regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0986/Airspace Docket No. 13–AGL–25.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Bois Blanc Island Airport, Bois Blanc, MI, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9X, dated August 7, 2013 and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Bois Blanc Island Airport, Bois Blanc Island, MI.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

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; AIR TRAFFIC SERVICE 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 FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013 and effective September 15, 2013, is amended as follows:

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

* * * * *

AGL MI E5 Bois Blanc Island, MI [New]

Bois Blanc Island Airport, MI
(Lat. 45°45′59″ N., long. 084°30′14″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Bois Blanc Island Airport.

Issued in Fort Worth, TX, on March 4, 2014.

Kent M. Wheeler,

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

[FR Doc. 2014–05688 Filed 3–13–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205–ZA00

Wage Methodology for the Temporary Non-Agricultural Employment H–2B Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notification of Status of the 2011 H–2B Wage Rule.

SUMMARY: The Department of Labor (DOL) is providing notice to the regulated community of the status of Wage Methodology for the Temporary Non-agricultural Employment H–2B Program, published January 19, 2011 in the **Federal Register**. DOL intends to publish a notice of proposed rulemaking on the proper wage methodology for the H–2B program, working off of the 2011 Wage Rule as a starting point.

DATES: March 14, 2014.

FOR FURTHER INFORMATION CONTACT: For further information, contact William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, ETA, U.S. Department of Labor, 200 Constitution Avenue NW., Room C–4312, Washington, DC 20210; Telephone (202) 693–3010 (this is not a toll-free number). Individuals with hearing or

speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: As discussed below, DOL intends to publish a notice of proposed rulemaking on the proper wage methodology for the H–2B program, working off of as a starting point Wage Methodology for the Temporary Non-agricultural Employment H–2B Program, 76 FR 3452 (2011 Wage Rule). Until such time as DOL finalizes a new wage methodology, the current wage methodology contained in 20 CFR 655.10(b), as set by Wage Methodology for the Temporary Non-Agricultural Employment H–2B Program, Part 2, 78 FR 24047 (Apr. 24, 2013) (2013 IFR), will remain unchanged and continue in effect. We will consolidate our current review of comments on the 2013 IFR with review of comments received on the new notice of proposed rulemaking, and will issue a final rule accordingly.

The Immigration and Nationality Act (INA) establishes the H–2B visa classification for a non-agricultural temporary worker ''having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform . . . temporary [non-agricultural] service or labor if unemployed persons capable of performing such service or labor cannot be found in this country[.]'' 8 U.S.C. 1101(a)(15)(H)(ii)(b). Section 214(c)(1) of the INA, 8 U.S.C. 1184(c)(1), requires an importing employer (H–2B employer) to petition the Department of Homeland Security (DHS) for classification of the prospective temporary worker as an H–2B nonimmigrant. This petition shall be made and approved before the beneficiary can be considered eligible for an H–2B visa or H–2B status. The INA requires DHS to consult with ''appropriate agencies of the Government'' before adjudicating an H–2B petition. *Id.*

DHS has determined that in order to administer the INA's H–2B visa program it must consult with the Department of Labor (DOL) to determine whether U.S. workers capable of performing the temporary services or labor are available and that the foreign worker's employment will not adversely affect the wages or working conditions of similarly employed U.S. workers. 8 CFR 214.2(h)(6)(iii)(A).[1] DHS's regulation requires employers to obtain certification from DOL that these conditions are met prior to submitting a petition to DHS. *Id.* In addition, as part of DOL's certification, DHS requires DOL to determine the prevailing wage applicable to an application for temporary labor certification. 8 CFR 214.2(h)(6)(iii)(D).

DOL has established procedures to certify whether a qualified U.S. worker is available to fill the petitioning H–2B employer's job opportunity and whether foreign worker's employment in the job opportunity will adversely affect the wages or working conditions of similarly employed U.S. workers. *See* 20 CFR part 655, subpart A. As part of DOL's labor certification process and, pursuant to the DHS regulations, 8 CFR 214.2(h)(6)(iii)(D), DOL sets the wage that employers must offer and pay foreign workers entering the country on an H–2B visa. *See* 20 CFR 655.10.

In 2008, DOL issued regulations governing DOL's role in the H–2B temporary worker program, and the regulation established, among other things, a methodology for determining the wage that a prospective H–2B employer must pay. Labor Certification Process and Enforcement for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing in the United States (H–2B Workers), and Other Technical Changes, 73 FR 78020 (Dec. 19, 2008) (the 2008 rule).[2] The 2008 rule provided that the prevailing wage would be the collective bargaining agreement (CBA) wage rate, if the job opportunity was covered by an agreement negotiated at arms' length between a union and the employer; the Occupational Employment Statistics (OES) four-tier wage rate if there was no CBA; a survey if an employer elected to provide an acceptable survey; or a wage rate under the Davis-Bacon Act (DBA), 40 U.S.C. 276a *et seq.,* or the McNamara-O'Hara Service Contract Act (SCA), 41 U.S.C. 351 *et seq.,* if one was available for the occupation in the area of intended employment. *See* 20 CFR 655.10(b)(2) (2009). In the absence of the CBA wage, the employer could elect to use the applicable SCA or the DBA wage in lieu of the OES wage. *See* 20 CFR 655.10(b) (2009). The 2008 rule required that when the prevailing wage determinations were based on the OES wage survey, which is compiled by the Bureau of Labor Statistics (BLS), the wage must be structured to contain four tiers to reflect skill and experience.[3] Most provisions of the 2008 rule were subject to the Administrative Procedure Act's (APA) procedural requirements, but because DOL had already been implementing the four-tiered wages in the H–2B program pursuant to sub-regulatory guidance,[4] DOL did not seek public comments on the use of the four-tiered wage methodology for determining prevailing wages when promulgating the 2008 rule. 73 FR at 78031.

In 2009, shortly after the promulgation of the 2008 H–2B regulation, worker advocacy groups filed suit under the APA challenging several aspects of the 2008 rule. *Comite de Apoya a los Trabajadores Agricolas* v. *Solis,* Civ. No. 2:09–cv–240–LP, 2010 WL 3431761 (E.D. Pa.) (*CATA I*). Among the issues raised in this litigation was the use of the four-tiered wage structure in the H–2B program. In the August 30, 2010 decision, the Court ruled that DOL had violated the APA by failing to adequately explain its reasoning for adopting skill and experience levels as part of the H–2B prevailing wage determination process. Id. at *19. The court ordered promulgation of ''new rules concerning the calculation of the prevailing wage rate in the H–2B program that are in compliance with the [APA].'' *Id.* at *27.

In response to the *CATA I* order, DOL published a final rule, Wage Methodology for the Temporary Non-agricultural Employment H–2B Program, on January 19, 2011, 76 FR 3452 (the 2011 Wage Rule). In that rule, DOL determined that ''there are no significant skill-based wage differences in the occupations that predominate in the H–2B program, and to the extent such differences might exist, those differences are not captured by the existing four-tier wage structure.'' 76 FR at 3460. Therefore, the 2011 Wage Rule revised the wage methodology by eliminating the 2008 rule's four-tier wage structure on the ground that it

[1] The regulation establishes a different procedure for the Territory of Guam, under which a petitioning employer must apply for a temporary labor certification with the Governor of Guam. 8 CFR 214.2(h)(6)(iii)(A).

[2] Before 2008, DOL set the prevailing wage in the H–2B program through sub-regulatory guidance. *See, e.g.,* General Administration Letter (GAL) 10–84, ''Procedures for Temporary Labor Certifications in Non Agricultural Occupations'' (April 23, 1984); GAL 4–95, ''Interim Prevailing Wage Policy for Nonagricultural Immigration Programs'' (May 18, 1995), Attachment I,; GAL 2–98, ''Prevailing Wage Policy for Nonagricultural Immigration Programs'' (November 30, 1998).

[3] Because the OES survey captures no information about actual skills or responsibilities of the workers whose wages are being reported, the four-tiered wage structure, adapted from the statutorily required four tiers applicable to the H–1B visa program under sec. 212(p)(4) of the INA, was derived by mathematical formula as follows to reflect ''entry level,'' ''qualified,'' ''experienced,'' and ''fully competent'' workers: Level 1 is the mean of the lowest-paid 1/3, or approximately the 17th percentile; Level 2 is approximately the 34th percentile; Level 3 is approximately the 50th percentile; and Level 4 is the mean of the highest-paid 2/3, or approximately the 67th percentile.

[4] *See supra* n.1.

violated the obligation to set H–2B wages at a rate that did not adversely affect U.S. workers' wages.[5] *Id.* at 3458–3461. The new methodology set the prevailing wage as the highest of the OES arithmetic mean wage for each occupational category in the area of intended employment; the applicable SCA/DBA wage rate; or the CBA wage. The rule also eliminated the use of employer-provided surveys as alternative wage sources, except in limited circumstances.[6] The effective date of the 2011 Wage Rule was originally set for January 1, 2012. However, as a result of litigation challenging the effective date and following notice-and-comment rulemaking, DOL issued a final rule, 76 FR 45667 (Aug. 1, 2011), revising the effective date of the 2011 Wage Rule to September 30, 2011, and a second final rule, 76 FR 59896 (Sept. 28, 2011), further revising the effective date of the 2011 Wage Rule to November 30, 2011.

Shortly before the 2011 Wage Rule was to become effective, Congress effectively barred its implementation. The Consolidated and Further Continuing Appropriations Act, 2012, enacted on November 18, 2011, provided that ''[n]one of the funds made available by this or any other Act for fiscal year 2012 may be used to implement, administer, or enforce, prior to January 1, 2012 the [2011 Wage Rule].'' Public Law 112–55, 125 Stat. 552, Div. B, Title V, sec. 546 (Nov. 18, 2011) (the November 2011 Appropriations Act). In response to the Congressional prohibition on implementation, DOL delayed the effective date of the 2011 Wage Rule until January 1, 2012. 76 FR 73508 (Nov. 29, 2011). The delayed effective date was necessary because, although the November 2011 Appropriations Act prevented the expenditure of funds to implement, administer, or enforce the 2011 Wage Rule, it did not prevent the 2011 Wage Rule from going into effect. 76 FR at 73509. Had the 2011 Wage Rule gone into effect, it would have superseded and nullified the prevailing wage provisions from the 2008 rule. Implementing the 2011 Wage rule would have left DOL with new wage provisions which DOL lacked appropriated funds to implement and enforce, in effect leaving DOL without a methodology to make prevailing wage determinations. *Id.* Because the issuance of a prevailing wage determination is a condition precedent to approving an employer's request for an H–2B labor certification, 20 CFR 655.10, DOL's H–2B labor certification program would be inoperable without the ability to issue a prevailing wage pursuant to regulatory standards. Accordingly, we determined that it was necessary, in light of the Consolidated and Further Continuing Appropriations Act, 2012, to delay the effective date of the 2011 Wage Rule to allow DOL to continue to make prevailing wage determinations. Therefore failing to delay the effective date (in conjunction with the rider prohibiting enforcement or implementation) would have meant the H–2B program would have ceased to function.

Subsequent appropriations legislation[7] contained the same restriction prohibiting DOL's use of appropriated funds to implement, administer, or enforce the 2011 Wage Rule. This legislation necessitated subsequent extensions of the effective date of that rule. *See* 76 FR 82115 (Dec. 30, 2011) (extending the effective date to Oct. 1, 2012); 77 FR 60040 (Oct. 2, 2012) (extending the effective date to Mar. 27, 2013); 78 FR 19098 (Mar. 29, 2013) (extending the effective date to Oct. 1, 2013). While the 2011 Wage Rule implementation was suspended, DOL remained unable to implement the wage methodology that, among other things, eliminated the four-tier wage structure, and instead relied on the prevailing wage provisions of the 2008 rule, including the use of the four-tiered wage structure, when issuing a prevailing wage based on the OES.

Based on DOL's ongoing use of the 2008 rule's four wage tiers, the *CATA I* plaintiffs returned to court seeking immediate vacatur of the four-tiered wage structure from the 2008 rule. On March 21, 2013, the district court agreed with plaintiffs that its prior holding that the four-tiered wage structure was promulgated in violation of the APA remained unremedied. Therefore, the court vacated 20 CFR 655.10(b)(2), which was the basis for the four-tiered wage structure, and remanded the matter to DOL, ordering Defendants to comply within 30 days. *Comite de Apoyo a los Trabajadores Agricolas* v. *Solis,* 933 F. Supp. 2d 700 (E.D. Pa. 2013) *(CATA II).*

In response to the vacatur and 30-day compliance order in *CATA II,* DOL, together with DHS (the Departments),[8] promulgated an interim final rule, Wage Methodology for the Temporary Non-Agricultural Employment H–2B Program, Part 2, 78 FR 24047 (Apr. 24, 2013) (2013 IFR), establishing a new wage methodology. In the 2013 IFR, the Departments struck the phrase, ''at the skill level,'' from 20 CFR 655.10(b)(2). As a result of the deletion of this phrase, the Departments now require that

[5] DOL found that in 2010, almost 75 percent of H–2B jobs were certified at a Level 1 wage (the mean of the lowest one-third of all reported wages), and over a several year period, approximately 96 percent of the prevailing wages issued were lower than the mean of the OES wage rates for the same occupation. 76 FR at 3463. DOL determined that in the low-skilled occupations in the H–2B program, the mean ''represents the wage that the average employer is willing to pay for unskilled workers to perform that job.'' *Id.* Therefore, DOL concluded that the use of skill levels adversely affected U.S. workers because it ''artificially lowers [wages] to a point that [they] no longer represent[] a market-based wage for that occupation.'' *Id.* The application of the four levels set a wage ''below what the average similarly employed worker is paid.'' *Id.* DOL concluded that ''the net result is an adverse effect on the [U.S.] worker's income.'' 76 FR at 3463.

[6] These circumstances include very specific situations in which there are no data to determine an OES wage (for instance, certain geographic locations, such as the Commonwealth of the Northern Mariana Islands, are not included in BLS's data collection) and there are no applicable CBA, DBA or SCA wages; or where an employer may not be party to a CBA, and cannot use a DBA wage, an SCA wage, or an OES wage because the job opportunity is not accurately represented within the job classification used in those surveys. 76 FR at 3466–3467.

[7] These include the Consolidated Appropriations Act of 2012, Public Law 112–74, 125 Stat. 786 (Dec. 23, 2011); Continuing Appropriations Resolution, 2013, Public Law 112–175, 126 Stat. 1313 (Sept. 28, 2012); Consolidated and Further Continuing Appropriations Act, 2013, Public Law 113–6, 127 Stat. 198 (Mar. 26, 2013); Continuing Appropriations Act, 2014, Public Law 113–46, 127 Stat. 558 (Oct. 17, 2013); and Joint Resolution Making further Continuing Appropriations for Fiscal Year 2014, Public Law 113–73, 128 Stat. 3 (Jan. 15, 2014).

[8] The Departments issued the 2013 IFR jointly to dispel questions that arose contemporaneously with its promulgation regarding the respective roles of the two agencies and the validity of DOL's regulations as an appropriate way to implement the interagency consultation specified in section 214(c)(1) of the INA, 8 U.S.C. 1184(c)(1). *See Bayou Lawn & Landscape Servs.* v. *Sec'y of Labor,* 713 F.3d 1080 (11th Cir. 2013) (concluding that plaintiffs are likely to prevail on their allegation that the Department of Labor lacks independent rulemaking authority under the INA to issue legislative regulations implementing its role in the H–2B program). However, the *Bayou* ruling involved only a decision on whether the district court's entry of a preliminary injunction against implementation of DOL's H–2B rule based on an assessment of plaintiffs' likelihood of success on the merits was without error, and was not a final judgment on the merits of plaintiffs' claim that DOL is without authority to promulgate legislative rules in the H–2B program. The latter issue is currently before the district court awaiting decision on pending motions for summary judgment. In sharp contrast to the *Bayou* case, in an APA challenge to the 2011 Wage Rule, which also tested DOL's authority to issue legislative rules in the H–2B program, the U.S. Court of Appeals for the Third Circuit held recently that ''DOL has authority to promulgate rules concerning the temporary labor certification process in the context of the H–2B program, and that the 2011 Wage Rule was validly promulgated pursuant to that authority.'' *La. Forestry Ass'n* v. *Perez,* — F.3d —-, 2014 WL 444157, at *11 (3d Cir. Feb. 5, 2014); *see also G.H. Daniels & Assocs., Inc.* v. *Solis,* 2013 WL 5216453, *4–5 (D. Colo. Sept. 17, 2013) (DOL has authority to issue H–2B legislative rules), *appeal pending,* No. 13–1479 (10th Cir.).

prevailing wage determinations issued using the OES survey to be based on the mean wage for the occupation in the area of intended employment without tiers or skill levels. 78 FR at 24053. That revision became effective on April 24, 2013, the date of publication, because of the need to comply within the 30-day period ordered by the *CATA II* Court. The rule was published pursuant to 5 U.S.C. 553(b)(B), which authorizes agencies to make a rule effective immediately upon a showing of ''good cause.'' Significantly, however, the 2013 IFR only implemented the court-ordered change to the wage methodology but left intact all other provisions of the wage methodology contained in the 2008 rule, including allowing the use of employer-submitted surveys, and permitting voluntary use of the SCA or DBA wage if one was available for the occupation in the area of intended employment. Despite immediate implementation of the provisions of the 2013 IFR, the Departments requested comments on all aspects of the prevailing wage provisions of 20 CFR 655.10(b), including, among other things, whether the OES mean is the appropriate basis for determining the prevailing wage; whether wages based on the DBA or SCA should be used to determine the prevailing wage, and if so, to what extent; and whether the continued use of employer-submitted surveys should be permitted and if so, how to strengthen their methodology. The comment period closed on June 10, 2013, and the Departments received over 300 comments on all aspects of the H–2B wage methodology from interested parties.

On July 23, 2013, DOL proposed the indefinite delay of the effective date of the 2011 Wage Rule, and accepted comments from the public on the proposed indefinite delay through August 9, 2013. 78 FR 44054. The reasons for this delay were two-fold: First, at that time, implementation of the 2011 Wage Rule was still effectively made impossible by Congress's continued refusal to appropriate funding for this purpose, with no indication that the prohibition on the use of appropriated funds would be lifted in the future. Second, at that time, the Departments were reviewing and analyzing the comments received on the 2013 IFR to determine whether changes to 20 CFR 655.10(b) were warranted in light of the public comments. For these two reasons, on August 30, 2013 DOL published a final rule indefinitely delaying the effective date of the 2011 Wage Rule. 78 FR 53643, 53645 (indefinite delay rule). In the final indefinite delay rule, DOL stated that when ''Congress no longer prohibits implementation of the 2011 Wage Rule, the Department [of Labor] will publish a document in the **Federal Register** within 45 days of that event apprising the public of the status of 20 CFR 655.10 and the effective date of the 2011 Wage Rule.'' *Id.* DOL also stated that, ''if Congress lifts the prohibition against implementation of the 2011 Wage Rule, the Department [of Labor] would need time to assess the current regulatory framework, to consider any changed circumstances, novel concerns or new information received, and to minimize disruptions.'' 78 FR at 53645.

On January 17, 2014, the Consolidated Appropriations Act, 2014, Public Law 113–76, 128 Stat. 5, was enacted. For the first time in over two years, DOL's appropriations did not prohibit the implementation or enforcement of the 2011 Wage Rule. Moreover, on February 5, 2014, the Third Circuit Court of Appeals held that ''DOL has authority to promulgate rules concerning the temporary labor certification process in the context of the H–2B program, and that the 2011 Wage Rule was validly promulgated pursuant to that authority.'' *La. Forestry Ass'n* v. *Perez,* — F.3d —,2014 WL 444157, at *11 (3d Cir. 2014). The Third Circuit further found that DOL did not act in contravention of the procedural requirements of the APA in issuing the 2011 Wage Rule, and that the INA's requirement of the four wage tiers in the H–1B program, 8 U.S.C. 1182(p)(4), applies only to that program and is not mandated in the H–2B program. *Id.* at *17–20.

DOL is now ''free to take any steps deemed necessary to implement, administer and enforce the regulations.'' *See Am. Fed'n of Gov. Employees* v. *OPM,* 821 F.2d 761, 764 (D.C. Cir. 1987). Accordingly, as described below, DOL intends to engage in further notice and comment rulemaking in order to move toward implementing, subject to modifications based on the notice and comment, the 2011 Wage Rule.

With the appropriations rider pertaining to the 2011 Wage Rule having been lifted, the Department has begun the process of determining how to implement that rule, keeping in mind the overlap between that rule and the comments submitted in connection with the 2013 IFR. DOL has determined that recent developments in the H–2B program require consideration of the comments submitted in connection with the 2013 IFR, and that further notice and comment is appropriate. As stated in the preamble to the 2011 Wage Rule (76 FR 3458–61), and the preamble to the 2013 IFR (79 FR 24053–54), DOL will continue to implement the H–2B wage methodology using the OES mean wage rate as the proper baseline for setting prevailing wage rates. DOL continues to evaluate other policy choices, including the possible use of SCA and DBA wage rates and private surveys, in light of additional public input and program experience. After receiving and reviewing this information, DOL intends to exercise its rulemaking authority to implement a regulation governing the wage methodology in the H–2B program, modified as necessary to accommodate these developments and considerations.

Therefore in light of the current regulatory landscape and in response to Congress's recent actions, as well as judicial decisions, DOL intends to publish a notice of proposed rulemaking on the proper wage methodology for the H–2B program, working off of the 2011 Wage Rule as a starting point. Until such time as DOL finalizes a new wage methodology, the current wage methodology contained in 20 CFR 655.10(b), as set by the 2013 IFR, will remain unchanged and continue in effect. We will consolidate our current review of comments on the 2013 IFR with review of comments received on the new notice of proposed rulemaking, and will issue a final rule accordingly.

Signed: at Washington, DC, this 10th of March, 2014.

Eric M. Seleznow,

Acting Assistant Secretary for Employment and Training.

[FR Doc. 2014–05589 Filed 3–12–14; 11:15 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2014–0056]

RIN 1625–AA08

Special Local Regulations for Marine Events, Atlantic Ocean; Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish special local regulations during the ''2014 Ocean City Air Show,'' a marine event to be held above the waters of the Atlantic Ocean during June 12–15, 2014. These special local regulations are necessary to provide for the safety of life on navigable waters