

with the provisions governing the program involved, if the participant does not meet the applicable SSN disclosure, documentation, and verification requirements specified in § 5.216.

(2) The processing entity may defer termination and provide the participant with an additional 90 days to disclose a SSN, but only if unless the processing entity, in its discretion, determines that:

(i) The failure to meet these requirements was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant; and

(ii) There is a reasonable likelihood that the participant will be able to disclose a SSN by the deadline.

(3) Failure of the participant to disclose a SSN by the deadline specified in paragraph (c)(2) of this section will result in termination of the assistance or tenancy, or both, of the participant.

\* \* \* \* \*

4. Add a new § 5.233 to read as follows:

**§ 5.233 Mandated use of HUD's Enterprise Income Verification (EIV) System.**

(a) *Programs subject to this section and requirements.* (1) The requirements of this section apply to entities administering assistance under the:

(i) Public Housing program under 24 CFR part 960;

(ii) Section 8 Housing Choice Voucher (HCV) program under 24 CFR part 982;

(iii) Moderate Rehabilitation program under 24 CFR part 882;

(iv) Project-based Voucher program under 24 CFR part 983;

(v) Project-based Section 8 programs under 24 CFR parts 880, 881, 883, 884, 886, and 891;

(vi) Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(vii) Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013);

(viii) Sections 221(d)(3) and 236 of the National Housing Act (12 U.S.C. 1715l(d)(3) and 1715z-1); and

(ix) Rent Supplement program under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

(2) Processing entities must use HUD's EIV system in its entirety:

(i) As a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income, in accordance with § 5.236 and administrative guidance issued by HUD; and

(ii) To reduce administrative and subsidy payment errors in accordance with HUD administrative guidance.

(b) *Penalties for noncompliance.* Failure to use the EIV system in its entirety may result in the imposition of sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculations, or both.

**§ 5.236 [Amended]**

5. In § 5.236(b)(3)(i)(A), remove "215".

**PART 908—ELECTRONIC TRANSMISSION OF REQUIRED FAMILY DATA FOR PUBLIC HOUSING, INDIAN HOUSING, AND THE SECTION 8 RENTAL CERTIFICATE, RENTAL VOUCHER, AND MODERATE REHABILITATION PROGRAMS**

6. The authority citation for part 908 continues to read as follows:

**Authority:** 42 U.S.C. 1437f, 3535d, 3543, 3544, and 3608a.

7. Revise § 908.101 to read as follows:

**§ 908.101 Purpose.**

The purpose of this part is to require Public Housing Agencies (PHAs), including Moving to Work (MTW) PHAs, that operate Public Housing, Indian Housing, or Section 8 Rental Certificate, Housing Choice Voucher (HCV), Rental Voucher, and Moderate Rehabilitation programs to electronically submit certain data to HUD for those programs. These electronically submitted data are required for HUD forms: HUD-50058, including the Family Self-Sufficiency (FSS) Addendum. Applicable program entities must retain at a minimum, the last three years of the form HUD-50058, and supporting documentation, during the term of each assisted lease, and for a period of at least 3 years from the end of participation (EOP) date, to support billings to HUD and to permit an effective audit. Electronic retention of form HUD-50058 and HUD-50058-FSS and supporting documentation fulfills the retention requirement under this section.

Dated: September 23, 2009.

**Shaun Donovan,**

*Secretary.*

[FR Doc. E9-24809 Filed 10-14-09; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF THE TREASURY**

**Alcohol and Tobacco Tax and Trade Bureau**

**27 CFR Parts 28 and 44**

[Docket No. TTB-2009-0005; Notice No. 100]

**RIN 1513-AB77**

**Drawback of Internal Revenue Taxes**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to amend its regulations to clarify the relationship between tax payment under the Internal Revenue Code of 1986 and drawback of tax under the Tariff Act of 1930. The proposal provides conforming amendments to reflect proposed Customs and Border Protection regulations stating that domestic merchandise on which no tax is paid under the Internal Revenue Code may not be substituted for imported merchandise for purposes of claims for drawback of tax under the customs laws and regulations.

**DATES:** We must receive your written comments on or before December 14, 2009.

**ADDRESSES:** You may send comments on this notice to one of the following addresses:

- *http://www.regulations.gov:* Use the comment form for this notice on the Federal e-rulemaking portal, Regulations.gov, to submit comments via the Internet;

- *Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.

- *Hand Delivery/Courier in Lieu of Mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and the comments we receive about this proposal within Docket No. TTB-2009-0005 at <http://www.regulations.gov>. A direct link to this docket is posted on the TTB Web site at [http://www.ttb.gov/regulations\\_laws/all\\_rulemaking.shtml](http://www.ttb.gov/regulations_laws/all_rulemaking.shtml) under Notice No. 100. You also may view copies of this notice, all supporting materials, and the comments we receive about this proposal by

appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. Please call 202-453-2270 to make an appointment.

**FOR FURTHER INFORMATION CONTACT:**

Gerry Isenberg, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20220; telephone 202-453-2097.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Taxation of Distilled Spirits, Wines, Beer, and Tobacco Products Under the Internal Revenue Code of 1986*

Chapter 51 of the Internal Revenue Code of 1986 (IRC) sets forth excise tax collection and related provisions applicable to distilled spirits, wines, and beer. Chapter 52 of the IRC contains similar provisions applicable to tobacco products and cigarette papers and tubes.

Under Chapter 51, a Federal excise tax is imposed on all wines and distilled spirits produced in or imported into the United States. 26 U.S.C. 5001, 5041. A Federal excise tax also is imposed on beer brewed or produced, and removed for consumption or sale within the United States, or imported into the United States. 26 U.S.C. 5051. For domestically-produced wine, the tax is imposed at the conclusion of fermentation or removal from the fermenter (see 27 CFR 24.176). For domestically-produced distilled spirits, the tax is imposed at the time that the product comes into existence. 26 U.S.C. 5001(b). For domestically-produced beer, the tax is imposed when the product is removed for consumption or sale. 26 U.S.C. 5051. For imported wine, distilled spirits, and beer, the tax is imposed when the product is imported into the United States.

However, Federal excise taxes on imported and domestically-produced wine, distilled spirits, and beer are generally not paid or determined until the products are removed from bonded premises or from customs custody for consumption or sale. 26 U.S.C. 5041, 5061, 5006, 5007, 5054. Domestically-produced wine, distilled spirits, and beer may be exported without payment of the Federal excise tax. 26 U.S.C. 5362(c), 5214(a), 5053. In addition, on the exportation of domestically-produced wine, distilled spirits, or beer that was removed from bonded premises with payment of tax, drawback is allowed in an amount equal to the tax paid. 26 U.S.C. 5062, 5055.

Under Chapter 52, a Federal excise tax is imposed on all tobacco products and cigarette papers and tubes manufactured in or imported into the

United States. 26 U.S.C. 5701. The tax on domestically-produced tobacco products and cigarette papers and tubes is imposed at the time that the product comes into existence, that is, when a product meets one of the definitions under the IRC. The Federal excise tax on imported and domestically-produced tobacco products and cigarette papers and tubes is generally not paid or determined until the products are released from customs custody or removed from bonded premises. 26 U.S.C. 5702, 5703. Tobacco products and cigarette papers and tubes may be removed from bonded premises, without the payment of Federal excise tax, for export. 26 U.S.C. 5704.

Regulations implementing the provisions of Chapters 51 and 52 of the IRC are contained in 27 CFR chapter 1. The Alcohol and Tobacco Tax and Trade Bureau (TTB) within the Department of the Treasury is responsible for the administration of Chapters 51 and 52 and the regulations promulgated thereunder.

*Drawback Under the Tariff Act of 1930*

Section 313 of the Tariff Act of 1930, as amended (19 U.S.C. 1313), provides for the drawback or refund of duties, taxes, and fees paid on imported merchandise if that merchandise is subsequently exported or destroyed under customs supervision. Paragraph (2) of subsection (j), hereafter referred to as “(j)(2) drawback,” permits the substitution of other merchandise for the imported merchandise for purposes of the exportation or destruction requirement.

Specifically, the (j)(2) drawback provision allows the payment of drawback, not to exceed 99 percent of the duties, taxes, and fees paid on the imported merchandise, based on the exportation or destruction of “any other merchandise (whether imported or domestic)” that: (1) Is commercially interchangeable with the imported merchandise on which duties, taxes, and fees were paid, (2) is exported or destroyed within 3 years of the date of importation of the imported merchandise, and (3) before such exportation or destruction, is not used within the United States and is in the possession of the party claiming drawback, that is, either the importer of the imported merchandise or a person who receives from the importer a certificate of delivery transferring to that person the imported merchandise or commercially interchangeable merchandise or any combination of the two (and with the transferred merchandise being treated as the imported merchandise). The (j)(2)

drawback provision also includes a standard for commercial interchangeability for wine, that is, “wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine.”

Regulations implementing section 313 are set forth in 19 CFR part 191. Subpart C of part 191 concerns unused merchandise drawback and includes, in § 191.32, standards applicable to (j)(2) drawback claims. The Bureau of Customs and Border Protection (CBP) is responsible for the administration of section 313 and the regulations promulgated thereunder.

**Proposed CBP and TTB Regulatory Changes**

In recent years CBP has received and approved a number of (j)(2) drawback claims involving imported bottled and bulk wine and domestically-produced wine. A hypothetical example of how such a transaction could work is as follows: A domestic winery imports 100 cases of bottled wine, pays Federal excise tax on the wine, and sells the imported wine in the United States; the domestic winery then exports 100 cases of its domestic wine without payment of Federal excise tax; the domestic winery then files a (j)(2) drawback claim with CBP, on the basis that the 100 cases of domestically-produced wine are commercially interchangeable with the 100 cases of imported wine; and, finally, the domestic winery receives a refund of 99 percent of the Federal excise taxes that it paid on the 100 cases of imported wine.

In the scenario described above, only 1 percent of the Federal excise tax on the imported wine is ultimately received into the U.S. Treasury. Thus, (j)(2) drawback in effect allows imported wine to be introduced into the U.S. market 99 percent free of Federal excise tax. Although the (j)(2) drawback claims involving the drawback or refund of IRC tax that CBP has processed have been limited to wine, under the present statutory and regulatory framework, other products that are subject to excise tax under IRC Chapters 51 and 52 could be the subject of claims for (j)(2) drawback.

Based on a review of the applicable statutory provisions, the Department of the Treasury has concluded that the practice of allowing (j)(2) drawback claims in circumstances in which internal revenue taxes have not been paid on the substituted domestic product is incompatible with the intent of Congress in levying excise taxes under the IRC and extends beyond the intent of Congress for administering

drawback under the comprehensive framework of section 313. In order to address these concerns, CBP in a document published in this issue of the **Federal Register** is proposing to amend its regulations to preclude the filing of a claim covering drawback of tax under subsection (j)(2) if no tax was paid on the substituted domestically-produced merchandise.

In view of the relationship between (j)(2) drawback claims and excise tax liability under Chapters 51 and 52 of the IRC as discussed above and as reflected in the proposed new CBP regulatory texts, TTB believes that it would be appropriate to add to the TTB regulations conforming amendments that alert the reader to the effect of the new CBP regulatory provision as regards alcohol and tobacco products exported without payment of tax or with drawback of tax. TTB notes in this regard that the IRC vests broad authority in the Secretary of the Treasury to promulgate regulations governing the removal of alcohol and tobacco products for export without payment of tax in order to ensure protection of the revenue. See 26 U.S.C. 5053 for beer, 5214(a) for distilled spirits, 5362(c) for wine, and 5704 for tobacco products. Furthermore, the IRC vests broad authority in the Secretary of the Treasury to promulgate regulations needed for the enforcement of the IRC. See 26 U.S.C. 7805(a). TTB believes that the proposed conforming amendments are needed to contribute to the enforcement and integrity of the excise tax system.

Accordingly, this document proposes six amendments to part 28 of the TTB regulations (27 CFR part 28), which contains rules regarding the exportation of distilled spirits, wine, and beer without payment of tax and with drawback of tax. Similarly, this document proposes two amendments to part 44 of the TTB regulations (27 CFR part 44), which contains rules regarding the exportation of tobacco products and cigarette papers and tubes without payment of tax and with drawback of tax. Although the only substantive text change in each affected section involves the addition of a reference to the new CBP rule, in several cases the entire section is revised in order to eliminate the use of undesigned introductory and concluding text and thus facilitate addition of the new provision.

## Public Participation

### Comments Invited

We invite comments from interested members of the public on this proposed rulemaking. Please submit your

comments by the closing date shown above in this notice. Your comments must reference Notice No. 100 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals.

### Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- **Federal e-Rulemaking Portal:** You may send comments via the online comment form associated with this notice in Docket No. TTB-2009-0005 on "Regulations.gov," the Federal e-rulemaking portal, at <http://www.regulations.gov>. A link to that docket is available under Notice No. 100 on the TTB Web site at [http://www.ttb.gov/regulations\\_laws/all\\_rulemaking.shtml](http://www.ttb.gov/regulations_laws/all_rulemaking.shtml). Supplemental files may be attached to comments submitted via Regulations.gov. For information on how to use Regulations.gov, click on the site's Help or FAQ tabs.

- **U.S. Mail:** You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.

- **Hand Delivery/Courier:** You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via Regulations.gov, please include the entity's name in the "Organization" blank of the comment form. If you comment via postal mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

### Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or that is inappropriate for public disclosure.

### Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, we will post, and the public may view, copies of this notice, selected supporting materials, and any electronic or mailed comments we receive about this proposal. A direct link to the Regulations.gov docket containing this notice and the posted comments received on it is available on the TTB Web site at [http://www.ttb.gov/regulations\\_laws/all\\_rulemaking.shtml](http://www.ttb.gov/regulations_laws/all_rulemaking.shtml) under Notice No. 100. You may also reach the docket containing this notice and the posted comments received on it through the Regulations.gov search page at <http://www.regulations.gov>.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. We may omit voluminous attachments or material that we consider unsuitable for posting.

You and other members of the public may view copies of this notice, any supporting materials, and any electronic or mailed comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5 x 11-inch page. Contact our information specialist at the above address or by telephone at 202-453-2270 to schedule an appointment or to request copies of comments or other materials.

## Regulatory Analysis and Notices

### Executive Order 12866

This proposed rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

### Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. chapter 6), we certify that this notice of proposed rulemaking will not have a significant economic impact on a substantial number of small entities. The proposed rule imposes no substantive requirements and therefore will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

### Drafting Information

Francis W. Foote of the Regulations and Rulings Division drafted this document.

**List of Subjects****27 CFR Part 28**

Aircraft, Alcohol and alcoholic beverages, Armed forces, Beer, Claims, Excise taxes, Exports, Foreign trade zones, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses, Wine.

**27 CFR Part 44**

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.

**Authority and Issuance**

For the reasons explained in the preamble, TTB proposes to amend chapter I of title 27 of the Code of Federal Regulations as follows:

**PART 28—EXPORTATION OF ALCOHOL**

1. The authority citation for part 28 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5053, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5214, 5232, 5273, 5301, 5313, 5362, 5555, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

2. Section 28.91 is amended by adding a new paragraph (c) to read as follows:

**§ 28.91 General.**

\* \* \* \* \*

(c) Distilled spirits withdrawn without payment of tax under this subpart may not be substituted for imported merchandise for purposes of drawback of tax under section 313(j)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(2)). See 19 CFR 191.32(b)(4).

3. Section 28.121 is revised to read as follows:

**§ 28.121 General.**

(a) Wine may, subject to this part, be withdrawn from a bonded wine cellar, without payment of tax, for:

- (1) Exportation;
- (2) Use on the vessels and aircraft described in § 28.21;
- (3) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation;
- (4) Transfer to and deposit in a customs bonded warehouse as provided in § 28.27; or
- (5) Transportation to and deposit in a manufacturing bonded warehouse.

(b) All such withdrawals shall be made under the applicable bond prescribed in subpart D.

(c) Wine withdrawn without payment of tax under this subpart may not be substituted for imported merchandise for purposes of drawback of tax under section 313(j)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(2)). See 19 CFR 191.32(b)(4).

4. Section 28.141 is amended by adding a new paragraph (d) to read as follows:

**§ 28.141 General.**

\* \* \* \* \*

(d) *Customs drawback claims.* Beer removed without payment of tax under this subpart may not be substituted for imported merchandise for purposes of drawback of tax under section 313(j)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(2)). See 19 CFR 191.32(b)(4).

5. Section 28.171 is revised to read as follows:

**§ 28.171 General.**

(a) Distilled spirits manufactured, produced, bottled in bottles, packed in containers, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which have been marked under the provisions of 27 CFR part 19 and of this part, as applicable, especially for export with benefit of drawback may be:

- (1) Exported;
- (2) Laden for use on the vessels or aircraft described in § 28.21;
- (3) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation; or
- (4) Transferred to and deposited in a customs bonded warehouse as provided for in § 28.26(b).

(b) On receipt by the appropriate TTB officer of required evidence of exportation, lading for use, or transfer, there shall be allowed to the bottler (or packager) of the spirits, drawback equal in amount to the tax found to have been paid or determined on the spirits.

(c) Distilled spirits on which drawback is paid under this subpart may not be substituted for imported merchandise for purposes of drawback of tax under section 313(j)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(2)). See 19 CFR 191.32(b)(4).

6. Section 28.211 is revised to read as follows:

**§ 28.211 General.**

(a) Wines manufactured, produced, bottled in bottles packed in containers, or packaged in casks or other bulk

containers in the United States on which an internal revenue tax has been paid or determined, and which are filled on premises qualified under this chapter to package or bottle wines, may, subject to this part, be:

- (1) Exported;
- (2) Laden for use on the vessels or aircraft described in § 28.21; or
- (3) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

(b) On receipt by the appropriate TTB officer of required evidence of exportation, lading for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid or determined on the wines.

(c) Wines on which drawback is paid under this subpart may not be substituted for imported merchandise for purposes of drawback of tax under section 313(j)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(2)). See 19 CFR 191.32(b)(4).

7. Section 28.221 is revised to read as follows:

**§ 28.221 General.**

(a) Beer brewed or produced in the United States and on which the internal revenue tax has been paid may, subject to this part, be:

- (1) Exported;
- (2) Delivered for use as supplies on the vessels and aircraft described in § 28.21; or
- (3) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

(b) A claim for drawback of taxes found to have been paid may be filed only by the producing brewer or his duly authorized agent. On receipt by the appropriate TTB officer of required evidence of such exportation, delivery for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid on such beer.

(c) Beer on which drawback is paid under this subpart may not be substituted for imported merchandise for purposes of drawback of tax under section 313(j)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(2)). See 19 CFR 191.32(b)(4).

**PART 44—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX**

8. The authority citation for part 44 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.

9. Section 44.61 is amended by adding a new paragraph (c) to read as follows:

**§ 44.61 Removals, withdrawals, and shipments authorized.**

\* \* \* \* \*

(c) Tobacco products and cigarette papers and tubes removed from a factory or an export warehouse, and cigars withdrawn from a customs bonded warehouse, without payment of tax under this subpart may not be substituted for imported merchandise for purposes of drawback of tax under section 313(j)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(2)). See 19 CFR 191.32(b)(4).

10. Section 44.221 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

**§ 44.221 Application of drawback of tax.**

\* \* \* \* \*

(b) Tobacco products and cigarette papers and tubes on which drawback is allowed under this subpart may not be substituted for imported merchandise for purposes of drawback of tax under section 313(j)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(2)). See 19 CFR 191.32(b)(4).

\* \* \* \* \*

Signed: September 3, 2009.

**John J. Manfreda,**  
Administrator.

Approved: September 17, 2009.

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

[FR Doc. E9-24791 Filed 10-14-09; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 151

#### 46 CFR Part 162

[USCG-2001-10486]

RIN 1625-AA32

### Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice; extension of comment periods.

**SUMMARY:** The Coast Guard is extending the periods for public comment on the

notice of proposed rulemaking (NPRM) and the Draft Programmatic Environmental Impact Statement (DPEIS) for the rulemaking entitled "Standards for Living Organisms in Ships' Ballast Water" (Docket No. USCG-2001-10486).

**DATES:** Comments and related material for the NPRM and the DPEIS must either be submitted to our online docket via <http://www.regulations.gov> on or before the new date for the close of the comment period, December 4, 2009, or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2001-10486 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Federal eRulemaking Portal:*  
<http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Hand delivery:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rulemaking, call or e-mail Mr. John Morris, Project Manager, Environmental Standards Division, U.S. Coast Guard Headquarters, telephone 202-372-1433, e-mail [John.C.Morris@uscg.mil](mailto:John.C.Morris@uscg.mil). If you have questions on viewing or submitting material to the docket, call Ms. Renee Wright, Chief, Dockets, Department of Transportation, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this aspect of the rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://>

[www.regulations.gov](http://www.regulations.gov) and will include any personal information you have provided.

#### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2001-10486), indicate the specific section of the document to which each comment applies, and provide a reason for each suggestion or recommendation. You may comment on either the NPRM or the DPEIS or both. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and click on the "submit a comment" box, which will then become highlighted in blue. Insert "USCG-2001-10486" in the Keyword box, click "Search", and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule or the DPEIS based on your comments.

#### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time. Enter the docket number for this rulemaking (USCG-2001-10486) in the Keyword box, and click "Search". You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### Privacy Act

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