

QUARTERLY BULLETIN

Bureau of Alcohol,

Tobacco and

Firearms

Department of the Treasury

CONTAINS:

**Treasury Decisions, Rulings,
and**

Procedural and Administrative

Matters Concerning Alcohol,

Tobacco, Firearms,

and Explosives

NOTE

Comments concerning the contents of this issue may be directed to Bureau of Alcohol, Tobacco and Firearms, Office of Compliance Operations, Washington, DC 20226.

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Preface

The Alcohol, Tobacco and Firearms Quarterly Bulletin is the authoritative instrument of the Bureau for announcing official rulings and procedures, and for publishing Treasury decisions, legislation, administrative matters, and other items of general interest. It incorporates, into one publication, matters of the Bureau, which are of public record.

The Bureau publishes rulings and procedures to promote uniform application of the laws and regulations it administers. Rulings interpret the requirements of laws and regulations and apply retroactively unless otherwise indicated; whereas, procedures establish methods for performing operations to comply with such law and regulations.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury department regulations but they may be used as precedents. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered. Concerned parties are cautioned against reaching the same conclusions in other cases

unless the facts and circumstances are substantially the same.

Definitions

Rulings and procedures

that have an effect on previous rulings or procedures use the following defined terms to describe the effect:

AMPLIFIED is used

in a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth in the new ruling. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified.

CLARIFIED is used

in a situation where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

DECLARED OBSOLETE

is used in a situation where a previously published ruling is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are declared obsolete because of changes in law or regulations. A ruling may also be declared obsolete because its substance has been included in regulations subsequently adopted.

MODIFIED is used in

a situation where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, but the new ruling holds that it applies to both A and B, the prior ruling is modified.

REVOKED is used in

a situation where the position in the previously published ruling is not correct and the correct position is being

stated in the new ruling. Rulings which have been revoked have no further effect.

SUPERSEDED is used

in a variety of situations. The term may be used where the new ruling amplifies a prior ruling *if* both the position taken in the prior ruling and the position as amplified are contained in the text of the new ruling. The term may be similarly used where the new ruling clarifies or modifies a prior ruling. The term may also be used where, for the purpose of updating references, the new ruling does nothing more than restate the substance and situation of a prior ruling. For example, a ruling issued under former statues and regulations (e.g. the 1939 Code-26 CFR Part 225) may be reissued under the current statues and regulations (e.g. the 1954 Code-27 CFR Part 201). Lastly, the term may be used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings.

SUPPLEMENTED is used

in situations in which a list, such as a list of curios and relics, is published in a ruling and that list is expanded by adding further items in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

ABBREVIATIONS:

The following abbreviations appear in material published in the Bulletin:

A, B, C, etc. ☐ The name of individuals

ATF ☐ Bureau of Alcohol, Tobacco and Firearms

ATFQB ☐ Alcohol, Tobacco and Firearms Quarterly Bulletin

ATF Proc. ☐ ATF Procedure

ATF Rul. ☞ ATF Ruling

C.B. ☞ Cumulative Bulletin

Ct.D. ☞ Court Decision

CFR ☞ Code of Federal Regulations

D.O. ☞ Delegation Order

E.O. ☞ Executive Order

FAA Act ☞ Federal Alcohol Administration Act

F.R. ☞ Federal Register

M, N, X, Y, Z,

etc, ☞ The names of corporations, places and businesses, according to context

Pub. L. ☞ Public Law

Rev. Proc. ☞ Revenue Procedure

Rev. Rul. ☞ Revenue Ruling

Stat. ☞ Statutes at Large

T.D. ☞ Treasury Decision

T.D.O. ☞ Treasury Department Order

U.S.C. ☐ United
States Code

X and Y

☐ used to represent certain number and when
used with the word "dollars" represent sums of money

Treasury

Decisions - I

Subpart A

- ALCOHOL

TITLE 27 -ALCOHOL, TOBACCO
PRODUCTS AND FIREARMS-CHAPTER-I-

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT
OF THE TREASURY

Firearms and Ammunition Excise Taxes, Parts and Accessories

T.D. ATF - 404

27 CFR Part 53

ACTION: Final Rule,
(Treasury Decision).

SUMMARY: This final rule amends regulations
in 27 CFR Part 53, relating to the manufacturers excise
tax on firearms and ammunition. Under to 26 U.S.C.
4181, a tax is imposed on the sale by the manufacturer,
importer or producer of firearms, shells, and cartridges.

The tax is 10 percent of the sale price for pistols
and revolvers, 11 percent for firearms (other than
pistols and revolvers), and 11 percent for shells and
cartridges. Current regulations provide that no tax
is imposed by section 4181 on the sale of parts or
accessories of firearms, pistols, revolvers, shells,
and cartridges when sold separately or when sold with
a complete firearm. This final rule amends the regulations

to clarify which parts and accessories must be included in the sale price when calculating the tax on firearms.

DATES: Effective November 30, 1998.

FOR FURTHER INFORMATION CONTACT: Marsha D. Baker, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, N.W., Washington, D.C. 20226 (202-927-8476).

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) is responsible for collecting the firearms and ammunition excise tax imposed by section 4181. The Pittman-Robertson Wildlife Restoration Act, 16 U.S.C. 669 et seq., requires that an amount equal to all of the revenue collected under section 4181 be deposited into the Federal Aid to Wildlife Restoration Fund. This Fund is apportioned to the States for hunter safety programs, maintenance of public target ranges, and wildlife and wetlands conservation.

The current regulation provides that no tax is imposed by section on the sale of parts or accessories of firearms, pistols, revolvers, shells, and cartridges when sold separately or when sold with a complete firearm. This regulation was at issue in Auto-Ordinance Corp. v. United States, 822 F.2d 1566 (Fed. Cir. 1987). In this case a manufacturer of firearms sued to recover excise taxes paid on sights and compensator units sold with rifles it manufactured. The manufacturer claimed that these parts were nontaxable accessories that should not be included in the taxable sale price of the rifles. The Internal Revenue Service (IRS), the agency responsible for administering the tax on firearms at that time, contended that the sights and compensator units were component parts of the rifles that must be included in the taxable sale price.

The court noted that the position of the IRS that all component parts of a "commercially complete" firearm must be included in the sale price was a concept that was not found in the regulations. Since the regulations did not specify which parts are component parts of a firearm nor define the term "accessories," the court found that it was appropriate to look beyond the language of the regulation. The court discussed several dictionary definitions of the term "accessories" as well as tariff and customs classification cases.

The court held that the sights and compensator units were nontaxable accessories since they were readily removable and of secondary or subordinate importance to the function of the firearm.

Since taking over the administration of the firearms and ammunition excise tax from the IRS in 1991, ATF has issued numerous rulings on parts and accessories. ATF has found it increasingly difficult to apply the

regulation on parts and accessories as interpreted by the court in Auto-Ordnance. For example, the "secondary or subordinate importance" test is difficult to apply to parts that are essential for the safe operation of the firearm. Arguably, such parts are essential to the function of the firearm and should be included in the taxable sale price. However, if such parts are not needed to fire the firearm, it is possible that a Federal court, applying the rationale of Auto-Ordnance, would hold that such parts are nontaxable accessories.

Notice of Proposed Rulemaking

On August 29, 1996, ATF published in the Federal Register a notice of proposed rulemaking (Notice No. 836, 61 FR 45377) proposing to provide definitions for "component parts" that must be included in the taxable sale price and "nontaxable parts" and "nontaxable accessories" that are excluded from the taxable sale price. The notice stated that the purpose of the proposed definitions is to reinstate the long-standing "commercial completeness" test of the IRS in a manner that will withstand judicial scrutiny. The notice stated that the effect of the definitions would be to replace the readily removable/essential to the function test of the Auto-Ordnance case with a more objective, predictable standard to use in determining whether items sold with a firearm are includible in the tax basis.

Analysis of Comments

ATF received nine (9) written comments during the comment period in response to Notice No. 836. These comments were submitted by three (3) members of the public, four (4) Federal firearm licensees, and two (2) firearms industry organizations. All nine respondents opposed the proposed regulations.

One commenter felt that ATF lacks the authority to impose a tax and should restrict itself to enforcement matters. The authority to administer the excise tax provisions of 26 U.S.C. 4181 was transferred from the IRS to ATF on January 1, 1991, by Treasury Order No. 120-03 (55 FR 47422, November 13, 1990). The order gave ATF the authority to issue regulations with respect to the administration, collection and enforcement of firearms and ammunition excise taxes.

One commenter requested that ATF modify the payment schedule for excise taxpayers to a quarterly basis. Current regulations require bimonthly deposits for most taxpayers. The commenter stated that some manufacturers provide economic incentives to dealers by providing an extended payment schedule of three, six, or nine months for those accepting products

early in the year. This process may cause some manufacturers to borrow money with which to pay excise tax. The commenter suggested that quarterly payments reflecting seasonal fluctuations in consumer demands would assist in alleviating this problem.

The deposit system for payment of the taxes imposed by section 4181 was not one of the issues raised for public comment by Notice No. 836. Moreover, a change in the current system would require a statutory amendment. Accordingly, ATF is not adopting this comment.

Five (5) commenters opposed the proposed regulations on the basis that they would overturn the Auto-Ordinance decision and result in more tax being paid by taxpayers and consumers. The commenters believe that by reinstating the commercial completeness test of the IRS, ATF is trying to circumvent the court's finding in Auto-Ordinance

. The commenters are opposed to replacing the readily removable/essential to the function test with the commercial completeness test, because they consider the court to have already repudiated the application of a commercial completeness test.

The Auto-Ordinance case makes it clear that the Federal Circuit rejected the IRS "commercial completeness" test only because that test was not clear in the regulations. The court did not hold that the IRS position was an impermissible interpretation of the statute. Accordingly, ATF does not believe the Auto-Ordinance case precludes ATF from establishing a for parts and accessories different from that used by the court.

Four (4) commenters expressed opposition to proposed section 53.61(b)(5), which provides that when taxable firearms are sold by a manufacturer or importer without component parts, the separate sale of the component parts to the same vendee will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the basic article even though the component parts are shipped separately.

These four respondents stated that the implementation of this provision will result in confusing and complex recordkeeping requirements. They stated that recordkeeping requirements would become more difficult and complex for the manufacturers since customer requests for mounts and other accessories on a separate invoice to the dealer would become taxable. The commenters noted that a manufacturer who ships a firearm without sights but provides the retailer with the opportunity to add them at a later date does so

for market-driven reasons rather than for evading the small amount of tax on the sights.

ATF's intent in proposing the separate sales provision of §53.61(b)(5) was to include in the regulations the longstanding position that tax cannot be evaded through separate shipment and sale of component parts. However, ATF did not intend to impose a continuing obligation on firearms importers and manufacturers to keep records of their sales of parts to vendors and attempt to match them up with previous sales of firearms. Accordingly, ATF is adopting this comment and deleting proposed §53.61(b)(5) from the final regulations.

In addition, ATF is amending wording in proposed §53.61(b)(6)(ii) to remove the term "parts in a partially completed state." ATF believes this language is unnecessary.

Eight (8) commenters expressed opposition to the proposed regulation because they believed it may be more costly for the manufacturers by increasing their taxes and driving up retail prices. There was also concern that this would force taxpayers to borrow money to meet tax payments in advance of receipt of trade receivables. The commenters stated that this would lead to a negative impact on sales, reduction of the market, and reduction of revenues. They stated that such a change in the regulations would increase costs incurred by the regulated industry.

ATF does not believe that the implementation of this regulation will place an undue financial burden on excise taxpayers or have a significant impact on sales, the market, or revenues. This regulation will, however, make it easier for the taxpayer to understand the excise taxes for parts and accessories. A better understanding of the distinction between taxable and nontaxable items will lead to fewer mistakes in computing tax. In addition, the clarified definitions of parts and accessories will make it easier for the government to administer the regulation.

Two (2) commenters stated that the burden of supporting the Aid to Wildlife Restoration Fund should be placed upon those who benefit from the Fund, such as hunters, campers, and hikers as well as businesses whose activities (i.e., pollution, timber cutting, etc.) are detrimental to wildlife. Since the taxes paid into the Fund are imposed by statute on manufacturers and importers of firearms and ammunition, legislation would be necessary to require

contribution to the Fund by other persons. This final rule also adds a definition of the term "knockdown condition" to the regulations in § 53.11. Since the new definition of "parts and accessories" uses this term, the definition of "knockdown condition" is added for clarity.

Regulatory Flexibility Act

It is hereby certified under the provisions 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. This rule merely clarifies existing regulations. A copy of the proposed rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

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

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new reporting or recordkeeping requirements.

Disclosure

Copies of the notice of proposed rulemaking, the written comments, and this final rule will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW, Washington, D.C. 20226.

Drafting Information

The author of this document is Marsha D. Baker, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

Subject List in 27 CFR Part 53

Administrative practice and procedure, Arms and munitions, Authority delegations, Export, Imports, Penalties, Reporting and recordkeeping requirements.

Authority and Issuance

Accordingly, 27 CFR Part 53, Manufacturers Excise Taxes - Firearms and Ammunition, is amended as follows:

PART 53 - MANUFACTURERS EXCISE TAXES - FIREARMS AND AMMUNITION

Paragraph 1. The authority citation for 27 CFR Part 53 continues to read as follows:

Authority: 26 U.S.C. 4181, 4182, 4216-4219, 4221-4223, 4225, 6001, 6011, 6020, 6021, 6061, 6071, 6081, 6091, 6101-6104, 6109, 6151, 6155, 6161, 6301-6303, 6311, 6402, 6404, 6416, and 7502.

Par. 2. Section 53.11 is revised by adding a new definition for the term "knockdown condition" to read as follows:

§ 53.11 Meaning of terms

* * * * *

Knockdown condition. A taxable article that is unassembled but complete as to all component parts.

Par. 3. Section 53.61(b) is revised to read as follows:

§ 53.61 Imposition and rates of tax.

* * * * *

(b) Parts or accessories. (1) In general. No tax is imposed by section 4181 of the Code on the sale of parts or accessories of firearms, pistols, revolvers, shells, and cartridges when sold separately or when sold with a complete firearm for use as spare parts or accessories. The tax does attach, however, to sales of completed firearms, pistols, revolvers, shells, and cartridges, and to sale of such articles that, although in knockdown condition, are complete as to all component parts.

(2) *Component parts.* Component parts are items that would ordinarily be attached to a firearm during use and, in the ordinary course of trade, are packaged with the firearm at the time of sale by the manufacturer or importer. All component parts for firearms are includible in the price for which the article is sold.

(3) *Nontaxable parts.* Parts sold with firearms that duplicate component parts that are not includible in the price for which the article is sold.

(4) *Nontaxable accessories.* Items that are not designed to be attached to a firearm during use or that are not, in the ordinary course of trade, provided with the firearm at the time of the sale by the manufacturer or importer are not includible in the price for which the article is sold.

(5) *Examples.* (i) *In general.* The following examples are provided as guidelines and are not meant to be all inclusive.

(ii) *Component parts.*

Component parts include items such as a frame or receiver, breech mechanism, trigger mechanism, barrel, buttstock, forestock, handguard, grips, buttplate, fore end cap, trigger guard, sight or set of sights (iron or optical), sight mount or set of sight mounts, a choke, a flash hider, a muzzle brake, a magazine, a set of sling swivels, and/or an attachable ramrod for muzzle loading firearms when provided by the manufacturer or importer for use with the firearm in the ordinary course of commercial trade. Component parts also include any part provided with the firearm that would affect the tax status of the firearm, such as an attachable shoulder stock.

(iii) *Nontaxable parts.*

Nontaxable parts include items such as extra barrels, extra sights, optical sights and mounts (in addition to iron sights), spare magazines, spare cylinders, extra choke tubes, and spare pins.

(iv) *Nontaxable accessories.*

Nontaxable accessories include items such as cleaning equipment, slings, slip on recoil pads (in addition to standard buttplate), tools, gun cases for storage or transportation, separate items such as knives, belt buckles, or medallions. Nontaxable accessories also include optional items purchased by the customer at the time of retail sale that do not change the tax classification of the firearm, such as telescopic sights and mounts, recoil pads, slings, sling swivels, chokes, and flash hidere/muzzle brakes of a type not provided by the

manufacturer or importer of the firearm in the ordinary course of commercial trade.

* * * * *

Signed:

Director

Approved:

Deputy Assistant Secretary

(Regulatory, Tariff and Trade Enforcement)

[FR Doc. 98-26133 Filed 9-30-98; 8:45 am]

TITLE 27-ALCOHOL, TOBACCO
PRODUCTS AND FIREARMS-CHAPTER 1-

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT
OF THE TREASURY

**Implementation of Public Law
103-159, Relating to the Permanent Provisions of the
Brady Handgun Violence Prevention Act**

TD ATF-415

27 CFR Parts 178 and 179

ACTION: Final
Rule, (Treasury decision).

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is amending the regulations to implement the provisions of Public Law 103-159, relating to the permanent provisions of the Brady Handgun Violence Prevention Act. These regulations implement the law by requiring, with some exceptions, a licensed firearms importer, manufacturer, or dealer to contact the national instant criminal background check system (NICS) before transferring any firearm to an unlicensed individual. NICS will advise the licensee whether the system contains any information that the prospective purchaser is prohibited by law from possessing or receiving a firearm.

DATES: This rule is effective November 30, 1998.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta,
Regulations

Division, Bureau of Alcohol, Tobacco and Firearms, 650
Massachusetts

Avenue, NW., Washington, DC 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1993, Public Law 103-159 (107 Stat. 1536) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44). Title I of Public Law 103-159, the Brady Handgun Violence Prevention Act (the "Brady law" or "Brady"), imposed as an interim measure a waiting period of 5 days before a licensed importer, manufacturer, or dealer may sell, deliver, or transfer a handgun to an unlicensed individual. The waiting period applies only in States without an acceptable alternate system of conducting background checks on handgun purchasers. The interim provisions of the Brady law, 18 U.S.C. 922(s), became effective on February 28, 1994, and cease to apply on November 30, 1998.

Permanent Provisions of the Brady Law

The permanent provisions of the Brady law provide for the establishment of a national instant criminal background check system ("NICS") that a firearms licensee must contact before transferring any firearm to an unlicensed individual. The law requires that the permanent system be established not later than November 30, 1998. While the interim provisions apply only to handguns, the permanent provisions of the Brady law apply to all firearms. Furthermore, the law provides that the system may take up to three business days to notify the licensee whether receipt of a firearm by the prospective purchaser would be in violation of law.

National Instant Criminal Background Check System

The Brady law requires that the Attorney General establish a permanent national instant criminal background check system that any licensee may contact, by telephone or by other electronic means in addition to the telephone, for information on whether receipt of a firearm by a prospective transferee would violate Federal or State law.

The law requires that the permanent system be established not later than November 30, 1998. It is expected that the NICS will be established by October 31, 1998, although licensees will not be required to contact NICS until November 30, 1998.

Upon establishment of the system, the Attorney General is required to notify each firearms licensee and the chief law enforcement officer of each State of the existence and purpose of NICS and the means to be used to contact NICS. Beginning on the date that is 30 days after the Attorney General notifies firearms licensees that NICS is established, the permanent provisions of Brady, 18 U.S.C. 922(t), become effective.

Statutory Requirements

Section 922(t) generally makes it unlawful for any licensed firearms importer, manufacturer, or dealer to sell, deliver, or transfer a firearm to an unlicensed individual (transferee), unless--

1. Before the completion of the transfer, the licensee contacts the national instant background check system;
2. The system provides the licensee with a unique identification number signifying that transfer of the firearm would not be in violation of law OR 3 business days (meaning a day on which State offices are open) have elapsed from the date the licensee contacted the system and the system has not notified the licensee that receipt of the firearm by the transferee would be in violation of law; and
3. The licensee verifies the identity of the transferee by examining a valid identification document containing a photograph of the transferee.

Exceptions to NICS

The statute provides the following exceptions to the national instant background check system:

1. The transferee presents to the licensee a permit which was issued not more than 5 years earlier by the State in which the transfer is to take place and which allows the transferee to possess or acquire a firearm, and the law of the State provides that such a permit is to be issued only after an authorized government official has verified that available

information does not indicate that possession of a firearm by the transferee would be in violation of the law;

2. Purchases of firearms which are subject to the National Firearms Act and which have been approved for transfer under 27 CFR Part 179 (Machine Guns, Destructive Devices, and Certain Other Firearms); or

3. Purchases of firearms for which the Secretary has certified that compliance with NICS is impracticable because the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025 (i.e., 25 officers per 10,000 square miles), the premises of the licensee are remote in relation to the chief law enforcement officer of the area, and there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

Penalties for Noncompliance

Section 922(t) provides that a firearms licensee who transfers a firearm and knowingly fails to comply with the requirements of the law, in a case where compliance would have revealed that the transfer was unlawful, is subject to license suspension or revocation and a civil fine of not more than \$5,000.

Notice of Proposed Rulemaking

On February 19, 1998, ATF published in the Federal Register a notice proposing regulations to implement the requirements placed on Federal firearms licensees by section 922(t) (Notice No. 857; 63 FR 8379). The comment period for Notice No. 857 closed on May 20, 1998.

On June 4, 1998, pursuant to section 103(h) of the Brady law, the Department of Justice issued proposed regulations establishing the methods of operation for NICS, including policies and procedures for ensuring the privacy and security of the system and appeal procedures for individuals who are determined by NICS to be ineligible to purchase a firearm (63 FR 30429, 30430, and 30514). Accordingly, these issues were not addressed in ATF's proposed regulations.

Prior to the close of the comment period, two commenters requested that public hearings be held on the proposed regulations and one commenter requested that the comment period be extended. ATF believes that it is necessary to advise Federal firearms licensees of their responsibilities under

the permanent provisions of the Brady law as much in advance of the November 30, 1998, effective date as possible.

An extension of the comment period and the holding of public hearings would delay the issuance of final regulations. Furthermore, ATF believes that 90 days is a sufficient amount of time for all interested parties to respond to the issues raised in the notice. Finally, ATF believes that any information received during an extension of the comment period or presented in oral testimony at a public hearing would be similar to that received during the 90-day comment period. Accordingly, ATF is not extending the comment period or holding public hearings on the proposed regulations.

Analysis of Comments

In response to Notice No. 857, ATF received 8,492 comments, representing 8,779 signatures. Comments were submitted by Federal firearms licensees, licensed firearms collectors, nonlicensed individuals, industry trade groups, and other organizations (e.g., National Association of Arms Shows, Inc., National Pawnbrokers Association, Violence Policy Center, Gun Owners of America, and the National Rifle Association of America), members of Congress, State representatives, and law enforcement officials.

Approximately 125 commenters addressed issues which were outside the scope of the notice. These include user fees for NICS checks, hours of operation that NICS will be available for background checks, how firearms licensees will receive final notification from NICS in the event a background check is delayed, provisions for a toll-free appeal hotline that firearms purchasers can contact in the event of a wrongful denial of a purchase, and ATF's assurance that in most cases a NICS check will be instantaneous. These issues are being addressed in the Department of Justice's rulemaking proceeding.

Twenty-three commenters expressed opposition to the Brady law and urged its repeal. One hundred sixty-six commenters requested other changes that would also require legislative action. These include eliminating the provision of the law which authorizes NICS to take up to three business days to respond to a request for a background check, restricting the Department of Justice's role in implementing any provisions of the Brady law, exempting State "instant check" and "point of sale check" systems from a NICS check, and prohibiting NICS from containing information on certain categories of persons prohibited from receiving or possessing firearms (such as renunciates and persons discharged from the military under dishonorable conditions). ATF is not adopting any of these comments because they are inconsistent with the language of the statute.

Long Guns, Antique Firearms, and Licensed Collectors of Curios or

Relics

Forty-seven commenters contend that the permanent provisions of the Brady law either do not apply or should not apply to transfers of long guns. Some commenters point out that the title of the statute, the "Brady Handgun Violence Prevention Act," clearly shows that Congress intended the law, both the temporary and permanent provisions, to apply only to handguns. Other commenters argue that since the interim provisions of the Brady law apply only to handguns, it is apparent that the permanent provisions should apply only to handguns as well. These commenters maintain that ATF has exceeded its authority under the Brady law by proposing to require NICS checks for all firearms, including rifles and shotguns.

While the title of the statute is the "Brady Handgun Violence Prevention Act," the plain language of the law clearly states that the permanent provisions apply to all firearms, including rifles and shotguns. In that regard, section 922(t)(1) provides that a Federal firearms licensee "shall not transfer a firearm" to an unlicensed individual unless before the completion of the transfer, the licensee contacts NICS. Section 103(j)(2) of the Brady law provides that the term "firearm" has the meaning prescribed in Sec. 921(a) of the GCA. This section defines "firearm," in part, as "any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; . . ." Thus, the term "firearm" clearly includes rifles and shotguns.

Two commenters inquired whether antique firearms are subject to the permanent provisions of the Brady law. Pursuant to section 921(a)(3), the term "firearm" does not include an antique firearm (as defined in section 921(a)(16)). Accordingly, the transfer of an antique firearm is not subject to the Brady law.

Several commenters requested clarification whether the permanent provisions of the Brady law apply to licensed collectors of curios or relics. The transfer of a firearm by a licensed collector is not subject to section 922(t), since the law by its terms applies only to the transfer of a firearm by a licensed importer, manufacturer, or dealer to an unlicensed person. Furthermore, since the permanent provisions of Brady do not apply to transfers among licensees, the transfer of a curio or relic firearm to a licensed collector is not subject to permanent Brady. However, in transactions involving firearms not classified as curios or relics, the licensed collector has the same status as a nonlicensee. Thus, a licensed collector's acquisition of a firearm that is not a curio or relic from an importer, manufacturer, or dealer is subject to the requirements of permanent Brady.

Pawn Transactions

In Notice No. 857, ATF advised that the proposed regulations would apply the permanent provisions of the Brady law to the redemption of a pawned firearm. As ATF noted, the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, amended Sec. 922(s) of the GCA to specifically exempt transactions involving the return of a handgun to the person from whom it was received. However, no such exemption appears in Sec. 922(t).

Three hundred thirty-eight commenters disagreed with ATF's interpretation that the permanent provisions of the Brady law apply to the redemption of a pawned firearm. Many of the commenters argue that the law was intended to apply only to the sale of a firearm and not to pawn transactions involving the redemption of a firearm. A national trade association representing 3,600 pawnbrokers suggested that Congress did not intend to cover the redemption of a pawned firearm, and that the term "transfer" in the Brady law referred to a transfer of title. The commenter further contends that the amendment of Sec. 922(s) of the GCA by the Violent Crime Control and Law Enforcement Act of 1994 "indicates their [Congress'] intent to not apply Brady to pawn loans." Several commenters suggested that because pawn loan customers would not have the disposable income to pay for a NICS check, they would instead sell their firearms on the street through unregulated sources.

After carefully considering the arguments raised by the commenters, ATF has concluded that the permanent provisions of the Brady law apply to the redemption of a pawned firearm. Unlike Sec. 922(s) of the GCA, there is no provision in Sec. 922(t) which exempts transactions involving the return of a firearm to the person from whom it was received.

Furthermore, ATF does not agree with the commenters who suggested that the return of a redeemed firearm is not a "transfer" within the meaning of the permanent provisions of the Brady law. The redemption of a pawned firearm has always been treated as a disposition under the GCA, and a Form 4473 has always been required for such redemptions. Furthermore, in *Huddleston v. United States*, 415 U.S. 814 (1974), the Supreme Court held that the redemption of a pawned firearm was an acquisition within the meaning of the GCA. Thus, there is no basis for exempting the redemption of a pawned firearm from the permanent provisions of Brady.

Consignments

ATF has received inquiries regarding the return by a licensee of a consigned firearm to an unlicensed individual. In these cases, the unlicensed individual has delivered a firearm to the licensee for sale. Sales of the firearm are handled in the same manner as other firearm sales. However, if the licensee does not sell the firearm, it may be returned to the unlicensed individual.

ATF has always treated the return of consigned firearms as a transfer or disposition within the meaning of the GCA. The individual to whom the consigned firearms are returned must complete a Form 4473 in the same manner as any unlicensed individual who is acquiring a firearm from a licensee. Accordingly, the final regulations do not provide any exemption for the return of a consigned firearm.

Repaired and Replacement Firearms

While this issue was not specifically addressed in the proposed rule, approximately 55 comments dealt with the application of permanent Brady to repaired and replacement firearms. Most of those commenters argued that the return of a repaired firearm to the person from whom it was received should not be considered a "transfer" for purposes of the Brady law.

The notice of proposed rulemaking did not propose that such transactions should be subject to permanent Brady. After carefully considering the comments on this issue, ATF agrees that the return of a repaired or replacement firearm by a licensee is not a "transfer" within the meaning of the Brady law.

Historically, the return of a repaired or replacement firearm by a licensee has been treated in a different fashion from other dispositions under the GCA. Since the enactment of the GCA in 1968, the regulations have provided that a Form 4473 "shall not be required to record the disposition made of a firearm delivered to a licensee for the sole purpose of repair or customizing when such firearm or a replacement firearm is returned to the person from whom received." See 27 CFR 178.124(a).

The final rule does not require NICS checks in any situation in which the transferee is not required to complete a Form 4473. Accordingly, transactions falling within the exemption found in section 178.124(a) are not subject to the requirement for an NICS check.

Time of NICS Check

As proposed in Notice No. 857, Sec. 178.102(c) provided that a NICS check may be relied upon by the licensee only for use in a single transaction and for a period not to exceed 30 days. If the transaction is not completed within the 30-day period, the licensee must initiate a new NICS check prior to completion of the transfer.

ATF received approximately 40 comments on this proposal. Many commenters objected to the proposal that a separate NICS check must be

conducted for each separate transaction. They contend that this requirement is unnecessary and places a burden on both NICS and the licensee. Two commenters stated as follows:

The purpose of the check is to ensure the individual who wishes to purchase a firearm is not a prohibited possessor under the law. In this instance, there is no reason to require a separate NICS check if an individual purchases more than one firearm within a 30 day calendar period.

Many other commenters were concerned about the validity of a NICS check with respect to the return or exchange of a newly purchased firearm. The Brady law provides that a licensee may not transfer a firearm to an unlicensed individual unless, before the completion of the transfer, the licensee contacts NICS. It is clear that the law contemplates that once the transfer is completed, any additional transfer of a firearm to the same individual would be a separate transfer that would require a separate NICS check. With respect to the return or exchange of a newly purchased firearm, replacement firearms are not subject to a NICS check. However, if the firearm is being returned and exchanged for a different firearm, this constitutes a separate transaction and another NICS check would be required.

Several commenters objected to ATF's proposal that a NICS check should only be valid for 30 calendar days. Three commenters argued that the Brady law does not specify or impose any time limit on the validity of a NICS check. Three other commenters suggested that a NICS check should be acceptable for multiple purchases for 5 years, the same period of time for which a permit is valid.

Another commenter, a trade organization representing approximately 300 firearms dealers, asserted that the proposed 30-day limitation is unreasonable and unnecessary. This commenter states that customers often order firearms and then later return to the licensee's premises to effect the transfer. Based on the experience of its membership, this commenter believed that many transfers do not take place within 30 days, due to the customer's own business commitments or the customer's personal circumstances. Accordingly, this commenter proposed that the NICS check should be valid for a period of 60 days. Another commenter expressed similar concerns, and recommended that the check should be valid for 45 days "to allow normal transactions to occur, given delays and distances normally encountered in firearms sales situations."

As ATF stated in Notice No. 857, it is clear that the Brady law contemplates that the licensee should contact NICS immediately prior to the transfer of a firearm. However, ATF recognized that many States have waiting periods which mandate a delay of up to 10 days before the firearm may be transferred. Thus, the proposed rule provided that a NICS check would be valid in a single transaction for a period of up to 30 days. This would allow the purchaser a reasonable period of time to come back for the firearm in States with lengthy waiting periods.

After carefully considering the comments, ATF has decided not to extend the period in which a NICS check retains its validity. ATF believes that the 30-day period is reasonable in that it allows sufficient time for a purchaser to return to take possession of a firearm. In situations where a purchaser has ordered a custom-made firearm and a longer delay is required, the licensee may choose to conduct the NICS check after the firearm comes in, rather than at the time that the order is placed. In any event, licensees should try to avoid lengthy delays between the time the NICS check is conducted and the time the firearm is transferred. The 30-day limit provides a concrete limit beyond which the firearm may not be transferred pursuant to a "stale" NICS check.

Permits

The Brady law provides that a licensee is not required to initiate a NICS check where the purchaser presents a permit that allows the purchaser to "possess or acquire a firearm." The final rule clarifies that the permit must be valid under State law. Section 178.102(d)(1)(i) of the proposed regulations clarified that this exception includes permits to carry concealed weapons as well as permits specifically authorizing the purchase of a firearm.

Five commenters expressed opposition to ATF's proposal that a permit to carry concealed weapons was included within the permit exemption provided by permanent Brady. Four of the commenters contend that the proposed regulation expands the scope of the exemption and that the clear language of the Brady law limits the exemption to a permit to "possess or acquire" a firearm. Two commenters maintain that this provision of the law applies only to permits specifically authorizing the purchase of a firearm. Some commenters assert that excepting concealed weapons permit holders from a NICS check would significantly increase the number of exempt firearms transactions. For example, one commenter noted that "[t]his expansion will dramatically increase the possibility of unlawful firearms purchase[s] in part because the

varying state systems for revocation of the permits frequently involve considerable delay."

Notwithstanding these comments, it is ATF's conclusion from the plain language of the Brady law that a permit to "possess" a firearm includes a permit to carry concealed weapons. Furthermore, ATF's position in this matter is consistent with that taken with respect to the permit alternative under the interim provisions of the Brady law. Accordingly, Sec. 178.102(d)(1)(i) is being adopted in the final regulations as proposed.

NICS Checks in Conjunction With the Issuance of Permits

The law provides that for a permit to qualify as an alternative to the NICS check at the time of transfer, it must have been issued not more than 5 years earlier by the State in which the transfer is to take place. Furthermore, the permit is a valid alternative under permanent Brady only if the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law.

In construing the language of the statute, the proposed regulations provided that as of November 30, 1998, "the information available to" State officials who issue permits will include a NICS check.

The proposed regulations also clarified that if a State did not disqualify all individuals prohibited under Federal law, the permits issued by that State would not be accepted as alternatives under the permanent provisions of the Brady law.

Approximately 3,700 commenters objected to ATF's proposal that the acceptance of permits as alternatives was conditioned upon the State running a NICS check prior to issuing the permit. Most of the commenters contend that the statute does not mandate that State officials conduct a NICS check on all permit applicants. Two commenters argued that "[t]his portion of the proposed regulation violates *Prinz [sic] v. United States*. Here the United States Supreme Court held that "The Federal Government may not compel the States to enact or administer a federal regulatory program." The issuance of regulations setting standards for permits that meet the criteria of the statute in no way implicates Tenth Amendment or Federalism concerns. Neither the Brady law nor the regulations require States to establish or administer permit systems at all. However, the law does set forth certain standards that State permits must meet in order to be recognized as valid Brady alternatives.

As of November 30, 1998, "the information available to" State officials will include NICS. As indicated in Notice No. 857, a NICS check will provide a more extensive background check of the purchaser than other record systems containing only criminal records. NICS will include records from the Department of Defense concerning dishonorable discharges, records from the Department of State regarding individuals who have renounced United States citizenship, and other information not available in criminal records.

Accordingly, Sec. 178.102(d)(1)(iii) is adopted as proposed.

One commenter noted that Notice No. 857 was silent with respect to State permits issued prior to the effective date of the permanent provisions of the Brady law. Prior to November 30, 1998, the information "available to" State permit officials did not include NICS. Permits issued prior to that date that were recognized by ATF as valid alternatives under interim Brady will continue to be recognized as valid alternatives after November 30, 1998, notwithstanding the fact that no NICS check was conducted prior to the issuance of the permits. These permits will be "grandfathered" for a period not to exceed 5 years or the duration of the permit, whichever is shorter.

Firearms Transaction Record (Form 4473)

In general, the regulations provide that prior to the transfer of a firearm to a prospective purchaser, the buyer must complete, sign, and date a firearms transaction record, Form 4473. The form requests certain information, including the transferee's name, sex, height, weight, race, residence address, date of birth, and place of birth. In Notice No. 857, ATF proposed amending the regulations to solicit additional optional information about the purchaser, including the transferee's social security number, to facilitate the transfer of a firearm (Sec. 178.124(c) (2)). ATF noted in Notice No. 857 that ATF Form 5300.35, Statement of Intent to Obtain a Handgun (Brady form), currently requests the purchaser's social security number as optional information.

Approximately 8,000 commenters addressed this proposal. Twenty-five commenters misunderstood the proposal and were under the impression the proposed regulation was requiring purchasers to provide their social security number on Form 4473. The remaining commenters expressed other concerns and urged ATF to withdraw the proposed regulation. Many commenters contend that requesting the purchaser's social security number violates the individual's right to privacy. The commenters are also concerned about the possible misuse of the

information, including the establishment of a national registry of firearms owners. Other commenters are concerned that the request for a purchaser's social security number as additional optional information may eventually become a requirement. These commenters also believe that a firearm transfer may be unnecessarily delayed or the purchaser subjected to additional scrutiny if the social security number is not provided. The final regulations will include the purchaser's social security number on Form 4473 as optional information. The social security number is a unique identifier. ATF believes that providing this information on Form 4473 will facilitate the transfer of a firearm. As discussed in Notice No. 857, ATF believes this additional information will help minimize the misidentification of firearms purchasers as felons or other prohibited persons whose receipt and possession would violate the law. For example, by providing this information the transferee might avoid confusion with a prohibited buyer who has the same name and date of birth as the transferee. Nevertheless, providing the social security number on Form 4473 is optional under the proposed regulation and the purchaser is not required to provide such information.

With respect to the commenters' concern regarding the establishment of a national registry of firearms owners, ATF would note that the registration of firearms, firearms owners, or firearms transactions or dispositions is specifically prohibited by 18 U.S.C. 926(a) and section 103(i) of the Brady law. ATF would further note that Forms 4473 are maintained by dealers, not the Federal Government.

In Notice No. 857, ATF proposed that in any transaction for which a licensee receives a unique identification number from NICS, such number will be recorded on Form 4473 and retained in the records of the licensee, regardless of whether the transaction is approved or denied by NICS, and regardless of whether the firearm is actually transferred (27 CFR 178.102(b)). Several commenters objected to the proposed requirement that licensees retain copies of Form 4473 for denied NICS checks or where there is no transfer of a firearm. The commenters argue that this requirement is unnecessary and only serves to increase the paperwork burden on licensees. ATF disagrees with the commenters and finds the requirement to be both necessary and warranted. As explained in the notice, requiring licensees to retain Form 4473 in all cases will enable ATF to determine compliance with the law by licensees and purchasers. Accordingly, the regulation is being adopted as proposed.

The final rule clarifies that the transaction number provided by NICS shall include either a NICS transaction number or, in States where the State is recognized as a point of contact for NICS checks, a State transaction number.

Seven commenters contend that the Brady law requires Form 4473 to be destroyed after each firearm transaction. Specifically, Sec. 922(t)(2)(C) provides that if a NICS check indicates receipt of a firearm by a prospective purchaser would not violate Federal or State law, [T]he system shall . . . destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

The Brady law does not require the Form 4473 to be destroyed after each firearm transaction. The "system" mentioned in the law refers to the national instant background check system (NICS) established by the Attorney General. In addition, the Department of Justice has issued proposed regulations with respect to the destruction of records in the NICS (AG Order No. 2158-98; June 4, 1998, 63 FR 30430).

Several commenters misinterpreted Sec. 178.124(c) (3) as proposed by ATF. It is their understanding that the regulation requires licensees to provide NICS with information regarding the firearm being transferred (e.g., type, model, caliber or gauge, etc.). The commenters are opposed to NICS collecting and maintaining such information. The proposed regulation was not intended to require licensees to provide NICS with specific information about an individual's firearms purchase. For clarification purposes, ATF is amending Sec. 178.124(c) and revising Form 4473 to specify that information about the firearm being transferred (e.g., the name of the manufacturer, the type, model, caliber, etc.) will be recorded on the Form 4473 by the licensee after the completion of the NICS check.

Civil Penalties

As explained in the notice of proposed rulemaking, section 922(t)(5) of the GCA provides that a licensee who knowingly transfers a firearm and knowingly fails to comply with the provisions of section 922(t)(1) with respect to the transfer may be subject to revocation or suspension of the license for up to 6 months and a civil fine of not more than \$5,000. This provision applies only where at the time that the transferee most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that the transferee's receipt of a firearm would violate section 922(g) or (n) of the GCA, or State law.

The GCA, 18 U.S.C. 923(e), already provides ATF with authority to revoke a firearms license, after notice and opportunity for hearing, where the licensee has willfully violated any of the provisions of the GCA or the regulations issued thereunder. Furthermore, section 923(f) provides that revocation actions are subject to de novo judicial review by the district court in which the licensee resides or has his principal place of business.

ATF is amending Subpart E of Part 178 to provide that the existing procedures for revocation of licenses will also apply to the suspension and revocation of licenses under section 922(t)(5), as well as the imposition of a civil fine under this provision. The final rule also clarifies that such actions are subject to de novo judicial review by the district court.

Miscellaneous

Approximately 3,700 commenters expressed opposition to proposed Sec. 178.97(b). This section requires a NICS check where a club or similar organization temporarily furnishes firearms to participants in a trap or similar shooting activity for use off the premises. The commenters contend that this requirement "is neither required by, nor is consistent with, the statute." ATF views the activity mentioned above in the same manner as the loan or rental of a firearm to a nonlicensee for temporary use off the licensed premises for lawful sporting purposes. In that regard, Sec. 178.97(a) requires the licensee to record the transaction in his permanent records of acquisition and disposition and on Form 4473. It is ATF's position that such a transfer is subject to the requirements of the Brady law. Accordingly, Sec. 178.97(b) is adopted in the final regulations as proposed.

ATF is amending Sec. 178.102(c) by revising Example 2 at the end of the section to clarify that a firearms transaction is completed when the licensee executes the Form 4473 and the firearm is transferred to the purchaser. Some commenters believe the wording of the proposed regulation is confusing and implies that a firearms transaction is completed when the licensee executes the Form 4473, regardless of when the actual transfer of the firearm takes place.

The proposed regulation in Sec. 178.125(e) would have required dealers to record in their records of disposition the identification number provided by NICS. ATF has determined that requirement is unnecessary since the final regulations require licensees to record the unique identification number provided by NICS on Form 4473 and to retain each Form 4473 for a period of not less than 20 years after the date of sale or disposition.

Accordingly, ATF is not amending the regulation.

Finally, section 178.125a(a) is being amended to provide that licensees are not required to comply with the provisions of Sec. 178.102 when selling firearms from the licensee's personal collection, provided that the licensee has maintained the firearm as part of his or her personal collection for at least one year.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

Regulatory Flexibility Act

It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities.

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. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The collections of information contained in this final regulation have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507(d)) under control number 1512-0544. Other collections of information contained in this final rule have been approved under control numbers: 1512-0520, 1512-0006, and 1512-0524 (Sec. 178.129(c)) and 1512-0129 and 1512-0526 (Sec. 178.129(d), (e), and (f)). 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.

The collections of information in this final rule are in 27 CFR 178.102, 178.124(c), 178.129(b), 178.131, and 178.150. This information is required to implement the provisions of Public Law 103-159, relating to the permanent provisions of the Brady Handgun Violence Prevention Act. The collections of information are required to ensure compliance with the law. The likely respondents and/or recordkeepers are individuals and businesses.

Estimated number of respondents: 106,000.

Estimated burden hours: 1 hour.

However, the above mentioned regulations which implement the Brady law require amendments to ATF Form 4473. In order to prevent a duplication of burden hours, the burden hours that are associated with the collections of information in these regulations (1,136,266 hours) will be reported under OMB control number 1512-0129, the Supporting Statement for ATF Form 4473, Firearms Transaction Record, Part I. The following paragraphs explain the additional burden hours.

Section 178.102 requires, with some exceptions, licensees to contact NICS before transferring any firearm to an unlicensed individual. The estimated total annual reporting and/or recordkeeping burden associated with this requirement is 824,000 hours. Section 178.124(c) requires licensees to record on Form 4473 the date the licensee contacts NICS and any identification number provided by NICS. The licensee must also verify the identity of the person acquiring the firearm by examining an identification document presented by the transferee. Form 4473 will include certain optional information about the purchaser, such as the person's social security number and alien registration number. Section 178.131 requires licensees to maintain certain records for firearms transactions not subject to a NICS check.

The estimated total annual reporting and/or recordkeeping burden associated with Secs. 178.124(c) and 178.131 is 308,266 hours. Section 178.129(b) requires licensees to retain a completed Form 4473 for a period of not less than 5 years where the transfer of a firearm is not made. The estimated total annual recordkeeping burden associated with this requirement is 4,000 hours. Section 178.150 provides for an alternative to NICS in certain geographical locations. Licensees must submit a written application to the Director containing certain information. The same requirement currently applies to the waiting period provision of the Brady law for transfers of handguns. Since this requirement was established in 1994, no licensee has qualified for an exception from the provisions of Brady based on geographical location. As such, ATF does not believe that there is any reporting and/or recordkeeping burden associated with the requirements of Sec. 178.150 with regard to NICS.

Certain collections of information contained in Sec. 178.129(b), previously approved under control numbers 1512-0520, 1512-0006, and 1512-0524, are merely being redesignated as Sec. 178.129(c) in this final rule. Similarly, the collections of information in Sec. 178.129(c), (d), and (e), previously approved under control numbers 1512-0129 and 1512-0526, are being redesignated as Sec. 178.129(d), (e), and (f) in the final regulation.

Comments concerning the accuracy of these burden estimates and suggestions for reducing the burden should be directed to the Chief, Document Services Branch, Room 3110, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503.

Disclosure

Copies of the notice of proposed rulemaking, all written comments, and this final rule will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts

Avenue, NW., Washington, DC. Drafting Information.
The author of this document is James P. Ficaretta,
Regulations Division, Bureau of Alcohol, Tobacco and
Firearms.

List of Subjects

27 CFR Part 178

Administrative practice and procedure, Arms and
ammunition, Authority delegations, Customs duties and
inspection, Exports, Imports, Military personnel, Penalties,
Reporting requirements, Research, Seizures and forfeitures,
and Transportation.

27 CFR Part 179

Administrative practice and procedure, Arms and
munitions, Authority delegations, Customs duties and
inspection, Exports, Imports, Military personnel, Penalties,
Reporting requirements, Research, Seizures and forfeitures,
and Transportation.

Authority and Issuance

For the reasons discussed in the preamble, ATF amends
27 CFR Parts 178 and 179 as follows:

PART 178--COMMERCE IN FIREARMS AND AMMUNITION

Paragraph 1. The authority citation for 27
CFR Part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847,
921-930; 44 U.S.C. 3504(h).

Par. 2. Section 178.11 is amended by adding
a definition for "NICS" to read as follows:

§ 178.11 Meaning of terms.

* * * * *

NICS. The National Instant Criminal Background
Check System established by the Attorney General pursuant
to 18 U.S.C. 922(t).

* * * * *

Par. 3. Section 178.73 is revised to read as follows:

§ 178.73 Notice of revocation, suspension, or imposition of civil fine.

(a) Basis for action. Whenever the regional director (compliance) has reason to believe that a licensee has willfully violated any provision of the Act or this part, a notice of revocation of the license, ATF Form 4500, may be issued. In addition, a notice of revocation, suspension, or imposition of a civil fine may be issued on ATF Form 4500 whenever the regional director (compliance) has reason to believe that a licensee has knowingly transferred a firearm to an unlicensed person and knowingly failed to comply with the requirements of 18 U.S.C. 922(t)(1) with respect to the transfer and, at the time that the transferee most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that the transferee's receipt of a firearm would violate 18 U.S.C. 922(g) or 922(n) or State law.

(b) Issuance of notice. The notice shall set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The regional director (compliance) shall afford the licensee 15 days from the date of receipt of the notice in which to request a hearing prior to suspension or revocation of the license, or imposition of a civil fine. If the licensee does not file a timely request for a hearing, the regional director (compliance) shall issue a final notice of suspension or revocation and/or imposition of a civil fine on ATF Form 4501, as provided in Sec. 178.74.

Par. 4. Section 178.74 is revised to read as follows:

§ 178.74 Request for hearing after notice of suspension, revocation, or imposition of civil fine.

If a licensee desires a hearing after receipt of a notice of suspension or revocation of a license, or imposition of a civil fine, the licensee shall file a request, in duplicate, with the regional director (compliance) within 15 days after receipt of the notice of suspension or revocation of a license, or imposition of a civil fine. On receipt of such request, the regional director (compliance) shall, as expeditiously as possible, make necessary arrangements for the hearing and advise the licensee of the date, time, location and the name of the officer before whom the hearing will be held. Such notification shall be made no less than 10 days in advance of the date set for the hearing. On conclusion of the hearing and consideration of all the relevant presentations made by the licensee or the licensee's

representative, the regional director (compliance) shall render a decision and shall prepare a brief summary of the findings and conclusions on which the decision is based. If the decision is that the license should be revoked, or, in actions under 18 U.S.C. 922(t)(5), that the license should be revoked or suspended, and/or that a civil fine should be imposed, a certified copy of the summary shall be furnished to the licensee with the final notice of revocation, suspension, or imposition of a civil fine on ATF Form 4501. If the decision is that the license should not be revoked, or in actions under 18 U.S.C. 922(t)(5), that the license should not be revoked or suspended, and a civil fine should not be imposed, the licensee shall be notified in writing.

Par. 5. Section 178.78 is revised to read as follows:

§ 178.78 Operations by licensee after notice.

In any case where denial, suspension, or revocation proceedings are pending before the Bureau of Alcohol, Tobacco and Firearms, or notice of denial, suspension, or revocation has been served on the licensee and he has filed timely request for a hearing, the license in the possession of the licensee shall remain in effect even though such license has expired, or the suspension or revocation date specified in the notice of revocation on Form 4500 served on the licensee has passed: Provided, That with respect to a license that has expired, the licensee has timely filed an application for the renewal of his license. If a licensee is dissatisfied with a posthearing decision revoking or suspending the license or denying the application or imposing a civil fine, as the case may be, he may, pursuant to 18 U.S.C. 923(f)(3), within 60 days after receipt of the final notice denying the application or revoking or suspending the license or imposing a civil fine, file a petition for judicial review of such action. Such petition should be filed with the U.S. district court for the district in which the applicant or licensee resides or has his principal place of business. In such case, when the regional director (compliance) finds that justice so requires, he may postpone the effective date of suspension or revocation of a license or authorize continued operations under the expired license, as applicable, pending judicial review.

Par. 6. Section 178.96 is amended by revising the first sentence in paragraph (b), and by revising paragraph (c) to read as follows:

§ 178.96 Out-of-State and mail order sales.

* * * * *

(b) A licensed importer, licensed manufacturer, or licensed dealer may sell a firearm that is not subject to the provisions of Sec. 178.102(a) to a nonlicensee who does not appear in person at the licensee's business premises if the nonlicensee is a resident of the same State in which the licensee's business premises are located, and the nonlicensee furnishes to the licensee the firearms transaction record, Form 4473, required by Sec. 178.124.

* * * * *

(c) (1) A licensed importer, licensed manufacturer, or licensed dealer may sell or deliver a rifle or shotgun, and a licensed collector may sell or deliver a rifle or shotgun that is a curio or relic to a nonlicensed resident of a State other than the State in which the licensee's place of business is located if--

(i) The purchaser meets with the licensee in person at the licensee's premises to accomplish the transfer, sale, and delivery of the rifle or shotgun;

(ii) The licensed importer, licensed manufacturer, or licensed dealer complies with the provisions of Sec. 178.102;

(iii) The purchaser furnishes to the licensed importer, licensed manufacturer, or licensed dealer the firearms transaction record, Form 4473, required by Sec. 178.124; and

(iv) The sale, delivery, and receipt of the rifle or shotgun fully comply with the legal conditions of sale in both such States.

(2) For purposes of paragraph (c) of this section, any licensed manufacturer, licensed importer, or licensed dealer is presumed, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both such States.

Par. 7. Section 178.97 is revised to read as follows:

§ 178.97 Loan or rental of firearms.

(a) A licensee may lend or rent a firearm to any person for temporary use off the premises of the licensee for lawful sporting purposes: Provided, That the delivery of the firearm to such person is not prohibited by Sec. 178.99(b) or Sec. 178.99(c), the licensee complies with the requirements of Sec. 178.102, and the licensee records such loan or rental in the records required to be kept by him under Subpart H of this part.

(b) A club, association, or similar organization temporarily furnishing firearms (whether by loan, rental, or otherwise) to participants in a skeet, trap, target, or similar shooting activity for use at the time and place such activity is held does not, unattended by other circumstances, cause such club, association, or similar organization to be engaged in the business of a dealer in firearms or as engaging in firearms transactions. Therefore, licensing and recordkeeping requirements contained in this part pertaining to firearms transactions would not apply to this temporary furnishing of firearms for use on premises on which such an activity is conducted.

Par. 8. Section 178.102 is revised to read as follows:

§ 178.102 Sales or deliveries of firearms on and after November 30, 1998.

(a) Background check. Except as provided in paragraph (d) of this section, a licensed importer, licensed manufacturer, or licensed dealer (the licensee) shall not sell, deliver, or transfer a firearm to any other person who is not licensed under this part unless the licensee meets the following requirements:

(1) Before the completion of the transfer, the licensee has contacted NICS;

(2)(i) NICS informs the licensee that it has no information that receipt of the firearm by the transferee would be in violation of Federal or State law and provides the licensee with a unique identification number; or

(ii) Three business days (meaning days on which State offices are open) have elapsed from the date the licensee contacted NICS and NICS has not notified the licensee that receipt of the firearm by the transferee would be in violation of law; and

(3) The licensee verifies the identity of the transferee by examining the identification document presented in accordance with the provisions of Sec. 178.124(c).

Example for paragraph (a). A licensee contacts NICS on Thursday, and gets a "delayed" response. The licensee does not get a further response from NICS. If State offices are not open on Saturday and Sunday, 3 business days would have elapsed on the following Tuesday. The licensee may transfer the firearm on the next day, Wednesday.

(b) Transaction number. In any transaction for which a licensee receives a transaction number from NICS (which shall include either a NICS transaction number or, in States where the State is recognized as a point of contact for NICS checks, a State transaction number), such number shall be recorded on a firearms transaction record, Form 4473, which shall be retained in the records of the licensee in accordance with the provisions of Sec. 178.129. This applies regardless of whether the transaction is approved or denied by NICS, and regardless of whether the firearm is actually transferred.

(c) Time limitation on NICS checks. A NICS check conducted in accordance with paragraph

(a) of this section may be relied upon by the licensee only for use in a single transaction, and for a period not to exceed 30 calendar days from the date that NICS was initially contacted. If the transaction is not completed within the 30-day period, the licensee shall initiate a new NICS check prior to completion of the transfer.

Example 1 for paragraph (c). A purchaser completes the Form 4473 on December 15, 1998, and a NICS check is initiated by the licensee on that date. The licensee is informed by NICS that the information available to the system does not indicate that receipt of the firearm by the transferee would be in violation of law, and a unique identification number is provided. However, the State imposes a 7-day waiting period on all firearms transactions, and the purchaser does not return to pick up the firearm until January 22, 1999. The licensee must conduct another NICS check before transferring the firearm to the purchaser.

Example 2 for paragraph (c). A purchaser completes the Form 4473 on January 25, 1999, and arranges for the purchase of a single firearm. A NICS check is initiated by the licensee on that date. The licensee is informed by NICS that the information available to the system does not indicate that receipt of the firearm by the transferee would be in violation of law, and a unique identification number is provided. The State imposes a 7-day waiting period on all firearms transactions, and the purchaser returns to pick up the firearm on February 15, 1999. Before the licensee executes the Form 4473, and the firearm is transferred, the purchaser decides to purchase an additional firearm. The transfer of these two firearms is considered a single transaction; accordingly, the licensee may add the second firearm to the Form 4473, and transfer that firearm without conducting another NICS check.

Example 3 for paragraph (c). A purchaser completes a Form 4473 on February 15, 1999. The licensee receives a unique identification number from NICS on that date, the Form 4473 is executed by the licensee, and the firearm is transferred. On February 20, 1999, the purchaser returns to the licensee's premises and wishes to purchase a second firearm. The purchase of the second firearm is a separate transaction; thus, a new NICS check must be initiated by the licensee.

(d) Exceptions to NICS check. The provisions of paragraph (a) of this section shall not apply if--

(1) The transferee has presented to the licensee a valid permit or license that--

(i) Allows the transferee to possess, acquire, or carry a firearm;

(ii) Was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(iii) The law of the State provides that such a permit or license is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by the transferee would be in violation of Federal, State, or local law: Provided, That on and after November 30, 1998, the information available to such official includes the NICS;

(2) The firearm is subject to the provisions of the National Firearms Act and has been approved for transfer under 27 CFR Part 179; or

(3) On application of the licensee, in accordance with the provisions of Sec. 178.150, the Director has certified that

compliance with paragraph (a)(1) of this section is impracticable.
(e) The document referred to in paragraph (d)(1) of this section (or a copy thereof) shall be retained or the required information from the document shall be recorded on the firearms transaction record in accordance with the provisions of Sec. 178.131.

(Approved by the Office of Management and Budget under control number 1512-0544)

Par. 9. Section 178.124

is amended by revising paragraph (c), by removing "paragraph (c) (1)(ii)" in paragraphs (d) and (e) and adding in its place "paragraph (c) (3)(ii)", by revising the first sentence in paragraph (f), and by revising the parenthetical text at the end of the section to read as follows:

§ 178.124 Firearms transaction record.

* * * * *

(c) (1) Prior to making an over-the-counter transfer of a firearm to a nonlicensee who is a resident of the State in which the licensee's business premises is located, the licensed importer, licensed manufacturer, or licensed dealer so transferring the firearm shall obtain a Form 4473 from the transferee showing the transferee's name, sex, residence address (including county or similar political subdivision), date and place of birth; height, weight and race of the transferee; whether the transferee is a citizen of the United States; the transferee's State of residence; and certification by the transferee that the transferee is not prohibited by the Act from transporting or shipping a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce.

(2) In order to facilitate the transfer of a firearm and enable NICS to verify the identity of the person acquiring the firearm, ATF Form 4473 also requests certain optional information. This information includes the transferee's social security number and alien registration number (if applicable). Such information may help avoid the possibility of the transferee being misidentified as a felon or other prohibited person.

(3) After the transferee has executed the Form 4473, the licensee:

(i) Shall verify the identity of the transferee by examining the identification document (as defined in Sec. 178.11) presented, and shall note on the Form 4473 the type of identification used;

(ii) Shall, in the case of a transferee who is an alien legally in the United States, cause the transferee to present documentation establishing that the transferee is a resident of the State (as defined in Sec. 178.11) in which the licensee's business premises is located, and shall note on the form the documentation used. Examples of acceptable documentation include utility bills or a lease agreement which show that the transferee has resided in the State continuously for at least 90 days prior to the transfer of the firearm; and

(iii) Shall comply with the requirements of Sec. 178.102 and record on the form the date on which the licensee contacted the NICS, as well as any response provided by the system, including any identification number provided by the system.

(4) The licensee shall identify the firearm to be transferred by listing on the Form 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm.

(5) The licensee shall sign and date the form if the licensee does not know or have reasonable cause to believe that the transferee is disqualified by law from receiving the firearm and transfer the firearm described on the Form 4473.

* * * * *

(f) Form 4473 shall be submitted, in duplicate, to a licensed importer, licensed manufacturer, or licensed dealer by a transferee who is purchasing or otherwise acquiring a firearm by other than an over-the-counter transaction, who is not subject to the provisions of Sec. 178.102(a), and who is a resident of the State in which the licensee's business premises are located.

* * * * *

(Paragraph (c) approved by the Office of Management and Budget under control number 1512-0544; paragraph (f) approved by the Office of Management and Budget under control number 1512-0130; all other recordkeeping approved by the Office of Management and Budget under control number 1512-0129)

§ 178.124a
[Amended]

Par. 10. Section 178.124a is amended by removing the period at the end of the introductory text of paragraph (e) and adding in its place a colon.

§ 178.125a

[Amended]

Par. 11. Section 178.125a is amended by adding "comply with the provisions of Sec. 178.102 or" after the phrase "is not required to" in the introductory text of paragraph (a).

Par. 12. Section 178.129 is amended by revising paragraph (b), by redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), by adding new paragraph (c), and by revising the parenthetical text at the end of the section to read as follows:

§ 178.129 Record retention.

* * * * *

(b) Firearms transaction record. Licensees shall retain each Form 4473 and Form 4473(LV) for a period of not less than 20 years after the date of sale or disposition. Where a licensee has initiated a NICS check for a proposed firearms transaction, but the sale, delivery, or transfer of the firearm is not made, the licensee shall record any transaction number on the Form 4473, and retain the Form 4473 for a period of not less than 5 years after the date of the NICS inquiry.

Forms 4473 shall be retained in the licensee's records as provided in Sec. 178.124(b): Provided, That Forms 4473 with respect to which a sale, delivery or transfer did not take place shall be separately retained in alphabetical (by name of transferee) or chronological (by date of transferee's certification) order.

(c) Statement of intent to obtain a handgun, reports of multiple sales or other disposition of pistols and revolvers, and reports of theft or loss of firearms. Licensees shall retain each Form 5300.35 (Statement of Intent to Obtain a Handgun(s)) for a period of not less than 5 years after notice of the intent to obtain the handgun was forwarded to the chief law enforcement officer, as defined in Sec. 178.150(c). Licensees shall retain each copy of Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) for a period of not less than 5 years after the date of sale or other disposition. Licensees shall retain each copy of Form 3310.11 (Federal Firearms Licensee Theft/Loss Report) for a

period of not less than 5 years after the date the theft or loss was reported to ATF.

* * * * *

(Paragraph (b) approved by the Office of Management and Budget under control number 1512-0544; Paragraph (c) approved by the Office of Management and Budget under control numbers 1512-0520, 1512-0006, and 1512-0524; Paragraph (f) approved by the Office of Management and Budget under control number 1512-0526; all other recordkeeping approved by the Office of Management and Budget under control number 1512-0129)

§ 178.130 [Removed]

Par. 13. Section 178.130 is removed.

Par. 14. Section 178.131 is revised to read as follows:

§ 178.131 Firearms transactions not subject to a NICS check.

(a)(1) A licensed importer, licensed manufacturer, or licensed dealer whose sale, delivery, or transfer of a firearm is made pursuant to the alternative provisions of Sec. 178.102(d) and is not subject to the NICS check prescribed by Sec. 178.102(a) shall maintain the records required by paragraph (a) of this section.

(2) If the transfer is pursuant to a permit or license in accordance with Sec. 178.102(d)(1), the licensee shall either retain a copy of the purchaser's permit or license and attach it to the firearms transaction record, Form 4473, or record on the firearms transaction record, Form 4473, any identifying number, the date of issuance, and the expiration date (if provided) from the permit or license.

(3) If the transfer is pursuant to a certification by ATF in accordance with Secs. 178.102(d)(3) and 178.150, the licensee shall maintain the certification as part of the records required to be kept under this subpart and for the period prescribed for the retention of Form 5300.35 in Sec. 178.129(c).

(b) The requirements of this section shall be in addition to any other recordkeeping requirements contained in this part.

(Approved by the Office of Management and Budget under control number 1512-0544)

Par. 15. Section 178.150
is revised to read as follows:

**§ 178.150 Alternative
to NICS in certain geographical locations.**

(a) The provisions of Sec. 178.102(d)(3) shall be applicable when the Director has certified that compliance with the provisions of Sec. 178.102(a)(1) is impracticable because:

- (1) The ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;
- (2) The business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and
- (3) There is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(b) A licensee who desires to obtain a certification under this section shall submit a written request to the Director. Each request shall be executed under the penalties of perjury and contain information sufficient for the Director to make such certification.

Such information shall include statistical data, official reports, or other statements of government agencies pertaining to the ratio of law enforcement officers to the number of square miles of land area of a State and statements of government agencies and private utility companies regarding the absence of telecommunications facilities in the geographical area in which the licensee's business premises are located.

(c) For purposes of this section and Sec. 178.129(c), the "chief law enforcement officer" means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(Approved by the Office of Management and Budget
under control number 1512-0544)

**PART 179--MACHINE GUNS,
DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS**

Par. 16. The authority
citation for 27 CFR part 179 continues to read as follows:

Authority: 26 U.S.C.
7805.

Par. 17. Section 179.86

is amended by adding a sentence at the end of the section to read as follows:

§ 179.86 Action on application.

* * * * *

In addition to any other records checks that may be conducted to determine whether the transfer, receipt, or possession of a firearm would place the transferee in violation of law, the Director shall contact the National Instant Criminal Background Check System.

Signed: October 1, 1998.

John W. Magaw,
Director.

Approved: October 16, 1998.

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

[FR Doc. 98-28986
Filed 10-28-98; 8:45 am]

Announcements - VI

Announcement 98-9

**Major Disaster Areas
Proclaimed by the President**

The President has determined that certain areas of the United States were adversely affected by disasters of sufficient magnitude to warrant Federal assistance under the Disaster Relief Act of 1974. The specific areas adversely affected as identified by the Administrator, Federal Emergency Management Agency (FEMA) are listed below.

Persons in the affected areas holding for sale alcoholic beverages, cigars, cigarettes, or cigarette papers or tubes, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of these disasters, may be paid an amount equal to the internal revenue taxes and customs duties paid on such products, as provided in 26 U.S.C. 564 and 5708. Claims for such payments should be filed with the District Director (Regulatory Enforcement Operations), Bureau of Alcohol, Tobacco and Firearms, for

the ATF district in which the alcoholic beverages, cigarettes, etc., were held for sale. Claims may be allowed only if filed within six months after the date the FEMA identifies the specific disaster area.

ALABAMA 1250 October

14, 1998

Type of Disaster: Hurricane Georges

Counties: Baldwin, Butler, Choctaw, Clarke, Coffee, Conecuh, Covington, Crenshaw, Escambia, Geneva, Lowndes, Mobile, Monroe, Washington

ALABAMA 3133 October

14, 1998

Type of Disaster: Hurricane Georges

Counties: Baldwin, Butler, Clarke, Coffee, Conecuh, Covington, Crenshaw, Escambia, Geneva, Mobile, Monroe, Washington

FLORIDA 1241

September 21, 1998

Type of Disaster:

Hurricane Earl

Counties: Bay, Dixie, Franklin, Gulf, Wakulla

FLORIDA 1249 October

14, 1998

Type of Disaster: Hurricane Georges

Counties: Bay, Calhoun, Columbia, Escambia, Franklin, Gadsden, Gulf, Holmes, Jefferson, Liberty, Monroe, Okaloosa, Santa Rosa, Suwanee, Walton, Washington

FLORIDA 3131 October

14, 1998

Type of Disaster: Hurricane Georges

Counties: Bay, Escambia, Franklin, Gulf, Jackson, Okaloosa, Santa Rosa, Wakulla, Walton

FLORIDA 1259

December 4, 1998

Type of Disaster: Tropical

Storm Mitch

Counties: Monroe, Palm Beach

KANSAS 1254 November

3, 1998

Type of Disaster: Severe storms,
flooding, and tornadoes

Counties: Bourbon,

Douglas, Jackson, Johnson, Leavenworth, Linn, Seward, Wabaunsee,
Wyandotte

KANSAS 1258 December

4, 1998

Type of Disaster: Severe storms and
flooding

Counties: Butler, Chase, Coffey,

Cowley, Douglas, Franklin, Greenwood, Harper, Harvey, Johnson,
Leavenworth, Lyon, Marion, Neosho, Saline, Sedgwick, Sumner, Wilson,
Wyandotte

LOUISIANA 1246

October 5, 1998

Type of Disaster: Hurricane
Georges

Parishes: Acadia, Ascension,

Assumption, Cameron, Jefferson, Lafourche, Livingston, Orleans,
Plaquemines, St. Bernard, St. Charles, St. James, St. John, St. Martin,
St. Mary, St. Tammany, Tangipahoa, Terrebone, Vermillion, Washington

MISSISSIPPI 3132

October 14, 1998

Type of Disaster:
Hurricane Georges

Counties: Covington, Forrest,

George, Greene, Hancock, Harrison, Jackson, Jefferson Davis, Jones,
Lamar, Lawrence, Marion, Pearl River, Perry, Pike, Walthall, Wayne

MISSOURI 1253

November 3, 1998

Type of Disaster: Severe
storms and flooding

Counties: Barton, Carrol,

Cedar, Chariton, Clay, Jackson, Linn

NEW YORK 1244

September 25, 1998

Type of Disaster: Severe
storms and high winds

Counties: Cayuga, Fulton,

Herkimer, Madison, Monroe, Nassau, Oneida, Onondaga, Ontario, Orleans, Wayne

PUERTO RICO 3130

October 5, 1998

Type of Disaster: Hurricane
Georges

PUERTO RICO 1247

October 14, 1998

Type of Disaster:
Hurricane Georges

SOUTH CAROLINA 1243

September 21, 1998

Type of Disaster:
Hurricane Bonnie
County: Horry

TEXAS 1245 October

14, 1998

Type of Disaster: Tropical Storm
Frances

Counties: Brazoria, Galveston, Harris,
Jefferson, Matagorda

VIRGINIA 1242

September 21, 1998

Type of Disaster:
Hurricane Bonnie
Cities: Chesapeake, Norfolk,
Portsmouth, Suffolk, Virginia Beach

VIRGIN ISLANDS 1248

October 14, 1998

Type of Disaster:
Hurricane Georges
Islands: St. Croix, St. John,
St. Thomas, Water Island

VIRGIN ISLANDS 3129

October 5, 1998

Type of Disaster: Hurricane
Georges

WASHINGTON 1252

November 3, 1998

Type of Disaster: Severe

storms and flooding
Counties: Ferry, Stevens

WASHINGTON 1255

November 3, 1998

Type of Disaster:

Landslide

City: Kelso (Cowlitz County),
specifically the Aldercrest-Banyon subdivision

**Amendments to Previously
Declared Disasters**

MISSISSIPPI 1251

Amendment

Counties: Covington, Forrest,
George, Greene, Hancock, Harrison, Jackson, Jasper, Jefferson Davis,
Jones, Lamar, Marion, Pearl River, Perry, Pike, Stone, Wayne

NORTH CAROLINA 1240

Amendment

Counties: Bladen, Columbus,
Craven, Duplin, Jones, Pasquotant, Pitt, Tyrell, Washington

TEXAS 1257 Amendment

Counties: Atacosa, Austin, Bastrop, Bexar,
Blanco, Brazoria, Burleson, Caldwell, Calhoun, Colorado, Comal, DeWitt,
Fayette, Fort Bend, Galveston, Goliad, Gonzales, Guadalupe, Harris,
Hays, Jackson, Jefferson, Karnes, Liberty, Matagorda, Medino,
Montgomery, Nueces, Refugio, San Jacinto, San Patricio, Travis,
Victoria, Waller, Wharton, Wilson

Announcement

98-10

**Offers in
Compromise**

Company/Individual

Location Amount Alleged

California Wine Transport Inc. \$10,000 Failure
to reconcile records;
San Jose, CA Failed to
complete transfer in bond documents; Failed to prepare authentic bills
of lading; Failed to complete ATF F 5100.11, Withdrawal of Wine for

Export, for 58 shipments; Prepared false commercial documents, and stored tax paid wine on bonded premises.

E. & J. Gallo Winery \$50,000 Failed to comply with the Modesto, CA requirements of 26 U.S.C 5001,

5007, 5061, 5213 and 6656; and 27 CFR 19.515, 19.526 and 19.524(d).

The Pinkerton Tobacco Company \$26,000 Failure to maintain daily record Owensboro, KY of tobacco products; Failure to Retain production source records; Tobacco products were exported without proper markings, except for shipments to Canada during the period 1988 through October 1993; Failure to accurately categorize and report exported tobacco products; Failure to accurately report physical inventory of chewing tobacco on monthly report; Failure to obtain ATF approval to engage in business of manufacturing Cricket lighters; Failure to retain proof of EFT excise tax payments at permittee's premises; Failure to identify taxpaid and non-taxpaid tobacco products in the bonded storage warehouse.

The victoire French-American \$2,000 Submitted counterfeit Wine & Spirits Company, Inc. COLA's (represented as dba VICTOIRE IMPORTS currently approved); San Leandro, CA Submitted expired COLA's (represented as currently approved); Removed wines from Customs without a COLA.

Announcement 98-11

Revocations

Permittees not engaged in the operations authorized by their permit for a period of more than (2) years are subject to revocation. The following permit(s) have been revoked for this reason.

Company/Location

L'Surf Enterprises, Inc.
Pleasantville, NJ
(Wholesaler)

Announcement 98-12

Unified Agenda of Federal Regulations

ATF published its Unified Agenda of Federal Regulations in the Federal Register of November 9, 1998. The Unified Agenda is designed to give the public notice of ATF regulatory activities which will be under development and review during the period of April 1998 through October 1998. Information concerning specific items appearing in the following unified agenda should be directed to the appropriate contact person indicated.

Prerule Stage

American Viticultural Areas

RIN: 1512-AA07 (PRERULE)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 27 USC
205

CFR CITATION: 27 CFR 9

LEGAL DEADLINE: None

ABSTRACT: This rule establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

ANPRM.....11/00/98
California Coastal, CA (David Brokaw)
ANPRM 11/00/98

Chiles Valley, CA (contact Thomas Busey)
NPRM 03/20/98 (63 FR 13583)
Comment Period End 05/19/98

Final Rule
11/00/98

Diablo Grande, CA (contact David Brokaw)
NPRM 06/24/97 (62 FR 34027)
Comment Period End 08/25/97
Final Rule
06/22/98 (63 FR 33850)

Oak Knoll District, CA (Joyce Drake)
NPRM 11/00/98

San Francisco Bay, CA (contact David Brokaw)
NPRM 10/20/97 (62 FR 54399)
Comment Period End 01/20/98
Final Rule
11/00/98

Yorkville Highlands & Realignment of Mendocino,
CA (Marj Ruhf)
NPRM 07/25/97 (62 FR 39984)
NPRM Comment Period End 09/23/97
Final Rule 04/07/98 (63 FR 16902)
Final Rule
04/07/98 (63 FR 16902)

Yountville, CA (contact Thomas Busey)
NPRM 11/00/98

**REGULATORY FLEXIBILITY
ANALYSIS REQUIRED:** No

**GOVERNMENT LEVELS
AFFECTED:** None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: See
Timetable, American Viticultural Areas, Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW.,
Washington DC 20226, Phone: (202) 927-8230, Fax: (202) 927-8602

**Country of Origin Statements on Distilled Spirits
Labels**

RIN: 1512-AB72

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY:

19 USC 1304; 27 USC 205

CFR CITATION: 27 CFR 5

LEGAL DEADLINE: None

ABSTRACT: ATF plans to

issue an advance notice to obtain comments from consumers and industry members regarding the labeling of distilled spirits products. Specifically, ATF is requesting comments regarding how the requirement to identify the country of origin, found at 27 CFR 5.36(e) should be applied to mixtures of imported and domestic spirits.

Timetable:

ACTION DATE FR CITE

ANPRM.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

SMALL ENTITIES AFFECTED:

No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT:

Daniel J. Hiland,
Specialist,

Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,

650
Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8210,
202 927-8602
(FAX)

Proposed Rule Stage

Exportation of Liquors

RIN: 1512-AA98

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

LEGAL AUTHORITY: 26 USC
7805

CFR CITATION: 27 CFR 252

LEGAL DEADLINE: None

ABSTRACT:

ATF is proposing recodification of 27 CFR part 252 to eliminate obsolete or unnecessary rules and forms and streamline export processing, while providing adequate protection for the revenue.

Timetable:

ACTION DATE FR CITE

ANPRM.....09/08/92

57 FR 40887

ANPRM Comment Period

End.....10/08/92

ANPRM

Comment Period Extended.....10/15/92 57 FR 47320
ANPRM Comment Period Extended End.....12/07/92
ANPRM.....08/09/96
61 FR 41500
ANPRM Comment Period
End.....12/10/96
NPRM.....03/00/99

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT:

Marjorie Ruhf, Coordinator,
Department of the Treasury,
Bureau of
Alcohol, Tobacco and Firearms,
650 Massachusetts
Avenue NW.,
Washington, DC 20226,
202 927-8230,
202 927-8602 (FAX)

TITLE: Revision of
Brewery Regulations and Issuance of Regulations for
Taverns on Brewery Premises (Brewpubs)

RIN: 1512-AB37
(PROPOSED)

REGULATORY PLAN: Yes

PRIORITY: Other
Significant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing
Government effort.

It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

LEGAL AUTHORITY:

26 USC 5051 to 5056; 26 USC 5401 to 5417; 27 USC 205

CFR CITATION:

27 CFR 7; 27 CFR 25

LEGAL DEADLINE: None

ABSTRACT: ATF intends to

streamline regulations applying to breweries. ATF will eliminate obsolete regulatory provisions. A formula system for manufactured beer products will replace statements of process attached to the brewers notice. The annual notice for small brewers to pay reduced rate of tax will be eliminated. Separate regulations for brewpubs will be added to part 25. A section will be added to part 25 to authorize and regulate the alternating use of brewery premises by different brewers. Regulations authorizing the operation of brew-on-premises facilities will be added to part 25.

STATEMENT OF NEED: ATF

intends to streamline its regulations applying to the brewing industry. These changes will simplify brewery reports and operations and eliminate obsolete regulatory provisions. Specific changes would include the implementation of a formula system for the breweries to replace the statement of process; the establishment of a separate subpart containing simplified regulations for brewpubs; authorizing alternating brewery premises among different proprietors; eliminating the annual notice to pay reduced rate of tax for most breweries; authorizing brewers to file the Brewer's Report of Operations on a quarterly basis; and authorizing many brewers to take inventories quarterly rather than monthly. The rule will also propose minimum production standards for beer thereby reducing formula filings and a revised statement of net contents requirement for certain container sizes.

SUMMARY OF THE LEGAL BASIS:

ATF has undertaken this review of brewery regulations as part of the President's Regulatory Initiative. These regulations are issued under the general authority of the Secretary of the Treasury to promulgate regulations to implement the Internal Revenue Code and the Federal Alcohol Administration Act.

ALTERNATIVES: Not

applicable. ATF believes that industry will support these

regulatory changes because they will streamline regulatory requirements applying to the brewing industry.

ANTICIPATED COSTS AND

BENEFITS: The proposed regulations will benefit the brewing industry by reducing required inventories, notices, and other submissions to ATF.

RISKS: Not applicable.

Timetable:

ACTION DATE FR CITE

NPRM.....12/00/98

Interim Final

Rule.....12/00/99

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: Yes

SMALL ENTITIES AFFECTED:

Businesses

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Charles

N. Bacon, Coordinator,
Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8230,
202 927-8602 (FAX),
cnbacon@atf.gov
(EMAIL)

TITLE: Distilled Spirits
Plant Regulatory Initiative Proposal

RIN: 1512-AB58
(PROPOSED)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

LEGAL AUTHORITY: 26 USC
7805

CFR CITATION: 27 CFR
19.11; 27 CFR 19.49; 27 CFR 19.153; 27 CFR 19.201 to 206; 27 CFR 19.311; 27
CFR 19.454; 27 CFR 19.605; 27 CFR 19.770; 27 CFR 19.1001; 27 CFR 19.1003; 27
CFR 19.1010

LEGAL DEADLINE: None

ABSTRACT: ATF is

proposing changes to the distilled spirits plant regulations to implement the Administration's Reinventing Government effort to reduce the regulatory burden and streamline requirements. ATF believes these proposed changes will benefit distilled spirits plant proprietors and other industry members by enabling them to operate more easily and with less regulatory oversight from the Government. ATF is also requesting comments on the possibility of revising the distilled spirits plant recordkeeping requirements to accomplish the Government's goals through a system that would be based, as much as possible, on proprietors' own recordkeeping methods.

Timetable:

ACTION DATE FR CITE

NPRM.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: Yes

SMALL ENTITIES AFFECTED:

Businesses

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Steve
Simon, Specialist,
Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8210,
202 927-8602 (FAX)

TITLE: Implementation of
Public Law 105-34, Section 1416 Relating to
Refund
of Tax for Domestic Wine Returned to Bond Regardless of
Merchantability - (Taxpayer Relief Act of 1997)

RIN: 1512-AB74
(PROPOSED)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 26 USC
5044; 26 USC 5361; 26 USC 5367; 26 USC 5371

CFR CITATION: 27 CFR
24.66; 27 CFR 24.295; 27 CFR 24.312

LEGAL DEADLINE: None

ABSTRACT: ATF is issuing
three changes to the wine regulations as a result of the enactment of the
Taxpayer Relief Act of 1997. This amendment informs interested parties of a
change by the act that provides for a refund of the tax for all domestic
wine returned to bond, rather than, exclusively for un-merchantable wine
returned to bond.

Timetable:

ACTION DATE FR CITE

NPRM.....04/00/99

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

SMALL ENTITIES AFFECTED:

No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Mary A.

Wood, ATF Specialist,

Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,

650 Massachusetts Avenue NW.,

Washington DC 20226,

202 927-8185,

202 927-8602 (FAX)

TITLE: Implementation of

Public Law 105-34, Sections 1421 and 1422

RIN: 1512-AB75

(PROPOSED)

REGULATORY PLAN: No

PRIORITY: Substantive,

Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 26 USC

7805

CFR CITATION: 27 CFR 24;

27 CFR 25; 27 CFR 250; 27 CFR 251

LEGAL DEADLINE: None

ABSTRACT: This notice

implements section 1421 and 1422 of the Taxpayer

Relief Act of 1997. This will permit importation in bond of bulk containers of wine and beer.

TIMETABLE:

ACTION DATE FR CITE

NPRM.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

SMALL ENTITIES AFFECTED:

No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Marjorie

Ruhf, Specialist,
Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8202,
202 927-8602 (FAX),

mdruhf@atf.gov

(EMAIL)

TITLE: Commerce in

Explosives (Including Explosives in the Fireworks Industry)

RIN: 1512-AB48

(PROPOSED)

REGULATORY PLAN: Yes

PRIORITY: Other

Significant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 5 USC

552(a); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1612 to 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301; 31 USC 9303 to 9304; 40 USC 304(k)

CFR CITATION: 27 CFR 55

LEGAL DEADLINE: None

ABSTRACT: Pursuant to section 610 of the Regulatory Flexibility Act, ATF published a notice on January 10, 1997 seeking public comments on whether it should revise its regulations codified at 27 CFR part 55, governing Commerce in Explosives (Including Explosives in the Fireworks Industry). Based on comments received, ATF plans to initiate a rulemaking to revise these regulations in 1998.

STATEMENT OF NEED: This notice of proposed rulemaking will address many of the issues in part 55 - Commerce in Explosives, especially the issues in requirements for explosives, including fireworks explosive materials. Pursuant to the periodic review requirements of the Regulatory Flexibility Act (5 U.S.C. 610), ATF published on January 10, 1997 a General Notice initiating the review of a final rule published in 1990 concerning the storage of fireworks explosive materials. The 1990 rule, which was issued as a result of the number and severity of explosions occurring on the premises of special fireworks plants, amended certain regulations codified at 27 CFR part 55, generally concerning the recordkeeping and storage of fireworks explosive materials. The regulations also codified two fireworks related rulings issued in 1979 and 1985, and the provisions of Pub. L. 99-308 relating to black powder. As a result of the public comments received in response to the General Notice and further study of this issue, ATF will issue a notice of proposed rulemaking covering this and related commerce and storage of explosives issues.

SUMMARY OF THE LEGAL BASIS:

Section 847 of title 18, United States Code, grants the Secretary of the Treasury broad discretion to promulgate regulations necessary for the importation, manufacture, distribution and safe storage of explosives materials. Section 846 of title 18, United States Code, authorizes the Secretary to prescribe precautionary measures to prevent the recurrence of accidental explosions in which explosive materials were involved. The General Notice and upcoming notice of proposed rulemaking are also being issued pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610), which requires an agency to review within ten years of publication rules for which an agency prepared a final regulatory flexibility analysis

addressing the impact of the rule on small businesses or other small entities.

ALTERNATIVES:

Alternatives will be examined in the context of public comments to the notice of proposed rulemaking.

ANTICIPATED COSTS AND

BENEFITS: Unknown at this time.

RISKS: Not applicable.

Timetable:

ACTION DATE FR CITE

General Notice of Regulatory

Review.....01/10/97 62 FR 1386

NPRM.....12/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: Yes

SMALL ENTITIES AFFECTED:

Businesses

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: FIREARMS

PROCUREMENT: No

AGENCY CONTACT: James

Ficaretta, Specialist,

Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,

650 Massachusetts Avenue NW.,

Washington, DC 20226,

202 927-8310,

202 927-7488 (FAX)

TITLE: Implementation of

Public Law 104-208, the Omnibus Consolidated

Appropriations

Act of 1997, Relating to the Establishment of a National Repository for Arson and Explosives Information

RIN: 1512-AB73
(PROPOSED)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 18 USC 846(b)

CFR CITATION: 27 CFR 55

LEGAL DEADLINE: None

ABSTRACT: ATF is

issuing this temporary rule to implement certain provisions of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997 (the Act), enacted September 30, 1996. The Act amended the Federal explosives laws in title 18, United States Code, chapter 40, to require all Federal agencies to report to ATF any information involving arson or the suspected criminal misuse of explosives. The Act also authorizes ATF to establish a repository for this information. In addition, the law provides that such repository will contain information on incidents voluntarily reported to ATF by State and local authorities.

Timetable:

ACTION DATE FR CITE

NPRM.....02/00/99

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

SMALL ENTITIES AFFECTED:

No

GOVERNMENT LEVELS AFFECTED:

None

SUBJECT CODES: FIREARMS

PROCUREMENT: No

AGENCY CONTACT: James
Ficaretta, Program Manager,
Department of the
Treasury,
Bureau of Alcohol, Tobacco and Firearms,

650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8230,
202 927-8602 (FAX)

Final Rule Stage

TITLE: Procedures for
Revoking Previously Approved Certificates of Label
Approval, Exemptions From Label Approval, or Distinctive Liquor Bottle
Approvals

RIN: 1512-AB34 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive, Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 27 USC
205; 26 USC 5301; 26 USC 7805

CFR CITATION: 27 CFR
4.40; 27 CFR 4.50; 27 CFR 5.56; 27 CFR 5.51; 27 CFR 5.55; 27 CFR 7.31;
27 CFR 7.41; 27 CFR 13 (New); 27 CFR 19.633; 27 CFR 19.641

LEGAL DEADLINE: None

ABSTRACT: This
notice of proposed rulemaking proposes to establish regulatory
procedures to revoke previously approved certificates of label approval,
exemptions from label approval, or distinctive liquor bottle approvals.
These revocation procedures are necessary where label approvals, etc.,
have been made in error.

Adoption of these procedures will allow ATF to
revoke, in an orderly and efficient manner, label approvals, exemptions

from label approval, or distinctive liquor bottle approvals which have been made in error and will provide for appeals by industry members.

Timetable:

ACTION DATE FR CITE

NPRM.....09/13/95

60 FR 47506

NPRM Comment Period

End.....12/12/95

Reopening of

Comment Period.....01/22/96 61 FR 1545

Reopening of Comment Period End.....02/21/96

Final

Action.....12/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Marj

Ruhf, Coordinator,

Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,

650 Massachusetts Avenue NW.,

Washington DC 20226,

202 927-8230,

202 927-8602 (FAX)

TITLE: Labeling of

Unaged Grape Brandy

RIN: 1512-AB46 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive,

Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

LEGAL AUTHORITY: 27 USC
205

CFR CITATION: 27 CFR 5

LEGAL DEADLINE: None

ABSTRACT: ATF is proposing to amend the regulations to permit the use of the word "unaged" as an alternative to "immature," to describe grape brandy which has not been stored in oak containers.

Timetable:

ACTION DATE FR CITE

NPRM.....06/13/96 61

FR 30015

NPRM Comment Period

End.....09/11/96

Final

Action.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: Undetermined

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: James
Ficaretta, Coordinator,
Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8230,
202 927-8602 (FAX)

TITLE: Formulas for
Denatured Alcohol and Rum

RIN: 1512-AB60 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

LEGAL AUTHORITY: 5 USC
552(a); 26 USC 5242; 26 USC 7805

CFR CITATION: 27 CFR 21.3; 27 CFR 21.6; 27
CFR 21.11; 27 CFR 21.21; 27 CFR 21.31 to 21.34; 27 CFR 21.56; 27 CFR 21.65;
27 CFR 21.76; 27 CFR 21.91; 27 CFR 21.95 to 21.97

LEGAL DEADLINE: None

ABSTRACT: This document proposes to amend part 21 to incorporate denaturants that have been approved pursuant to applications but not yet published in this part, as well as to clarify the regulations where necessary. Additionally, this document proposes to make a minor technical correction.

Timetable:

ACTION DATE FR CITE

NPRM.....07/31/96

61 FR 39929

NPRM Comment Period

End.....09/30/96

Final

Action.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Mary
Wood, Specialist,
Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8185,
202 927-8602 (FAX)

TITLE: Implementation of
Wine Credit Provisions of Public Law 104-188

RIN: 1512-AB65 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 5 USC
552(a); 26 USC 5041

CFR CITATION: 27 CFR
24.278; 27 CFR 24.279

LEGAL DEADLINE: None

ABSTRACT:

ATF is amending wine regulations to implement a law change which allows certain transferees in bond to deduct small wine producers tax credit. Changes to bond calculation are also included in this regulation.

TIMETABLE:

ACTION DATE FR CITE

NPRM.....06/02/97
62 FR 29681

Interim Final
Rule.....06/02/97 62 FR 29663
NPRM Comment Period End.....08/01/97
Final
Action.....03/00/99

**REGULATORY FLEXIBILITY
ANALYSIS REQUIRED:** No

**GOVERNMENT LEVELS
AFFECTED:** None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Marjorie
Ruhf, Specialist,
Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8230,
202 927-8602 (FAX)

TITLE: Net Contents
Statement on Wine Labels

RIN: 1512-AB70 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:
This rulemaking is part of the Reinventing Government effort. It
will revise text in the CFR to reduce burden or duplication,
or streamline requirements.

LEGAL AUTHORITY: 27 USC
205(e)

CFR CITATION: 27 CFR 4

LEGAL DEADLINE: None

ABSTRACT: Based on a petition it has received, the Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to provide that the net contents statement for wine in containers of less than 1 liter may be expressed on the label in centiliters (cl) as an alternative to milliliters (ml).

Timetable:

ACTION DATE FR CITE

NPRM.....05/15/98

63 FR 27017

NPRM Comment Period

End.....08/13/98

Final

Action.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: James

Ficaretta, Coordinator,

Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,

650 Massachusetts Avenue NW.,

Washington, DC 20226,

301 927-8230,

202 927-8602 (FAX)

TITLE: Commerce in

Explosives

RIN: 1512-AB55 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive,

Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

LEGAL AUTHORITY: 18 USC 842; 18 USC 846; 18 USC 847

CFR CITATION: 27 CFR 55

LEGAL DEADLINE: None

ABSTRACT: The Bureau of Alcohol, Tobacco and Firearms proposes to amend the regulations in 27 CFR part 55 to: (1) require the explosives industry to notify the chief law enforcement officer and fire marshal of sites where explosives are stored; (2) increase license and permit fees; (3) eliminate the manufacturer limited license; (4) amend the definitions of "fireworks", "fireworks nonprocess building", "highway", etc.; and (5) amend the American table of distances to conform with the explosive industry's latest revisions.

Timetable:

ACTION DATE FR CITE

NPRM.....10/15/96

61 FR 53688

NPRM Comment Period

End.....01/13/97

Final

Action.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: Yes

SMALL ENTITIES AFFECTED:

Businesses

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES:

EXPLOSIVES

PROCUREMENT: No

AGENCY CONTACT: Mark

Waller, Specialist,

Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8310,
202 927-7488 (FAX)

TITLE:

Implementation of Public Law 104-132, the Antiterrorism and Effective Death Penalty Act of 1996, Relating to the Marking of Plastic Explosives for the Purpose of Detection

RIN: 1512-AB63 (FINAL)

REGULATORY PLAN: No

PRIORITY: Other
Significant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 18 USC
847; 22 USC 2778

CFR CITATION: 27 CFR 47;
27 CFR 55

LEGAL DEADLINE:

Other, Statutory, April 24, 1997. Provisions of the law will become effective 4/24/97.

ABSTRACT: This temporary rule implements certain provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (Public law 104-132). These regulations implement the law by requiring detection agents for plastic explosives. The temporary rule also authorizes the use of four specific detection agents to mark plastic explosives and provides for the designation of other detection agents.

Timetable:

ACTION DATE FR CITE

NPRM.....02/25/97
62 FR 8412
Interim Final
Rule.....02/25/97 62 FR 8374
NPRM Comment Period End.....05/27/97
62 FR 8374
Final
Action.....12/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES:

EXPLOSIVES

PROCUREMENT: No

AGENCY CONTACT: James

Ficaretta, Coordinator,
Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8230,
202 927-8602 (FAX)

TITLE: Firearms and
Ammunition Excise Taxes

RIN: 1512-AB33 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 26 USC

4181

CFR CITATION: 27 CFR 53

LEGAL DEADLINE: None

ABSTRACT:

Regulations will simplify the deposit rules for firearms and ammunition manufacturers excise taxes by revising the method for making deposits of these taxes.

Timetable:

ACTION DATE FR CITE

NPRM.....06/28/95

60 FR 33664

Interim Final

Rule.....06/28/95 60 FR 33665

NPRM Comment Period End.....09/26/95

Final

Action.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: FIREARMS

PROCUREMENT: No

AGENCY CONTACT:

Marsha Baker,
Specialist,
Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,
650
Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8210,
202 927-8602
(FAX)

TITLE: Firearms and
Ammunition Excise Taxes Parts and Accessories

RIN: 1512-AB49 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

LEGAL AUTHORITY: 26 USC
4181

CFR CITATION: 27 CFR
53.61(b)

LEGAL DEADLINE: None

ABSTRACT: This notice proposes regulations to clarify which parts and accessories must be included in the sale price when calculating the tax on firearms. More precise definitions should help taxpayers accurately compute their taxes and avoid underpayments, penalties and interest.

Timetable:

ACTION DATE FR CITE

NPRM.....08/29/96

61 FR 45377

NPRM Comment Period

End.....11/27/96

Final

Action.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: FIREARMS

PROCUREMENT: No

AGENCY CONTACT: Marsha
Baker, Specialist,
Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,

650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8210,
202 927-8602 (FAX)

TITLE: Commerce in
Firearms and Ammunition (Omnibus Consolidated
Appropriations Act of 1997)

RIN: 1512-AB64 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 18 USC
847; 18 USC 921 to 930

CFR CITATION: 27 CFR 178

LEGAL DEADLINE: None

ABSTRACT: The Omnibus Consolidated Appropriations Act of 1997 contains amendments to the Gun Control Act of 1986 (18 U.S.C. chapter 44). These amendments add to the category of "prohibited persons" anyone convicted of a "misdemeanor crime of domestic violence". The amendments require individuals acquiring handguns from Federal firearms licenses to certify (in accordance with the Brady Law) that they have not been convicted of such a crime. The amendments also provide for sales between Federal firearms licensees of curio and relic firearms away from their licensed premises.

Timetable:

ACTION DATE FR CITE

NPRM.....06/30/98

63 FR 35551

Interim Final

Rule.....06/30/98 63 FR 35520

NPRM Comment Period End.....09/28/98

Final
Action.....11/00/98

**REGULATORY FLEXIBILITY
ANALYSIS REQUIRED:** No

**GOVERNMENT LEVELS
AFFECTED:** None

SUBJECT CODES: FIREARMS

PROCUREMENT: No

AGENCY CONTACT: Barry
Fields, Specialist,
Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8230,
202 927-8602 (FAX)

TITLE: Residency
Requirement for Persons Acquiring Firearms

RIN: 1512-AB66 (FINAL)

REGULATORY PLAN: No

PRIORITY: Other
Significant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:
This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 5
USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR CITATION: 27 CFR 178

LEGAL DEADLINE: None

ABSTRACT: The temporary
rule amends the regulations to provide for a firearms purchaser's
affirmative statement of his or her State of residence on ATF Form 4473
(Firearms Transaction Record) and ATF Form 5300.35 (Statement of Intent to
Obtain a Handgun) in acquiring a firearm from a Federal firearms licensee.

The temporary rule also amends the regulations to require that aliens purchasing a firearm provide proof of residency through the use of substantiating documentation, such as utility bills or a lease agreement.

In addition, the regulations are being amended to require that licensees examine a photo identification document from aliens purchasing firearms. These regulations implement President Clinton's March 5, 1997, announcement of firearms initiatives intended to protect the American public from gun violence.

Timetable:

ACTION DATE FR CITE

NPRM.....04/21/97
62 FR 19446
Interim Final
Rule.....04/21/97 62 FR 19442
NPRM Comment Period End.....07/21/97
Final Action.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: FIREARMS

PROCUREMENT: No

AGENCY CONTACT: James
Ficaretta, Coordinator,
Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue,
Washington, DC 20226,
202 927-8230,
202 927-8602 (FAX)

TITLE: Brady Bill
Regulations--Permanent Provision

RIN: 1512-AB67 (FINAL)

REGULATORY PLAN: No

PRIORITY: Other
Significant

UNFUNDED MANDATES:

Undetermined

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 5

USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR CITATION: 27 CFR 178

LEGAL DEADLINE: None

ABSTRACT: This proposed rule implements the provisions of Public Law 103-159, relating to the permanent instant background check provision of the Brady Handgun Violence Prevention Act. The proposed regulations implement the law by requiring a licensed firearms importer, manufacturer, or dealer to contact the national instant criminal background check system (NICS) before transferring any firearm to a nonlicensed individual.

Timetable:

ACTION DATE FR CITE

NPRM.....02/19/98

63 FR 8379

NPRM Comment Period

End.....05/20/98

Final

Action.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: Undetermined

SUBJECT CODES: FIREARMS

PROCUREMENT: No

AGENCY CONTACT: James
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Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
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202 927-8230,
202 927-8602 (FAX)

TITLE: Posting of Signs
and Written Notifications to Purchasers of
Handguns

RIN: 1512-AB68 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 5

USC 522(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR CITATION: 27 CFR 178

LEGAL DEADLINE: None

ABSTRACT: The Bureau of
Alcohol, Tobacco and Firearms is proposing to amend
the regulations to require that signs be posted on the premises of
Federal firearms licensees and that written notifications be issued with
each handgun sold advising of the Youth Handgun Safety Act, 18 USC 922(x).

Timetable:

ACTION DATE FR CITE

NPRM.....08/27/97

62 FR 45364

NPRM Comment Period

End.....11/25/97

Final

Action.....11/00/98

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: FIREARMS

PROCUREMENT: No

AGENCY CONTACT: Marsha
Baker, Specialist,
Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8230,
202 927-8602 (FAX)

TITLE: Recodification of
Statement of Procedural Rules

RIN: 1512-AB54 (FINAL)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

LEGAL AUTHORITY: 18
USC 847; 18 USC 926; 26 USC 7805; 27 USC 201 to 219(a)

CFR CITATION: 27 CFR 70

LEGAL DEADLINE: None

ABSTRACT: ATF is
proposing to revise and recodify the statement of
procedural rules for ease of use.

Timetable:

ACTION DATE FR CITE

NPRM.....06/13/96
61 FR 30013
NPRM Comment Period
End.....08/12/96
Final
Action.....06/00/99

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES:

PROCEDURAL

PROCUREMENT: No

AGENCY CONTACT: Marjorie

Ruhf, Coordinator,
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Bureau of Alcohol, Tobacco and Firearms,
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Washington, DC 20226,
202 927-8230,
202 927-8602 (FAX)

Long-Term Actions

TITLE: Alcoholic Content
Labeling for Malt Beverages

RIN: 1512-AB17
(LONG-TERM)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing
Government effort.

LEGAL AUTHORITY: 27 USC
205(e)

CFR CITATION: 27 CFR 7

LEGAL DEADLINE: None

ABSTRACT: A 10/28/92
decision in the U.S. District Court for the District of Colorado held that

the Federal Alcohol Administration Act prohibition against the statement of alcoholic content on malt beverage labels is unconstitutional under the First Amendment. ATF issued an interim rule on 4/19/93 which permits the optional labeling of malt beverages with their alcoholic content. The Supreme Court heard oral arguments in the appeal of this court decision on 11/30/94. The Supreme Court decided this case on April 19, 1995, in favor of Coors, and unanimously found the FAA Act prohibition against labeling malt beverages with their alcohol content unconstitutional. ATF will issue an NPRM on the subject of malt beverage labeling to request information on tolerances, type size, placement, and whether such an alcoholic content labeling requirement should be mandatory.

Timetable:

ACTION DATE FR CITE

NPRM.....04/19/93

58 FR 21233

Interim Final

Rule.....04/19/93 58 FR 21228

NPRM Comment Period End.....07/19/93

NPRM Comment Period Extended.....07/19/93

58 FR 38543

NPRM Comment Period Extended

End.....09/17/93

Next Action Undetermined

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Charles

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(EMAIL)

TITLE: Distribution and Use of Tax-Free Alcohol

RIN: 1512-AB51
(LONG-TERM)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

LEGAL AUTHORITY: 26

USC 5001; 26 USC 5121; 26 USC 5142; 26 USC 5143; 26 USC 5146; 26 USC 5206; 26 USC 5214; 26 USC 5271 to 5276; 26 USC 5311; 26 USC 5552

CFR CITATION: 27 CFR

22.21; 27 CFR 22.25 to 22.27; 27 CFR 22.43; 27 CFR 22.59; 27 CFR 22.60; 27 CFR 22.62; 27 CFR 22.63; 27 CFR 22.68; 27 CFR 22.152

LEGAL DEADLINE: None

ABSTRACT: This

proposal is being issued to revise, eliminate, and liberalize certain regulatory requirements relating to tax-free alcohol. ATF believes that these proposed revisions will greatly reduce and simplify the qualification process governing the tax-free alcohol permit application process.

TIMETABLE:

ACTION DATE FR CITE

NPRM.....06/13/96

61 FR 30019

NPRM Comment Period

End.....08/12/96

Next Action

Undetermined

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Mary
Wood, Specialist,
Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,
650 Massachusetts Avenue NW.,
Washington, DC 20226,
202 927-8185,
202 927-8602 (FAX)

TITLE: Distribution of
Denatured Alcohol and Rum

RIN: 1512-AB57
(LONG-TERM)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

LEGAL AUTHORITY: 26
USC 5001; 26 USC 5206; 26 USC 5214; 26 USC 5241 to 5252

CFR CITATION: 27 CFR 20

LEGAL DEADLINE: None

ABSTRACT: ATF is conducting a complete review of all Federal Government regulations relating to the distribution and use of denatured alcohol and rum. ATF believes that the regulations can be modernized and simplified since the last major revision in 1985. ATF is proposing changes to the regulations to simplify such regulations so as to greatly reduce or eliminate unnecessary regulatory burden on industry members while continuing to provide adequate protection of the revenue.

Timetable:

ACTION DATE FR CITE

ANPRM.....06/13/96

61 FR 30019

ANPRM Comment Period

End.....08/12/96

Next Action

Undetermined

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: Undetermined

GOVERNMENT LEVELS AFFECTED:

None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Mary

Wood, Specialist,

Department of the Treasury,

Bureau of Alcohol, Tobacco and Firearms,

650 Massachusetts Avenue NW.,

Washington, DC 20226,

202 927-8185,

202 927-8602 (FAX)

TITLE: Production of

Volatile Fruit Flavored Concentrate

RIN: 1512-AB59

(LONG-TERM)

REGULATORY PLAN: No

PRIORITY: Substantive,

Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It

will revise text in the CFR to reduce burden or duplication,

or streamline requirements.

LEGAL AUTHORITY: 26

USC 5001; 26 USC 5172; 26 USC 5178; 26 USC 5179; 26 USC 5203; 26 USC 5511; 26 USC 5552; 26 USC 6065; 26 USC 7805; 44 USC 3504(h)

CFR CITATION:

27 CFR 18.56

LEGAL DEADLINE: None

ABSTRACT: The proposed amendment would specifically authorize the transfer of volatile fruit-flavor concentrate (VFFC) unfit for beverage use from one VFFC plant to another for further processing. The proposed amendment would clarify the regulations in order to allow greater flexibility in the production processes of VFFC plants.

Timetable:

ACTION DATE FR CITE

NPRM.....06/13/96

61 FR 30017

NPRM Comment Period

End.....08/12/96

Next Action

Undetermined

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Mary

Wood, Specialist,
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TITLE: Implementation of Public Law 105-34, Sections 908, 910 and 1415, Related To Hard Cider, Semi-generic Wine Designations and Wholesale Liquor Dealer's Signs

RIN: 1512-AB71
(LONG-TERM)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 26 USC
7805

CFR CITATION: 27 CFR 4;
27 CFR 19; 27 CFR 24; 27 CFR 194; 27 CFR 250;
27
CFR 251

LEGAL DEADLINE: None

ABSTRACT: This temporary rule implements some of the provisions of the Taxpayer Relief Act of 1997. The new law made changes in the excise tax on hard cider, clarified the authority to use semi-generic designations on wine labels, and repealed the requirement for wholesale dealers in liquors to post signs. The wine regulations are amended to incorporate the new hard cider tax rate and to recognize the labeling changes relative to the description to hard cider. These regulations are also amended to incorporate the semi-generic wine designations, and the liquor dealers' regulations are amended to eliminate the requirement for posting a sign.

Timetable:

Next Action Undetermined

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

SMALL ENTITIES AFFECTED:

No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT:

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(EMAIL)

TITLE: Alteration of
Labels on Containers of Distilled Spirits, Wine and Beer

RIN: 1512-AB76
(LONG-TERM)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 26 USC
5301; 26 USC 7805; 27 USC 205

CFR CITATION: 27 CFR 4;
27 CFR 5; 27 CFR 7

LEGAL DEADLINE: None

ABSTRACT:

ATF is proposing to amend the regulations in 27 CFR parts 4, 5, and 7. The proposed amendments to the regulations will require that a lot identification code be placed on the label or container of all

wine, malt beverage and distilled spirits products.

The lot identification code will be mandatory item of information and it will be illegal to remove or alter the codes.

Timetable:

ACTION DATE FR CITE

NPRM.....11/00/99

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: Undetermined

SMALL ENTITIES AFFECTED:

No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: ALCOHOL

PROCUREMENT: No

AGENCY CONTACT: Daniel

Hiland, Specialist,
Department of the Treasury,
Bureau of Alcohol, Tobacco and Firearms,
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TITLE: Exportation

of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax

RIN: 1512-AB03

(LONG-TERM)

REGULATORY PLAN: No

PRIORITY: Substantive,

Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:

This rulemaking is part of the Reinventing Government effort. It

will revise text in the CFR to reduce burden or duplication, or streamline requirements.

LEGAL AUTHORITY: 26 USC
7805

CFR CITATION: 27 CFR 290

LEGAL DEADLINE: None

ABSTRACT: ATF is proposing the recodification of 27 CFR part 290 to eliminate obsolete or unnecessary rules and forms and streamline export processing, while providing adequate protection for the revenue.

Timetable:

ACTION DATE FR CITE

ANPRM.....09/08/92

57 FR 40889

ANPRM Comment Period

End.....10/08/92

ANPRM Comment

Period Extended.....01/08/93 58 FR 3247

ANPRM Comment Period Extended End.....03/09/93

Next Action Undetermined

REGULATORY FLEXIBILITY

ANALYSIS REQUIRED: No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES: TOBACCO

PRODUCTS

PROCUREMENT: No

AGENCY CONTACT: Marjorie

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650 Massachusetts Avenue NW.,

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Completed Actions

TITLE: 27 CFR Part 70 --
Conference and Practice Requirements for the
Bureau
of Alcohol, Tobacco, and Firearms

RIN: 1512-AB11
(COMPLETED)

REGULATORY PLAN: No

PRIORITY: Substantive,
Nonsignificant

UNFUNDED MANDATES: No

MAJOR: No

REINVENTING GOVERNMENT:
This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 26 USC
7805

CFR CITATION: 27 CFR
70.511 to 70.526

LEGAL DEADLINE: None

ABSTRACT: This rule documents the adoption of certain conference and practice rules from IRS regulations in 26 CFR part 600 to ATF regulations in 27 CFR part 70. Currently the conference and practice regulations for ATF are still found in 26 CFR part 600 which is administered by IRS. By this final rule sections 601.521 through 601.525 are adopted in whole and applicable sections of 601.501 through 601.509 are adopted in part and placed in 27 CFR part 70 which is administered by ATF.

COMPLETED:

REASON DATE FR CITE

Withdrawn - Further Study
Required.....05/29/98

**REGULATORY FLEXIBILITY
ANALYSIS REQUIRED:** No

GOVERNMENT LEVELS

AFFECTED: None

SUBJECT CODES:

PROCEDURAL

PROCUREMENT: No

AGENCY CONTACT: Marsha

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