

Natchitoches Regional Airport,
Natchitoches, LA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference,
Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, dated October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASW LA E5 Natchitoches, LA [Amended]

Natchitoches Regional Airport
(Lat. 31°44'09" N., long. 93°05'57" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Natchitoches Regional Airport, and within 4 miles each side of the 166° bearing from the airport extending from the 6.6-mile radius to 11.4 miles northeast of the airport.

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Issued in Fort Worth, TX, on January 7, 2009.

Walter L. Tweedy,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. E9–822 Filed 1–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 41

[Reg–116699–07]

RIN 1545–BG63

Highway Use Tax; Sold Vehicles and Electronic Filing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document contains proposed regulations that provide guidance on mandatory electronic filing of Form 2290, “Heavy Highway Vehicle Use Tax Return,” for 25 or more vehicles; credits or refunds for sold, destroyed or stolen vehicles; and paying tax on the use of certain second-hand vehicles. The regulations reflect changes to the law made by the American Jobs Creation Act of 2004. The regulations would affect owners and operators of highway motor vehicles with a taxable gross weight of 55,000 pounds or more.

DATES: Written or electronic comments and requests for a public hearing must be received by April 16, 2009.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–116699–07), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered to: CC:PA:LPD:PR Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–116699–07), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG–116699–07).

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Taylor Cortright, (202) 622–3130; concerning submissions of comments and requests for a public hearing, Oluwafunmilayo.P.Taylor@irs.counsel.treas.gov, or (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Excise Tax on Use of Certain Highway Motor Vehicles (26 CFR Part 41) under section 4481 of the Internal Revenue Code (Code). Section 4481 was amended by section 867 of the American Jobs Creation Act of 2004, Public Law 108–357 (118 Stat. 1418) to require electronic filing of a return for 25 or more highway motor vehicles, allow a proration of the tax for vehicles that are sold, and eliminate the ability to pay the tax in installments.

Explanation of Provisions

Section 4481 imposes an annual tax on the use of highway vehicles with a taxable gross weight of 55,000 pounds or more. For this purpose, the tax year is from July 1 to the following June 30. For vehicles used in July, the tax is due on August 31 and is filed on Form 2290, “Heavy Highway Vehicle Use Tax

Return.” For vehicles first used in later months of the tax year, the tax is prorated. Thus, for example, for a vehicle that is not used in July but is used in August, the tax is 11/12 of the full rate and the return is due September 30. After a return is filed with the IRS, the IRS will return Schedule 1 of Form 2290 to the taxpayer as proof of payment of the tax. Under 23 U.S.C. 141, state governments are required to receive proof of payment of the tax as a condition of registering a vehicle for highway use.

Section 4481(e), as added by the American Jobs Creation Act, provides that any taxpayer that files a highway use tax return for 25 or more vehicles for any taxable period must file the return electronically. The proposed regulations provide that submitting a Form 2290 for 25 or more vehicles on paper rather than electronically constitutes a failure to file for purposes of the penalty under section 6651. In addition, if a Form 2290 for 25 or more vehicles is filed on paper rather than electronically, the regulations provide that the IRS will not return to the taxpayer the Schedule 1 (Form 2290), which is necessary to register the vehicle with the State. The regulations provide guidance on the vehicles that are taken into account in determining whether the “25 or more” requirement applies.

The regulations provide guidance for claiming a credit or refund of the statutory overpayment upon the sale of a vehicle. The regulations also clarify that the triggering event for overpayments, and hence the ability to claim a prorated credit or refund of tax paid, is the sale, destruction, or theft of a vehicle.

The regulations clarify that when a vehicle is sold during a tax period, separate and prorated taxes are imposed on the use of the vehicle before the sale and the use after the sale. The regulations provide rules for the computation of these taxes.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. The regulations affect owners and

operators of highway motor vehicles with a taxable gross weight of 55,000 pounds or more, some of which may be small entities. Although a number of small entities may be subject to the requirements of this rule, any economic impact is minimal. First, the regulations merely implement the electronic filing requirement under section 4481 and any cost associated with electronic filing is minimal. In addition, the regulations provide guidance for claiming a refund or credit when a vehicle is sold during the tax year. In order to make the claim, the taxpayer must submit Form 2290 or Form 8849, "Claim for Refund of Excise Taxes." The information to complete these forms is readily available to the taxpayer and the forms take little time to complete. Without the claim information, the IRS could not determine taxpayer eligibility or determine the accuracy of the claim. Accordingly, a regulatory flexibility analysis is not required.

Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small entities.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Taylor Cortright, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 41

Excise taxes, Motor vehicles, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 41 is proposed to be amended as follows:

PART 41—EXCISE TAX ON USE OF CERTAIN HIGHWAY MOTOR VEHICLES

Paragraph 1. The authority citation for part 41 is revised to read as follows:

Authority: 26 U.S.C. 7805.

Section 41.4482(b)–1 also issued under 26 U.S.C. 4482(b).

Section 41.4483–1 also issued under 26 U.S.C. 4483(a).

Section 41.4483–2 also issued under 26 U.S.C. 4483(c).

Section 41.4483–3 also issued under 26 U.S.C. 4483(d).

Section 41.6001–1 also issued under 26 U.S.C. 6001.

Section 41.6001–2 also issued under 26 U.S.C. 6001.

Section 41.6001–3 also issued under sec. 507, Public Law 100–17 (101 Stat. 260).

Section 41.6011(a)–1 also issued under 26 U.S.C. 6011(a).

Section 41.6071(a)–1 also issued under 26 U.S.C. 6071 (a).

Section 41.6091–1 also issued under 26 U.S.C. 6091(a).

Section 41.6101–1 also issued under 26 U.S.C. 6101.

Section 41.6109–1 also issued under 26 U.S.C. 6109(a).

Section 41.6151(a)–1 also issued under 26 U.S.C. 6151(a).

Par. 2. Section 41.4481–1 is amended by:

1. Revising the section heading.
2. Removing the third sentence from paragraph (b).
3. Adding headings to paragraphs (c)(1), (c)(2), and (c)(3).
4. Revising paragraphs (c)(4) and (c)(5).
5. Removing paragraphs (c)(6) and (d).
6. Redesignating paragraph (e) as paragraph (d) and revising the introductory text.
7. In newly-redesignated paragraph (d), revising *Example (3)* and adding *Example (4)*.
8. Adding paragraph (e).

The additions and revisions read as follows:

§ 41.4481–1 Imposition and computation of tax.

* * * * *

(c) * * *

(1) In general. * * *

(2) Certain prorated taxable periods. * * *

(3) *Increase in taxable gross weight during the taxable period.* * * *

(4) *Prorated taxable period for sold, destroyed, or stolen vehicles*—(i) *In general.* The tax on a taxpayer's use of a highway vehicle for a taxable period is determined under paragraph (c)(4)(ii) of this section if—

(A) The vehicle is destroyed or stolen before the first day of the last month in the taxable period and is not subsequently used during the period; or

(B) The taxpayer sells the vehicle before the first day of the last month in the taxable period and does not subsequently use the vehicle during the period.

(ii) *Computation of tax.* If the tax on a taxpayer's use of a highway vehicle for a taxable period is determined under this paragraph (c)(4)(ii), the tax is calculated proportionately from the first day of the month in the period in which the first use of the highway motor vehicle occurs to and including the last day of the month in which the highway motor vehicle was sold, destroyed or stolen.

(iii) *Overpayment.* If a taxpayer's liability for the tax on the use of a highway vehicle for a taxable period is determined under paragraph (c)(4)(ii) of this section, any tax the taxpayer paid under section 4481(a) on the use of the vehicle for such period in excess of the tax calculated under paragraph (c)(4)(ii) of this section is an overpayment of tax.

(iv) *Definition of destroyed vehicle.* For purposes of this paragraph (c)(4), a highway motor vehicle is destroyed if the vehicle is damaged due to an accident or other casualty to such an extent that it is not economical to rebuild.

(v) *Form and content of claim.* A claim for refund of an overpayment described in paragraph (c)(4)(iii) of this section must be made on Form 8849, "Claim for Refund of Excise Taxes" (or such other form as the Commissioner may designate) in accordance with the instructions for that form. A claim for a credit must be made on Form 2290, "Heavy Highway Vehicle Use Tax Return," (or such other form as the Commissioner may designate) in accordance with the instructions for that form. A claim for refund or credit for any vehicle must include—

(A) The Vehicle Identification Number (VIN) and taxable gross weight of the vehicle;

(B) The date of the sale, destruction or theft of the vehicle; and

(C) If the vehicle was sold, the name and address of the purchaser of the vehicle.

(vi) *Tax on use of second-hand vehicles.* If a vehicle is sold during the taxable period and a credit or refund of the tax imposed by section 4481 is allowable upon the sale under paragraph (c)(4)(iii) of this section, tax is imposed on the use of the vehicle after the sale and before the end of the taxable period.

(vii) *Computation of tax on second-hand vehicles.* The tax under paragraph (c)(4)(vi) of this section on the use of a vehicle after a sale upon which a credit or refund is allowable is computed by multiplying the amount of tax that would be due for a full taxable period as computed under paragraph (c)(1) of this section by a fraction. This fraction shall have as its numerator the number of months in the period from the month of the first taxable use of the vehicle after the sale (the month after such month if the first taxable use after the sale occurs in the month of the sale) through the end of the taxable period and as its denominator the number of months in the entire taxable period. For purposes of determining the fraction, any part of a month is counted as a full month. (See example (3) of paragraph (d) of this section.)

(5) *Decrease in taxable gross weight, discontinued use, or converted use.* The computation of the tax is not affected, and no right to a credit or refund of any tax paid under section 4481 arises, if in any taxable period—

(i) The taxable gross weight of a highway motor vehicle is decreased;

(ii) The use of a highway motor vehicle is discontinued (for reasons other than sale, destruction, or theft as described in paragraph (c)(4) of this section); or

(iii) The highway motor vehicle is converted to a use which is exempt from the tax imposed by section 4481(a).

(d) *Examples.* The application of §§ 41.4481–1, 41.4481–2 and 41.4482(c)–1(c) may be illustrated by the following examples:

* * * * *

Example (3). (i) In July 2008, X uses a vehicle with a taxable gross weight of 70,000 pounds. The vehicle is not a logging vehicle. The vehicle is registered in X's name so X pays the tax imposed by section 4481 of \$430 for the taxable period ending June 30, 2009. On January 2, 2009, X sells the vehicle to Y. X's tax for the taxable period is determined under this paragraph (c)(4) and is based on the number of months in the period from the beginning of July 2008 (the month of first use in the taxable period) through the end of January 2009 (the month of the sale). Thus, X's tax for the period is \$250.83 ($\frac{7}{12}$ of \$430) and X may claim a refund of \$179.17 (\$430.00 – \$250.83) immediately after X sells the vehicle.

(ii) On January 23, 2009, Y uses the vehicle. Y is liable for tax on the use of the vehicle during the taxable period ending June 30, 2009. Y's first use of the vehicle occurs in the month of the sale. Accordingly, Y's tax is based on the number of months in the period from February (the month following the month of the first taxable use) through June, and Y owes a section 4481 tax of \$179.17 ($\frac{5}{12}$ of \$430) for the taxable period ending June 30, 2009.

Example (4). Assume the same facts as in Example (3) except that on January 2, 2009, X sells the vehicle to Dealer, a dealer in highway motor vehicles. X may claim a refund of \$179.17. Dealer operates the vehicle exclusively for the purpose of demonstration, which is not a "use" of the vehicle under § 41.4482(c)–1(c). On May 2, 2009, Dealer sells the vehicle to Y. Dealer does not owe a section 4481 tax and may not claim a refund. Y's first taxable use of the vehicle occurs on May 3, 2009. Y's first taxable use of the vehicle does not occur in the month of a sale upon which a credit or refund is allowable. Accordingly, Y's tax is based on the number of months in the period from May (the month of the first taxable use after the sale) through June, and Y owes a section 4481 tax of \$71.67 ($\frac{2}{12}$ of \$430) for the taxable period ending June 30, 2009.

(e) *Effective/Applicability date.* This section applies on and after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. For rules applicable before that date, see 26 CFR § 41.4481–1 (revised as of April 1, 2008).

Par. 3. Section 41.4481–2 is amended by:

1. Removing the language "or any installment payment of the tax" in paragraph (a)(1)(i)(D).
2. Revising paragraph (a)(2).
3. Adding paragraphs (a)(3) and (a)(4).
4. Removing paragraph (c).

The addition and revisions read as follows:

§ 41.4481–2 Persons liable for tax.

(a) * * *

(2) If a vehicle is sold during the taxable period and a credit or refund is allowable upon the sale under § 41.4481–1(c)(4)(iii), paragraph (a)(1) of this section is applied with the following modifications:

(i) For purposes of determining the person liable for the tax determined under § 41.4481–1(c)(4)(ii), each reference to a taxable period in paragraph (a)(1) of this section is treated as a reference to the period that begins on the first day of the taxable period in which the vehicle is sold and ends on the date of the sale.

(ii) For purposes of determining the person liable for the tax determined under § 41.4481–1(c)(4)(vi), each reference to a taxable period in paragraph (a)(1) of this section is treated as a reference to the period that begins on the date of the sale and ends on the last day of the taxable period in which the vehicle is sold.

(3) The application of this section may be illustrated by *Example (3)* in § 41.4481–1(d).

(4) *Effective/Applicability date.* This section applies on and after the date of

publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. For rules applicable before that date, see 26 CFR 41.4481–2 (revised as of April 1, 2008).

* * * * *

Par. 4. Section 41.4483–3(f), fourth sentence, is amended by removing the language "to the extent that the tax or an installment payment of the tax has" and adding "(determined in the case of a transfer described in § 41.4481–1(c)(4)(i) under § 41.4481–1(c)(4)(ii)) to the extent that the tax has" in its place.

§ 41.4483–7 [Removed]

Par. 5. Section 41.4483–7 is removed.

Par. 6. Section 41.6001–1 is amended to read as follows:

1. In the first sentence of paragraph (a), the language "district director" is removed and "Commissioner" is added in its place.

2. In paragraph (a)(3), the language "In the case of any such vehicle acquired after June 30, 1956, the date" is removed and "The date" is added in its place.

Par. 7. Section 41.6001–2 is amended as follows:

1. In paragraph (a), the third and fourth sentences are removed.

2. Paragraph (c)(1) is revised.

3. In paragraph (c)(2), the third sentence is revised.

4. Paragraph (e) is added.

The revisions and addition read as follows:

§ 41.6001–2 Proof of payment for State registration purposes.

* * * * *

(c) * * *

(1) *In general.* The proof of payment required in paragraph (b) of this section shall consist of a receipted Schedule 1 (Form 2290 "Heavy Highway Vehicle Use Tax Return") that is returned by the Internal Revenue Service, by mail or electronically, to a taxpayer that files a return of tax under section 4481(a), meets the requirements of § 41.6011(a)–1, and pays the amount of tax due with such return. A photocopy of such receipted Schedule 1 shall also serve as proof of payment. Such Schedule 1 shall serve as proof of suspension of such tax under § 41.4483–3 for the number of vehicles entered in that part of the Schedule 1 designated for vehicles for which tax has been suspended. The vehicle identification number of the vehicle being registered must appear on the Schedule 1 (or an attached page) in order for the Schedule 1 to be a valid proof of payment for such vehicle.

(2) * * * However, a State shall not accept any substitute proof of payment if 25 or more vehicles are reported for

purposes of § 41.6011(a)–1(c) on the Form 2290, “Heavy Highway Vehicle Use Tax Return,” for the vehicle being registered.

* * * * *

(e) *Effective/Applicability date.* This section applies to registrations of highway motor vehicles pursuant to applications that are received by a State on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. For this purpose, an application for registration that is mailed will be considered to be received by a State on the date on which it is postmarked. For rules applicable with respect to applications received before that date, see 26 CFR 41.6001–2 (revised as of April 1, 2008).

Par. 8. Section 41.6011(a)–1 is amended by adding paragraphs (a)(4) and (c) to read as follows:

§ 41.6011(a)–1 Returns.

(a) * * *

(4) A person that is liable for tax under § 41.4481–2(a)(1)(i)(A), (B), (C), or (D), after taking into account the modification required under § 41.4481–2(a)(2), is treated as liable for tax by the same provision of § 41.4481–2(a)(1)(i) for purposes of this section and must file a return.

* * * * *

(c) *Required use of electronic filing—*

(1) *Rule for 25 or more vehicles.* A person that files any return reporting 25 or more vehicles must file the return electronically, as prescribed by the Commissioner. For this purpose, the number of vehicles reported on a return is the total number of vehicles for which tax is reported and does not include vehicles for which a suspension from tax is claimed.

(2) *Effect of failure to file.* If a person fails to file a return electronically when required to do so by this section, the person has failed to file the return. In such a case, the Internal Revenue Service (IRS) will not return a receipted Schedule 1 (Form 2290 “Heavy Highway Vehicle Use Tax Return”) as proof of payment as defined in § 41.6001–2(c). See section 6651 for the addition to tax for failure to file a tax return.

(3) *Examples.* The application of this paragraph (c) may be illustrated by the following examples:

Example 1. A has 100 vehicles registered in its name, all of which have a taxable gross weight in excess of 55,000 pounds. Seventy-five of the vehicles are in use on July 1, 2009. Twenty-five are in dead storage as described in 41.4482(c)–1(c). The vehicles in dead storage are not in use and they are not listed on the Schedule 1. A files Form 2290

electronically for the 75 vehicles in use on July 1 and receives a receipted Schedule 1. On August 23, 2009, A uses the remaining 25 vehicles. A does not file Form 2290 electronically but uses a paper Form 2290. A has failed to file a return as required by section 4481(e) for the remaining 25 vehicles. Accordingly, the IRS does not return the receipted Schedule 1 (Form 2290) for those vehicles, and A may be liable for additions to tax under section 6651.

Example 2. Assume the same facts as in Example (1) except that on August 23, 2009, A uses 15 of the vehicles that were not used in July. The remaining 10 vehicles are not used in August. A does not file Form 2290 electronically but uses a paper Form 2290. A has correctly filed and the IRS returns the receipted Schedule 1 (Form 2290) to A for 15 vehicles.

(4) *Effective/Applicability date.* This paragraph (c) applies to returns filed after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Par. 9. Section 41.6071(a)–1 is amended by adding paragraph (c) to read as follows:

§ 41.6071(a)–1 Time for filing returns.

* * * * *

(c) *Effect of sale during taxable period.* A person that is liable for tax under § 41.4481–2(a)(1)(i)(A), (B), (C), or (D) after taking into account the modification required under § 41.4481–2(a)(2) is treated as liable for tax under the same provision of § 41.4481–2(a)(1)(i) for purposes of this section.

§ 41.6156–1 [Removed]

Par. 10. Section 41.6156–1 is removed.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E9–857 Filed 1–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 548

[BOP–1150–P]

RIN 1120–AB

Religious Beliefs and Practices: Chapel Library Materials

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: The Bureau of Prisons (Bureau) amends its regulations on religious beliefs and practices to add a new regulation regarding chapel library

materials. The regulations are necessary to notify inmates that certain materials that could incite, promote, or otherwise suggest the commission of violence or criminal activity may be excluded from chapel libraries. This change is also being made in connection with passage of the Second Chance Act.

DATES: Comments are due by March 17, 2009.

ADDRESSES: Written comments should be submitted to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. You may view an electronic version of this regulation at <http://www.regulations.gov>. You may also comment by using the <http://www.regulations.gov> comment form for this regulation. When submitting comments electronically you must include the BOP Docket No. in the subject box.

FOR FURTHER INFORMATION CONTACT:

Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase “PERSONAL IDENTIFYING INFORMATION” in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase “CONFIDENTIAL BUSINESS INFORMATION” in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <http://www.regulations.gov>.