

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 200, 270, 275 and 290

[Notice No. 887]

RIN 1512-AB99

Implementation of Public Law 105-33, Section 9302, Relating to Tobacco Importation Restrictions, Markings, Minimum Manufacturing Requirements, and Penalty Provisions (98R-369P)

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

ACTION: Notice of proposed rulemaking cross-referenced to temporary regulations.

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SUMMARY: In the Rules and Regulations portion of this Federal Register, the Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing temporary regulations to implement several provisions of the Balanced Budget Act of 1997. The new law: Places restrictions on the importation of previously exported tobacco products, requires markings on tobacco products or cigarette papers and tubes removed or transferred without payment of the federal excise tax, provides penalties for selling, relanding, or receiving, within the jurisdiction of the United States, tobacco products or cigarette papers and tubes which have been labeled and shipped for exportation and were removed after the effective date, and authorizes the Secretary to prescribe minimum capacity or activity requirements as a criterion for issuance of a manufacturer's permit. These new provisions of law are effective January 1, 2000.

Clarifying changes are also made to the tobacco regulations. In this notice of proposed rulemaking, ATF invites comments on the temporary rule.

DATES: Written comments must be received by February 22, 2000.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, PO Box 50221, Washington, DC 20091-0221; Notice No. 887. Refer to the Public Participation section of this notice for alternative means of commenting.

FOR FURTHER INFORMATION CONTACT: Ms. Teri Byers or Mr. Daniel Hiland, Regulations Division, 650 Massachusetts Avenue, NW, Washington, DC 20226; Telephone (202) 927-8210, or alcohol/tobacco@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

1. Temporary Regulations

The temporary regulations in this issue of the Federal Register amend the regulations in 27 CFR Parts 200, 270, 275 and 290. For the text of the temporary regulations see T.D. ATF-421, published in the Rules and Regulations section of this issue of the Federal Register.

## 2. Public Participation

### Who May Comment on This Notice?

ATF requests comments on the temporary regulations from all interested persons. All comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date. ATF specifically requests comments on the clarity of the proposed rule and how it may be made easier to understand.

### Will ATF Keep My Comments Confidential?

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

### How Do I Send Facsimile Comments?

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

- Be legible
- Be 8 1/2" x 11" in size
- Contain a legible written signature
- Be not more than three pages.

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

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

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

- Contain your name, mailing address, and e-mail address
- Reference this notice number
- Be legible when printed on not more than three pages 8 1/2" x 11" in size.

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

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

Comments may be submitted electronically using ATF's web site. You may comment on this proposed notice by using the form provided through

ATF's web site. You can reach this notice and comment form through the address <http://www.atf.treas.gov/core/tobacco/rules/rules.htm>.

Can I Request a Public Hearing?

If you desire the opportunity to comment orally at a public hearing on this proposed regulation, you must submit a request in writing to the Director within the 60-day comment period. The Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

### 3. Regulatory Analyses and Notices

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

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

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

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

Does the Paperwork Reduction Act Apply to This Proposed Rule?

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection(s) of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (ATF), Office of Information and Regulatory

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Affairs, Washington, DC, 20503, with copies to the Chief, Document Services Branch, Room 3450, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Alcohol, Tobacco and Firearms, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information

to be collected may be enhanced; and

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology.

The collection of information in this proposed regulation is in 27 CFR 270.183 (control number 1512-0358) and 27 CFR 290.142 (control number 1512-0367). The collection of this information is required to verify that all tobacco products can be accounted for, thus ensuring that the tax revenue is protected. Without these recordkeeping requirements, no recording of the data elements pertaining to these operations would be prescribed. No additional burden hours are required.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

#### 4. Drafting Information

This notice was written by Ms. Teri Byers and Mr. Daniel Hiland, Regulations Division, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and the Treasury Department participated in developing the document.

Signed: October 12, 1999.

John W. Magaw,  
Director.

Approved: November 17, 1999.

John P. Simpson,  
Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).  
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