

Actions	Compliance	Procedures
(4) Accomplish the following: (i) Install stabilizer reinforcements; (ii) Set the elevator nosedown trim; and (iii) Replace the ruddervator tab control cables with larger diameter cables.	Within the next 100 hours TIS after November 28, 1994 (the effective date of AD 94-20-04), unless already accomplished.	In accordance with the instructions to RAC Kit No. 35-04016-3, 35-4016-5, 35-4016-7, or 35-4016-9, as applicable and as specified in Beech SB No. 2188, dated May, 1987.
(5) Verify the accuracy of the airplane basic weight and balance information and correct any discrepancies.	Accomplish the airplane basic weight and balance accuracy verification within the next 100 hours TIS after November 28, 1994 (the effective date of AD 94-20-04), unless already accomplished. Correct any discrepancies prior to further flight after the verification.	Use the procedures contained in the Appendix to this AD.

(e) *Can I comply with this AD in any other way?*

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and
(ii) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) Alternative methods of compliance approved in accordance with AD 94-20-04, which is revised by this AD, are approved as alternative methods of compliance with this AD.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mr. T.N. Baktha, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946-4155; facsimile: (316) 946-4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from the Raytheon Aircraft Company, PO Box 85, Wichita, Kansas 67201-0085. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *Does this AD action affect any existing AD actions?* This amendment revises AD 94-20-04, Amendment 39-9032.

Appendix to Docket No. 93-CE-37-AD

Weight and Balance Accuracy Method No. 1:

1. Review existing weight and balance documentation to assure completeness and accuracy of the documentation from the most recent FAA-approved weighing or from factory delivery to date of compliance with this AD.

2. Compare the actual configuration of the airplane to the configuration described in the weight and balance documentation; and

3. If equipment additions or deletions are not reflected in the documentation or if modification affecting the location of the center of gravity (e.g., paint or structural repairs) are not documented, determine the accuracy of the airplane weight and balance data in accordance with Method No. 2.

Weight and Balance Information Accuracy Method No. 2:

1. Determine the basic empty weight and center of gravity (CG) of the empty airplane using the Weighing Instructions in the Weight and Balance section of the airplane flight manual/pilot's operating handbook (AFM/POH).

2. Record the results in the airplane records, and use these new values as the basis for computing the weight and CG information as specified in the Weight and Balances section of the AFM/POH.

Issued in Kansas City, Missouri, on March 19, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-7334 Filed 3-23-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 275, 290 and 296

[Notice No. 913]

RIN: 1512-AC35

Implementation of Public Laws 106-476 and 106-554, Relating to Tobacco Importation Restrictions, Markings, Repackaging, and Destruction of Forfeited Tobacco Products (2000R-492P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations governing tobacco products in order to implement several provisions of the Imported Cigarette Compliance Act of 2000 included as part of the Tariff Suspension and Trade Act of 2000. Sections 4002 and 4003 of this new law require that tobacco products and cigarette papers and tubes manufactured in the United States and labeled for exportation can only be re-imported by the original manufacturer or by an export warehouse authorized to do so by the original manufacturer, provide that those articles labeled for exportation may not be sold or held for sale for domestic consumption in the United States unless they are removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label, and require the destruction of tobacco products forfeited under § 5761(c).

This notice also proposes regulations that will implement section 315 of the Consolidated Appropriations Act, 2001 which allows travelers to bring personal-use quantities of tobacco

products into the United States (up to the quantity allowed entry free of tax and duty under the Harmonized Tariff Schedule of the United States). Travelers may voluntarily relinquish to the U.S. Customs Service at the time of entry any excess of such quantity without incurring the penalty under § 5761(c).

This notice proposes to implement these changes in the law by providing new and amended regulations in parts 275, 290 and 296 of title 27 of the Code of Federal Regulations (CFR). Note that the effective date of the above provisions of the Imported Cigarette Compliance Act of 2000 is February 7, 2001. Section 315 of the Consolidated Appropriations Act, 2001 is retroactive to the effective date of the Balanced Budget Act of 1997, January 1, 2000.

Several other provisions of the Imported Cigarette Compliance Act of 2000 amend the Tariff Act of 1930 by imposing additional requirements for the entry of cigarettes into the United States. Those provisions of the new law will be implemented through regulations issued by the U.S. Customs Service.

DATES: Written comments must be received by May 25, 2001.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221; Notice No. 913.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Hiland, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226; Telephone (202) 927-8210.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1999, the Bureau of Alcohol, Tobacco and Firearms published a temporary rule, T.D. ATF-421, in the **Federal Register** (64 FR 71918, Dec. 22, 1999). This temporary rule implemented several provisions found in section 9302 of the Balanced Budget Act of 1997 (Act), Pub. L. 105-33, 111 Stat. 672. Section 9302 of the Act had amended the Internal Revenue Code of 1986 at sections 5704(b), 5712, 5754 and 5761(c). These amendments: placed restrictions on the importation of previously exported tobacco products, required markings on tobacco products or cigarette papers and tubes removed or transferred without payment of the federal excise tax, provided penalties for selling, relabeling, or receiving, within the jurisdiction of the United States, tobacco products or cigarette papers and tubes which have been labeled and

shipped for exportation and were removed after the effective date, and authorized the Secretary to prescribe minimum capacity or activity requirements as a criteria for issuance of a manufacturer's permit. These new provisions of law became effective January 1, 2000.

The temporary rule, T.D. ATF-421, implemented these changes in law by providing new and amended regulations in parts 200, 270, 275 and 290 of title 27 of the Code of Federal Regulations (CFR). Concurrently with the temporary rule, ATF also published a notice of proposed rulemaking, Notice No. 887 (64 FR 71927, Dec. 22, 1999), that solicited comments regarding the temporary regulations. The original comment period for Notice No. 887 lasted for 60 days and closed on February 22, 2000.

During the comment period, the ATF received requests to extend the comment period in order to provide sufficient time for all interested parties to respond to the issues raised in the notice. ATF found that a reopening of the comment period was warranted and on March 21, 2000, ATF published Notice No. 893 in the **Federal Register**. This notice reopened the comment period for Notice No. 887 for an additional 30 days. The second comment period for Notice No. 887 closed on April 20, 2000.

On April 18, 2000 the United States District Court for the District of Columbia in the civil action, *World Duty Free Americas, Inc. v. Treasury*, (D.D.C. No. 00-00404 (RCL)), issued a temporary injunction enjoining the Treasury Department from enforcing Temporary Rules 27 CFR 275.11 and 27 CFR 275.83, in T.D. ATF-421, to the extent that they prohibited the importation of cigarettes purchased in U.S. duty free stores up to the limit allowed by the personal use exemption provided by 19 U.S.C. 1555 and the Harmonized Tariff Schedule of the United States, 19 U.S.C. 1202, subheadings 9804.00.65, 9804.00.70 and 9804.00.72.

Later, on November 9, 2000, the President signed the Tariff Suspension and Trade Act of 2000, Public Law 106-476, 114 Stat. 2101, that included the Imported Cigarette Compliance Act of 2000 (ICCA 2000). Several sections of the IRC that were amended by Balanced Budget Act of 1997 have been further amended by the ICCA 2000, including sections 5704(d), 5754 and 5761(c). These new amendments require that tobacco products and cigarette papers and tubes manufactured in the United States and labeled for exportation can only be re-imported by the original

manufacturer, or by an export warehouse authorized to do so by the original manufacturer, provide that those articles labeled for exportation may not be sold or held for sale for domestic consumption in the United States unless they are removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label, and require the destruction of tobacco products forfeited under § 5761(c).

In addition, the Consolidated Appropriations Act, 2001, signed December 21, 2000, Public Law 106-554, 114 Stat. 2763, amended the IRC at section 5761(c) by adding language to the law which provides that travelers can bring personal-use quantities of U.S. manufactured tobacco products labeled for export into the United States (up to the quantity allowed entry free of tax and duty under the Harmonized Tariff Schedule of the United States). Further, the law provides that a person may voluntarily relinquish any excess quantity of tobacco products without incurring the penalty. However, no quantity of tobacco products other than the amount permitted under chapter 98 of the Harmonized Tariff Schedule of the United States may be relabeled or received as a personal use quantity.

ATF believes that the above-described changes in the law are clear and leave no discretion in implementation. However, because of the pending litigation (*World Duty Free Americas, Inc. v. Treasury*), ATF has decided to issue this notice of proposed rulemaking prior to the issuance of a final rule.

Accordingly, this notice of proposed rulemaking seeks public comment on the proposed amendments to the regulations in parts 275, 290, and 295 of title 27 of the Code of Federal Regulations (CFR).

The following is a discussion of those sections of the IRC that were amended by the Balanced Budget Act of 1997 and further amended by the ICCA 2000 and the Consolidated Appropriations Act, 2001.

Importation Restrictions

Balanced Budget Act. Section 9302 of the Balanced Budget Act of 1997 added a new section, 26 U.S.C. 5754, to the IRC entitled, "Restriction on importation of previously exported tobacco products." This new section became effective on January 1, 2000 and it placed severe limitations on the conditions under which previously exported tobacco products, and cigarette papers and tubes may be imported or brought back into the United States. Section 5754 stated that such products

may only be imported or brought into the United States as provided in section 5704(d). The referenced section, 5704(d), allowed previously exported tobacco products and cigarette papers and tubes to be released from Customs custody, without payment of tax, for transfer to a manufacturer of tobacco products or cigarette papers and tubes, or to the proprietor of an export warehouse. Thus, under section 5754, the only condition under which previously exported tobacco products and cigarette papers and tubes could be imported or brought into the United States was by release from Customs custody to a manufacturer or an export warehouse proprietor as an in-bond transfer. However, section 5704(d) allowed previously exported tobacco products to be transferred to any manufacturer of tobacco products or cigarette papers and tubes, or to any export warehouse proprietor. The law did not mandate that the previously exported products return to the original manufacturer or export warehouse proprietor as authorized by the original manufacturer.

Imported Cigarette Compliance Act of 2000. Section 4002 of the Imported Cigarette Compliance Act of 2000 further amends sections 5754 and 5704(d) of the IRC whereby tobacco products and cigarette papers and tubes manufactured in the United States and previously exported may be imported or brought into the United States, if such articles are released from Customs custody with the partial duty exemption provided in section 5704(d), or are returned to the original manufacturer of such articles as provided in section 5704(c). Further, section 5704(d) of the IRC was amended by deleting a reference to "a manufacturer of" and inserting "the original manufacturer of" tobacco products or cigarette papers and tubes. The term "proprietor of an export warehouse" was also amended by inserting the phrase "authorized by such manufacturer to receive such articles" after the term "proprietor of an export warehouse." Therefore, the amended language of the law in 5704(d) now refers to "proprietor of an export warehouse authorized by such manufacturer to receive such articles."

Thus, with these amendments to sections 5754 and 5704(d), previously exported tobacco products and cigarette papers and tubes of United States manufacture may be imported or brought into the United States by: (1) Release from Customs custody under 5704(d) to "the original manufacturer" or to "the proprietor of an export warehouse authorized by such manufacturer to receive such articles"

or, (2) return to the original manufacturer of such articles as provided in 5704(c).

Proposed Amendments to the Regulations. This NPRM proposes to amend the regulations at 27 CFR 275.82 to reflect the above described changes in the law.

Tobacco Products Labeled for Export

Balanced Budget Act. As discussed above, section 9302 of the Balanced Budget Act of 1997 amended the IRC by adding section 5754 which imposed restrictions on the importation of previously exported tobacco products. Thus, only articles which had been exported from the United States were subject to the re-importation restriction. It also amended section 5704(b) by providing that tobacco products, and cigarette papers and tubes may not be transferred or removed under 26 U.S.C. § 5704(b) unless they bear the proper marks, labels and notices.

Imported Cigarette Compliance Act of 2000. Section 4002 of the Imported Cigarette Compliance Act of 2000 further amends the IRC by providing new language at section 5754 whereby tobacco products and cigarette papers and tubes manufactured in the United States and "labeled for exportation" are subject to the restrictions and penalties applicable to this section. Thus, the new language at section 5754 makes the law applicable to both exported articles and articles labeled for export, but not exported. The Committee report that accompanied the bill states: "The provision expands the application of the special tax penalty for re-importing tobacco products to include the sale in the U.S. domestic market of tobacco products labeled for export (but not actually exported). Thus, this penalty can be imposed in addition to the present-law penalties and other sanctions that apply to tobacco products that might be removed for export, but instead are diverted into the U.S. domestic market." S. Rep. No. 503, 106th Cong., 2nd Sess. 89 (2000).

Amendments to the Regulations. This NPRM proposes to amend the regulations at 27 CFR 275.82 to reflect the above described change in the law. The penalty provisions in 27 CFR 275.83(a), which implement verbatim section 5761(c), already applied to articles "labeled or shipped for exportation." Therefore, since articles labeled for exportation are already addressed in section 275.83, it is not necessary to amend it.

Returned Articles in the U.S. Market

Balanced Budget Act. Section 9302 of the Balanced Budget Act of 1997

imposed a new civil penalty on persons, other than manufacturers or export warehouse proprietors, who sell, reland or receive tobacco products or cigarette papers or tubes that have been labeled or shipped for exportation under Chapter 52 of the IRC. However, section 9302(i) of this Act also provided that the amendments to the IRC under the Balanced Budget Act of 1997 only applied to "articles removed" after December 31, 1999. As a consequence, articles that were removed on or before December 31, 1999 were not subject to the new penalty. Thus, relanded tobacco products in packages bearing export marks that were lawfully removed from Customs custody and entered into the United States prior to January 1, 2000 were lawful products and not subject to the civil penalty, or other criminal provisions of Chapter 52 of the IRC.

Imported Cigarette Compliance Act of 2000. Section 4002 of the Imported Cigarette Compliance Act 2000 amends the IRC by providing new language at section 5754(a)(1)(C) whereby tobacco products and cigarette papers and tubes manufactured in the United States and labeled for exportation may not be sold or held for sale for domestic consumption in the United States unless such articles are removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label. Further, the provisions of section 4002 take effect 90 days after enactment of the Act and, therefore, are effective on February 7, 2001. See section 4002(d) of the ICCA 2000 for the effective date.

The consequence of this amendment is that whereas the Balanced Budget Act of 1997 had allowed previously exported articles that were imported before January 1, 2000 to be legally sold on the domestic market, the ICCA 2000 makes the sale or holding for sale of such articles illegal effective February 7, 2001, unless they are removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label.

The Committee report that accompanied the bill, states: "The provision also authorizes the Treasury Department to seize all export-labeled tobacco products found in the U.S. domestic market regardless of the date of removal." S. Rep. No. 503, 106th Cong., 2nd Sess. 89 (2000).

Further, amended section 5754(a)(2) also provides that the restrictions on export-labeled articles also apply to articles that have been altered by a person other than the original manufacturer. Thus, if a person places

stickers over the export label, or otherwise attempts to conceal or remove the export label on the packaging, the restrictions in 26 U.S.C. 5754 still apply to that article.

Amendments to the Regulations. This NPRM proposes to amend the regulations at 27 CFR 275.82 and 296.166(b) and (c) to reflect these changes in the law.

Disposition of Forfeited Tobacco Products

Balanced Budget Act. Section 9302 of the Balanced Budget Act of 1997 amended the IRC by adding a new civil penalty at 26 U.S.C. 5761(c). The penalty applies to persons, other than manufacturers or export warehouse proprietors, who sell, reland or receive tobacco products or cigarette papers or tubes that have been labeled or shipped for exportation under Chapter 52 of the IRC. In addition to the civil penalty, criminal penalties and forfeiture of the product and any vessel, vehicle or aircraft involved in relanding or removing such product could be imposed. However, section 5761(c) did not specify how the Department of the Treasury should dispose of forfeited tobacco products.

Imported Cigarette Compliance Act of 2000. Section 4002(c) of the Imported Cigarette Compliance Act of 2000 amends section 5761(c) of the IRC by adding language which requires that all relanded tobacco products and cigarette papers and tubes shall be forfeited to the United States and destroyed. The Committee report that accompanied the bill states, "The provision also provides that tobacco products that are forfeited to the Federal Government under present-law provisions must be destroyed (rather than being disposed of in any manner administratively determined by the Treasury Department)." S. Rep. No. 503, 106th Cong., 2nd Sess. 89 (2000).

Amendments to the Regulations. This NPRM proposes to amend the regulations at 275.83(c) by providing that forfeited tobacco products and cigarette papers and tubes will be destroyed.

Travelers Entering the United States

Balanced Budget Act. As discussed earlier, the Balanced Budget Act of 1997 amended the IRC by adding two new sections of law aimed at restricting the importation of previously exported tobacco products. 26 U.S.C. 5754 provided that only manufacturers of tobacco products and export warehouses may import previously exported tobacco products. In addition, section 5761(c) provided penalties for

selling, receiving, and relanding of tobacco products labeled or shipped for export. Neither section of law provided an exemption for travelers entering the United States with small quantities of tobacco products for personal use.

This application of the law was challenged by several operators of duty free stores and in a civil action, *World Duty Free Americas, Inc. v. Treasury*. The court in *World Duty Free* issued a temporary injunction enjoining the Treasury Department from enforcing Temporary Rules 27 CFR 275.11 and 275.83 to the extent that they prohibited the importation of cigarettes purchased in U.S. duty free stores up to the limit allowed by the personal use exemption provided by 19 U.S.C. 1555 and the Harmonized Tariff Schedule of the United States, 19 U.S.C. 1202, subheadings 9804.00.65, 9804.00.70 and 9804.00.72.

ICCA 2000 and Consolidated Appropriations Act, 2001. As discussed earlier, on November 9, 2000 the President signed the Imported Cigarette Compliance Act of 2000. Section 4003 of the Imported Cigarette Compliance Act of 2000 amended the IRC at section 5761(c) by inserting the following language: "This subsection and section 5754 shall not apply to any person who relands or receives tobacco products in the quantity allowed entry free of tax and duty under subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States. No quantity of tobacco products other than the quantity referred to in the preceding sentence may be relanded or received as a personal use quantity."

Shortly thereafter, on December 21, 2000, the President also signed the Consolidated Appropriations Act, 2001. Section 315 of the Consolidated Appropriations Act, 2001 further amended section 5761(c) in the IRC by substituting the following language: "This subsection and section 5754 shall not apply to any person who relands or receives tobacco products in the quantity allowed entry free of tax and duty under chapter 98 of the Harmonized Tariff Schedule of the United States, and such person may voluntarily relinquish to the Secretary at the time of entry any excess of such quantity without incurring the penalty under this subsection. No quantity of tobacco products other than the quantity referred to in the preceding sentence may be relanded or received as a personal use quantity."

Under this revised language in the law, travelers entering the United States, if they claim and are granted a personal use exemption, are allowed to bring U.S. manufactured tobacco products labeled

for export back into the United States up to the quantity allowed entry free of tax and duty under chapter 98 of the Harmonized Tariff Schedule of the United States. In addition, a traveler claiming such a personal use exemption upon arrival at the border may voluntarily relinquish to the U.S. Customs Service any excess of such quantity without incurring a penalty under this section. Only the numerical quantity allowable under the Harmonized Tariff Schedule of the United States free of tax and duty may be considered as a personal use quantity.

In addition, section 315 of the Consolidated Appropriations Act, 2001 made the above described allowance for travelers retroactive to January 1, 2000, when the original restrictions and penalties imposed by the Balanced Budget Act of 1997 took effect.

Amendments to the Regulations. In accordance with the above described amendments to the IRC, ATF proposes to amend the regulations at 27 CFR 275.82 and 275.83 to provide that personal use quantities allowed under the law are exempt from the restrictions and penalties applicable to reimported tobacco products. The definition of "relanding" at 27 CFR 275.11 is amended to delete the second sentence relating to the relinquishment of tobacco products by travelers, which is now delineated in the proposed revisions to 27 CFR 275.82 and 275.83.

Miscellaneous Amendments

In addition to amendments described above, ATF proposes to amend the authority cite that appears after 27 CFR 290.185, Label or Notice, to include a reference to 26 U.S.C. 5704(b), which allows the Secretary to prescribe appropriate marks, labels or notices.

Amendments to the Tariff Act of 1930

The Imported Cigarette Compliance Act of 2000 also amends the Tariff Act of 1930 by imposing additional requirements for the entry of cigarettes into the United States. Those provisions of the new law will be implemented through regulations issued by the U.S. Customs Service.

Public Participation

Who May Comment on This Notice?

ATF requests comments on this notice of proposed rulemaking from all interested persons. All comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration

cannot be given except as to comments received on or before the closing date.

Will ATF Keep My Comments Confidential?

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material that a respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting a comment is not exempt from disclosure.

Can I Review Comments Received?

Yes. You may view and copy written comments on this notice during normal business hours in the ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC 20226, telephone (202) 927-8480.

How Do I Send Facsimile Comments?

Comments may be submitted by facsimile transmission to (202) 927-8525. Facsimile comments must:

- be legible;
- be 8½" x 11" in size;
- contain a legible written signature;
- be not more than three pages.

We will not acknowledge receipt of FAX transmissions. We will treat facsimile transmissions as originals.

How Do I Send Electronic Mail (e-mail) Comments?

You may submit comments by e-mail by sending the comments to nprm@atfhq.atf.treas.gov. You must follow these instructions. E-mail comments must:

- contain your name, mailing address, and e-mail address;
- reference this notice number;
- be legible when printed on not more than three pages 8½/2" x 11" in size.

We will not acknowledge receipt of e-mail. We will treat e-mail as originals.

How Do I Send Comments to the ATF Internet Web Site?

Comments may be submitted electronically using ATF's web site. You may comment on this proposed notice by using the form provided through ATF's web site. You can reach this notice and comment form through the address <http://www.atf.treas.gov/core/tobacco/rules/rules.htm>.

Can I Request a Public Hearing?

If you desire the opportunity to comment orally at a public hearing on this proposed regulation, you must submit a request in writing to the Director within the 60-day comment

period. The Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Regulatory Analyses and Notices

Is This a Significant Regulatory Action as Defined by Executive Order 12866?

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this Executive Order.

How Does the Regulatory Flexibility Act Apply to This Proposed Rule?

These proposed regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute. Pursuant to 26 U.S.C. 7805(f), this proposed regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Does the Paperwork Reduction Act Apply to This Proposed Rule?

This notice of proposed rulemaking does not contain any new collections of information nor does it revise existing collections of information to impose new burdens. Consequently, the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice.

Drafting Information

The principal author of this document is Mr. Daniel Hiland, Regulations Division, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and the Treasury Department participated in developing the document.

List of Subjects

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Claims, Customs duties and inspection, Electronic fund transfer, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures,

Surety bonds, Tobacco products, U.S. possessions, Warehouses.

27 CFR Part 290

Administrative practice and procedure, Aircraft, Authority delegations, Cigarette papers and tubes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Penalties, Surety bonds, Tobacco products, Vessels, Warehouses.

27 CFR Part 296

Authority delegations, Cigarette papers and tubes, Claims, Disaster assistance, Excise taxes, Exports, Packaging and containers, Penalties, Surety bonds, Tobacco products.

Authority and Issuance

Accordingly, we propose to amend title 27, Code of Federal Regulations as follows:

PART 275—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Paragraph 1. The authority citation for part 275 continues to read as follows:

Authority: 18 U.S.C. 2342; 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5712, 5713, 5721, 5722, 5723, 5741, 5754, 5761, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 275.11 [AMENDED]

Par. 2. In § 275.11, the definition for "Relanding" is amended by removing the second sentence.

Par. 3. Section 275.82 is revised to read as follows:

§ 275.82 Restrictions on Tobacco Products Labeled for Export.

(a) The provisions of this section apply to tobacco products and cigarette papers and tubes manufactured in the United States and labeled for exportation.

(b) Articles described in paragraph (a) of this section may be transferred to or removed from the premises of a manufacturer or an export warehouse proprietor only if such articles are being transferred or removed without tax as provided in this part.

(c) Articles described in paragraph (a) of this section that are put up in packages may only be imported or brought into the United States, after their exportation, by release from Customs custody for delivery to the original manufacturer of such tobacco products or cigarette papers or tubes or to the proprietor of an export warehouse authorized by such manufacturer to

receive such articles. These products are transferred in bond and are released from Customs custody without payment of that part of the duty attributable to internal revenue tax.

(d) Articles described in paragraph (a) of this section that are not put up in packages may only be imported or brought into the United States by release from Customs custody without payment of tax for delivery to the original manufacturer of such articles.

(e) Articles described in paragraph (a) of this section may not be sold or held for sale for domestic consumption in the United States unless such articles are removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label. The new packages, marks and notices must conform to the requirements of 27 CFR part 270.

(f) The provisions of this section shall apply to articles labeled for export even if the packaging or the appearance of such packaging to the consumer of such articles has been modified or altered by a person other than the original manufacturer so as to remove or conceal or attempt to remove or conceal (including by placement of a sticker over) any export label.

(g) For purposes of this section, an article is labeled for export or contains an export label if it bears the mark, label, or notice required by § 290.185.

(h) For purposes of this section, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

(i) The provisions of this section do not apply to any person who, when entering U.S. manufactured tobacco products labeled for export, claims and is granted an exemption from duty and tax for such products under chapter 98 of the Harmonized Tariff Schedule of the United States. The quantity of tobacco products entered may not exceed the quantity limit imposed on such products under the applicable tariff provision. A traveler claiming an exemption under this subsection upon arrival at the border may voluntarily relinquish to the U.S. Customs Service at the time of entry any excess of such quantity without incurring the penalty under section 275.83.

(j) For civil penalties and forfeiture provisions related to violations of this section, see § 275.83. For a criminal penalty applicable to any violation of this section see 26 U.S.C. 5762(b).

Par. 4. Section 275.83 is revised to read as follows:

§ 275.83 Penalties and forfeiture for products labeled or shipped for export.

Except for the return of exported products that are specifically authorized under § 275.82:

(a) Every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation;

(b) Every person who sells or receives such relanded tobacco products or cigarette papers or tubes; and,

(c) Every person who aids or abets in such selling, relanding, or receiving, shall, in addition to the tax and any other penalty provided for in title 26 U.S.C., be liable for a penalty equal to the greater of \$1,000 or 5 times the amount of the tax imposed by title 26 U.S.C. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States shall be forfeited to the United States and destroyed. All vessels, vehicles and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States.

(d) The provisions of this section do not apply to any person who, when entering U.S. manufactured tobacco products labeled for export, claims and is granted an exemption from duty and tax for such products under chapter 98 of the Harmonized Tariff Schedule of the United States. The quantity of tobacco products entered may not exceed the quantity limit imposed on such products under the applicable tariff provision. A traveler claiming an exemption under this subsection upon arrival at the border may voluntarily relinquish to the U.S. Customs Service at the time of entry any excess of such quantity without incurring the penalty under this section.

(e) For purposes of this section, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

PART 290—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Par. 5. The authority citation for part 290 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 6. The parenthetical authority citation after § 290.185 is removed.

PART 296—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 7. The authority citation for part 296 is revised to read as follows:

Authority: 18 U.S.C. 2341–2346, 26 U.S.C. 5704, 5708, 5751, 5754, 5761–5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805; 44 U.S.C. 3504(h), 49 U.S.C. 782, unless otherwise noted.

Par. 8. Section 296.166 is revised to read as follows:

§ 296.166 Dealing in tobacco products.

(a) All tobacco products purchased, received, possessed, offered for sale, sold or otherwise disposed of, by any dealer must be in proper packages which bear the mark or notice as prescribed in parts 270 and 275 of this chapter. Tobacco products may be sold, or offered for sale, at retail from such packages, provided the products remain in the packages until removed by the customer or in the presence of the customer. Where a vending machine is used, tobacco products must similarly be vended in proper packages or directly from such packages.

(b) Tobacco products manufactured in the United States and labeled for exportation may not be sold or held for sale for domestic consumption in the United States unless such articles are removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label. This applies to articles labeled for export even if the packaging or the appearance of such packaging to the consumer of such articles has been modified or altered by a person other than the original manufacturer so as to remove or conceal or attempt to remove or conceal (including by placement of a sticker over) the export label.

(c) For penalty and forfeiture provisions applicable to the selling, relanding or receipt of articles which have been labeled or shipped for exportation, see § 275.83.

Signed: March 1, 2001.

Bradley A. Buckles,
Director.

Approved: March 15, 2001.

Timothy E. Skud,
Acting Deputy Assistant Secretary
(Regulatory, Tariff and Trade Enforcement).
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