

Executive Order 12866. Therefore, it requires no regulatory assessment.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

■ 2. Subpart C is amended by adding § 9.222 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.222 Naches Heights.

(a) *Name.* The name of the viticultural area described in this section is “Naches Heights”. For purposes of part 4 of this chapter, “Naches Heights” is a term of viticultural significance.

(b) *Approved maps.* The five United States Geological Survey 1:24,000 scale topographic maps used to determine the boundary of the Naches Heights viticultural area are titled:

- (1) Selah, Wash., 1958, photorevised 1985;
- (2) Yakima West, Wash., 1958, photorevised 1985;
- (3) Wiley City, Wash., 1958, photorevised 1985;
- (4) Naches, Wash., 1958, photorevised 1978; and
- (5) Tieton, Wash., 1971, photinspected 1981.

(c) *Boundary.* The Naches Heights viticultural area is located in Yakima County, Washington. The boundary of the Naches Heights viticultural area is as described below:

- (1) The beginning point is on the Selah map at the intersection of the Burlington Northern single-track rail line and the Congdon (Schuler) Canal, section 9, T13N/R18E. From the beginning point, proceed south-southwesterly along the single rail line, onto the Yakima West map, approximately 0.35 mile to the first intersection of the rail line with an unnamed creek, locally known as Cowiche Creek, section 9, T13N/R18E; then
- (2) Proceed upstream (westerly) along

and then onto the Naches map, approximately 6.25 miles to the confluence of the North and South Forks of Cowiche Creek, south of Mahoney Road, section 3, T13N/R17E; then

(3) Proceed upstream (northwesterly) along the North Fork of Cowiche Creek approximately 1.6 miles to the intersection of the North Fork with Livengood Road, section 34, T14N/R17E; then

(4) Proceed north and northwest on Livengood Road approximately 1.12 miles until the road turns west and joins Forney Road, and continue approximately 1.02 miles along Forney Road to the intersection of Forney Road with the North Fork of Cowiche Creek, section 28 northwest corner, T14N/R17E; then

(5) Proceed upstream (northwesterly) along the North Fork of Cowiche Creek approximately 1.8 miles to the intersection of the North Fork with the section 17 west boundary line, T14N/R17E; then

(6) Proceed straight north along the section 17 west boundary line to its intersection with Cox Road, and then continue north along Cox Road to the intersection of Cox Road with Rosenkranz Road, section 17 northwest corner, T14N/R17E; then

(7) Proceed west on Rosenkranz Road, onto the Tieton map, approximately 0.6 mile to the intersection of Rosenkranz Road with North Tieton Road, section 7 south boundary line, T14N/R17E; then

(8) Proceed north on North Tieton Road approximately 0.5 mile to the intersection of North Tieton Road with Dilley Road, section 7, T14N/R17E; then

(9) Proceed west on Dilley Road approximately 0.5 mile to the intersection of Dilley Road with Franklin Road, section 7 west boundary line and the R16E and R17E common line, T14N; then

(10) Proceed north on Franklin Road approximately 0.8 mile to the intersection of Franklin Road with Schenk Road and the section 6 west boundary line, T14N/R16E; then

(11) Proceed west on Schenk Road approximately 0.55 mile to the intersection of Schenk Road with Section 1 Road, section 1, T14N/R16E; then

(12) Proceed straight north from the intersection of Schenk Road and Section 1 Road approximately 2.2 miles to the 1,600-foot elevation line, section 36, T15N/R16E; then

(13) Proceed easterly and then southeasterly along the 1,600-foot elevation line, onto the Naches map, approximately 7.5 miles to the intersection of the 1,600-foot elevation

line with the section 26 north boundary line, T14N/R17E; then

(14) Proceed straight east along the section 26 north boundary line approximately 0.25 mile to the intersection of the section 26 north boundary line with the 1,400-foot elevation line, T14N/R17E; then

(15) Proceed southeasterly along the 1,400-foot elevation line approximately 2.5 miles to the intersection of the 1,400-foot elevation line with Young Grade Road, section 31, T14N/R18E; then

(16) Proceed east in a straight line approximately 0.15 mile to the Congdon (Schuler) Canal, which closely parallels the 1,300-foot elevation line, section 31, T14N/R18E; and then

(17) Proceed southeasterly along the Congdon (Schuler) Canal, onto the Selah map, approximately 3.25 miles, returning to the beginning point, section 9, T13N/R18E.

Signed: September 28, 2011.

John J. Manfreda,
Administrator.

Approved: October 20, 2011.

Timothy E. Skud,
Deputy Assistant Secretary, Tax, Trade, and Tariff Policy.

[FR Doc. 2011–32017 Filed 12–13–11; 8:45 am]

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NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Special Procedural Rules Governing Periods When the National Labor Relations Board Lacks a Quorum of Members

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board is revising its rules governing the consideration of certain pleadings that ordinarily require action by a quorum of at least three Board Members. The revisions are being adopted to facilitate, insofar as it is possible, the normal functioning of the Agency during periods when the number of Board members falls below three, the number required to establish a quorum of the Board. The effect of the revisions is to provide the public with avenues for resolving certain issues, while deferring full review by the Board until a quorum has been restored.

DATES: Effective December 14, 2011.

FOR FURTHER INFORMATION CONTACT: Lester A. Heltzer, Executive Secretary,

National Labor Relations Board, 1099 14th Street NW., Room 11600, Washington, DC 20570. Telephone (202) 273-1067 (this is not a toll-free number), 1-(866) 315-6572 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The National Labor Relations Board is revising its rules governing the consideration of certain pleadings that ordinarily require action by a quorum of at least three Board Members. The revisions are being adopted to facilitate, insofar as it is possible, the normal functioning of the Agency during periods when the number of Board members falls below three, the number required to establish a quorum of the Board. See 29 U.S.C. 153(b); *New Process Steel v. NLRB*, —U.S.—, 130 S.Ct. 2635 (2010). No Notice of Proposed Rulemaking (NPRM) is required with respect to this rules revision, as it falls under the Administrative Procedure Act's exception to the NPRM requirement for regulatory actions involving agency organization, procedure, or practice. See 5 U.S.C. 553.

At present, the rules of the National Labor Relations Board (NLRB) provide only for the adjudication of cases and the issuance of decisions by the Board when it is composed of three or more members, which constitutes the Congressionally-designated quorum of the Board. In *New Process Steel v. NLRB*, *supra*, 130 S. Ct. 2635, the Supreme Court held that Congress empowered the Board to delegate its powers to no fewer than three members, and that, to maintain a valid quorum, a membership of three must be maintained. *Id.* at 2640. It can be anticipated that, from time to time, the number of individuals appointed by the President and confirmed by Congress to serve as members of the National Labor Relations Board may fall below three. Thus, the Board has determined that the purposes of the National Labor Relations Act will best be served, and the Board's Congressional mandate will best be carried out, if its rules were revised to refer, under those circumstances only, certain motions and appeals to other offices of the Board, while preserving for the parties the right to ultimate review by the Board when a quorum is restored. In this regard, the Board has identified certain classes of disputes that are amendable to processing through other Board offices; *i.e.*, Motions for Summary Judgment, Motions for Default Judgment, Motions for Dismissal of Complaints, and requests for permission to file special appeals will be referred to the Chief Administrative Law Judge for ruling,

and administrative and procedural motions will be referred to the Executive Secretary for ruling. In all cases of such referrals, parties will retain the right to full Board review by filing a request for review or exceptions to the ruling at the appropriate time. Normal time limits for filing will apply, and the case will be considered on its merits by the Board upon restoration of a quorum.

It is anticipated that these changes in the rules will serve the interest of the public and the parties in the speedy resolution of disputes, where that resolution is possible, as well as in the litigation of cases before administrative law judges with as few disruptions as possible. In addition, the Board anticipates that, as in some cases the parties will determine that no exception is warranted, these revisions may serve to reduce the backlog of cases that the Board will face when a quorum is restored.

Executive Order 12866

The regulatory review provisions of Executive Order 12866 do not apply to independent regulatory agencies. However, even if they did, the proposed changes in the Board's rules would not be classified as "significant rules" under Section 6 of Executive Order 12866, because they will not result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

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.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for procedural rules, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) pertaining to regulatory

flexibility analysis do not apply to these rules. However, even if the Regulatory Flexibility Act were to apply, the NLRB certifies that these rules will not have a significant economic impact on a substantial number of small business entities as they merely provide parties with avenues for expeditiously pursuing and defending claims before the Board under certain narrow circumstances.

Paperwork Reduction Act

These rules are not subject to Section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since they do not contain any new information collection requirements.

Small Business Regulatory Enforcement Fairness Act

Because these rules relate to Agency procedure and practice and merely modify the Agency's internal processing of certain motions in narrow circumstances, the Board has determined that the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801) do not apply.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure; Labor-management relations.

To provide for the normal operation of the Board during periods when the number of Board members is insufficient to constitute a quorum, the Board amends 29 CFR part 102 as follows:

PART 102—RULES AND REGULATIONS, SERIES 8

■ 1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117 also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

■ 2. Add subpart X to read as follows:

Subpart X—Special Procedures When the Board Lacks a Quorum

Sec.

102.178 Normal operations should continue.

102.179 Motions for default judgment, summary judgment, or dismissal referred to Chief Administrative Law Judge.

102.180 Requests for special permission to appeal referred to Chief Administrative Law Judge.

102.181 Administrative and procedural requests referred to Executive Secretary.

Subpart X—Special Procedures When the Board Lacks a Quorum**§ 102.178 Normal operations should continue.**

The policy of the National Labor Relations Board is that during any period when the Board lacks a quorum normal Agency operations should continue to the greatest extent permitted by law.

§ 102.179 Motions for default judgment, summary judgment, or dismissal referred to Chief Administrative Law Judge.

During any period when the Board lacks a quorum, all motions for default judgment, summary judgment, or dismissal filed or pending pursuant to § 102.50 of this part shall be referred to the Chief Administrative Law Judge in Washington, DC, for ruling. Such rulings by the Chief Administrative Law Judge, and orders in connection therewith, shall not be appealed directly to the Board, but shall be considered by the Board in reviewing the record if exception to the ruling or order is included in the statement of exceptions filed with the Board pursuant to § 102.46 of this part.

§ 102.180 Requests for special permission to appeal referred to Chief Administrative Law Judge.

During any period when the Board lacks a quorum, any request for special permission to appeal filed or pending pursuant to § 102.26 of this part shall be referred to the Chief Administrative Law Judge in Washington, DC, for ruling. Such rulings by the Chief Administrative Law Judge, and orders in connection therewith, shall not be appealed directly to the Board, but shall be considered by the Board in reviewing the record if exception to the ruling or order is included in the statement of exceptions filed with the Board pursuant to § 102.46.

§ 102.181 Administrative and procedural requests referred to Executive Secretary.

During any period when the Board lacks a quorum, administrative and procedural requests that would normally be filed with the Office of the Executive Secretary for decision by the Board prior to the filing of a request for review under § 102.67 of this part, or exceptions under §§ 102.46 and 102.69 of this part, shall be referred to the Executive Secretary for ruling. Such rulings by the Executive Secretary, and orders in connection therewith, shall not be appealed directly to the Board, but shall be considered by the Board if such matters are raised by a party in its request for review or exceptions.

Signed in Washington, DC, on December 8, 2011.

Mark Gaston Pearce,
Chairman.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52 and Part 70**

[EPA-R07-OAR-2011-0822; FRL-9505-8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Missouri State Implementation Plan (SIP) and Operating Permits Program. EPA is approving a revision to the Missouri rule entitled “Submission of Emission Data, Emission Fees and Process Information.” These revisions align the State’s reporting requirements with the Federal Air Emissions Reporting Requirements Rule (AERR). **DATES:** This direct final rule will be effective February 13, 2012, without further notice, unless EPA receives adverse comment by January 13, 2012. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2011-0822, by one of the following methods:

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

2. *Email:* bhesania.amy@epa.gov.

3. *Mail or Hand Delivery:* Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2011-0822. 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://](http://www.regulations.gov)

www.regulations.gov or email 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 email comment directly to EPA without going through <http://www.regulations.gov>, your email 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 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, 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 the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office’s official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Amy Bhesania at (913) 551-7147, or by email at bhesania.amy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” or “our” refer to EPA.

Outline

- I. What is being addressed in this document?
- II. What action is EPA taking?

I. What is being addressed in this document?

EPA is approving revisions to the Missouri SIP and Operating Permits Program submitted to EPA on August 31, 2010. On December 17, 2008, EPA finalized the Air Emissions Reporting