

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 252

[TTB Notice No. 16]

RIN 1513-AA78

Evidence of Exportation for Distilled Spirits; Use of Alternative Documentation (2002R-045P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to amend its regulations listing the documents that provide adequate evidence of export for shipments of distilled spirits. We also propose to require submission of these documents within a specific 90-day timeframe. This action is being taken to clarify the existing regulations as to the types of acceptable documentation and to inform the public that the Bureau will consider the approval of alternative types of documentation as adequate export evidence.

DATES: Written comments must be received by November 24, 2003.

ADDRESSES: Send written comments to: Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 50221, Washington, DC 20091-0221 (Attn: TTB Notice No. 16). See the "Public Participation" section of this notice for alternative means of commenting.

Copies of the proposed regulation, background materials, and any written comments received will be available for public inspection by appointment at the ATF Reference Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone 202-927-7890. You may also view online copies of this proposed regulation and any comments received regarding it under this notice number at <http://www.ttb.gov/alcohol/rules/index/htm>.

FOR FURTHER INFORMATION CONTACT:

Joanne Brady, Specialist, Regulations and Procedures Division (Philadelphia, PA), Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 45797, Philadelphia, PA 19149; telephone 215-333-7050 or e-mail Joanne.Brady@ttb.gov.

SUPPLEMENTARY INFORMATION:

Impact of the Homeland Security Act on Rulemaking

Effective January 24, 2003, the Homeland Security Act of 2002 divided the Bureau of Alcohol, Tobacco and Firearms (ATF) into two new agencies, the Alcohol and Tobacco Tax and Trade Bureau (TTB) in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice. Regulation of distilled spirits, including evidence of exportation, is the responsibility of the new TTB. References to ATF in this document relate to events that occurred prior to January 24, 2003, or to functions that the Bureau of Alcohol, Tobacco, Firearms and Explosives continues to perform.

Background

Under the provisions of the Internal Revenue Code at 26 U.S.C. 5214, distilled spirits can be withdrawn from bonded premises for exportation, free of tax or without payment of tax, subject to regulations prescribed by the Secretary of the Treasury. To help carry out these statutory provisions, the Alcohol and Tobacco Tax and Trade Bureau (TTB) has issued regulations which list several types of evidence that a proprietor can submit as adequate proof of export for shipments of distilled spirits. The proprietor is relieved of the tax liability at the time the distilled spirits are exported to a foreign or export destination, provided the proper evidence of exportation is submitted to TTB in a timely manner.

The Proposal

We propose to amend 27 CFR part 252, Exportation of Liquors, in order to clarify the existing regulations regarding evidence of exportation for shipments of distilled spirits. A new section, 27 CFR 252.39, clarifies the types of documentation that TTB will accept as adequate proof of export for shipments of distilled spirits. This new section will also require the documentation to be

submitted within 90 days of the date of withdrawal of the distilled spirits.

We are taking this action regarding the submission of export documents for distilled spirits at the recommendation of the Office of the Inspector General. TTB's current internal processing procedures are directed by order TTB O 5020.8A. According to this order, it is our policy that exporters submit adequate proof of exportation within 90 days. An extension may be granted due to just cause. It is critical that TTB act promptly in tax assessment matters.

The tobacco export regulations at 27 CFR part 44 require that export evidence be furnished within 90 days of the date of removal of the tobacco products, or cigarette papers or tubes. In order to maintain consistency in TTB's internal processing procedures, we propose to apply the 90-day requirement to shipments of distilled spirits. We consider this time period to be a reasonable time for exporters to obtain and submit documentation to us in support of an export shipment. This period may be extended for just cause. At this time we are concentrating on revising the regulations for exporters of distilled spirits only. We will also be developing updated procedures for the beer and wine industries in the future.

We propose to revise 27 CFR 252.40 to reflect a change in the section heading. We also propose to add 27 CFR 252.44 to clarify and remind the industry of the opportunity to submit alternative types of documentation as adequate proof of export, provided such documentation is:

- Complete and accurate;
- Third-party verifiable; and
- Contains the same information

required in an export bill of lading as outlined in 27 CFR 252.250.

In addition, we propose to add two new sections, 27 CFR 252.254 and 252.255, addressing certification of form TTB F 5100.11 by U.S. Customs Service and certificates of receipt issued by officials of foreign countries, both of which qualify as evidence of exportation.

TTB believes these additions and changes to the regulations will provide the public with a better understanding of its export documentation requirements, while allowing the industry the opportunity to submit alternative documents for approval.