in proceedings by an attorney in the office of the Assistant Chief Counsel or Division Counsel who was authorized to execute and file motions, briefs, and other papers in the proceeding, on behalf of the DIO, in his own name as "Attorney for the Government."

Section 478.78 provided that if a licensee was dissatisfied with a post-hearing decision revoking or suspending the license, denying the application, or imposing a civil fine, he could file a petition for judicial review of such action. In such case, when the DIO found that justice so required, the DIO could postpone the effective date of suspension or revocation of a license, or authorize continued operations under the expired license pending judicial review.

II. Interim Rule

The Department of Justice published an interim rule with request for comments at 74 FR 1875 on January 14, 2009 (ATF 27P) that amended ATF's regulations to redesignate the Director, as opposed to the DIO, as the deciding official in matters dealing with the denial of an original or renewal firearms license, the suspension or revocation of a license, and the imposition of a civil fine. ATF determined that delegating the final authority with respect to those matters to the Director is necessary and proper. ATF further maintained that the Director should be able to redelegate this authority to the DIO or any other agency official through issuance of a delegation order, not through regulation. This approach is consistent with other regulations in part 478. For example, § 478.144 provides that the Director is the deciding authority with respect to applications for relief from firearms disabilities. Pursuant to ATF Order 1120.4 (69 FR 55462, September 14, 2004), the authority to make determinations on applications for relief from federal firearms disabilities was delegated to the Assistant Director (Enforcement Programs and Services).

These changes to the decision-making and related delegation authority were the only substantial changes made by the interim rule. All other aspects of the ATF processes, including notice and review provisions, remained the same. ATF believes that it is appropriate for the Director to have more flexibility to delegate or directly exercise authority to conduct a hearing and decide denial, suspension, or revocation of a federal firearms license, or the imposition of a civil fine. Such flexibility allows ATF to more efficiently conduct revocation and denial hearings, because the Director can designate Headquarters officials, field officials, or some combination thereof, as the final agency decision-maker. That flexibility gives the agency the ability to ensure consistency in decision-making and to address any case backlogs that may occur.

Comments on the interim rule were to be submitted to ATF on or before April 14, 2009.

III. Comment Analysis and Department Response

In response to the interim rule, ATF received three comments. Two commenters supported the interim regulations, while one commenter expressed opposition. Essentially, the opposing commenter expressed a concern that under the interim regulations the Director's decision is not subject to review.

According to the commenter:

The only other times in the state of American government, aside from the Presidency, where one person is afforded the opportunity to make decisions affecting

others without a system of checks and balances is by a judge. Even then, there is an appeals process by which this one individual's interpretation of legal circumstances may be reviewed. * * * To afford the director of a government agency, or any other appointed individual for that matter, the ability to "legislate" freely as he deems necessary regarding the denial, suspension, or revocation of a federally issued license seems not only unconstitutional, but potentially unethical if this one man's ruling is subject to a political agenda.

Department Response

ATF understands the issues and the concerns that the commenter raised; however, the due process "system of checks and balances" is already incorporated into the procedures for denying, suspending, or revoking a federal firearms license, or imposing a civil fine. Prior to any adverse decision, ATF must provide notice to the affected applicant or license holder and provide that person with an opportunity to present evidence in a hearing. Before the interim rule became effective, the DIO for each field division had the authority to issue the final decision. The interim rule vests this same authority to issue a final decision in the ATF Director. The Director may, in turn, delegate that authority to Headquarters officials, field officials, or some combination thereof. This gives the Director the ability to more effectively decide licensing cases and ensure consistency in decision-making.

Regardless which ATF official is authorized to make a final decision, ATF must provide notice and an opportunity to present evidence. Moreover, Congress has provided, under 18 U.S.C. 923(f), for federal court review of the final notice denying a person's application or revoking the person's license. In such a judicial review, the courts are not bound by the evidence that had been previously presented during the administrative proceedings before the agency decision. If the court decides that the agency was not authorized to deny the application or to revoke the license, the court shall order the agency to take such action as may be necessary to comply with the judgment of the court. Nothing in this rule change would alter or affect the person's due process rights to judicial review as they stood prior to the change. The change simply elevates final decision-making authority to the Director. Therefore, no changes to the rule need to be made to ensure minimum constitutional due process requirements are satisfied.

IV. Final Rule

The Department has determined that an amendment of the interim regulations is not warranted and it is, therefore, adopting the interim rule as a final rule without change.

How This Document Complies With the Federal Administrative Requirements for Rulemaking

A. Executive Order 12866

The Attorney General has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. This rule will not have an annual effect on the economy of $100 million, nor will it adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local or tribal governments or communities.

This is a rule of agency organization, procedure, and practice. It merely redesignates the Director as the deciding official with respect to the denial, suspension, or revocation of a federal firearms license and the imposition of a civil fine.

B. Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Attorney General has determined that this regulation will not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

C. Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b). The interim rule was not subject to notice and comment rulemaking requirements. *Id.* 553(b)(A). This final rule, which adopts the interim regulations, is a rule of agency organization, procedure, and practice. It merely delegates to the Director the authority to make decisions with respect to the denial, suspension, imposition of a civil fine, or revocation of federal firearms licenses.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

F. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

G. Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

Disclosure

Copies of the interim rule, the comment received in response to the interim rule, and this final rule will be available for public inspection by appointment during normal business hours at: ATF Reading Room, Room 1E–063, 99 New York Avenue, NE., Washington, DC 20226; telephone: (202) 648–7080.

Drafting Information

The author of this document is James P. Ficaretta; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Domestic violence, Exports, Imports, Law enforcement personnel, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

Accordingly, the interim rule amending 27 CFR part 478, which was published at 74 FR 1875 on January 14, 2009, is adopted as a final rule without change.

Dated: May 27, 2010.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2010–13392 Filed 6–2–10; 8:45 am]

BILLING CODE 4410–FY–P

POSTAL SERVICE

39 CFR Part 111

Plant-Verified Drop Shipment (PVDS)—Nonpostal Documentation

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) 705.15. 2.14 to clarify that PS Form 8125, Plant-*Verified Drop Shipment (PVDS) Verification and Clearance,* is the sole source of evidence for USPS® purposes of the transfer of the custody of pieces entered as a mailing at the time of induction; to clarify that Postal employees may, upon request, sign additional nonpostal documents when presented by transportation providers; and to require segregation of documentation presented at the time of induction.

DATES: *Effective Date:* July 6, 2010.

FOR FURTHER INFORMATION CONTACT: Susan Thomas at 202–268–8069.

SUPPLEMENTARY INFORMATION: As a result of reviews of USPS policy concerning practices at induction points of plant-verified drop shipment mailings, the Postal Service is adopting this final rule to clarify the use and purpose of PS Form 8125 as well as other documents that mailers' nonpostal transportation providers (carriers) may present at the time of induction. The final rule provides that PS Forms 8125 must be segregated from any other documentation presented at the time of mailing. This measure ensures that postal personnel will be able to easily identify and process necessary postal documentation at the time of induction, thereby promoting the efficiency of operations. Further, the final rule clarifies that a PS Form 8125 serves as the sole source of evidence for USPS purposes of the transfer of the custody of pieces entered at the time of induction. No other form of documentation serves this purpose.

The Postal Service adopts the following changes to the *Mailing Standards for the United States Postal Service,* Domestic Mail Manual (DMM), which is incorporated by reference in the *Code of Federal Regulations. See* 39 CFR Part 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR Part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 C.F.R. Part continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

700 Special Standards

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

15.0 Plant-Verified Drop Shipment

* * * * *

15.2 Program Participation

* * * * *

[Add new 705.15.2.14 as follows:]

15.2.14 Form 8125—Segregation and Nonpostal Documentation

PS Forms 8125 must be segregated from all other nonpostal documentation and presented separately to USPS personnel at the time of induction. Nonpostal proof-of-delivery documents such as delivery receipts or bills of lading presented by a mailer's transportation provider [carrier] are not substitutes for PS Forms 8125. USPS personnel may, upon request, sign such documents when presented by carriers. A PS Form 8125 signed by a postal employee (or electronic equivalent file in the Electronic Verification System (eVS)) serves as the sole evidence of the transfer of the custody of pieces entered as a mailing at the time of induction. The Postal Service does not consider a proof-of-delivery document such as a delivery receipt or a bill of lading furnished by a USPS customer's carrier as proof of mailing, acceptance, or the amount of mail tendered. Any signature by a postal employee or agent on any nonpostal form does not serve any mail acceptance purpose. If an inconsistency between the information on a PS Form 8125 and a carrier- or mailer-provided document designed to evidence the transfer of custody of pieces entered as a mailing at the time of induction exists, the information on PS Form 8125 prevails insofar as the USPS is concerned.

* * * * *

We will publish an amendment to 39 CFR 111 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2010–12885 Filed 6–2–10; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0705; A–1–FRL–9157–4]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Determination of Attainment of the 1997 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is determining that the Providence (All of Rhode Island) moderate 8-hour ozone nonattainment area has attained the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. This determination is based upon complete, quality-assured and certified ambient air monitoring data that show the area has monitored attainment of the 8-hour ozone NAAQS for the 2006–2008 monitoring period. In addition, quality-assured and certified ozone data for 2009, show that this area continues to attain the 1997 8-hour ozone NAAQS. This determination results in the suspension of the requirements for Rhode Island to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans for this area related to attainment of the 8-hour ozone NAAQS. These requirements shall remain suspended for so long as the area continues to attain the ozone NAAQS.

DATES: *Effective Date:* This rule is effective on July 6, 2010.