

trim size dimensions for labels, including the precise width (between 5 1/4" to 5 1/2") and length (between 7 3/8" and 7 5/8"); the number of picas for the copy set (between 27 and 29); the type style (Arial) and setting; the weight of the paper stock on which the labels are printed (not less than 58 pounds per 500 sheets or equivalent); and a suggested minimum peel adhesive capacity of 12 ounces per square inch.⁶

The Notice we issue today includes 13 pages of prototype labels, complete with the array of requirements described above. For example, Prototype Label 10 for Vertical Rectangular Television Labels specifies not only the categories of information to be displayed, but also the precise font and size in which that information is to be printed. The Estimated Yearly Energy Cost must appear in 12/14.4 Arial Narrow Bold. And while the phrase "US Government" at the top of the label must be printed in 7/9 pt Arial Narrow, "visit [ferc.gov/energy](https://www.ferc.gov/energy)" at the bottom must be printed in 8 pt Arial Narrow. As I have indicated on previous occasions, we could identify the categories of information to be disclosed clearly and conspicuously, and then allow companies to create appropriate labels.

Once again, I urge the Commission to act on the comments we received in 2020, eliminate the more prescriptive aspects of the Rule, and maximize the positive impact of this Rule for consumers. As long as we are statutorily mandated to maintain this Rule, we

should endeavor to make it beneficial for consumers and competition.

Regrettably, the Commission once again has chosen to forego this route, instead making only minor changes to the Rule necessary for conformity. Accordingly, I dissent.

[FR Doc. 2022-11126 Filed 5-24-22; 8:45 am]

BILLING CODE 6750-01-C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 260, and 284

[Docket No. RM21-18-000]

Revised Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission proposes to establish a rule to require natural gas pipelines to submit all supporting statements, schedules and workpapers in native format (e.g., Microsoft Excel) with all links and formulas intact when filing a Natural Gas Act section 4 rate case.

DATES: Comments are due June 24, 2022.

ADDRESSES: Comments, identified by Docket No. RM21-18-000, may be filed in the following ways. Electronic filing through <http://www.ferc.gov> is preferred.

- **Electronic Filing:** Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

- *Mail via U.S. Postal Service Only:*

Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- *Hand (including courier) delivery:*

Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

The Comment Procedures Section of this document contains more detailed filing procedures.

FOR FURTHER INFORMATION CONTACT:

Tehseen Rana (Technical Information), Office of Energy Market Regulation, 888 First Street NE, Washington, DC 20426, (202) 502-8639, Tehseen.Rana@ferc.gov.

Caitlin Tweed (Legal Information), Office of the General Counsel, 888 First Street NE, Washington, DC 20426, (202) 502-8073, Caitlin.Tweed@ferc.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

Paragraph Nos.

I. Introduction	1
II. Background	3
III. Discussion	5
IV. Information Collection Statement	9
V. Environmental Analysis	25
VI. Regulatory Flexibility Act Certification	26
VII. Comment Procedures	28
VIII. Document Availability	31

I. Introduction

1. On June 24, 2021, American Gas Association, American Public Gas Association, American Forest & Paper Association, Industrial Energy Consumers of America, Process Gas Consumers Group and Natural Gas Supply Association (collectively, Petitioners) filed a petition requesting that the Commission institute a

rulemaking to revise its regulations, or at the minimum, issue an order revising and updating the *FERC Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300 and 341 Tariff Filings* (FERC Implementation Guide) to require natural gas pipelines to submit all supporting statements, schedules and workpapers in native format¹ with all links and formulas intact when filing a

general Natural Gas Act (NGA) section 4² rate case (Petition). Petitioners state that the Commission's current policy does not ensure that Commission staff and stakeholders have access to all the information needed to perform routine rate analyses.

2. CenterPoint Energy Resources Corporation (CenterPoint), National Grid Gas Delivery Companies (National

⁶ See e.g., 16 CFR 305.13, 305.20 (specifying such requirements for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, and pool heaters (305.13) and for central air conditioners, heat pumps, and furnaces (305.20)).

¹ As stated in the FERC Implementation Guide, native format, or native application format, "refers

to the software used to create the file. When a file is submitted in native application format it is submitted in the format of the software used to create the file. For example, if the file is created in Microsoft Excel 2010, submit the file in an Excel format, generally denoted by an extension of XLSX. All files submitted in native application format must be saved and filed using one of the

Commission's accepted electronic document file formats. The list of FERC Acceptable File Formats is available on www.ferc.gov." *FERC Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300 and 341 Tariff Filings* (2016).

² 15 U.S.C. 717c.

Grid),³ and Exelon Corporation, Exelon Generation Company, LLC, and affiliates (collectively, Exelon) filed general comments in support of the Petition. In its comments, CenterPoint states that the changes proposed in the Petition may expedite proceedings by removing the additional step where intervenors must submit separate requests for supporting statements, schedules and workpapers in native format, in effect reducing time and expense for all stakeholders. National Grid states that when a natural gas pipeline does not file in native format, a party's only recourse is either the time-consuming process of raising the matter in protests and waiting for the Commission to direct the filer to provide all statements, schedules and workpapers in native format and subsequently the pipeline's compliance with those directives or pursuing this necessary information even later in the process through discovery. National Grid further states that these recourses are not only inefficient but cost parties time waiting on workpapers that allow for a complete and thorough assessment of the rate filing. Exelon maintains that supporting statements, schedules and workpapers should be provided in native format for stakeholders to review and determine whether a natural gas pipeline's proposed rate increase is just and reasonable and in conformance with Commission policies. Exelon argues that it is difficult to conduct a thorough analysis of a rate case if supporting statements, schedules and workpapers are submitted in Adobe PDF format.

II. Background

3. As required by § 284.10 of the Commission's regulations,⁴ interstate natural gas pipelines generally have stated rates for their services, which are approved in a rate proceeding under NGA sections 4 or 5 and remain in effect until changed in a subsequent section 4 or 5 proceeding. When a natural gas pipeline files under NGA section 4 to change its rates, the Commission requires the pipeline to provide detailed support for all the components of its cost of service.⁵ Further, section 4(c) of the NGA requires that a natural gas pipeline file proposed changes in rates

with the Commission 30 days prior to the proposed effective date.⁶

4. Commission regulations require that natural gas pipelines filing general section 4 rate cases provide certain statements (Statements A through P).⁷ In 1995, the Commission issued its *Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs* (Order No. 582), stating that Statements I, J and a portion of H (containing state tax formulations) must be received in spreadsheet format with formulas included, as the data provided in these statements are essential to understanding a natural gas pipeline's position with regard to cost allocation and rate design.⁸ The Commission found that although these spreadsheets could be obtained through discovery, that process is burdensome, often redundant of the initial filing and inhibits better-informed protests.⁹ Subsequently, the FERC Implementation Guide stated that the "submission of spreadsheets in native file format is preferred for Statements A through M, including related schedules. Statements O and P may use any electronic format that renders text, graphics, spreadsheets or data bases that the Commission accepts (the list of FERC Acceptable File Formats is available on <http://www.ferc.gov>)."¹⁰ Furthermore, for Statements I, J and a portion of H, the FERC Implementation Guide stated that if spreadsheets in native format (e.g., Microsoft Excel) are not available that the natural gas pipeline may submit using any of the aforementioned acceptable electronic formats which the Commission accepts.¹¹

III. Discussion

5. Pursuant to NGA section 4, we propose to establish a rule to require natural gas pipelines to submit all statements, schedules and workpapers in native format with formulas and links intact¹² when filing a general NGA section 4 rate case.

⁶ 15 U.S.C. 717c(d).

⁷ 18 CFR 154.312.

⁸ *Filing and Reporting Requirements for Interstate Nat. Gas Co. Rate Schedules & Tariffs*, Order No. 582, 60 FR 52,960, 52,994 (Oct. 11, 1995), FERC Stats. & Regs. ¶ 31,025 (1995), *order on clarification*, 76 FERC ¶ 61,077 (1996) (Order on Clarification).

⁹ In Order No. 703, the Commission confirmed this requirement that pipelines submit spreadsheets in native format for Statements I, J and a portion of H, including intact formulas. *Filing Via the Internet*, Order No. 703, 72 FR 65659 (Nov. 23, 2007), 121 FERC ¶ 61,171 at P 26 (2007).

¹⁰ *FERC Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300 and 341 Tariff Filings* (2016).

¹¹ *Id.*

¹² "Formulas and links intact" includes formulas and links within individual spreadsheets and between spreadsheets. For example, the proposal

6. First, requiring all statements, schedules and workpapers to be filed in native format will reconcile any ambiguity in the current requirements with a formal requirement for all natural gas pipelines to file accordingly. For example, in the Order on Clarification of Order No. 582, the Commission states that if there are no underlying links used to develop a spreadsheet (i.e., the spreadsheets are prepared separately from each other) then links do not need to be created. Currently, when a natural gas pipeline submits a section 4 rate case filing, the Commission often cannot verify whether there were underlying links used to develop a spreadsheet or whether a pipeline severed those links before filing its rate case. We seek to address this information gap and require natural gas pipelines to file statements and schedules linking progressive calculations regardless of how the statements and schedules were created. Furthermore, requiring spreadsheets with links and formulas intact will enable rate case participants to manipulate the cost-of-service components (including billing determinants) to evaluate different rate outcomes without the need to create their own rate models. This will expedite settlement negotiations and will allow all rate case participants to evaluate the filing on equal footing with the natural gas pipeline and without the need to hire experts or rely on other parties to recreate a pipeline's rate model.

7. Second, submitting all statements, schedules and workpapers in native format will provide for a timely and comprehensive analysis of a rate case filing. If natural gas pipelines are required to submit all statements, schedules and workpapers in native format with links and formulas intact in the initial filing, stakeholders will be provided with pertinent information to analyze the rates and determine if they are just and reasonable. Parties can begin examining the entire filing during the typical 12-day comment period and thus file more informed protests. Furthermore, if natural gas pipelines are required to file all statements and schedules with formulas and links intact, all rate case participants will be able to evaluate the filing and any settlement offers from the same baseline, as opposed to all parties creating their own rate models. This will streamline the rate case process, including settlement discussions, and

will require that formulas and links within Schedule I-2 be intact within Schedule I-2, and intact for any progressive calculations that flow data from Schedule I-2.

³ The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Boston Gas Company d/b/a National Grid; The Narragansett Electric Company d/b/a National Grid; and Niagara Mohawk Power Corporation d/b/a National Grid, all subsidiaries of National Grid USA, Inc. (collectively, the National Grid Gas Delivery Companies).

⁴ 18 CFR 284.10 (2021).

⁵ 18 CFR 154.312 & 154.313 (2021).

avoid parties exchanging multiple rounds of discovery and testimony merely to understand the rate model's underlying calculations. The Commission acknowledged this in the Order on Clarification of Order No. 582, stating: "Requiring parties, including staff, to input all the figures from the rate case and spend weeks and rounds of discovery to recreate the pipeline's computations is grossly inefficient and unduly burdensome. Receiving the rate case in a manipulable format is critical given the 12-day period for comment and protest."¹³

8. Third, the current regulations are outdated. Order No. 582 was issued in 1995. Since then, information technology has significantly improved. Section 4 rate cases are now generally developed using Microsoft Excel and submitted electronically. The concerns raised in the comments submitted in the rulemaking underlying Order No. 582 no longer exist (*e.g.*, outdated software programs, or submitting numerous diskettes). With this rulemaking, we seek to update the filing requirements to reflect current information technology capabilities. We recognize that a final rule adopting these proposals could increase the burden on natural gas pipelines associated with submitting section 4 rate case filings. Currently, natural gas pipelines are only required to submit Statements I, J and the state income taxes portion of Schedule H-3 in native format with formulas and links intact. One specific burden mentioned in the Order on Clarification of Order No. 582 is the need to create links in files where they do not naturally occur when the spreadsheet is developed. As stated above, the Commission cannot verify whether underlying links exist or not but to the extent natural gas pipelines will need to create links among multiple spreadsheets that did not naturally occur when the spreadsheets were generated, their filing burden will increase. However, we do not anticipate that this requirement will be excessively burdensome on natural gas pipelines, as any entity that wants to calculate rates, including the pipeline, needs a linked rate model, and must create one if it is not provided in the original rate case filing.

IV. Information Collection Statement

9. The information collection requirements contained in this NOPR are subject to review by the Office of

Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.¹⁴ OMB's regulations require approval of certain information collection requirements imposed by agency rules.¹⁵ Upon approval of a collection of information, OMB will assign an OMB control number and expiration date.

Respondents subject to the filing requirements of this proposed rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

10. This NOPR will modify the currently approved information collection associated with FERC-545, Gas Pipeline Rates: Rate Change (Non-Formal) (OMB Control No. 1902-0154) (FERC-545) by updating the requirements for submitting a rate case under section 4 of the NGA.

11. Interested persons may obtain information on the reporting requirements by contacting Ellen Brown, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 via email (DataClearance@ferc.gov) or telephone ((202) 502-8663).

12. The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

13. Please send comments concerning the collection of information and the associated burden estimates to: Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. Due to security concerns, comments should be sent electronically to the following email address: oira_submission@omb.eop.gov. Comments submitted to OMB should refer to OMB Control No. 1902-0154.

14. Please submit a copy of your comments on the information collection to the Commission via the eFiling link on the Commission's website at <http://www.ferc.gov>. If you are not able to file comments electronically, please send a

copy of your comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426. Comments on the information collection that are sent to FERC should refer to RM21-18-000.

15. *Title:* Gas Pipeline Rates: Rate Change (Non-Formal).

16. *Action:* Proposed modification of collection of information in accordance with RM21-18-000.

17. *OMB Control No.:* 1902-0154.

18. *Respondents for this Rulemaking:* Gas pipelines filing an NGA section 4 rate case.

19. *Frequency of Information Collection:* As needed for section 4 rate cases.

20. *Necessity of Information:* The proposed rule will require all statements, schedules and workpapers submitted during a section 4 rate case to be submitted in native format with all links and formulas intact. The modification to this collection is intended to reduce the overall burden for all parties involved in a section 4 rate case.

21. *Internal Review:* The Commission has reviewed the changes and has determined that such changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has specific, objective support for the burden estimates associated with the information collection requirements.

22. The Commission estimates that the NOPR will affect the burden¹⁶ and cost¹⁷ as follows:

¹⁶ "Burden" is the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

¹⁷ The estimated hourly cost (salary plus benefits) provided in this section is based on the salary figures for May 2021 posted by the Bureau of Labor Statistics for the Utilities sector (available at https://www.bls.gov/oes/current/naics3_221000.htm) and scaled to reflect benefits using the relative importance of employer costs for employee compensation from June 2021 (available at <https://www.bls.gov/news.release/eccec.nr0.htm>). The hourly estimates for salary plus benefits are: Computer and Information Systems Manager (Occupation Code: 11-3021), \$103.61; Computer and Information Analysts (Occupation Code: 15-1120(1221)), \$67.99; Electrical Engineer (Occupation Code: 7-2071), \$72.15; Legal (Occupation Code: 23-0000), \$142.25. The average hourly cost (salary plus benefits) weighting all of the above skill sets evenly, is \$96.50. We round it to \$97/hour.

¹³ Order on Clarification, 76 FERC at 61,455.

¹⁴ 44 U.S.C. 3507(d).

¹⁵ 5 CFR 1320.11 (2021).

PROPOSED MODIFICATIONS TO FERC 545 FROM NOPR IN DOCKET NO. RM21-18-000

A.	B.	C.	D.	E.	F.
Area of modification	Number of respondents	Annual estimated number of responses per respondent	Annual estimated number of responses (Column B × Column C)	Average burden hours & cost per response	Total estimated burden hours & total estimated cost (Column D × Column E)
Section 4 Rate Case					
FERC 545: Annual Section 4 Rate Cases.	8	1	8	100 hours; \$9,700	800 hours; \$77,600.

23. For the purposes of estimating burden in this NOPR, in the table above, we conservatively estimate the annual total of general section 4 rate cases to be eight. This number is higher than the Commission's average number of section 4 rate cases, but we created our estimate to allow for additional rate case submissions.

24. FERC-545 is required to implement rates pursuant to sections 4, 5, and 16 of NGA, (15 U.S.C. 717 & 717o, Pub. L. 75-688, 52 Stat. 822 and 830). NGA sections 4, 5, and 16 authorize the Commission to inquire into rate structures and methodologies and to set rates at a just and reasonable level. Specifically, a natural gas pipeline must obtain Commission authorization for all rates and charges made, demanded, or received in connection with the transportation or sale of natural gas in interstate commerce. The proposed modification as described in this NOPR in Docket No. RM21-18-000 only impacts filings under section 4 of the NGA. The collections associated with sections 5 and 16 remain unchanged.

V. Environmental Analysis

25. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.¹⁸ The actions proposed to be taken here fall within categorical exclusions in the Commission's regulations for rules regarding information gathering, analysis, and dissemination, and for rules regarding sales, exchange, and transportation of natural gas that require no construction of facilities.¹⁹ Therefore, an environmental review is unnecessary

¹⁸ *Reguls. Implementing the Nat'l Env'tl Pol'y Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

¹⁹ See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5) & 380.4(a)(27) (2021).

and has not been prepared in this rulemaking.

VI. Regulatory Flexibility Act

26. The Regulatory Flexibility Act of 1980 (RFA)²⁰ requires the Commission to determine the effect of the NOPR on small entities. The Commission intends to pose the least possible burden on all entities both large and small.

27. The NOPR only applies to natural gas pipelines who file a section 4 rate case. There are a total of 145 entities that may file a rate change and may be impacted by the NOPR. The Small Business Administration (SBA) defines a small entity in the category of, "Pipeline Transportation of Natural Gas"²¹ by entities with fewer than \$30 million of annual receipts. Out of the total number of entities, only five are small entities (~3% of the total population). We estimate the annual additional costs of filing a section 4 rate case to be \$9,700. We further estimate an average of eight responses per year and conservatively estimates that one may be a small entity. Therefore, this proposed rule does not pose a significant change to small entities.

VII. Comment Procedures

28. The Commission invites interested persons to submit comments on the matters and issues proposed in this rulemaking to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due June 24, 2022. Comments must refer to Docket No. RM21-18-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters

²⁰ 5 U.S.C. 601-612.

²¹ Small Business Administration NAICS Category 486210, "Pipeline Transportation of Natural Gas" under 13 CFR chapter 1 part 121.

on this proposal are not required to serve copies of their comments on other commenters.

29. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software must be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

30. Commenters that are not able to file comments electronically may file an original of their comment by USPS mail or by courier or other delivery services. For submission sent via USPS only, filings should be mailed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submission of filings other than by USPS should be delivered to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

VIII. Document Availability

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

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

last three digits of this document in the docket number field.

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

By direction of the Commission.

Issued: May 19, 2022.

Debbie-Anne A. Reese,
Deputy Secretary.

[FR Doc. 2022-11243 Filed 5-24-22; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 4, 5, 19, 24, 26, and 27

[Docket No. TTB-2022-0004; Notice No. 210]

RIN 1513-AC86

Standards of Fill for Wine and Distilled Spirits

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to amend the regulations governing wine and distilled spirits containers. TTB is proposing to add 10 additional authorized standards of fill for wine, along with related technical and other harmonizing changes. TTB also is considering, as an alternative, eliminating all but a minimum standard of fill for wine containers and all but a minimum and maximum for distilled spirits containers, thus potentially eliminating unnecessary regulatory requirements, reducing barriers to competition, and providing consumers broader purchasing options.

DATES: Comments must be received on or before July 25, 2022.

ADDRESSES: You may electronically submit comments to TTB on this proposal, and view copies of this document, its supporting materials, and any comments TTB receives on it within Docket No. TTB-2022-0004 as posted at <https://www.regulations.gov>. A direct link to that docket is available on the TTB website at <https://www.ttb.gov/laws-and-regulations/all-rulemaking>

under Notice No. 210. Alternatively, you may submit comments via postal mail to the Director, Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005. Please see the Public Participation section of this document for further information on the comments requested regarding this proposal and on the submission, confidentiality, and public disclosure of comments.

FOR FURTHER INFORMATION CONTACT:

Caroline Hermann, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division; telephone 202-453-1039, ext. 256.

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers regulations setting forth standards of fill for containers of beverage distilled spirits and wine products distributed within the United States.

The authority to establish these standards is based on two provisions of law: (1) Section 5301(a) of the Internal Revenue Code of 1986 (IRC), codified at 26 U.S.C. 5301(a) in the case of distilled spirits, and (2) section 105(e) of the Federal Alcohol Administration Act (FAA Act), codified at 27 U.S.C. 205(e), for both distilled spirits and wine. Section 5301(a) of the IRC authorizes the Secretary of the Treasury to prescribe regulations “to regulate the kind, size, branding, marking, sale, resale, possession, use, and reuse of containers (of a capacity of not more than 5 wine gallons) designed or intended for use for the sale of distilled spirits . . .” when the Secretary determines that such action is necessary to protect the revenue. Section 105(e) of the FAA Act authorizes the Secretary of the Treasury to prescribe regulations relating to the “packaging, marking, branding, and labeling and size and fill” of alcohol beverage containers “as will prohibit deception of the consumer with respect to such products or the quantity thereof . . .”

TTB administers regulations setting forth the tax tolerance for containers of wine products based on sections 5041(e) and 5368 of the IRC. TTB administers the IRC and FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Department Order 120-01.

Current Standards of Fill for Wine

The standards of fill for wine are contained in subpart H of part 4 of the TTB regulations (27 CFR part 4). The term “standard of fill” is used in the TTB regulations and in this document to refer to the authorized amount of liquid in the container, rather than the size or capacity of the container itself. For better readability, however, this document sometimes uses the terms “size” or “container size” and “standards of fill” interchangeably. Within subpart H, paragraph (a) of § 4.72 (27 CFR 4.72(a)) authorizes the use of the following metric standards of fill for containers, in addition to those described in paragraph (b) which are discussed further below:

- 3 liters;
- 1.5 liters;
- 1 liter;
- 750 milliliters;
- 500 milliliters;
- 375 milliliters;
- 355 milliliters;
- 250 milliliters;
- 200 milliliters;
- 187 milliliters;
- 100 milliliters; and
- 50 milliliters.

Paragraph (b) of § 4.72 states that wine may be bottled or packed in containers of 4 liters or larger if the containers are filled and labeled in quantities of even liters (4 liters, 5 liters, 6 liters, etc.).

Current Standards of Fill for Distilled Spirits

The standards of fill for distilled spirits are contained in subpart K of part 5 of the TTB regulations (27 CFR part 5). Note that these standards of fill were contained in subpart E of part 5 until March 11, 2022, when the reorganization of part 5 went into effect pursuant to TTB's recent final rule, Modernization of the Labeling and Advertising Regulations for Distilled Spirits and Malt Beverages (T.D. TTB-176, February 9, 2022, 87 FR 7526).

Within subpart K, paragraph (a)(1) of § 5.203 (27 CFR 5.203(a)(1)) specifies the following metric standards of fill for containers other than those described in paragraph (a)(2) of that section:

- 1.8 Liters.
- 1.75 Liters.
- 1 Liter.
- 900 mL.
- 750 mL.
- 720 mL.
- 700 mL.
- 375 mL.
- 200 mL.
- 100 mL.
- 50 mL.

In the case of distilled spirits in metal containers that have the general shape