DEPARTMENT OF THE TREASURY

CUSTOMS SERVICE

19 CFR Part 101

[T.D. 86-145]

Customs Regulations Amendment Relating to the Customs Field Organization; Shreveport and Bossier City, LA

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This notice changes the field organization of the Customs Service by establishing a new port of entry, on a 2-year trail basis, at Shreveport and Bossier City, Louisiana. This change is being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: September 4, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Coleman, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

Customs ports of entry are places (seaports, airports, or land border ports) designated hy the Secretary of the Treasury were Customs officers or employees are assigned to accept entries of merchandise, clear passengers, collect duties, and enforce the various provisions of Customs and related laws.

The Caddo-Bossier Port Commission filed an application with Customs requesting the establishment of a new Customs port of entry at Shreveport and Bossier City, Louisiana. A review of that application confirmed that the proposed port met the minimum Customs criteria for establishing ports of entry.

A notice proposing the establishment of the Shreveport-Bossier City port of entry, in a 2-year trail basis, was published in the **Federal Register** on January 22, 1986 (51 FR 2897). The notice solicited public comment on the matter.

Discussion of Comments

Seventy-three comments were received in response to the notice. Seventy-one commenters supported establishment citing the benefits that such a port would provide to the region's growing international trade business, as well as the over-all positive effect on the area's economic and employment outlook. Of the two opposing comments, one doubted the new port would have a sufficient workload, and the other expressed concern that opening a new port would somehow drain the resources available for existing ports.

As to the workload argument, Customs has a commitment from the port that it will meet the minimum workload standards of a port of entry. At the end of the 2-year period, the practicality of maintaining a port of entry at Shreveport-Bossier City will be reevaluated in light of the actual Customs workload. As to the second argument, the opening of this port will in no way make the operation of any existing port less efficient.

After analysis of the comments and further review of the matter, Customs is establishing, on a 2-year trial basis, a port of entry at Shreveport-Bossier City, Louisiana.

Changes in the Customs Field Organization

The Secretary of the Treasury is advised by the Commissioner of Customs in matters affecting the establishment, abolishment, or other change in ports of entry. Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by E.O. No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp. Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-05 (47 FR 2449).

Customs has determined that it is in the public interest to establish, on a 2-year trial basis, a port of entry at Shreveport-Bossier City, Louisiana. The limits of the port of entry of Shreveport-Bossier City are the city limits of Shreveport-Bossier City, Louisiana.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Goverment agencies).

PART 101—[AMENDED]

1. The authority citation for Part 101 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1, 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965; 3 CFR 1965 Supp.

§ 101.3 [Amended]

To reflect this change, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by adding, "Shreveport-Bossier City La., including the territory described in T.D. 86-145." directly below, "Nashville, Tenn., including the territory described in T.D. 84-126," in the column headed "Ports of entry" in the New Orleans, Louisiana district.

Executive Order 12291 and Regulatory Flexibility Act

Because this document relates to agency organization it is not subject to E.O. 12291. Accordingly, a regulatory impact analysis and the review prescribed by section 3 of that E.O. is not required. Similarly, this document is not subject to the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*) and the regulatory analysis and other requirements of 5 U.S.C. 603 and 604 are not applicable.

Customs routinely establishes and expands Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the area affected, it is not expected to be significant because establishing and expanding port limits at Customs ports of entry in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: July 9, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

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Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19 and 250

[T.D. ATF-233; Ref: T.D. ATF-175 Notice No. 558]

Implementing the Caribbean Basin Recovery Act; Distribution of Excise Taxes on Imported Rum

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

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule amends ATF regulations to implement a portion of Title II of Pub. L. 98-67 (Caribbean Basin Economic Recovery Act). This law, signed by President Reagan on August 5, 1983, affects the distribution of Federal excise taxes collected on rum imported into the United States after June 30, 1983. The purpose of this law was to ensure that the economies of Puerto Rico and the United States Virgin Islands are not adversely affected by the elimination of importation duties on selected goods imported into the United States from certain countries located in the Caribbean Basin. This final rule supersedes the temporary rule (T.D. ATF-175) on this subject which was published in the **Federal Register** on May 16, 1984 (49 FR 20800).

EFFECTIVE DATE: September 4, 1986.

FOR FURTHER INFORMATION CONTACT: Robert White, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202-566-7531).

SUPPLEMENTARY INFORMATION:

Background

Under section 5001 of the Internal Revenue Code (IRC) of 1954 (as amended), the United States imposes an excise tax of $12.50 per proof gallon on distilled spirits, including rum, produced in or imported into the United States. Section 7652 of the IRC provides for merchandise manufactured in Puerto Rico and brought into the U.S. for consumption or sale, and merchandise produced in the Virgin Islands and imported into the United States, to be subject to a tax equal to the tax imposed in the United States upon like merchandise of domestic manufacture.

Excise taxes collected under the Internal Revenue laws of the United States on merchandise produced in Puerto Rico and transported to the United States (less the estimated amount necessary for payment of refunds and drawbacks), or consumed in the island, shall be covered into the Treasury of Puerto Rico at the rate prescribed by 26 U.S.C. 7652(f). The excise taxes collected on merchandise produced in the Virgin Islands and shipped to the United States (less certain amounts deposited to the U.S. Treasury as miscellaneous receipts), shall be paid to the Treasury of the Virgin Islands at the rate prescribed by 26 U.S.C. 7652(f). Section 7652(f) states that, with respect to taxes imposed under section 5001 or section 7652 on distilled spirits, the amount covered into the Treasuries of Puerto Rico and the Virgin Islands shall not exceed the lesser of the rate of $10.50, or the tax imposed under section 5001(a)(1), on each proof gallon. In addition, section 7652(c) states that merchandise containing distilled spirits shall not be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such merchandise is attributable to rum.

In general, subject to the limitations stated in sections 2681(b) (2) and (3) of the Deficit Reduction Act of 1984 (Pub. L. 98-369), section 7652(c) of the IRC shall not apply with respect to merchandise containing distilled spirits brought into the United States from Puerto Rico after February 29, 1984, and before January 1, 1985.

The Treasury of Puerto Rico is paid directly from funds transferred by the Internal Revenue Service (IRS) on a monthly basis. The Virgin Islands receives fiscal year advances of funds based on estimates made by its Treasury and the U.S. Department of the Interior. The IRS reports the actual amount of merchandise that comes into the U.S. from the Virgin Islands on a monthly basis to the Department of the Interior, which is responsible for transferring the appropriate funds to the Virgin Islands and making adjustments to the amount of each fiscal year's advance to include any difference in the prior fiscal year's estimate and actual quantities brought into the United States.

The following procedures are presently used for determining the amount of excise taxes collected on bulk and cased distilled spirits (with an alcohol content of at least 92 percent rum) manufactured in Puerto Rico and the Virgin Islands, and brought into the U.S. The distilled spirits plants that bring in bulk spirits from Puerto Rico and the Virgin Islands report the amount received into their processing account, adjusted by the percentage of overall monthly gains or losses, on ATF Form 5110.28. The ATF regional offices receive Forms 5110.28 and report the figures to ATF headquarters of ATF F 5600.8 for bulk spirits transported from Puerto Rico and the Virgin Islands. ATF headquarters consolidates these figures and sends them to IRS. For other than bulk distilled spirits transferred in bond to a distilled spirits plant, the excise tax collections on such distilled spirits are reported to the appropriate IRS offices in the United States in one of two ways. The first way concerns collections reported by Customs. Each Customs port of entry reports the amount of excise tax collected by it on merchandise (including distilled spirits) brought into the U.S. from all areas outside the United States on a Customs internal document. The information from this document is then entered into Customs' computer system. Customs reports monthly to IRS headquarters in Washington the amount of excise tax it collected on all merchandise brought into the United States from Puerto Rico and the Virgin Islands. This figure from Customs includes cased distilled spirits (including rum) transported into the U.S. from Puerto Rico and the Virgin Islands. The second way of reporting concerns collections reported by the United States IRS office in Puerto Rico. This office reports on excise taxes collected in Puerto Rico on products containing distilled spirits shipped to the United States. Most of the collections shown on this report are for cased rum although some of the collections are for nonbeverage products containing distilled spirits. The report is sent to the IRS Philadelphia Service Center. Both the Customs report and the report from the IRS office in Puerto Rico are used to help determine how much cover over of excise taxes is due to the Puerto Rican Treasury. In regard to the Virgin Islands, only the Customs report is used.

Changes Due to Pub. L. 98-67

As a result of the Caribbean Basin initiative, the Caribbean Basin Economic Recovery Act (Pub. L. 98-67, Title II) was passed, effective August 5, 1983, to promote economic revitalization and facilitate expansion of economic opportunities in the Caribbean Basin region. Subtitle A of Title II of this Act eliminates duties on certain merchandise, including rum, imported from Caribbean Basin countries which have been certified by the President. The elimination of the duties should reduce the price of Caribbean Basin imported rum to U.S. consumers, which may result in a reduction of Puerto Rican and Virgin Islands rum sold in the United States. Any such reducton in the U.S. sales of rum produced in Puerto Rico and the Virgin Islands will reduce revenues (from excise taxes collected on rum coming into the United States from Puerto Rico and the Virgin Islands) transferred from the U.S. Treasury to the Governments of these two possessions.

Although the Caribbean Basin Economic Recovery Act was passed for the purpose of benefiting countries in the Caribbean Basin that meet certain criteria, this act was not intended to reduce the distilled spirits excise tax revenues of Puerto Rico and the Virgin Islands.

In order to protect the revenues of Puerto Rico and the Virgin Islands, section 221 was added to the Caribbean Basin Economic Recovery Act. This section states that distilled spirits excise taxes collected under section 5001(a)(1) of the Internal Revenue Code of 1954 on all rum imported into the United States from outside the country (including rum from possessions other than the Virgin Islands and Puerto Rico), whether or not from a Caribbean Basin country, will be paid over to the Treasuries of Puerto Rico and the Virgin Islands. These payments are to be reduced by the estimated amount necessary for payment of refunds and drawbacks. The Act does not impose restrictions on the uses to which the Government of the Virgin Islands or the Government of Puerto Rico may put the revenues they receive under the provision of this section of the Act.

The Caribbean Basin Economic Recovery Act states that the Secretary of the Treasury shall, from time to time, prescribe by regulation a formula for the division of the excise tax collections on imported rum between Puerto Rico and the Viririgin Islands. For the purposes of this section of the Act, the term "rum" means any article classified under item 169.13 or 169.14 of the Tariff Schedules of the United States (19 U.S.C. 1202).

Temporary Rule (T.D. ATF–175)

On May 16, 1984, ATF published a temporary rule (T.D. ATF–175) in the **Federal Register** (49 FR 20800) which provided for a distribution that was proportional to the average excise taxes collected on rum brought into the U.S. from Puerto Rico and the Virgin Islands during fiscal years 1980, 1981, and 1982. As a result, Puerto Rico has been receiving 86.4 percent and the Virgin Islands 13.6 percent of the excise taxes collected on rum imported into the United States from all areas other than Puerto Rico and the Virgin Islands.

A temporary rule was used rather than a notice of proposed rulemaking because it was necessary to get regulations into effect quickly so that Puerto Rico and the Virgin Islands could begin receiving the excise taxes collected on imported rum. This was especially necessary since Congress made this section of the Caribbean Basin Economic Recovery Act retroactive to July 1, 1983. However, in the preamble of the temporary rule, ATF stated that the formula published in the regulation's portion of the temporary rule did not take into account the fact that either Puerto Rico or the Virgin Islands might lose more revenue than the other due to rum imports. We stated in the temporary rule that ATF was in the process of compiling and evaluating information which would enable it to propose a formula that would compensate Puerto Rico and the Virgin Islands for any reduction in their revenues due to rum imports. We also stated that the formula would be published in the **Federal Register** in the near future as a notice of proposed rulemaking so that all interested persons could submit comments.

Notice No. 558

On February 14, 1985, ATF published a notice of proposed rulemaking (Notice No. 558) in the **Federal Register** (50 FR 6203) which proposed amending 27 CFR Part 250 to change the formula used for distributing the excise taxes collected on imported rum to the Treasuries of Puerto Rico and the Virgin Islands. The formula proposed in the notice of proposed rulemaking took into consideration a situation whereby either Puerto Rico or the Virgin Islands lost more revenue than the other as a result of an increase in the share of the U.S. rum market by other Caribbean Basin countries. The proposed formula provided for a greater allocation of U.S. excise taxes collected on rum from areas other than Puerto Rico and the Virgin Islands to the possession (Puerto Rico or the Virgin Islands) whose relative share in the total U.S. rum market had decreased. The proposed formula took into account the total shipments of rum to the United States, the shipments of rum from Puerto Rico and the Virgin Islands to the United States, and the relative shares of rum brought into the United States from each of these two possessions prior to passage of the Caribbean Basin Economic Recovery Act. For a more complete description of the proposed formula, see Notice No. 558.

Comments

Two comments were received in response to Notice No. 558. One was from the Governor of the United States Virgin Islands and the other was from the Director of the Puerto Rico Federal Affairs Administration. The Governor of the Virgin Islands stated that the proposed formula in Notice No. 558 appears to be fair and in accordance with the intent of the provision in the law to protect Matching Fund revenues from foreign competition. In this regard, he stated that the proposed formula was superior to alternatives 1, 2, or 3 (proposed in Notice No. 558) in meeting the intent of the law. The Governor further stated that the formula proposed in Notice No. 558 reflects closer conformity with the intent and spirit of the law by protecting the mainland industry and at the same time maintaining the actual competitive position between the Virgin Islands and Puerto Rico in the world market. In addition, the Governor stated that the alternatives listed in Notice No. 558 suggest arbitrary cases which may or may not be in the best interest of the Virgin Islands. The Governor went on to state that during the period when the Virgin Islands was protesting the inclusion of rum for duty free treatment, many of the Caribbean Basin Initiative (CBI) countries noted that they produce and sell bottled rum and were not strongly interested in the bulk rum market. If this continues to be their position throughout the twelve year CBI program, then the excise taxes on Virgin Islands rum would not be at risk from the CBI countries except to the extent that Virgin Islands' bottled rum becomes less competitive. This is due to the fact that the Virgin Islands distills largely unaged, private label bulk rums. However, the Governor stated that the U.S. Virgin Islands has only one major rum producer, and that distillery could be lost to competition in two ways. First, CBI countries at any time could change their position vis-a-vis bulk rum production. Second, the CBI countries' bottled rum could eventually compete effectively against one or more Puerto Rico distrilleries. To the extent that the competition ended there, Puerto Rico's share of the excise tax dollars would increase, which is as it should be under the provisions of section 221. However, if a Puerto Rico distillery under pressure from CBI foreign rum sales decided to switch to the bulk rum market, the Virgin Islands bulk rum production could cease, even thought no CBI country was producing bulk rum. Therefore, the Governor stated that the proposed formula in Notice No. 558 appears to be fair to all parties with respect to the return of excise taxes on foreign rum.

The comment from the Director of the Puerto Rico Federal Affairs Administration stated that Puerto Rico is opposed to the proposed formula for distribution of excise taxes on imported rum to Puerto Rico and the Virgin Islands as published in Notice No. 558 (50 FR 6203). The Director stated that, since the Caribbean Basin Economic Recovery Act provides little guidance for the criteria that the Secretary of the Treasury should use when apportioning the excise tax on foreign rum between Puerto Rico and the United States Virgin Islands, general rules or reasonableness and practicality should be followed. These rules might be based either upon merit or upon need or some combination of the two. The Director stated, however, the proposed distribution formula adheres to neither of these principles.

The proposed distribution formula departs radically from the merit principle, according to the Director, by assuring both Puerto Rico and the U.S. Virgin Islands that each will receive its fiscal year 1980 through 1982 share of all rum excise tax collections (to the extent that this can be done without dipping into excise taxes on the other's rum) regardless of what might happen in its own industry. The proposed formula, according to the Director, is apparently based on the need to protect either Puerto Rico or the Virgin Islands against a fall in excise tax collections which it is assumed could only be caused by the competition of duty-free rum imports. Ignored is the detrimental effect on incentives caused by the fact that each party will receive a fixed percentage of the total excise tax regardless of what it might do to improve its own product or increase its sales. Furthermore, according to the Director, Puerto Rico assigned $75 million to the Economic Development Administration during the past five years for the promotion of rum in the U.S. market, $15.9 million of which was spent in the last year. The Director states that Puerto Rico's marketing efforts should be taken into consideration in analyzing the reasons for the change in the share of the rum market in the United States.

The Director of the Puerto Rico Federal Affairs Administration goes on to state that Puerto Rico's objection to the proposed formula is further strengthened based upon examination of the trend of Puerto Rico and Virgin Island's rum sales to the United States from 1980 through 1983, the last year before the duty was removed from Caribbean rum. The Director states that a case can be made that the effect of duty free competiton is best measured by the degree of departure in 1984 from the previous trends, not by degree of difference from the market share average for 1980, 1981, and 1982 which is the rationale for the proposed new distribution formula. The Director further states that his calculations indicate that Puerto Rico sold 18 percent less than projected in 1984 and the Virgin Islands sold 17.8 percent less than projected. Under the proposed formula, Puerto Rico would get .23 percent less in total excise tax than a straight line trend would project while the Virgin Islands would get 31.69 percent more. However, according to the Director, using the existing interim formula, Puerto Rico would get 2.35 percent more than projected and the Virgin Islands would get 10.6 percent more.

The Director states the existing interim distribution formula (stated in T.D. ATF–175) comes close to adhering to the pure principle of merit in that it distributes the foreign rum excise tax in the same proportion that Puerto Rico and the United States Virgin Islands had earned it on their own sales in the U.S. mainland from 1980 through 1982. It departs somewhat from the merit principle in that it does not provide for future adjustments in the proportion of foreign excise taxes based upon changes in relative sales to the mainland. However, the Director thinks this small departure from the merit principle can be justified because of the need to compensate, to a reasonable extent, the party whose sales might not keep pace with the other party. Consequently, the Director states that Puerto Rico is prepared to settle for the existing interim formula even though it might be more appropriate, and would certainly be more favorable to Puerto Rico, to use 1981, 1982, and 1983 for calculating the relative apportionment of the foreign rum excise tax instead of 1980, 1981, 1982.

In addition, should relative need be the main determining factor for the distribution of the excise taxes on U.S. rum imports, the Director states that Puerto Rico might be due at least 97 percent of foreign rum excise taxes because, of the total of 3,293,089 residents of Puerto Rico and the United States Virgin Islands (by the 1980 U.S. Census), 3,196,520 or 97.1 percent live in Puerto Rico. Furthermore, in 1980 the per capita personal income in Puerto Rico was $3,410 or only 62 percent of the per capita personal income of the U.S. Virgin Islands.

ATF Response to Comments

After careful evaluation of the comments from Puerto Rico and the United States Virgin Islands, ATF has decided to basically adopt the formula proposed in Notice No. 558 but with two minor modifications. The first change involves adding a provision to the formula which ensures that Puerto Rico will always receive at least 51 percent of the applicable excise taxes on rum imported into the United States from countries other than Puerto Rico and the Virgin Islands. This provision is necessary to ensure that Puerto Rico will always receive a fair share of the excise taxes on rum imported into the United States from countries other than Puerto Rico and the Virgin Islands even if the sale of Virgin Islands' rum to the United States drops significantly. Without this provision, it is conceivable that Puerto Rico's share of the excise taxes on foreign rum imports could drop to zero while the Virgin Islands' share could increase to 100 percent if the sale of Virgin Islands' rum to the United States dropped sharply. Since it is extremely difficult, if not impossible, to determine that percentage of a drop in rum sales to the United States is due to an increase in competition from other Caribbean Basin Countries and what percentage is due to other totally unrelated matters, ATF feels that a drop in sales of Virgin Islands' rum in the United States should not cause Puerto Rico's share of the excise tax revenue (from imported foreign rum sales in the United States) to drop below 51 percent. ATF feels that the Virgin Islands should be compensated to a degree for any drop in rum sales to the United States. However, we feel that Puerto Rico should always receive more than half of the excise tax revenue since Puerto Rico's share of the United States rum market is considerably larger than the Virgin Islands and thus more susceptible to increased competition from other Caribbean Basin countries.

The second change to the formula proposed in Notice No. 558 involves using only fiscal year 1983 in determining the base percentages for Puerto Rico and the Virgin Islands rather than using fiscal years 1980 through 1982. ATF feels that fiscal year 1983 is a more accurate indicator of Puerto Rico and the Virgin Islands' share of the United States rum market prior to passage of the Caribbean Basin Economic Recovery Act. We feel that the effects of that Act, which eliminated the duty on rum from certain designated Caribbean Basin countries, would not have been felt by Puerto Rico or the Virgin Islands until fiscal year 1984. Consequently, the base percentages for fiscal year 1983 are 87.626889 percent for Puerto Rico and 12.373111 percent for the Virgin Islands. These percentages are based on $245,744,274 in excise taxes collected on Puerto Rican rum brought into the United States during fiscal year 1983 in comparison to $34,699,637 in excise taxes collected on Virgin Islands rum brought into the United States during that same year.

As a result of the two changes made to the formula which was proposed in

Notice No. 558, Puerto Rico's share of the foreign rum excise tax revenue may go as high as 87.626889 percent but will never go below 51 percent. The Virgin Islands' share of the foreign rum excise tax revenue may go as high as 49 percent but will never go below 12.373111 percent. For a complete description, including examples, of the modified formula being adopted by this final rule, see the next section of this preamble.

ATF has decided to adopt this modified version of the formula proposed in Notice No. 558 because of the following reasons:

(1) The current, interim formula stated in 27 CFR 250.31 does not take into consideration a situation whereby Puerto Rico or the Virgin Islands loses more revenue that the other as a result of an increase in the sales of rum to the United States by Caribbean Basin countries other than Puerto Rico and the Virgin Islands. The formula adopted in this Treasury decision provides for a greater allocation of U.S. taxes collected on rum from areas other than Puerto Rico and the Virgin Islands to the possession (Puerto Rico or the Virgin Islands) whose relative share in the total U.S. rum market has decreased. The formula will take into account the total shipments of rum to the United States, the shipments of rum from Puerto Rico and the Virgin Islands, and the relative shares of rum brought into the U.S. from each of these two possessions prior to passage of the Caribbean Basin Economic Recovery ACT.

(2) The formula proposed in Notice No. 558 did not take into consideration the fact that some of the loss in market share of rum in the United States in future years might be due to reasons other than increased competition from other Caribbean Basin countries. Such other reasons could include lack of marketing effort by Puerto Rico or the Virgin Islands or a reduction in the quality of Puerto Rico or Virgin Islands' products. The formula adopted by this final rule ensures that Puerto Rico and the Virgin Islands receive a fair share of the excise tax revenue on foreign rum imported into the United States from countries other than Puerto Rico and the Virgin Islands, even through the sale of Puerto Rican or Virgin Islands' rum to the United States drops significantly.

The formula adopted in the regulations' portion of this final rule will remain in effect until further notice. Section 221 of the Caribbean Basin Economic Recovery Act states that the Secretary of the Treasury shall, from time to time, prescribe by regulation a formula for the division of the excise taxes on foreign rum imported into the United States between Puerto Rico and the Virgin Islands. Consequently, the formula which has been adopted by this final rule is subject to future change if it can be shown that the formula is unfair to either Puerto Rico and the Virgin Islands. If this is the case, then either Puerto Rico and the Virgin Islands may submit a petition to ATF requesting a change in the formula. The petition should include information thoroughly documenting how the formula is inequitable. The petition should also include suggestions on how to improve the formula. If ATF can verify the information submitted in such a petition, we will propose a new formula in a future notice of proposed rulemaking and will solicit public comments before making such a change.

The Formula

The formula adopted in this final rule will provide for an annual calculation using a permanent base distribution percentage and the previous fiscal year's figures for rum brought into the United States from all areas outside the United States. The permanent base distribution represents the amount of bulk and cased rum brought into the United States from Puerto Rico and the Virgin Islands during fiscal year 1983. (As used here, the fiscal year period is from October 1 through September 30.) Puerto Rico received $245,744,274 in excise taxes collected on its rum during that fiscal year, and the Virgin Islands received $34,699,637. Therefore, the base distribution percentage is 87.626889 percent for Puerto Rico and 12.373111 percent for the Virgin Islands.

The formula will apply only to the distribution of the excise taxes collected on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands. The excise taxes collected on rum brought into the United States from these two possessions will continue to be paid over to the Treasury of the possession in which the rum was produced.

The distribution percentages will be calculated once a year, taking into account each previous fiscal year's figures for the total amount of rum brought into the United States from all areas outside the United States, including Puerto Rico and the Virgin Islands. Since it takes several months for these statistics to be compiled, and several more months to prepare notification of the distribution percentage, it will be effective on March 1 of each year and continue until March 1 of the next year.

The distribution percentages for Puerto Rico and the Virgin Islands will be calculated as follows:

(1) Multiply the total excise taxes collected on rum imported or brought into the United States from all areas (including Puerto Rico and the Virgin Islands) during the previous fiscal year by .87626889 and .12373111 to determine the respective shares of excise taxes collected on the entire rum market that will be allotted to Puerto Rico and the Virgin Islands.

(2) Subtract from those respective shares the excise taxes collected on rum brought into the United States from Puerto Rico and the Virgin Islands, respectively, during the previous fiscal year to determine each possession's loss (or gain) in excise taxes in relation to the previous fiscal year's United States rum market. Then divide the results by the excise taxes collected on rum imported during the previous fiscal year from areas other than Puerto Rico and the Virgin Islands to determine the repective distribution percentage.

Notwithstanding the formula described above, the Virgin Islands' share of the excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands shall not exceed 49 percent nor drop below 12.373111 percent. Puerto Rico's share of the excise taxes on rum imported from areas other than Puerto Rico and the Virgin Islands shall not exceed 87.626889 percent nor drop below 51 percent.

The formula prescribed in this section shall take effect on March 1, 1987. Prior to that date, Puerto Rico will continue to receive 86.4 percent and the Virgin Islands will continue to receive 13.6 percent of the eligible excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands. To illustrate the use of this formula, the following examples are given

(Note:—The permanent base percentages, representing the excise tax revenues on rum from Puerto Rico and the Virgin Islands during fiscal year 1983, are 87.626889 percent ($245,744,274) for Puerto Rico and 12.373111 percent ($34,699,637) for the Virgin Islands.)

Example 1

In fiscal year 1986, excise taxes collected on rum brought into the United States from Puerto Rico and the Virgin Islands remain unchanged from the base period. Excise taxes collected on rum from other areas amounted to $10,000,000.

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Step 1 - $245,744,274 (P.R.)
            34,699,637 (V.I.)
            10,000,000 (Other)
          $290,443,911

          $290,443,911            $290,443,911
          X  .87626889            X  .12373111
          $254,506,963            $ 35,936,948

Step 2 - P.R.   $254,506,963
              -  245,744,274
                $  8,762,689  ÷  $10,000,000 = 87.6268%

         V.I.   $ 35,936,948
              -   34,699,637
                $  1,237,311  ÷  $10,000,000 = 12.3732%
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Result: During the period March 1, 1987 to March 1, 1988, the percentages for the distribution of excise taxes collected on rum imported from other areas would be 87.6268 percent to Puerto Rico and 12.3732 percent to the Virgin Islands.

Example 2

In fiscal year 1986, excise taxes collected on rum brought into the United States from Puerto Rico and the Virgin Islands dropped slightly, while the amount of excise taxes collected on rum imported from other areas rose.

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Step 1 - $242,000,000 (P.R.)
           33,000,000 (V.I.)
           15,000,000 (Other)
         $290,000,000

         $290,000,000              $290,000,000
         X  .87626889              X  .12373111
         $254,117,978              $ 35,882,022

Step 2 - P.R.   $254,117,978
              -  242,000,000
                $ 12,117,978  ÷  $15,000,000 = 80.7865%

         V.I.   $ 35,882,022
              -   33,000,000
                $  2,882,022  ÷  $15,000,000 = 19.2135%
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Result: During the period March 1, 1987 to March 1, 1988, the percentages for the distribution of excise taxes collected on rum imported from other areas would be 80.7865 percent to Puerto Rico and 19.2135 percent to the Virgin Islands.

Example 3

In fiscal year 1986, excise taxes collected on rum brought into the United States from Puerto Rico rose, while the amount from the Virgin Islands dropped. Excise taxes collected on rum from other areas rose to $12,000,000.

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Step 1 -  $247,000,000 (P.R.)
            33,000,000 (V.I.)
            12,000,000 (Other)
          $292,000,000

          $292,000,000               $292,000,000
          X   .87626889              X   .12373111
          $255,870,516               $ 36,129,484

Step 2 -  P.R. $255,870,516
               -247,000,000
               $  8,870,516  ÷  $12,000,000 = 73.9210%

          V.I. $ 36,129,484
               - 33,000,000
               $  3,129,484  ÷  $12,000,000 = 26.0790%
```

Result: During the period March 1, 1987 to March 1, 1988, the percentages for the distribution of excise taxes collected on rum imported from other areas would be 73.9210 percent to Puerto Rico and 26.0790 percent to the Virgin Islands.

Example 4

In fiscal year 1986, the excise taxes collected on rum brought into the United States from Puerto Rico rose dramatically, while the amount from the Virgin Islands dropped dramatically.

```
Step 1 - $254,000,000 (P.R.)
           26,000,000 (V.I.)
           10,000,000 (Other)
         $290,000,000

         $290,000,000                   $290,000,000
         X   .87626889                  X   .12373111
         $254,117,978                   $ 35,882,022

Step 2 - P.R. $254,117,978
              -254,000,000
              $    117,978  ÷  $10,000,000 = 1.1798%

         V.I. $ 35,882,022
              - 26,000,000
              $  9,882,022  ÷  $10,000,000 = 98.8202%
```

Result: This formula results in Puerto Rico receiving 1.1798 percent and the Virgin Islands receiving 98.8202 percent of the excise taxes collected on rum imported from other areas. However, since a separate provision of the formula states that Puerto Rico's percentage of the excise taxes will not drop below 51 percent, the percentages for the distribution of excise taxes collected on rum imported from other areas would be 51 percent to Puerto Rico and 49 percent to the Virgin Islands.

Timing and Methods for Transferring Tax Collections

The timing and method of making the excise tax payments to Puerto Rico and the Virgin Islands will not change. Puerto Rico currently receives the excise taxes collected on its merchandise, and its share of the taxes collected on rum imported from other areas, on a monthly basis. The Virgin Islands receives fiscal year advances based on the estimated excise taxes to be collected on its merchandise brought into the United States. Actual amounts are subtracted from the advance monthly, and adjustments are made at the end of each fiscal year to reflect actual taxes collected on its merchandise that is brought into the United States. The Virgin Islands receives its shares of the taxes collected on rum imported from other areas on a monthly basis.

Regulatory Changes

In order for ATF to accurately determine the amount of rum brought into the United States from Puerto Rico, the Virgin Islands, and all other areas, it is necessary to require that distilled spirits plants importing bulk rum alter their reporting procedures to provide a more detailed breakdown between imported and domestic rum which is deposited into their processing accounts. This change in the reporting procedures requires amendments to the regulations in 27 CFR Part 19. The amendments to Part 19 concern adjustments to the reporting procedures on the Monthly Report of Processing Operations (ATF Form 5110.28), and Claim forms. ATF F 5110.28 is used by the Bureau for determining the amount of excise taxes collected on bulk distilled spirits brought into the United States that is paid over to the Treasuries of Puerto Rico and the Virgin Islands. It is also used for statistical purposes.

The changes being made to 27 CFR Part 19 by this Treasury decision were previously implemented by a temporary rule (T.D. ATF–175, 49 FR 20800) on May 16, 1984. However, subsequent to the effective date of the temporary rule, ATF published T.D. ATF–198 (50 FR 8456) which implemented the final all-in-bond regulations effective June 1, 1985. The final all-in-bond regulations completely revised 27 CFR Part 19. These final regulations were under review for an extended period of time and did not take into consideration the already revised regulations in T.D. ATF–175. It was decided at that time not to delay further the publication of the final all-in-bond regulations in order to incorporate the changes in T.D. ATF–175. Instead, ATF decided to publish a subsequent Treasury decision to reinstate these provisions. Thus, this Treasury decision reinstates the regulations in 27 CFR Part 19 which initially were implemented by T.D. ATF–175 but were not incorporated in T.D. ATF–198.

Other regulatory changes being adopted by this final rule include totally revising 27 CFR 250.31. This change is necessary due to the complete revision of the formula for dividing the excise taxes on rum from other countries between Puerto Rico and the Virgin Islands.

Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The requirements to collect information imposed by this final rule have been approved by the Office of Management and Budget under sec. 3507 of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35.

Disclosure

Copies of the temporary rule (T.D. ATF-175), Notice No. 558, and the comments received in response to Notice No. 558, are available for inspection during normal business hours at the following location: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4406, Ariel Rios Federal Building, 12th Street and Pennsylvania Avenue, NW., Washington, DC

Drafting Information

The principal author of this document is Robert White, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

27 CFR Part 250

Administrative practice and procedure, Authority delegations, Beer, Customs duties and inspection, Electronic fund transfers, Excise taxes, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Transportation, U.S. possessions, Wine.

Issuance

PART 19—[AMENDED]

27 CFR Part 19—Distilled Spirits Plants—is amended to read as follows:

Paragraph 1

The authority citation for Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111–5113, 5171–5173, 5175, 5176, 5178–5181, 5201–5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Paragraph 2

The table of contents in Part 19 is amended to revise the heading of § 19.778 to read as follows:

19.778 Receipt of Puerto Rican and Virgin Islands spirits and receipt of rum from all other areas.

Paragraph 3

Section 19.42 is amended to revise paragraphs (b) and (c) to read as follows:

§ 19.42 Claims on spirits returned to bonded premises.

* * * * *

(b) If the alcoholic content of the spirits contain at least 92 percent Puerto Rican or Virgin Islands rum, or if the spirits contain rum imported from any area other than Puerto Rico and the Virgin Islands, the claim shall show:

(1) Proof gallons of the finished product derived from Puerto Rican or Virgin Islands spirits, or derived from rum imported from any other area; and

(2) The amount of tax imposed by 26 U.S.C. 7652 or 26 U.S.C. 5001, determined at the time of withdrawal from bond, on the Puerto Rican or Virgin Islands spirits, or on the rum imported from any other area, contained in the product.

(c) Claims for credit or refund of tax shall be filed by the proprietor of the plant to which the spirits were returned within six months of the date of the return. No interest is allowed on any claims for refund or credit.

Paragraph 4

Section 19.778 is revised to read as follows:

§ 19.778 Receipt of Puerto Rican and Virgin Islands spirits and receipt of rum from all other areas.

(a) *Accounting.* Proprietors shall maintain separate accountings, in proof gallons, of Puerto Rican and Virgin Islands spirits having an alcoholic content of at least 92 percent rum, and of imported rum from all areas other than Puerto Rico and the Virgin Islands, received in the processing account for nonindustrial use. Receipts, for the purposes of these accountings, are limited to Puerto Rican and Virgin Islands spirits having an alcoholic content of at least 92 percent rum, and to imported rum from all areas other than Puerto Rico and the Virgin Islands, received in the processing account from the storage account of the same plant, from the storage account of another plant, and from customs custody.

(b) *Adjustment.* Each month proprietors shall determine the percentage of overall monthly processing gains or losses of spirits. The percentage of overall monthly processing gains or losses can be computed by netting the gains and losses on ATF Form 5110.28 (Part I). The proof gallons of Puerto Rican or Virgin Islands spirits (having an alcoholic content of at least 92 percent rum) and the proof gallons of imported rum from all areas other than Puerto Rico and the Virgin Islands, accounted for as received in processing during the month, shall be adjusted by the percentage of overall monthly processing gains or losses for that month.

(c) *Report.* As required by § 19.792, proprietors shall file monthly reports on ATF Form 5110.28. That report must show separately the adjusted proof gallons of Puerto Rican and Virgin Islands spirits having an alcoholic content of at least 92 percent rum, and of imported rum from all areas other than Puerto Rico and the Virgin Islands, received in processing.

PART 250—[AMENDED]

27 CFR Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands—is amended to read as follows:

Paragraph 1

The authority citation for Part 250 continues to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5141, 5205, 5207, 5232, 5301, 5314, 5555, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

Paragraph 2

Section 250.31 is revised to read as follows:

§ 250.31 Formula.

(a) The amount of excise taxes collected on rum that is imported into the United States from areas other than Puerto Rico and the Virgin Islands shall be deposited into the Treasuries of Puerto Rico and the Virgin Islands at the rate prescribed in 26 U.S.C. 7652(f). The distribution of such amount between Puerto Rico and the Virgin Islands shall be computed by using a permanent base percentage, which represents the excise taxes collected on rum brought into the United States from Puerto Rico and the Virgin Islands during fiscal year 1983. This base percentage is 87.626889 percent for Puerto Rico and 12.373111 percent for the Virgin Islands. The formula shall be as follows:

(1) Multiply the total excise taxes collected on rum brought into the United States (including rum from Puerto Rico and the Virgin Islands) during the previous fiscal year (October 1–September 30) by the base percentages to determine the relative shares of the entire U.S. rum market that will be allotted to Puerto Rico and the Virgin Islands;

(2) Subtract each of these shares from the excise taxes collected on rum transported to the United States from Puerto Rico and the Virgin Islands, respectively, during the previous fiscal year to determine each possession's loss or gain in relation to the previous fiscal year's U.S. rum market. Divide these results by the excise taxes collected on rum imported during the previous fiscal year from areas other than Puerto Rico and the Virgin Islands.

(b) Notwithstanding the formula prescribed in paragraph (a) above, the Virgin Islands' share of the excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands shall not exceed 49 percent nor drop below 12.373111 percent. Puerto Rico's share of the excise taxes on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands shall not exceed 87.62889 percent nor drop below 51 percent.

(c) The percentage for the distribution of the excise taxes collected on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands, that will be paid over to the Treasuries of Puerto Rico and the Virgin Islands, shall be effective on March 1 of each year, and shall remain in effect until March 1 of the following year.

(d) The method for transferring the excise tax collections on rum imported from areas other than Puerto Rico and the Virgin Islands, into the Treasuries of Puerto Rico and the Virgin Islands shall be the same as the method used for transferring excise taxes into the Treasury of Puerto Rico on distilled spirits (with an alcohol content of at least 92 percent rum) brought into the United States from Puerto Rico.

(e) The formula prescribed in this section shall take effect on March 1, 1987. Prior to that date, Puerto Rico shall continue to receive 86.4 percent of the eligible excise taxes on rum imported from areas other than Puerto Rico and the Virgin Islands. The Virgin Islands shall continue to receive 13.6 percent of these eligible excise taxes until March 1, 1987.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

Signed: June 13, 1986.

Stephen E. Higgins,

Director.

Approved: July 14, 1986.

Francis A. Keating II,

Assistant Secretary (Enforcement).

[FR Doc. 86–17440 Filed 8–4–86; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Parts 270, 275, 290, 295, and 296

[T.D. ATF–232]

Implementation of the Consolidated Omnibus Budget Reconciliation Act of 1985; Chewing Tobacco and Snuff

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

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule implements Title XIII, Subtitle B of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272, 100 Stat. 311).

This document amends regulations in 27 CFR Parts 270, 275, 290, 295, and 296 to provide for the taxation and regulation of chewing tobacco and snuff pursuant to Pub. L. 99–272. In addition, detailed rules for the grandfathering of existing manufacturers of chewing tobacco and snuff into the current regulatory framework for other tobacco products are provided. Also, this document provides a transitional rule for package markings for chewing tobacco and snuff which will allow manufacturers and importers to coordinate the package markings revisions required by Parts 270 and 275, with those required by the Federal Trade Commission pursuant to the Comprehensive Smokeless Tobacco Health Education Act of 1986 (Pub. L. 99–252, 100 Stat. 30).

DATE: The effective date of the temporary regulations is retroactive to July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy Cook or Clifford A. Mullen, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, Room 6235, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226; (202) 566–7531.

SUPPLEMENTARY INFORMATION: This document contains temporary regulations implementing the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272). The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject. This document also provides a transitional rule for package markings for chewing tobacco and snuff which will allow manufacturers and importers to coordinate the package markings revisions required by Parts 270 and 275, with those required by the Federal Trade Commission pursuant to the Comprehensive Smokeless Tobacco Health Education Act of 1986 (Pub. L. 99–252).

A notice of proposed rulemaking with respect to the final regulations appears elsewhere in this issue of the **Federal Register.**

Legislative Background

Under Pub. L. 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985, enacted April 7, 1986, chewing tobacco and snuff manufactured in or imported into the United States after June 30, 1986, are subject to tax at the rate of 8 cents and 24 cents per pound, respectively. The Act also contains a transitional rule which allows those currently engaged in the manufacture of chewing tobacco and snuff, and who make application for a permit prior to July 1, 1986, to continue to engage in such business pending final action on the application.

Smokeless tobacco products have not been subject to Federal excise tax since 1965. A previous excise tax on such products, imposed at a rate of 10 cents per pound, was repealed by the Excise Tax Reduction Act of 1965 (Pub. L. 89-44).

In addition, the act, by amending the definitions for "Tobacco products" and a "Manufacturer of tobacco products" to include smokeless tobacco, subjects manufacturers of such products to all the statutory and regulatory controls set forth in Chapter 52 of the Internal Revenue Code of 1954. These controls include taxpayment, permit qualification, bonding, record-keeping, and civil and criminal sanctions.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this document, because it was not required to be preceded by a general notice of proposed rulemaking under 5 U.S.C. 553, and because the revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any significant secondary or incidental effects, and any significant reporting, recordkeeping, or other compliance burdens flow directly from the statute.

Executive Order 12291

This document is not a major rule within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The requirements to collect information proposed in this final rule have been submitted to the Office of Management and Budget and approved under sec. 3507 of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35.

List of Subjects

27 CFR Part 270

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic fund transfer, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Electronic fund transfer, Claims, Customs duties and inspection, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, U.S. possessions, Warehouses.

27 CFR Part 290

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

27 CFR Part 295

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers.

27 CFR Part 296

Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Disaster assistance, Excise taxes, Penalties, Seizures and forfeitures, Surety bonds.

Drafting Information

The principal authors of this document are Clifford A. Mullen and Nancy F. Cook of the Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

Effective Date

Because the provisions of section 13202 of Pub. L. 99-272 become effective on July 1, 1986 and require immediate taxpayer implementation and compliance, it is thereby found to be impractical and unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

Authority and Issuance

Accordingly, ATF is proposing to amend Title 27 of the Code of Federal Regulations as follows:

PART 270—[AMENDED]

Sec. A. The regulations in 27 CFR Part 270 are amended as follows:

Paragraph 1. The authority citation for Part 270 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 18 U.S.C. 926, 22 U.S.C. 2778, 26 U.S.C. 5701, 5703, 5704, 5705, 5707, 5711, 5712, 5713, 5721, 5722, 5723, 5741, 5751, 5753, 5761, 5762, 6109, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 7212, 7325, 7342, 7502, 7503, 7606, 7805, 27 U.S.C. 205, 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. The heading of Part 270 is revised to read as follows:

PART 270—MANUFACTURE OF TOBACCO PRODUCTS

Par. 3. The table of contents for Part 270 is amended by replacing the words "cigars and cigarettes" with the words "tobacco products" in the following section headings, §§ 270.1, 270.44, 270.61a, 270.183, and 270.313; the following new sections are added, §§ 270.25, 270.216, and 270.216a; replacing the words "cigars and cigarettes" with the words "tobacco products" in the undesignated center headings following Subpart H, § 270.217, § 270.236, § 270.287; and by replacing the words "cigars and cigarettes" with the words "tobacco products" and replacing the word "tobacco" with the word "materials in § 270.252 to read as follows:

270.1 Manufacture of tobacco products.

* * * * *

270.25 Smokeless tobacco tax rates.

* * * * *

270.44 Disposal of forfeited, condemned, and abandoned tobacco products.

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Subpart E—Qualification Requirements for Manufacturers

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270.61a Transitional rule.

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Subpart H—Operations by Manufacturers

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Determination and Payment of Taxes on Tobacco Products

* * * * *

270.183 Record of tobacco products.

* * * * *

270.216 Notice for smokless tobacco.

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270.216a Transitional rule.

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270.217 * * *

* * * * *

Exemption from Taxes on Tobacco Products

* * * * *

270.236 * * *

Other Provisions Relating to Tobacco Products

* * * * *

270.252 Reduction of tobacco products to materials.

* * * * *

270.287 * * *

Tobacco Products Lost or Destroyed

* * * * *

270.313 Disposition of tobacco products and schedule.

* * * * *

§ 270.1 [Amended]

Par. 4. Section 270.1 is amended by replacing the words "cigars and cigarettes" with the words "tobacco products" wherever they appear in the heading and text.

Par. 5. Section 270.11 is amended by adding the definition for "Chewing Tobacco" to read as follows:

§ 270.11 [Amended]

* * * * *

Chewing tobacco. Any leaf tobacco that is not intended to be smoked.

* * * * *

Par. 6. Section 270.11 is amended by revising the definition for "Determined or determination" to read as follows: "When used with respect to the tax on tobacco products, determined or determination means that the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes, chewing tobacco, snuff) of tobacco products and wholesale price of large cigars to be removed subject to tax have been established as prescribed by this part so that the tax payable with respect thereto may be calculated."

Par. 7. Section 270.11 is amended by revising the definition for "Export warehouse" to read as follows: "A bonded internal revenue warehouse for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States."

Par. 8. Section 270.11 is amended by revising the definition of "In bond" to read as follows:

"The status of tobacco products and cigarette papers and tubes, which come within the coverage of a bond securing the payment of internal revenue taxes imposed by 26 U.S.C. 5701 or 7652, and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) such articles in a factory, (b) such articles removed, transferred, or released, pursuant to 26 U.S.C. 5704, and with respect to which relief from the tax liability has not occurred, and (c) such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond."

Par. 9. Section 270.11 is amended by revising the definition of "Manufacturer of tobacco products" to read as follows:

"Any person who manufactures cigars, cigarettes, or smokeless tobacco, except that such term shall not include (a) a person who produces cigars, cigarettes, or smokeless tobacco solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse."

Par. 10. Section 270.11 is amended by revising the definition of "Removal or remove" to read as follows: "The removal of tobacco products from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States."

Par. 11. Section 270.11 is amended by adding the definition of "Smokeless tobacco" which reads as follows:

Smokeless tobacco. Any snuff or chewing tobacco.

Par. 12. Section 270.11 is amended by adding the definition of "Snuff" to read as follows:

Snuff. Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

Par. 13. Section 270.11 is amended by revising the definition of "Tobacco products" to read as follows:

"Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco."

Par. 14. Section 270.25 is added and reads as follows:

§ 270.25 Smokeless tobacco tax rates.

On smokeless tobacco, manufactured in or imported into the United States, the following tax rates are imposed by law:

(a) *Snuff.* 24 cents per pound and a proportional tax at the like rate on all fractional parts of a pound.

(b) *Chewing tobacco.* 8 cents per pound and a proportional tax at the like rate on all fractional parts of a pound. (Pub. L. 99-272, 26 U.S.C. 5701)

§ 270.26 [Amended]

Par. 15. Section 270.26 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 260.27 [Amended]

Par. 16. Section 270.27 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.41 [Amended]

Par. 17. Section 270.41 (c) is amended to change the address of the ATF Distribution Center to 7943 Angus Court, Springfield, Virginia 22153.

§ 270.42 [Amended]

Par. 18. Section 270.42 is amended by removing the words "cigars or cigarettes" and replacing them with the words "tobacco products".

§ 270.44 [Amended]

Par. 19. Section 270.44 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.61 [Amended]

Par. 20. Section 270.61 is amended by removing the words "cigars or cigarettes" and replacing them with the words "tobacco products".

Par. 21. Section 270.61a is added and reads as follows:

§ 270.61a Transitional rule.

Any person who—

(a) On April 7, 1986, was engaged in business as a manufacturer of smokeless tobacco, and

(b) Before July 1, 1986, submits an application, as provided in this Part, to engage in such business, may, continue to engage in such business pending final action on such application. Pending such final action, all provisions of Chapter 52 of the Internal Revenue Code of 1954 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture smokeless tobacco under such chapter 52.

§ 270.69 [Amended]

Par. 22. Section 270.69(c) is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products".

Par. 23. Section 270.72 is revised to read as follows:

§ 270.72 Use of factory premises.

Unless otherwise authorized by the Director as provided in § 270.47, the factory premises shall be used exclusively for the purposes of manufacturing and storing tobacco products; storing materials, equipment, and supplies related thereto or used or useful in the conduct of the business; and carrying on activities in connection with the business of the manufacturer: Provided, That tobacco products manufacturers who maintain adequate records showing the date and total quantity in pounds, of the tobacco received, shipped or delivered, lost, and destroyed, in respect to the manufacture and storage of smoking tobacco (as well as tobacco products) may continue such operations on the tobacco products factory premises, without application for authorization as prescribed in § 270.47.

§ 270.104 [Amended]

Par. 24. Section 270.104 is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products".

Par. 25. Section 270.133 is revised to read as follows:

§ 270.133 Amount of individual bond.

The amount of the bond of a manufacturer of tobacco products shall be not less than the total amount of tax liability on all tobacco products manufactured in his factory, received in bond from other factories and from export warehouses, and released to him in bond from customs custody, during any calendar month. Where the amount of any bond is no longer sufficient and the bond is in less than the maximum amount, the manufacturer shall immediately file a strengthening or superseding bond as required by this subpart. The amount of any such bond (or the total amount including strengthening bonds, if any) need not exceed $250,000 for a manufacturer producing or receiving cigarettes in bond; need not exceed $150,000 for a manufacturer producing or receiving cigars or smokeless tobacco in bond; and need not exceed $250,000 for a manufacturer producing or receiving, in any combination, tobacco products in bond. The bond of a manufacturer of tobacco products shall in no case be less than $1,000.

Par. 26. The undesignated centerheading following the heading for Subpart H is revised to read "Determination and Payment of Taxes on Tobacco Products".

§ 270.161 [Amended]

Par. 27. Section 270.161 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.162 [Amended]

Par. 28. Section 270.162 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products", and removing paragraph (c) which contains an obsolete transitional rule.

Par. 29. Section 270.162 is amended by removing the word "and" from the end of paragraph (b)(4), by redesignating paragraph (b)(5) as (b)(6), and adding a new paragraph (b)(5) to read as follows:

(b)(5) the amount of chewing tobacco and snuff removed subject to tax during the return period, and

§ 270.165a [Amended]

Par. 30. Section 270.165a is amended by removing the words "cigars, cigarettes, cigarette papers, and cigarette tubes" wherever they appear and replacing them with the words "tobacco products, cigarette papers, and cigarette tubes" and by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.166 [Amended]

Par. 31. Section 270.166 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.167 [Amended]

Par. 32. Section 270.167 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.168 [Amended]

Par. 33. Section 270.168 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products."

Par. 34. Section 270.182 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 270.182 Record of tobacco.

The record of a manufacturer of tobacco products shall show the date and total quantity in pounds, of all tobacco other than tobacco products:

(a) Received (including tobacco resulting from reduction of cigars, cigarettes, and unpackaging of smokeless tobacco), together with the name and address of the person from whom received;

* * * * *

§ 270.183 [Amended]

Par. 35. The heading of section 270.183 is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products" and the introductory text is revised to read as follows:

"The record of a manufacturer of tobacco products shall show the date and total quantities of all tobacco products, by kind (small cigars-large cigars; small cigarettes-large cigarettes; chewing tobacco-snuff):"

Par. 36. Section 270.183(g)(6) is amended by removing the word "tobacco" and replacing it with the word "materials".

§ 270.184 [Amended]

Par. 37. Section 270.184 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.186 [Amended]

Par. 38. Section 270.186 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.201 [Amended]

Par. 39. Section 270.201 is amended by removing the words "cigars, cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.202 [Amended]

Par. 40. Section 270.202 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products"; and by adding the parenthetical "(Approved by the Office of Management and Budget under Control No. 1512–0358)" at the end of the section.

§ 270.211 [Amended]

Par. 41. Section 270.211 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products."

§ 270.212 [Amended]

Par. 42. Section 270.212 is amended by removing the words "cigars or cigarettes" and replacing them with the words "tobacco products" and by removing the word "both" in the fourth sentence.

Par. 43. Section 270.216 is added to read as follows:

§ 270.216 Notice for smokeless tobacco.

Every package of chewing tobacco or snuff shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "chewing tobacco" or "snuff", and a clear statement of the actual pounds and ounces of the product contained therein.

Par. 44. Section 270.216a is added to read as follows:

§ 270.216a Transitional rule.

Notwithstanding the provisions of § 270.212 and 270.216 as they relate to smokeless tobacco, manufacturers of smokeless tobacco may continue to use packaging in use prior to July 1, 1986 until February 27, 1987.

§ 270.217 [Amended]

Par. 45. Section 270.217 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

Par. 46. The undesignated centerheading following § 270.217 is revised to read "Exemption From Taxes on Tobacco Products."

Par. 47. Section 270.231 is revised to read as follows:

§ 270.231 Consumption by employees.

A manufacturer of tobacco products may gratuitously furnish tobacco products, without determination and payment of tax, for personal consumption by employees in the factory in such quantities as desired. Each employee may also be gratuitously furnished by the manufacturer, for off-factory personal consumption, not more than 5 large cigars or cigarettes, or 20 small cigars or cigarettes, or 1 retail package of chewing tobacco or snuff, or a proportionate quantity of each tobacco product, without determination and payment of tax, on each day the employee is at work. For the purposes of this section, the term "employee" shall mean those persons whose duties require their presence in the factory of whose duties relate to the manufacture, distribution, or sale of tobacco products and who receive compensation from the manufacturer, or a parent, subsidiary, or auxiliary company or corporation of the manufacturer. Such product furnished for off-factory consumption shall be furnished to the employee within the factory and taken from the factory by the employee on the day for which furnished. Employees shall not sell, offer for sale, or give away products so furnished.

§ 270.232 [Amended]

Par. 48. Section 270.232 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products."

§ 270.233 [Amended]

Par. 49. Section 270.233 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.234 [Amended]

Par. 50. Section 270.234 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.235 [Amended]

Par. 51. Section 270.235 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.236 [Amended]

Par. 52. Section 270.236 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

Par. 53. The undesignated centerheading following § 270.236 is revised to read "Other Provisions Relating to Tobacco Products."

§ 270.251 [Amended]

Par. 54. Section 270.251 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products."

Par. 55. Section 270.252 is revised to read as follows:

§ 270.252 Reduction of tobacco products to materials.

A manufacturer may reduce tobacco products to materials without supervision. If the tobacco products have been entered in the factory record as manufactured or received, and entry shall be made in such record of the kind and quantity of cigars, cigarettes, or smokeless tobacco reduced to materials and of the quantity of tobacco resulting from the reduction. Where the manufacturer intends to file claims for credit allowance, or refund of tax on such tobacco products, he shall comply with the provisions of §§ 270.311 and 270.313.

§ 270.253 [Amended]

Par. 56. Section 270.253 is amended by removing the words "cigars and /or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.254 [Amended]

Par. 57. Section 270.254 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products."

Par. 58. Section 270.255 is revised to read as follows:

§ 270.255 Shortages and overages in inventory.

Whenever a manufacturer of tobacco products makes a physical inventory of packaged tobacco products in bond, either as part of normal operations or when required by an ATF officer, and such inventory discloses a shortage or overage in such products by kind as recorded and reported (i.e., small cigarettes, large cigarettes, small cigars, large cigars, chewing tobacco, or snuff), the manufacturer shall enter such shortage or overage in the records required by § 270.183. Shortages or overages in inventories made at different times may not be used to offset each other, but shall be recorded and reported separately. Unless the manufacturer establishes that a shortage was not caused by a removal subject to the tax the manufacturer shall determine the tax on any shortage, make an adjustment in Schedule A of his next semimonthly tax return and pay the tax thereon. If, after paying the tax on a shortage, the manufacturer satisfactorily establishes that the shortage was not caused by a removal subject to tax, then such payment would be an overpayment of tax which the manufacturer may recover as provided in § 270.286. Where the manufacturer can establish prior to paying the tax on a shortage, that the shortage was not the result of a removal subject to tax he shall submit an explanation of such shortage with his report for the month in which the shortage was disclosed and, if appropriate, he may file claim for remission of tax liability as provided in § 270.287. When an overage is disclosed which the manufacturer can explain, he shall include such explanation in his monthly report and refund of any overpayment may be recovered as provided in § 270.286. Whenever a physical inventory discloses a shortage or overage of tobacco products which have not been packaged the manufacturer shall appropriately enter such shortage or overage in his records and shall, at the time required by the Regional Director (Compliance), furnish an explanation in the form of a claim for remission of tax liability as provided in

§ 270.287. The manufacturer shall pay the tax on any shortage or portion thereof for which he is unable to furnish an explanation acceptable to the Regional Director (Compliance).

§ 270.281 [Amended]

Par. 59. Section 270.281 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.282 [Amended]

Par. 60. Section 270.282 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.283 [Amended]

Par. 61. Section 270.283 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.284 [Amended]

Par. 62. Section 270.284 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.286 [Amended]

Par. 63. Section 270.286 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.287 [Amended]

Par. 64. Section 270.287 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

Par. 65. The undesignated centerheading following § 270.287 is revised to read "Tobacco Products Lost or Destroyed".

§ 270.301 [Amended]

Par. 66. Section 270.301 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

Par. 67. The undesignated centerheading following §270.301 is revised to read "Tobacco Products Withdrawn From the Market."

§270.311 [Amended]

Par. 68. Section 270.311(a) is amended by removing the first sentence and replacing it with the following sentence: "Where tobacco products are withdrawn from the market and the manufacturer desires to file claim under the provisions of § 270.282 or § 270.283, he shall assemble the products in or adjacent to a factory if they are to be returned to bond or at any suitable place if they are to be destroyed or reduced to materials."

§ 270.312 [Amended]

Par. 69. Section 270.312 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 270.313 [Amended]

Par. 70. In 270.313 the heading is revised to read "Disposition of tobacco products and schedule" and the text is amended by removing the words "cigars and/or cigarettes" anywhere they appear and replacing them with the words "tobacco products".

§ 270.331 [Amended]

Par. 71. Section 270.331 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

Sec. B. The regulations in 27 CFR Part 275 are amended as follows:

Authority and Issuance

27 CFR Part 275 is amended as follows:

PART 275—[AMENDED]

Paragraph 1. The authority citation for Part 275 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5722, 5723, 5741, 5762, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7652(a), 7805, 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. The table of contents to Part 275 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products" in the following section headings, §§ 275.1, 275.25, 275.62, 275.174 and the titles of Subpart F and Subpart G; the following new sections are added, §§ 275.33, 275.72, and 275.72a; replacing the words "cigars, cigarettes, and replacing them with the words "tobacco products" in the undesignated centerheadings following §§ 275.81, 275.101, 275.108, 275.129, 275.163 and 275.165; and by replacing the words "Destruction or reduction to tobacco" with the words "Reduction of tobacco products to materials" in §§ 275.170 and 275.171 to read as follows:

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

Subpart A—Scope of Regulations

Sec.

§ 275.1 [Amended]

Par. 3. Section 275.1 ia amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.11 [Amended]

Par. 4. Section 275.11 is amended by revising the definitions of bonded manufacturer, computation or computed, determined or determination, factory, importer, manufacturer of tobacco products, package, removal or remove, tobacco products, and by adding new definitions for chewing tobacco, smokeless tobacco and snuff to read as follows:

Bonded manufacturer. "A manufacturer of tobacco products in Puerto Rico who has an approved bond, in accodance with the provisions of this part, authorizing him to defer the payment in Puerto Rico on the internal revenue tax imposed on such products by 26 U.S.C. 7652(a) as provided in this part.

* * * * *

Chewing Tobacco. "Any leaf tobacco that is not intended to be smoked."

* * * * *

Computation or computed. "When used with respect to the tax on tobacco products of Puerto Rican manufacture, computation or computed shall mean that the bonded manufacturer has ascertained the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes, chewing tobacco, and snuff) of tobacco products and wholesale price of large cigars being shipped to the United States; that the payment, in Puerto Rico, of the tax on such products to be deferred under Subpart G of this part; that the tax imposed on such products by 26 U.S.C. 7652(a) has been calculated; that the bonded manufacturer has executed an agreement to pay the internal revenue tax which will become due with respect to such products, as provided in this part; and that an ATF officer has verified and executed a certification of such calculation.

Determined or determination. "When used with respect to the internal revenue tax on tobacco products and cigarette papers and tubes, determined or determination shall mean that the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes, chewing tobacco, snuff) of tobacco products and wholesale price of large cigars, or the number of books or sets of cigarette papers of each different numerical content, or the number of cigarette tubes, to be removed subject to internal revenue tax, has been established as prescribed by this part so that the internal revenue tax payable with respect thereto may be calculated.

* * * * *

Factory. "The premises of a manufacturer of tobacco products or cigarette papers or tubes in which he carries on such business."

* * * * *

Importer. "Any person in the United States to whom non-taxpaid tobacco products or cigarette papers or tubes manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned; any person who removes cigars for sale or consumption in the United States from a Customs bonded manufacturing warehouse; and any person who smuggles or otherwise unlawfully brings tobacco products or cigarette papers or tubes into the United States.

* * * * *

Manufacturer of tobacco products. "Any person who manufactures cigars, cigarettes, or smokeless tobacco, except that such term shall not include (a) a person who produces tobacco products solely for his own personal consumption or use; or (b) a proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse."

Package. "The container in which tobacco products or cigarette papers or tubes are put up by the manufacturer or the importer for delivery to the consumer."

* * * * *

Removal or remove. "The removal of tobacco products or cigarette papers or tubes from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States."

* * * * *

Smokeless tobacco. "Any chewing tobacco or snuff."

Snuff. "Any finely cut, ground, or powdered tobacco that is not intended to be smoked."

Tobacco products. "Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco."

* * * * *

§ 275.21 [Amended]

Par. 5. Section 275.21(c) is amended to change the address of the ATF Distribution Center to: 7943 Angus Court, Springfield, Virginia 22153.

§ 275.23 [Amended]

Par. 6. Section 275.23 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.25 [Amended]

Par. 7. Section 275.25 the heading is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products" and the text is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 8. Section 275.33 is added and reads as follows:

§ 275.33 Smokeless tobacco.

On smokeless tobacco, manufactured in or imported into the United States, the following tax rates are imposed by law:

(a) *Snuff.* 24 cents per pound and a proportional tax at the like rate on all fractional parts of a pound.

(b) *Chewing tobacco.* 8 cents per pound and a proportional tax at the like rate on all fractional parts of a pound. (Pub. L. 99-272, 100 Stat. 82, 311; 26 U.S.C. 5701)

§ 275.40 [Amended]

Par. 9. Section 275.40 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.41 [Amended]

Par. 10. Section 275.41 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.50 [Amended]

Par. 11. Section 275.50 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.60 [Amended]

Par. 12. Section 275.60 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.62 [Amended]

Par. 13. Section 275.62 the heading and text are amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.63 [Amended]

Par. 14. Section 275.63 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.71 [Amended]

Par. 15. Section 275.71 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

Par. 16. Section 275.72 is added and reads as follows:

§ 275.72 Notice for smokeless tobacco.

Every package of chewing tobacco or snuff shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "chewing tobacco" or "snuff", and a clear statement of the actual pounds and ounces of the product contained therein.

Par. 17. Section 275.72a is added and reads as follows:

§ 275.72a Transitional rule.

Notwithstanding the provisions of § 275.72 as they related to smokeless tobacco, importers of smokeless tobacco may continue to use packaging in use prior to July 1, 1986 until February 27, 1987.

§ 275.75 [Amended]

Par. 18. Section 275.75 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 19. The heading of Subpart F is revised to read as follows:

Subpart F—Tobacco Products and Cigarette Papers and Tubes, Imported Into or Returned to the United States

§ 275.81 [Amended]

Par. 20. Section 275.81 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

Par. 21. Section 275.81 is amended by adding a new paragraph (c)(5) to read as follows:

(c)(5) *For smokeless tobacco:* The importer will show whether the product is chewing tobacco or snuff, the number of pounds and ounces, the rate of tax and the tax due.

Par. 22. The undesignated center heading following § 275.81 is revised to read "Release From Customs Custody of Tobacco Products and Cigarette Papers and Tubes Without Payment of Tax or Certain Duty."

§ 275.85 [Amended]

Par. 23. Section 275.85, the first sentence of text, is amended to read "Tobacco products manufactured in a foreign country, the Virgin Islands, or a possession of the United States may be released by the district director of Customs from Customs custody, without payment of internal revenue tax, for transfer to the factory of a manufacturer of tobacco products under the bond of such manufacturer."

Par. 24. Section 275.85 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.85a [Amended]

Par. 25. Section 275.85a, the first sentence, is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products."

Par. 26. Section 275.85a is amended by removing the words "cigars, cigarettes," in the third sentence and replacing them with the words "tobacco products".

§ 275.86 [Amended]

Par. 27. Section 275.86 is amended by removing the words "cigars, cigarettes," and replacing them wherever they appear with the words "tobacco products'.

Par. 28. The heading of Subpart G is revised to read as follows:

Subpart G—Puerto Rican Tobacco Products and Cigarette Papers and Tubes, Brought Into the United States

§ 275.101 [Amended]

Par. 29. Section 275.101 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

Par. 30. Section 275.101 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

Par. 31. The undesignated centerheading following § 275.101 is revised to read "Prepayment of Tax in Puerto Rico on Tobacco Products and Cigarette Papers and Tubes".

Par. 32. Section 275.105 is revised to read as follows:

§ 275.105 Prepayment of tax.

To prepay, in Puerto Rico, the internal revenue tax imposed by 26 U.S.C. 7652(a), on tobacco products and cigarette papers and tubes of Puerto Rican manufacture which are to be shipped to the United States, the shipper shall file, or cause to be filed, with the Officer-in-Charge, a tax return, Form 3073, in triplicate, with full remittance of tax which will become due on such tobacco products and cigarette papers and tubes. The Officer-in Charge will present a receipted copy of the return to the person filing the return and paying the tax, retain one copy, and forward the remaining copy to the Regional Director (Compliance), Bureau of Alcohol, Tobacco and Firearms, New York, NY. The person who filed the return and prepaid the tax shall present the receipted copy of the return to the ATF officer assigned by the Chief, Puerto Rico Operations, to inspect the tobacco products and cigarette papers and tubes to be shipped to the United States. Such officer will endorse the receipted copy of the return to show release of the tobacco products and cigarette papers and tubes, or, if less than the quantity of tobacco products and cigarette papers and tubes covered by the return is released, to show (a) the numbers of small cigarettes, large cigarettes, and small cigars, (b) the number and total wholesale price of large cigars with a wholesale price of not more than $235.294 per thousand, (c) the number of large cigars with a wholesale price of more than $235.294 per thousand, (d) the number of books or sets of cigarette papers of each different numerical content, (e) the number of cigarette tubes, in fact released, and (f) the pounds of chewing tobacco and snuff and will return such copy to the taxpayer.

§ 275.106 [Amended]

Par. 33. Section 275.106 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.107 [Amended]

Par. 34. Section 275.107 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products", by deleting the word "and" at the end of paragraph (d), and inserting "and" after paragraph (e), by removing the period at the end of paragraph (e), and by adding a new paragraph (f) to read as follows:

"(f) the pounds and ounces of chewing tobacco and snuff."

Par. 35. The undesignated centerheading following § 275.107 is revised to read "Deferred Payment of Tax in Puerto Rico on Tobacco Products."

§ 275.109 [Amended]

Par. 36. Section 275.109 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 275.110 [Amended]

Par. 37. Section 275.110 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products" and by revising paragraph (d), redesignating paragraph (e) as (f), and adding a new paragraph (e) to read as follows:

"(d) the pounds and ounces of chewing tobacco or snuff to be shipped, (e) the amount of the tax to be paid on such products under the provisions of this subpart, and"

§ 275.111 [Amended]

Par. 38. Section 275.111 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 275.112 [Amended]

Par. 39. Section 275.112 is amended by removing the words "cigars and cigarettes" in the first sentence and replacing them with the words "tobacco products"; by redesignating paragraph (e) as paragraph (f); by adding a new paragraph (e); and by removing the "and" at the end of paragraph (d) to read as follows:

(e) the pounds and ounces of smokeless tobacco upon which tax has been computed, and

§ 275.115a [Amended]

Par. 40. Section 275.115a is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.116 [Amended]

Par. 41. Section 275.116 is amended by removing the words "cigars or cigarettes" and replacing them with the words "tobacco products".

§ 275.117 [Amended]

Par. 42. Section 275.117 is amended by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products"; by removing the word "and" at the end of paragraph (b); by adding "and" before the period at the end of paragraph (c); and by adding a new paragraph (d) to read as follows: "(d) pounds and ounces of chewing tobacco and snuff."

§ 275.120 [Amended]

Par. 43. Section 275.120 is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products".

Par. 44. Section 275.121 is revised to read as follows:

§ 275.121 Amount of Bond.

In order that tobacco products may be shipped to the United States on computation of tax under the provisions of this subpart, the total amount of the bond or bonds shall at all times be in an amount not less than the amount of unpaid tax chargeable at any one time against the bond: *Provided,* That the amount of any such bond need not exceed $250,000 where payment of tax on cigarettes, or on any combination of tobacco products is deferred; and need not exceed $150,000 where the tax on cigars or smokeless tobacco is deferred. The amount of the bond shall in no case be less than $1,000. Where the amount of a bonded manufacturer's bond is less than the maximum prescribed, the bonded manufacturer shall maintain a running account accurately reflecting all outstanding taxes with which his bond is chargeable. He shall charge such account with the amount of tax he agreed to pay on Forms 2987 and shall credit the account for the amount he paid with his return, Form 2988, at the time he files such return.

§ 275.125 [Amended]

Par. 45. Section 275.125 is amended by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products".

Par. 46. The undesignated center heading following § 275.129 is revised to read "Release of Puerto Rican Tobacco Products and Cigarette Papers and Tubes From Customs Custody, Without Payment of Tax".

§ 275.135 [Amended]

Par. 47. Section 275.135 is amended by removing the words "cigars, cigarettes" and replacing them with the words "tobacco products".

§ 275.136 [Amended]

Par. 48. Section 275.136 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.137 [Amended]

Par. 49. Section 275.137 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.138 [Amended]

Par. 50. Section 275.138 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.139 [Amended]

Par. 51. Section 275.139 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products" and by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products" and by revising paragraph (a) to read "(a) Date, quantity, kind of cigars, cigarettes, and smokeless tobacco (number of small cigars—large cigars; number of small cigarettes—large cigarettes; pounds and ounces of chewing tobacco—snuff)."

§ 275.140 [Amended]

Par. 52. Section 275.140 is amended by removing the words "cigars and/or cigarettes" wherever they appear and replacing them with the words "tobacco products" and by removing the words "cigars, cigarettes" and replacing them with the words "tobacco products".

§ 275.141 [Amended]

Par. 53. Section 275.141 is amended by removing the words "cigars, cigarettes," and by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 275.161 [Amended]

Par. 54. Section 275.161 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.162 [Amended]

Par. 55. Section 275.162 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.163 [Amended]

Par. 56. Section 275.163 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

Par. 57. The undesignated centerheading following § 275.163 is revised to read "Tobacco Products and Cigarette Papers and Tubes Lost or Destroyed".

§ 275.165 [Amended]

Par. 58. Section 275.165 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 59. The undesignated centerheading following § 275.165 is revised to read "Tobacco Products and Cigarette Papers and Tubes Withdrawn From the Market".

§ 275.170 [Amended]

Par. 60. Section 275.170 the heading and text are amended by removing the words "reduction to tobacco" wherever they appear and replacing them with the words "reduction to materials" and by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.171 [Amended]

Par. 61. Section 275.171 the heading and text are amended by removing the words "reduction to tobacco" wherever they appear and replacing them with the words "reduction to materials" and by removing the words "cigars and cigarettes" wherever they appear and replacing them with the words "tobacco products" and by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

§ 275.172 [Amended]

Par. 62. Section 275.172 is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 275.173 [Amended]

Par. 63. Section 275.173 is amended by removing the words "cigars, cigarettes" wherever they appear and replacing them with the words "tobacco products".

§ 275.174 [Amended]

Par. 64. Section 275.174 is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products" and by removing the words "cigars and cigarettes" and replacing them with the words "tobacco products" and by removing the words "to tobacco" and replacing them with the words "to materials".

Sec. C. The regulations in 27 CFR Part 290 are amended as follows:

Authority and Issuance

27 CFR Part 290 is amended as follows:

Paragraph 1. The authority citation for Part 290 is revised to read as follows:

Authority: 5 U.S.C. 552(c), 18 U.S.C. 1301, 19 U.S.C. 81c, 1317, 1622, 26 U.S.C. 5703, 5704, 5705, 5711, 5712, 5713, 5721, 5722, 5723, 5741, 5751, 6402, 6404, 6423, 7212, 7342, 7606, 7805, 31 U.S.C. 9301, 9303, 9304, 9306, 44 U.S.C. 3504(h).

Par. 2. The heading of Part 290 is revised to read as follows:

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

Par. 3. The table of sections for Part 290 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products" in the following headings §§ 290.1, 290.62, 290.63, 290.64, 290.65, Subpart J, 290.213, 290.225, and 290.226 to read as follows:

Subpart A—Scope of Regulations

Sec.
290.1 Exportation of tobacco products and cigarette papers and tubes, without payment of tax, or with drawback of tax.

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290.62 Restrictions on deliveries of tobacco products and cigarette papers and tubes to vessels and aircraft as supplies.

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290.63 Restrictions on disposal of tobacco products and cigarette papers and tubes on vessels and aircraft.

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290.64 Responsibility for delivery or exportation of tobacco products and cigarette papers and tubes.

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290.65 Liability for tax on tobacco products and cigarette papers and tubes.

* * * * *

Subpart J—Removal of Shipments of Tobacco Products and Cigarette Papers and Tubes by Manufacturers and Export Warehouse Proprietors

* * * * *

290.213 Destruction of tobacco products and cigarette papers and tubes.

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290.225 Delivery of tobacco products or cigarette papers or tubes for export other than by parcel post.

* * * * *

290.226 Delivery of tobacco products and cigarette papers and tubes for export by parcel post.

* * * * *

§ 290.1 [Amended]

Par. 4. Section 290.1 the heading and text are amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.2 [Amended]

Par. 5. Section 290.2 is amended to change the address of the ATF Distribution Center to 7943 Angus Court, Springfield, Virginia 22153.

[§ 290.11 [Amended]

Par. 6. Section 290.11 is amended by adding the definition for "Chewing tobacco" to read as follows:

Chewing tobacco. Any leaf tobacco that is not intended to be smoked.

Par. 7. In § 290.11 the definition for "Exportation or export" is amended by removing the words "cigars, cigarettes," wherever they appear and replacing them with the words "tobacco products".

Par. 8. In § 290.11 the definition for "Export warehouse" is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 9. In § 290.11 the definition for "Factory" is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 10. In § 290.11 the definition for "In bond" is amended by removing the words "cigars, cigarettes," and replacing them with the words "tobacco products".

Par. 11. Section 290.11 is amended by revising the definition for "Manufacturer of tobacco products" to read as follows:

"Any person who manufactures cigars, cigarettes, or smokeless tobacco, except that such term shall not include (a) a person who produces cigars, cigarettes, or smokeless tobacco solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse."

Par. 12. Section 290.11 is amended by revising the definition for "Package" to read as follows: "The container in which tobacco products, or cigarette papers or tubes are put up by the manufacturer and delivered to the consumer.

Par. 13. In § 290.11 the definition for "Removal or remove" is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

Par. 14. Section 290.11 is amended by adding the definition for "Snuff" to read as follows:

Snuff. Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

Par. 15. Section 290.11 is amended by adding the definition for "Smokeless tobacco" to read as follows: "*Smokeless tobacco.* Any snuff or chewing tobacco."

* * * * *

Par. 16. Section 290.11 is amended by adding the definition of "Tobacco products" to read as follows:

* * * * *

Tobacco products. Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco.

* * * * *

§ 290.61 [Amended]

Par. 17. Section 290.61 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 290.61a [Amended]

Par. 18. Section 290.61a is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 290.62 [Amended]

Par. 19. Section 290.62 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.63 [Amended]

Par. 20. Section 290.63 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.64 [Amended]

Par. 21. Section 290.64 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.65 [Amended]

Par. 22. Section 290.65 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.66 [Amended]

Par. 23. Section 290.66 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.67 [Amended]

Par. 24. Section 290.67 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products"; and by adding the parenthetical "(All recordkeeping requirements have been approved under OMB Control No. 1512-0180)" at the end of the section.

§ 290.69 [Amended]

Par. 25. Section 290.69 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 290.70 [Amended]

Par. 26. Section 290.70 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

Par. 27. Section 290.90 is revised to read as follows:

§ 290.90 Restrictions relating to export warehouse premises.

Export warehouse premises shall be used exclusively for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent removal under this part: Provided, that smoking tobacco may also be stored in an export warehouse.

§ 290.112 [Amended]

Par. 28. Section 290.112 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 290.123 [Amended]

Par. 29. Section 290.123 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 290.142 [Amended]

Par. 30. Section 290.142 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Par. 31. Section 290.143 is revised to read as follows:

§ 290.143 General.

(a) Every export warehouse proprietor shall make a true and accurate inventory on ATF Form 3373 (5220.3) to the Regional Director (Compliance), of the numbers of (1) small cigars, (2) large cigars, (3) small cigarettes, (4) large cigarettes, (5) cigarette papers, and (6) cigarette tubes; and the pounds and ounces of (7), chewing tobacco, and (8) snuff, held by him at the times specified in this subpart.

(b) This inventory shall be subject to verification by an ATF officer. A copy of each inventory shall be retained by the export warehouse proprietor for 2 years following the close of the calendar year in which the inventory is made and shall be made available for inspection by any ATF officer upon his request.

§ 290.147 [Amended]

Par. 32. Section 290.147 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.152 [Amended]

Par. 33. Section 290.152 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.153 [Amended]

Par. 34. Section 290.153 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.154 [Amended]

Par. 35. Section 290.154 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Par. 36. The heading of Subpart J is revised to read as follows:

Subpart J—Removal of Shipments of Tobacco Products and Cigarette Papers and Tubes by Manufacturers and Export Warehouse Proprietors

§ 290.181 [Amended]

Par. 37. Section 290.181 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.182 [Amended]

Par. 38. Section 290.182 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.183 [Amended]

Par. 39. Section 290.183 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.184 [Amended]

Par. 40. Section 290.184 is amended by replacing the words "cigars and cigarettes," wherever they appear with the words "tobacco products".

§ 290.185 [Amended]

Par. 41. Section 290.185 is amended by removing the words "cigars or cigarettes," wherever they appear and replacing them with the words "tobacco products".

§ 290.187 [Amended]

Par. 42. Section 290.187 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.188 [Amended]

Par. 43. Section 290.188 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.189 [Amended]

Par. 44. Section 290.189 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.190 [Amended]

Par. 45. Section 290.190 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.191 [Amended]

Par. 46. Section 290.191 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.192 [Amended]

Par. 47. Section 290.192 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.193 [Amended]

Par. 48. Section 290.193 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.194 [Amended]

Par. 49. Section 290.194 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.195 [Amended]

Par. 50. Section 290.195 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.196 [Amended]

Par. 51. Section 290.196 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.196a [Amended]

Par. 52. Section 290.196a is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.197 [Amended]

Par. 53. Section 290.197 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.198 [Amended]

Par. 54. Section 290.198 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.200 [Amended]

Par. 55. Section 290.200 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.201 [Amended]

Par. 56. Section 290.201 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.202 [Amended]

Par. 57. Section 290.202 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.203 [Amended]

Par. 58. Section 290.203 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.204 [Amended]

Par. 59. Section 290.204 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.205 [Amended]

Par. 60. Section 290.205 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.206 [Amended]

Par. 61. Section 290.206 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.207 [Amended]

Par. 62. Section 290.207 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.207a [Amended]

Par. 63. Section 290.207a is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.208 [Amended]

Par. 64. Section 290.208 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.210 [Amended]

Par. 65. Section 290.210 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.212 [Amended]

Par. 66. Section 290.212 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.213 [Amended]

Par. 67. Section 290.213 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.221 [Amended]

Par. 68. Section 290.221 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.222 [Amended]

Par. 69. Section 290.222 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.223 [Amended]

Par. 70. Section 290.223 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.224 [Amended]

Par. 71. Section 290.224 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.225 [Amended]

Par. 72. Section 290.225 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.226 [Amended]

Par. 73. Section 290.226 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products" in the heading and text.

§ 290.227 [Amended]

Par. 74. Section 290.227 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.228 [Amended]

Par. 75. Section 290.228 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.229 [Amended]

Par. 76. Section 290.229 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.230 [Amended]

Par. 77. Section 290.230 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.255 [Amended]

Par. 78. Section 290.255 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 290.264 [Amended]

Par. 79. Section 290.264 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Sec. D. The regulations in 27 CFR Part 295 are amended as follows:

Authority and Issuance

27 CFR Part 295 is amended as follows:

Par. 1. The authority citation for Part 295 is revised to read as follows:

Authority: 26 U.S.C. 5703, 5704, 5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805, 44 U.S.C. 3504(h).

Par. 2. The heading of Part 295 is revised to read as follows:

PART 295—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX FOR USE OF THE UNITED STATES

Par. 3. The table of sections for Part 295 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products" in the headings for

§§ 295.1 and 295.25 and by adding the heading, Notice for Smokeless Tobacco, for § 295.43 to read as follows:

* * * * *

295.1 Removal of tobacco products and cigarette papers and tubes, without payment of tax, for use of the United States.

* * * * *

295.25 Unlawful purchases, receipt, possession, or sale of tobacco products or cigarette papers or tubes, after removal.

* * * * *

295.43 Notice for smokeless tobacco.

* * * * *

§ 295.1 [Amended]

Par. 4. In § 295.1 the heading and text are amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 295.11 [Amended]

Par. 5. Section 295.11 is amended by adding alphabetically the definition for "Chewing Tobacco" to read as follows: *Chewing tobacco.* Any leaf tobacco that is not intended to be smoked.

Par. 6. Section 295.11 is amended by revising the definition of "Factory" to read as follows: "The premises of a manufacturer of tobacco products or cigarette papers and tubes in which he carries on such business."

Par. 7. Section 295.11 is amended by revising the definition for "Manufacturer of tobacco products" to read as follows: "Any person who manufactures cigars, cigarettes, or smokeless tobacco, except that such term shall not include (a) a person who produces cigars, cigarettes, or smokeless tobacco, solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse."

Par. 8. Section 295.11 is amended by revising the definition or "Package" to read as follows: "The container in which tobacco products or cigarette papers or tubes are put up by the manufacturer and offered for sale or delivery to the consumer."

Par. 9. Section 295.11 is amended by revising the definition for "Removal or remove" to read as follows: "The removal of tobacco products or cigarette papers or tubes from the factory."

Par. 10. Section 295.11 is amended by adding alphabetically the definitions for "Smokeless Tobacco" and "Snuff" to read as follows: *Smokeless tobacco.* Any chewing tobacco or snuff. *Snuff.* Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

Par. 11. Section 295.11 is amended by revising the definition for "Tobacco Products" to read as follows: "Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco."

§ 295.23 [Amended]

Par. 12. Section 295.23 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 295.25 [Amended]

Par. 13. The heading of § 295.25 and text are amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 295.31 [Amended]

Par. 14. Section 295.31 is amended by replacing the words "cigars, cigarettes," anywhere they appear with the words "tobacco products".

§ 295.32 [Amended]

Par. 15. Section 295.32 is amended by replacing the words "cigars, cigarettes," anywhere they appear with the words "tobacco products".

§ 295.33 [Amended]

Par. 16. Section 295.33 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 295.34 [Amended]

Par. 17. Section 295.34 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 295.35 [Amended]

Par. 18. Section 295.35 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Par. 19. Section 295.36 is revised to read as follows:

§ 295.36 Payment of tax.

Any tax which becomes due and payable on tobacco products and cigarette papers and tubes removed under this part shall be paid to the district director, for the district in which the factory from which such articles were removed is located, with sufficient information to identify the taxpayer, the nature and purpose of the payment, and the articles covered by the payment: Provided, That a manufacturer of tobacco products or cigarette papers or tubes may pay any tax for which he becomes liable under this part by an appropriate adjustment in his current tax return Form 5000.24. In paying the tax, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

§ 295.37 [Amended]

Par. 20. Section 295.37 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 295.41 [Amended]

Par. 21. Section 295.41 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 295.42 [Amended]

Par. 22. Section 295.42 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Par. 23. Section 295.43 is added to read as follows:

§ 295.43 Notice for smokeless tobacco.

Every package of chewing tobacco or snuff shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "chewing tobacco" or "snuff", and the quantity, expressed in pounds and ounces (if the package contains over one pound) or in ounces (if the package contains less than one pound) of such product contained therein.

§ 295.46 [Amended]

Par. 24. Section 295.46 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 295.51 [Amended]

Par. 25. Section 295.51 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Sec. E. The regulations in 27 CFR Part 296 are amended as follows:

Authority and Issuance

27 CFR Part 296 is amended as follows:

Paragraph 1. The authority citation for Part 296 is revised to read as follows:

Authority: 18 U.S.C. 2341–2346, 26 U.S.C. 5708, 5751, 5761–5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7608, 7805, 44 U.S.C. 3504(h), 49 U.S.C 782.

Par. 2. The heading of Part 296 is revised to read as follows:

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

Par. 3. The table of sections for Part 296 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products" in the headings of

Subpart A and Subpart C, in the text of § 296.75, and the undesignated center heading following § 290.78 and by replacing the words "cigars and cigarettes" with the words "tobacco products" in the heading for Subpart G and § 296.166 to read as follows:

Subpart A—Application of 27 U.S.C. 6423, as Amended to Refund or Credit of Tax on Tobacco Products and Cigarette Papers and Tubes

* * * * *

296.16 * * *

Subpart C—Losses of Tobacco Products and Cigarette Papers and Tubes Caused by a Disaster Occurring After the Date of Enactment of the Excise Tax Technical Changes Act of 1958

* * * * *

296.75 Separation of imported and domestic tobacco products and cigarette papers and tubes; separate claims for taxes and duties.

* * * * * *

Destruction of Tobacco Products and Cigarette Papers and Tubes

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Subpart G—Dealers in Tobacco Products

* * * * *

296.166 Dealing in tobacco products.

* * * * *

Par. 4. The heading of Subpart A of Part 296 is revised to read as follows:

Subpart A—Application of 27 U.S.C. 6423, as Amended, to Refund or Credit of Tax on Tobacco Products, and Cigarette Papers and Tubes.

Par. 5. The heading of Subpart C of Part 296 is revised to read as follows:

Subpart C—Losses of Tobacco Products and Cigarette Papers and Tubes Caused by a Disaster Occurring After the Date of Enactment of the Excise Tax Technical Changes Act of 1958

§ 296.71 [Amended]

Par. 6. Section 296.71 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 296.72 [Amended]

Par. 7. Section 296.72 is amended by revising the definition for "Claimant" to read as follows:

"The person who held the tobacco products or cigarette papers and tubes for sale at the time of the disaster and who files claim under this subpart."

Par. 8. Section 296.72 is amended by revising the definition for "Duly authorized official" to read as follows: "Any Federal, State, or local government official in whom has been vested authority to condemn tobacco products and cigarette papers and tubes made the subject of a claim under this subpart."

Par. 9. Section 296.72 is amended by revising the definition for "removal or remove" to read as follows: "The removal of tobacco products or cigarette papers or tubes from the factory, or release of such articles from Customs custody."

Par. 10. Section 296.72 is amended by revising the definition for "Tax paid or determined" to read as follows: "The internal revenue tax on tobacco products and cigarette papers and tubes which has acutally been paid, or which has been determined pursuant to 26 U.S.C. 5703(b), and regulations thereunder, at the time of their removal subject to tax payable on the basis of a return."

Par. 11. Section 296.72 is amended by revising the definition of "Tobacco products" to read as follows: "Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco."

§ 296.73 [Amended]

Par. 12. Section 296.73 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

Par. 13. Section 296.74 is revised to read as follows:

§ 296.74 Execution and filing of claims.

Claims under this subpart shall be executed on Internal Revenue Service Form 843 in accordance with the applicable instructions on the form, and filed with the Regional Director (Compliance) of the region in which the tobacco products or cigarette papers or tubes were lost, rendered unmarketable, or condemned, within 6 months after the date on which the President makes the determination that the disaster has occurred. The claim shall state all the facts on which the claim is based, and shall set forth the number of small cigars, large cigars, (itemized separately as to the taxable wholesale price), small cigarettes, large cigarettes, cigarette papers, cigarette tubes and the pounds and ounces of chewing tobacco and snuff, as the case may be, and the rate and the amount claimed with respect to each article set forth, substantially in the form as shown in the example below:

EXAMPLE

Quantity	Article	Rate of tax	Amount
20,000	Small Cigars	$0.75 per thousand	$15.00
1,000	Large Cigars—Wholesale price $100 per thousand.	8½ pct of wholesale price	8.50
500	Large Cigars—wholesale price $236 per thousand.	$20 per thousand	10.00
10,000	Small Cigarettes	$8 per thousand	80.00
5,000	Large Cigarettes	$8.40 per thousand	42.00
2,000 sets	Cigarette papers—50 each set	$0.005 per set	10.00
1,000 sets	Cigarette Papers—100 each set	$0.01 per set	10.00
1,000	Cigarette Tubes	$0.01 per 50 tubes	0.20
100 lbs	Chewing Tobacco	$.08 per lb	8.00
200 lbs	Snuff	$.24 per lb	48.00
Total Claimed			$231.70

The claimant shall certify on the claim to the effect that no amount of internal revenue tax or customs duty claimed therein has been or will be otherwise claimed under any other provision of law or regulations.

§ 296.75 [Amended]

Par. 14. Section 296.75's heading and text are amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 296.76 [Amended]

Par. 15. Section 296.76 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 296.77 [Amended]

Par. 16. Section 296.77 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

§ 296.78 [Amended]

Par. 17. Section 296.78 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

Par. 18. The undesignated center-head following § 296.78 is amended to read as follows: "Destruction of Tobacco Products and Cigarette Papers and Tubes."

§ 296.79 [Amended]

Par. 19. Section 296.79 is amended by replacing the words "cigars, cigarettes," wherever they appear with the words "tobacco products".

§ 296.80 [Amended]

Par. 20. Section 296.80 is amended by replacing the words "cigars, cigarettes," with the words "tobacco products".

Par. 21. The heading of Subpart G is revised to read as follows:

Subpart G—Dealers in Tobacco Products

§ 296.161 [Amended]

Par. 22. Section 296.161 is amended by replacing the words "cigars and cigarettes" with the words "tobacco products".

§ 296.163 [Amended]

Par. 23. Section 296.163 is amended by revising the definition for "Manufacturer of tobacco products" to read as follows: "Any person who manufactures cigars, cigarettes, or smokeless tobacco, except that such term shall not include (a) a person who produces cigars, cigarettes, or smokeless tobacco, solely for his own personal consumption or use; or (b) a proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse."

Par. 24. Section 296.163 is amended by revising the definition for "Package" to read as follows: "The container in which tobacco products are put up by the manufacturer or the importer and offered for delivery to the consumer."

Par. 25. Section 296.163 is amended by revising the definition for "Removal or remove" to read as follows: "The removal of tobacco products from the factory or release from Customs custody, including the smuggling or other unlawful importation of such articles into the United States."

Par. 26. Section 296.163 is amended by revising the definition for "Tobacco products" to read as follows: "Cigars, cigarettes, and smokeless tobacco. The term does not include smoking tobacco."

§ 296.164 [Amended]

Par. 27. Section 296.164 is amended by replacing the words "cigars, or cigarettes" with the words "tobacco products".

§ 296.166 [Amended]

Par. 28. Section 296.166 the heading and text are amended by replacing the words "cigars and cigarettes" with the words "tobacco products".

§ 296.167 [Amended]

Par. 29. Section 296.167 is amended by replacing the words "cigars or cigarettes" with the words "tobacco products".

Signed: June 23, 1986.

W.T. Drake,
Acting Director.

Approved: July 2, 1986.

Francis A. Keating II,
Assistant Secretary (Enforcement).

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DEPARTMENT OF DEFENSE

32 CFR Part 90

[DoD Instruction 7045.18]

Collection of Indebtedness Due the United States

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Final rule.

SUMMARY: The Department of Defense (DoD) is revising its regulations on collection of indebtedness due the United States. These revisions are necessary to (1) clarify the issue of a debtor's entitlement to a hearing, the types of hearings available to a debtor and the preparatory requirements for the hearing; (2) establish a certified debt claim form to be used by DoD Components when requesting offsets from another government agency and (3) incorporate guidelines for establishing write-off and close-out procedures in Components' implementing regulations.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Adam T. Shaw, (202) 697-0585.

SUPPLEMENTARY INFORMATION: This change is the second change to the basic instruction (DoD Instruction 7045.18). This Instruction was published in the April 22, 1985 **Federal Register** (50 FR 15734). Change 1 included three specific revisions ordered by the Office of Personnel Management as a condition of OPM approval, required by 5 CFR 550.1104. Also, there were minor administrative revisions. Change 1 was not published in the **Federal Register**. Change 2 has been made primarily to clarify paragraph E.7 of Enclosure 1, "Hearings and Written Submissions." Although other administrative changes were made, the primary revisions were made to subparagraphs E.7.a.(1)-(3). Paragraphs E.7.a.(1)-(3) were rewritten to more accurately describe the procedures under which a debtor may petition for and be granted a hearing by DoD Creditor Components. The new language explains the circumstances under which each type of hearing will be granted and the documentation required by the petitioner and the Creditor Component in preparing for the hearings. The other administrative changes to the enclosure involved renumbering and restructuring of paragraphs with no appreciable changes in meaning. Paragraph M. is a new paragraph which provides guidelines for DoD Components to follow in developing procedures for writing-off and closing-out uncollectible accounts. This paragraph has been added to comply with OMB Circular A-129 of May 9, 1985.

List of Subjects in 32 CFR Part 90

Debt collection.

PART 90—[AMENDED]

Accordingly, 32 CFR Part 90 is amended as follows:

1. The authority citation for Part 90 continues to read as follows:

Authority: 5 U.S.C. 5514.

§ 90.3 [Amended]

2. Section 90.3(b) is amended by changing the words "Creditor agency" to read "Creditor component".

3. In § 90.6, Enclosure 1 is amended by adding paragraph E.5.a.(10) (a) through (c) and paragraph b. to read as follows:

§ 90.6 Procedures.

* * * * *

Enclosure 1—General Procedures

* * * * *

E. * * *

5. * * *

a. * * *

(10) The fact that any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(a) Disciplinary procedures appropriate under chapter 75 of Title 5, United States Code, Part 752 of Title 5, Code of Federal Regulations, or any other applicable statutes or regulations;

(b) Penalties under the False Claims Act, sections 3729-3731 of Title 31, United States Code, or any other applicable statutory authority; or

(c) Criminal penalties under sections 286, 287, 1001, and 1002 of Title 18, United States Code or any other applicable statutory authority.

b. DoD Creditor Components should respond promptly, within 30 days when feasible, to communications from the debtor, and should advise those who dispute the debt to furnish evidence supporting their contentions.

4. Paragraph E.7 of Enclosure 1 is revised in its entirety to read as follows:

7. Hearings and Written Submissions.