

objective, while minimizing any significant adverse impact on small entities.<sup>40</sup> Alternatives in this category would include: (i) Establishing different compliance or reporting standards or timetables that take into account the resources available to small entities; (ii) clarifying, consolidating, or simplifying compliance requirements under the rule for small entities; (iii) using performance rather than design standards; and (iv) exempting small entities from coverage of the rule, or any part of the rule.

We believe that special compliance or reporting requirements or timetables for small entities, or an exemption from coverage for small entities, may create the risk that the investors who are advised by and effect securities transactions through such small entities would not receive adequate disclosure. Moreover, different disclosure requirements could create investor confusion if it creates the impression that small investment advisers have different conflicts of interest with their advisory clients in connection with principal trading than larger investment advisers. We believe, therefore, that it is important for the disclosure protections required by the rule to be provided to advisory clients by all advisers, not just those that are not considered small entities. Further consolidation or simplification of the proposals for investment advisers that are small entities would be inconsistent with the Commission's goals of fostering investor protection.

We have endeavored through rule 206(3)-3T to minimize the regulatory burden on all investment advisers eligible to rely on the rule, including small entities, while meeting our regulatory objectives. It was our goal to ensure that eligible small entities may benefit from the Commission's approach to the new rule to the same degree as other eligible advisers. The condition that advisers seeking to rely on the rule must also be registered as broker-dealers and that each account with respect to which an adviser seeks to rely on the rule must be a brokerage account subject to the Exchange Act, and the rules thereunder, and the rules of the self-regulatory organization(s) of which it is a member, reflect what we believe is an important element of our balancing between easing regulatory burdens (by affording advisers an alternative means of compliance with section 206(3) of the Act) and meeting our investor protection objectives.<sup>41</sup> Finally, we do

not consider using performance rather than design standards to be consistent with our statutory mandate of investor protection in the present context.

#### G. Solicitation of Comments

We solicit written comments regarding our analysis. We request comment on whether the rule will have any effects that we have not discussed. We request that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

Do small investment advisers believe an alternative means of compliance with section 206(3) of the Advisers Act should be available to more of them?

#### VIII. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or "SBREFA,"<sup>42</sup> we must advise OMB whether a proposed regulation constitutes a "major" rule. Under SBREFA, a rule is considered "major" where, if adopted, it results in or is likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers or individual industries; or (3) significant adverse effects on competition, investment or innovation.

We request comment on the potential impact of the proposed amendment on the economy on an annual basis. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

#### IX. Statutory Authority

The Commission is proposing to amend rule 206(3)-3T pursuant to sections 206A and 211(a) of the Advisers Act.

#### List of Subjects in 17 CFR Part 275

Investment advisers, Reporting and recordkeeping requirements.

#### Text of Proposed Rule Amendment

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows.

#### PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

1. The authority citation for part 275 continues to read in part as follows:

condition as disadvantaging small broker-dealers (or affiliated but separate investment advisers and broker-dealers)).

<sup>42</sup>Public Law 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

**Authority:** 15 U.S.C. 80b-2(a)(11)(G), 80b-2(a)(17), 80b-3, 80b-4, 80b-4a, 80b-6(4), 80b-6a, and 80b-11, unless otherwise noted.

\* \* \* \* \*

#### § 275.206(3)-3T [Amended]

2. In § 275.206(3)-3T, amend paragraph (d) by removing the words "December 31, 2010" and adding in their place "December 31, 2012."

Dated: December 1, 2010.

By the Commission.

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2010-30590 Filed 12-2-10; 4:15 pm]

**BILLING CODE 8011-01-P**

#### POSTAL REGULATORY COMMISSION

#### 39 CFR Part 3055

[Docket No. RM2011-4; Order No. 600]

#### Periodic Reporting Rules

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice of rulemaking.

**SUMMARY:** The Postal Service has filed a request for a semi-permanent waiver of periodic reporting rules concerning service performance for First-Class Mail Flats at the District level or, in the alternative, a rulemaking petition seeking deletion of this reporting requirement. This document addresses the Postal Service's filing and identifies related procedural steps, including a request for public comments.

**DATES:** *Comments are due:* December 14, 2010.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system. Commenters who cannot submit filings electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for advice on alternatives.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov) or 202-789-6820.

**SUPPLEMENTARY INFORMATION:** On November 23, 2010, the Postal Service filed a request for a semi-permanent exception from periodic reporting of service performance measurement for First-Class Mail Flats at the District level pursuant to Commission Order No. 465 and 39 CFR 3055.3(a)(1).<sup>1</sup>

<sup>1</sup> United States Postal Service Request for Semi-Permanent Exception from Periodic Reporting of Service Performance Measurement or, in the Alternative, Petition for Rulemaking Concerning 39 CFR 3055.45(a), November 23, 2010 (Request); see also Docket No. RM2009-11, Order Establishing Final Rules Concerning Periodic Reporting of

Continued

<sup>40</sup> See 5 U.S.C. 603(c).

<sup>41</sup> See 2007 Principal Trade Rule Release, Section II.B.7 (noting commenters that objected to this

Alternatively, the Postal Service petitions the Commission to initiate a rulemaking to remove the requirement to report service performance measurement for First-Class Mail Flats at the District level from the Commission's rules of practice and procedure. See 39 CFR 3055.45(a). Concomitantly, the Postal Service filed a provisional notice of withdrawal from a separate request for a temporary waiver of this reporting requirement.<sup>2</sup> See Docket No. RM2011-1.

Specifically, the Postal Service requests that the Commission grant one of the following extraordinary remedies: (1) Allow a semi-permanent exception for quarterly, district-level reporting of First-Class Mail Flats under 39 CFR 3055.3(a)(1), on the basis of the undue burden that a \$4 million measurement cost would impose on the Postal Service's financial position; (2) allow a semi-permanent exception on an extraordinary basis, not under 39 CFR 3055.3(a)(1), for the same reason; or (3) amend 39 CFR 3055.45(a)(1) and (2) to delete the word "District." Request at 7.

The Commission establishes Docket No. RM2011-4 for consideration of matters related to the proposed semi-permanent exception from periodic reporting of service performance measurement identified in the Postal Service's Request.

Interested persons may submit comments on whether the Postal Service's Request is consistent with the policies of 39 U.S.C. 3652(a)(2) and 39 CFR 3055.3. Comments are due no later than December 14, 2010. The Postal Service's Request can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Emmett Rand Costich to serve as Public Representative in the captioned proceedings.

*It is ordered:*

1. The Commission establishes Docket No. RM2011-4 for consideration of matters raised by the Postal Service's Request.

2. Comments by interested persons in these proceedings are due no later than December 14, 2010.

3. Pursuant to 39 U.S.C. 505, Emmett Rand Costich is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

Service Performance Measurements and Customer Satisfaction, May 25, 2010, at 22 (Order No. 465).

<sup>2</sup>Docket No. RM2011-1, United States Postal Service Notice of Provisional Partial Withdrawal of Request for Temporary Waiver, November 24, 2010.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**  
Secretary.

[FR Doc. 2010-30448 Filed 12-3-10; 8:45 am]

**BILLING CODE 7710-FW-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2010-0934; A-1-FRL-9235-2]

#### Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Determination of Attainment of the 1997 Ozone Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to determine that the Boston-Manchester-Portsmouth (SE), New Hampshire moderate 1997 8-hour ozone nonattainment area continues to attain the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. This determination is based upon complete, quality-assured, certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007-2009 monitoring period. Preliminary data available through June 15, 2010 also are consistent with continued attainment. In addition, in accordance with the Clean Air Act, EPA is proposing to determine that this area has attained the 1997 ozone NAAQS as of June 15, 2010, its applicable attainment date.

**DATES:** Written comments must be received on or before January 5, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2010-0934 by one of the following methods:

1. <http://www.regulations.gov>. Follow the online instructions for submitting comments.

2. *E-mail:* [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).

3. *Fax:* (617) 918-0047.

4. *Mail:* "Docket Identification Number EPA-R01-OAR-2010-0934," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit,

Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109-3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R01-OAR-2010-0934. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov>, or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA.