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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”; and
- 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