

outlines are received from the persons testifying and make copies available free of charge at the hearing.

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[FR Doc. 03-8963 Filed 4-10-03; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 73

[Notice No. 5]

RIN 1512-AC84

Electronic Signatures; Electronic Submission of Forms (2000R-458P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to amend its regulations to permit industry members to use electronic technology to reduce the need for and storage of paper documents. In order to accomplish our goals, we are proposing to allow you to use electronic, rather than handwritten, signatures to sign certain forms, and to submit certain forms to TTB electronically through a TTB-approved electronic document receiving system.

DATES: If you wish to comment on this proposal, we must receive your written comments on or before May 12, 2003.

ADDRESSES: You may send comments to any of the following addresses:

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, PO Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 5);

- (202) 927-8525 (facsimile);

- nprm@ttb.gov (e-mail);

- <http://www.ttb.gov> (online). A comment form is available with the online version of this notice posted on our Internet Web site.

You may view copies of the proposed regulations and any comments received on this notice by appointment at the ATF Reference Library, 650 Massachusetts Avenue, NW., Washington, DC 20226; phone (202) 927-8210.

See the Public Participation section of this notice for specific instructions and requirements.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations and Procedures Division, Alcohol and Tobacco Tax and

Trade Bureau, 650 Massachusetts Avenue NW., Washington, DC 20226; phone (301) 290-1460 or e-mail LMGesser@ttb.gov.

SUPPLEMENTARY INFORMATION:

What Would These Proposed Regulations Do?

This proposal would amend the regulations to allow you to:

- Use electronic signatures to sign certain forms you submit to us instead of using traditional handwritten signatures; and
- Submit certain forms to TTB electronically through an electronic document receiving system that we approve.

Why Does TTB Want To Allow You To Submit Certain Forms Electronically?

We believe that by giving you the option to submit certain forms electronically, instead of requiring paper documents, we can:

- Reduce the costs associated with submitting and maintaining large volumes of paper documents;
- Improve the quality and accessibility of data;
- Allow for the faster review and approval of a variety of documents; and
- Allow for a variety of our documents to be available around the clock.

What Is TTB's Authority To Propose These Regulations?

Our authority to propose these regulations comes from:

(1) *Government Paperwork Elimination Act (GPEA)*. GPEA was signed into law on October 21, 1998. GPEA directs federal agencies to provide for the optional use and acceptance of electronic documents and signatures, and electronic recordkeeping, where practical, by October 2003. (See §§ 1702-1710 of Pub. L. 105-277.)

(2) *Internal Revenue Code of 1986 (26 U.S.C.)* The Internal Revenue Code of 1986 authorizes the Secretary of the Treasury to, by regulation, encourage electronic filing, address what constitutes a timely filed electronic document, and develop procedures for the acceptance of signatures in digital or other electronic form. (See 26 U.S.C. 6011, 6061, and 7502.)

(3) *Electronic Signatures in Global and National Commerce Act of 2000 (E-SIGN)*. E-SIGN provides that no contract, signature, or record relating to a transaction shall be denied legal effect *solely* because it is in electronic form, nor may a document be denied legal effect *solely* because an electronic signature or record was used in its

formation. E-SIGN applies to documents that are created in a commercial, consumer, or business transaction. It does not cover transactions that are uniquely governmental such as a compliance report. (See Pub. L. 106-229.)

(4) *Office of Management and Budget Circular A-130*. OMB's Circular A-130 requires agencies to employ electronic information collection techniques where such means will reduce the burden on the public, increase efficiency, reduce costs, and help provide better service. (See Circular A-130, Para. 8.a.1(k).)

How Does TTB Plan on Implementing Electronic Filing?

We are proposing to create a new part 73 in title 27 CFR, chapter I, entitled *Electronic Signatures; Electronic Submission of Forms*. This proposed part 73 will explain our overall policy regarding electronic signatures and the electronic submission of certain forms to TTB.

Electronic Signatures

Once we publish the final rule, we will recognize electronic signatures executed to certain electronic forms as the full equivalent of, and having the same legal effect as, traditional handwritten signatures executed on paper. We will notify you, by publishing a general notice in the **Federal Register** and on our Web site (<http://www.ttb.gov>), when you may use electronic signatures to execute certain electronic forms. The general notice will provide you with specific instructions about how to submit and what technology will be acceptable to TTB.

Electronic Submission of Forms to TTB

We are in the process of developing the means to allow you to submit forms electronically. This is a lengthy process; we will need to develop the hardware and software components to accept each different type of form. Once we are able to accept a certain form, we will announce in the **Federal Register** and on our Web site that you may register to submit that form electronically. The announcement will provide you with instructions on how to register.

Will I Still Have To Maintain Paper Copies?

If the regulations require you to maintain certain documents in paper format, you must continue to maintain those documents in paper format even if you submit them to us electronically. Nothing in this proposed part alters any other regulatory or statutory requirement that records be maintained in paper format. This part does provide