

Dated: July 11, 1996.

Lynn E. Davis,

*Under Secretary of State for Arms Control
and International Security Affairs.*

[FR Doc. 96-20373 Filed 8-8-96; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 252 and 290

[Notice No. 835; Re: Notice Numbers 752,
754, 761 and 764]

RIN 1512-AA98 and 1512-AB03

Exportation of Alcoholic Beverages, Denatured Alcohol, Tobacco Products and Cigarette Papers and Tubes (95R- 046P)

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

ACTION: Advance notice of proposed
rulemaking.

SUMMARY: As part of a regulatory reform
initiative, the Bureau of Alcohol,
Tobacco and Firearms (ATF) is
proposing to revise and recodify the
regulations covering exportation of
alcoholic beverages, beer concentrate,
specially denatured alcohol, tobacco
products, and cigarette papers and
tubes. Proposed changes include: setting
standards for satisfactory evidence of
exportation, streamlining export
procedures, and reducing the paperwork
burden on exporters.

DATES: Written comments must be
received by October 8, 1996.

ADDRESSES: Send written comments to:
Chief, Wine, Beer and Spirits
Regulations Branch, Bureau of Alcohol,
Tobacco and Firearms, P.O. Box 50221,
Washington, DC 20091-0221, *Attn:*
Notice No. 835. Copies of written
comments received in response to this
advance notice of proposed rulemaking
will be available for public inspection
during normal business hours at: ATF
Reference Library, Office of Public
Affairs and Disclosure, Room 6300, 650
Massachusetts Avenue, NW.,
Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT:
Marjorie D. Ruhf, Wine, Beer and Spirits
Regulations Branch, Bureau of Alcohol,
Tobacco and Firearms, 650
Massachusetts Avenue, NW.,
Washington, DC 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, President
Clinton announced a regulatory reform
initiative. As part of this initiative, each
Federal agency was instructed to
conduct a page by page review of all
agency regulations to identify those
which are obsolete or burdensome and
those whose goals could be better
achieved through the private sector,
self-regulation or state and local
governments. In cases where the
agency's review disclosed regulations
which should be revised or eliminated,
the agency would propose
administrative changes to its
regulations. In addition, on April 13,
1995, the Bureau published Notice 809
(60 FR 18783) requesting comments
from the public regarding which ATF
regulations could be improved or
eliminated. No specific comments were
received from the public concerning 27
CFR parts 252 and 290, but the Bureau
wishes to substantially revise these
parts of the regulations for reasons
discussed later in the supplementary
information.

Statutory Basis for Regulations

Since ATF wishes to open all areas of
the export regulations for comment at
this time, we will begin with a brief
summary of the underlying statutes. In
particular, we note there are some areas
where the statutory treatment of
different commodities varies widely.
Any future regulations will reflect these
statutory differences.

Distilled spirits may be withdrawn
without payment of tax for exportation
(after making such application, filing
such bonds, and complying with such
other requirements as may be
prescribed), for transfer to
foreign-trade zones, for use of certain
vessels and aircraft, or for transfer to a
customs bonded warehouse for
exportation, storage pending
exportation, or withdrawal and use by
eligible diplomatic personnel. See 26
U.S.C. 5175, 5214 and 5066.

Wine may be withdrawn from bonded
premises without payment of tax for
export by the proprietor or by any
authorized exporter (under such
regulations and bonds as the Secretary
may deem necessary); for transfer to any
foreign-trade zone; for use of certain
vessels and aircraft as authorized by
law; or for transfer to any customs
bonded warehouse. Wine entered into
customs bonded warehouses may be
withdrawn free of tax by eligible
diplomatic personnel. See 26 U.S.C.
5362.

Beer may be removed from brewery
premises without payment of tax for
exportation, use as supplies for certain
vessels and aircraft, or deposit in a
foreign trade zone for exportation or
storage pending exportation (in such
containers and under such regulations,
and on the giving of such notices,
entries, and bonds and other security, as
the Secretary may by regulations
prescribe). The brewer may also
withdraw beer concentrate without
payment of tax for exportation or for
deposit in a foreign trade zone. See 19
U.S.C. 81c, 26 U.S.C. 5053.

Distilled spirits may be withdrawn
free of tax for exportation after
denaturation in the manner prescribed
by law. See 26 U.S.C. 5214.

When taxpaid distilled spirits which
have been manufactured, produced,
bottled, or packaged in the United States
and marked especially for export are
exported, laden for use as supplies on
qualified vessels or aircraft, deposited in
a foreign trade zone for exportation or
storage pending exportation, or
deposited in a customs bonded
warehouse for tax free withdrawal and
use by accredited foreign diplomatic
personnel, the bottler or packager of the
spirits may claim drawback of the taxes
paid. The Secretary is authorized to
prescribe regulations governing the
determination and payment or crediting
of drawback, including the requirements
of such notices, bonds, bills of lading,
and other evidence indicating payment
and determination of tax and
exportation as are deemed necessary.
See 19 U.S.C. 81c and 1309, 26 U.S.C.
5062, 5066.

When taxpaid wine which has been
manufactured, produced, bottled, or
packaged in the United States is
exported, laden for use as supplies on
qualified vessels or aircraft, or deposited
in a foreign trade zone for exportation
or storage pending exportation,
drawback of tax may be claimed by the
proprietor of the bonded wine cellar,
taxpaid wine bottling house, or
wholesale liquor dealer who withdrew
the wine. The Secretary is authorized to
prescribe regulations governing the
determination and payment or crediting
of drawback, including the requirements
of such notices, bonds, bills of lading,
and other evidence indicating payment
and determination of tax and
exportation as are deemed necessary.
See 19 U.S.C. 81c and 1309, 26 U.S.C.
5062, 5066.

On the exportation of beer which has
been brewed or produced in the United
States, the brewer thereof shall be
allowed a drawback equal in amount to
the tax found to have been paid on such
beer, to be paid on submission of such

evidence, records and certificates indicating exportation, as the Secretary may by regulations prescribe. Exportation includes delivery for use as supplies on certain vessels or aircraft, or deposit in a foreign trade zone for exportation or for storage pending exportation. See 19 U.S.C. 81c and 1309, 26 U.S.C. 5055.

A manufacturer or export warehouse proprietor may remove tobacco products and cigarette papers and tubes, without payment of tax, for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States. See 26 U.S.C. 5704(b).

Drawback of tax paid on tobacco products and cigarette papers and tubes which have been exported will be allowed in accordance with the regulations, upon the filing of a bond. See 26 U.S.C. 5706.

Rulemaking History

With minor exceptions, the export regulations for alcoholic beverages and tobacco products date from 1960 and 1966, respectively. The Internal Revenue Service, which administered these regulations at the time, issued Revenue Rulings 71-208 (1971-1 C.B. 480) and 72-300 (1972-1 C.B. 425) to advise exporters that it would consider applications for permission to submit alternative forms of documentation of export. By 1982, ATF identified the need for a major revision of the export regulations and set a policy of allowing such variances as were needed from the existing regulations until the revision could be accomplished. Numerous variances and pilot projects were approved under this policy, at both the district and national level. Revisions to the regulations were discussed and reviewed, but no Federal Register documents were published until 1992.

On September 8, 1992, ATF published advance notices of proposed rulemaking to solicit comments from interested persons on revision and recodification of Part 252, Exportation of liquors (Notice No. 752, 57 FR 40887) and Part 290, Exportation of tobacco products and cigarette papers and tubes, without payment of tax, or with drawback of tax (Notice No. 754, 57 FR 40889). The comment periods, both originally scheduled to close October 8, 1992, were subsequently extended until December 7, 1992, for liquors and March 9, 1993, for tobacco products and cigarette papers and tubes.

First, the advance notices outlined the underlying statutory requirements for exportation of the various commodities

they covered. Second, the advance notices suggested liberalizing export documentation rules. Proposals included:

- Using a continuing application and a record of individual withdrawals to be maintained by the proprietor instead of applications or notices covering individual export transactions;
- Having the proprietor submit a monthly summary of export transactions with its monthly operation report instead of sending advance copies of the individual transaction forms;
- Using commercial records in place of ATF forms;
- Accepting certain commercial transaction records in place of Customs certification as evidence of exportation; and
- Allowing exporters to maintain evidence of exportation at their premises rather than sending it to ATF.

The two notices also made suggestions specific to individual commodities, such as permitting dealers in specially denatured spirits to withdraw such spirits free of tax for export and allowing greater flexibility in the export marks placed on tobacco products.

Finally, the two notices solicited general comments on ways to reduce paperwork, simplify procedures, and eliminate unnecessary regulations in this area while continuing to maintain adequate safeguards to the revenue.

Public Comments on Previous ANPRMs

Notice No. 752 concerning liquors received seven comments from alcoholic beverage industry members or their representatives. All comments were generally supportive of the goal of liberalizing export procedures as stated in the notices. However, the suggestion that a monthly summary of exports be submitted to ATF was opposed by two commenters. The Brandy Association of America and the National Association of Beverage Importers, Inc. both commented that this proposal was unnecessary and duplicative. Glen Ellen Winery supported ATF's suggestion that proprietors maintain evidence of exportation at their premises instead of sending such evidence to ATF. They further noted that proprietors "found to have a system lacking in controls could be required to continue submitting documents each month." We will discuss these issues in greater detail in the sections of this document on monthly summaries of export removals and allowing proprietors to maintain

evidence of exportation at their own premises.

On another subject, Miller Brewing Company suggested allowing brewers to take credit on their tax returns instead of waiting for ATF to issue a refund check for drawback of tax on exported beer. This is not something ATF can change through rulemaking, since the underlying statute, 26 U.S.C. 5055, which authorizes payment of export drawback on beer, does not authorize credit. Section 5062(b), which covers drawback for wine and spirits, authorizes either credit or payment. Under current law, ATF believes it would be possible to credit proceeds of an allowed claim, pursuant to authorization of the claimant, against tax owed by such claimant. We will propose a regulatory procedure to comply with requests for credit of the proceeds of an allowed claim from brewers. Finally, the alcoholic beverage industry commenters were unanimous and enthusiastic in their endorsement of ATF's proposal to substitute commercial records for ATF export forms.

Notice No. 754 on tobacco products received two comments from tobacco product manufacturers. Both Brown & Williamson Tobacco Corporation and R.J. Reynolds Tobacco Company supported continued use of ATF Form 2149/2150, saying it provided the best method of documenting export removals for both ATF and industry. R.J. Reynolds went on to request clarification of export marking requirements and procedures for shipments of domestic and export tobacco products to Class 9 Customs Bonded Warehouses.

Diversion Problems

As ATF noted in Industry Circular 94-1, dated April 14, 1994, and Industry Circular 95-1, dated January 19, 1995, we have encountered a number of situations in which distilled spirits were withdrawn from bond for exportation overseas, but were smuggled into Canada or remained illegally in the United States. Although these circulars dealt specifically with spirits, other commodities regulated by ATF are also being found outside of legitimate export channels. As a result of these findings, ATF is increasing its investigations of exports, and taking appropriate action where it finds goods have been diverted. Industry Circular 95-1 points out the tax and permit consequences of improperly documenting exports, as well as the potential civil and criminal penalties for violations of Titles 18 and 26 of the U.S. Code.

Summary of Export Variances and Pilot Programs

ATF has approved numerous individual variances and pilot programs for exporters of alcoholic beverages and tobacco products or cigarette papers and tubes. Recently, the Bureau has begun evaluating the component parts of these variances and pilot programs to determine which have been successful for both exporters and the Bureau and which have not. The variances and pilot programs that have been approved by ATF are summarized below. We are requesting comments on whether these procedures should be incorporated into the regulations in the manner described below or with some modifications. While some of the procedures dealt with alcoholic beverages and others with tobacco products, we are interested in comments on whether the procedures should apply to only some of these taxable commodities or should apply equally to alcoholic beverages, denatured alcohol, tobacco products or cigarette papers and tubes destined for exportation.

Substituting Commercial Documents for ATF Forms

Existing regulations require exporters to use ATF forms to record shipments destined for export and obtain certification of export. Under approved variances, some exporters substitute commercial documents containing required minimum information for the ATF forms. This variance has been generally successful. Exporters using this variance have stamped certificate of receipt information on an empty area of the commercial document and obtained appropriate certifications. ATF users (inspectors, auditors, and specialists) found that the commercial records met their needs, except that with a variety of different documents covering different types of shipments, the benefit of serially numbered export documents was no longer available. Since invoices and bills of lading must be generated to cover export shipments anyway, this variance has reduced the paperwork burden on exporters. ATF is considering eliminating the ATF export forms in favor of commercial transaction forms, with minimum information requirements to be set forth in regulations. However, the two commenters on the tobacco export proposals expressed a preference for continued availability of ATF forms. We would like details of instances where ATF forms work better than commercial documents, so that we may determine if they should be retained for certain types of transactions.

Notice and Application Requirements

Under existing regulations, people who export alcoholic beverages, tobacco products, or cigarette papers and tubes without payment of tax file an advance copy (or copies) of the appropriate ATF form as either a notice or an application. Proprietors of DSPs, wineries, breweries and export warehouses, and tobacco product and cigarette paper and tube manufacturers file a notice. Other exporters file an application and a bond which must be approved before the export shipment can be made. Some proprietors who are required by regulation to file a notice have requested and received permission to maintain records of pending exports at their premises, either on the ATF form or on an approved substitute document. The terms and conditions of the individual variances differ, but such variances are granted only to proprietors with maximum bond coverage and good compliance history. Proprietors are asked to submit a monthly summary of export shipments to ATF in lieu of filing individual notices. These variances have generally worked well, and most ATF users of this information feel the notice requirement can be eliminated without jeopardy to the revenue. Exporters appear to prefer maintaining the records of pending export shipments at their premises. ATF is considering a proposal to eliminate the notice requirement for proprietors with maximum bond coverage. The application requirement would be retained, as would the notice requirement for proprietors with less than maximum bond coverage. Comments are solicited on this proposal.

Monthly Summaries of Export Removals

As noted above, two commenters on Notice No. 752 specifically stated they believed the proposed monthly summary of export shipments was an unnecessary burden on the industry. We do not agree such a summary is an added burden, since the exporter must summarize and total export shipments to arrive at the export figure shown in the monthly report of operations. We simply propose that a copy of this paperwork be filed with the report. Further, in ATF's experience, this summary provides needed structure in the absence of notices and serially numbered ATF export forms. Despite the commenters' claim that the information is available elsewhere in the proprietor's records, we believe the preparation of a summary gives both ATF and the exporter a basis to

determine if all exports are accounted for. If ATF proposes amending the regulations to eliminate the notice requirement, allow use of commercial documents as evidence of export, and allow proprietors to maintain such evidence at their premises instead of mailing it to ATF, we will also propose requiring submission of some sort of summary of pending export shipments. Additionally, now that certain small wineries are allowed to file annual operational reports and certain small brewers are allowed to file quarterly operational reports, we must consider whether proprietors who file less frequent operational reports should also file less frequent summaries. Commenters who disagree with the summary proposal are requested to provide specific alternative suggestions for insuring that all exports are accounted for.

Allowing Proprietors To Maintain Evidence of Exportation at Their Own Premises

Under variances approved by ATF, some proprietors are maintaining evidence of exportation at their premises instead of sending it to ATF Technical Services in support of export drawback claims or in order to be relieved of liability for shipments withdrawn for export without payment of tax. This variance has presented more administrative problems than any other, but we believe this may be due to an incomplete understanding of the exporter's responsibility under such variances. When the export evidence is filed with ATF, ATF examines the evidence, notes any discrepancies, and follows up with the exporter. Post audits have revealed exporters sometimes rely on evidence which is not approved by ATF, and some proprietors who export without payment of tax do not follow up appropriately if they do not receive evidence of exportation. Even in cases where exportation is ultimately documented, ATF reviewers encounter substantial administrative difficulty in this area.

When ATF examines documentation we receive on products withdrawn without payment of tax for exportation, ATF follows up with the exporter in cases where the evidence of exportation is not received within 90 days of withdrawal for exportation. The exporter is usually given another 45 days to obtain evidence of exportation or make a voluntary payment of tax. After that, if no evidence of exportation is received, ATF will enter an assessment for the tax due. Export proprietors operating under variances

which allow maintenance of export documentation at their premises often do not realize they have the same responsibility to voluntarily pay taxes if evidence of exportation was not received in a reasonable amount of time.

If we are to consider allowing proprietors to maintain their own export documentation at their premises as part of this rulemaking, we believe it will be necessary to include safeguards, such as very specific time limits and instructions as to when tax becomes due on undocumented exports. In addition, if such a liberalization is proposed, we will also propose the delegation of authority to the District Directors and Chiefs, Technical Services to require filing of this documentation with ATF in cases where it is deemed necessary. One further safeguard under consideration is a requirement that exporters submit a summary of shipments withdrawn without payment of tax for export during a given period with their operational reports for that period (as discussed above) and, 90 days later, submit a second copy of the summary showing by a check mark or other notation that each of the summarized shipments has been documented. For those exports which are not documented at the time, the 45-day notice and assessment process would begin. We will also propose adding procedures for claiming refund of any taxes paid in these circumstances (subject to the time limits in 26 U.S.C.6511) if exportation is subsequently documented. Comments on these proposals and any alternative suggestions are solicited.

Alternate Evidence of Export

ATF has had mixed results from allowing alternatives to Customs certification as evidence of export. We will discuss some of the major categories below, and then give our proposals.

Export bills of lading signed by a representative of the export carrier or certificates of landing signed by a representative of the destination country have proven to be generally reliable, but there have been exceptions which raise questions about the reliability of any export documentation. One difficulty with these alternate certifications is that there is no standardized way to verify that the person signing is employed by and authorized to sign for the carrier or the receiving country. We request input from industry members on commercial safeguards available to assure the validity of such receipts. ATF may be able to adapt any such safeguards for use in verifying export certifications.

In some cases we approved variances allowing evidence of payment by the foreign customer to be used as evidence of exportation, but we found that this variance was not always successful. Some foreign customers paid a foreign subsidiary of the U.S. exporter, and the financial record offered as evidence of export was an internal company document or, conversely, the U.S. exporter was paid by a U.S. subsidiary of the foreign customer, or even by an unrelated broker located in the U.S. The anticipated safeguard of a foreign source of funds unrelated to the exporter was not present, so these forms of documentation, by themselves, have not been adequate. If we propose to accept evidence of payment at all, we will propose limitations on the types of transactions where it can be used. We solicit comments on this approach.

In some post-audits, exporters presented facsimile transmitted copies of signed export bills of lading or copies of unsigned computer printouts of bills of lading from shipping companies as evidence of exportation where the original document was unavailable. We are considering what circumstances would warrant the use of such forms, and what evidence might be available to assure that these facsimile records represent true copies of the original documents. ATF must be able to rely on any documents accepted. We solicit comments on both the need for facsimile copies and computer generated forms to document exportation, and any appropriate safeguards.

Proposals on Export Documentation

As discussed above, we have found problems with some of the forms of export documentation which we allowed under variances. As we analyze the reports of investigation, we have tried to define the features or characteristics we want to see in future export documentation. Here is a list of proposed standards:

- The document should clearly relate to the goods in question;
- Certification should come from someone other than the exporter or its affiliate; and
- Certification should come from someone with firsthand knowledge that the goods were exported.

Exporters have offered such items as the Commerce Department's Shipper's Export Declaration or inland bills of lading with export shipping instructions attached, both of which are prepared by the exporter alone, or a freight bill from the export carrier, which may not identify the merchandise well enough

for our purposes, or a broker's certification, which may not be based on firsthand knowledge. In addition to ATF's revenue protection interest in assuring these goods were actually exported, exporters have their own commercial reasons for wanting reliable shipping documents. We request examples or descriptions of documents or records generated as part of export transactions which may meet the standards proposed above or otherwise provide assurance that goods destined for export did, in fact, leave the country. Finally, we solicit comments on whether exporters would prefer a list of specific documents which would be acceptable (with the option of applying for permission to use other specific documents), or a more general statement of standards which must be met by any document used as evidence of export.

Export Transportation, Consignment and Ownership

Another important safeguard built into the requirement that ATF receive and review copies of all export transaction forms was our ability to screen export shipments to insure that the export transaction warranted such status. As we review records retained at their premises by exporters operating under a variance, we find that there are misunderstandings in two areas: eligibility for exportation without payment of tax, and need for permits and special taxes on the part of some purchasers. We believe that clarification of the regulations in these areas will improve compliance.

Eligibility for Export Without Payment of Tax

Some exporters were found to be making withdrawals of merchandise without payment of tax for export, and then failing to transport the merchandise directly to the foreign destination or place it under Customs supervision. In addition, ATF has received applications for permission to store, repack or consolidate shipments of products withdrawn without payment of tax for export while such products were in transit to the point of export. ATF's main concern in reviewing these arrangements is that the locations where the storage, repacking or consolidation occur are not covered by an ATF bond, and are not under the supervision of the Customs Service. ATF is concerned that these arrangements do not afford adequate protection to the revenue and they present administrative problems, in that ATF would have to regulate many temporary storage facilities.

Under the current law and regulations, the storage, repacking or consolidation of taxable products withdrawn for exportation without payment of tax can only occur on ATF bonded premises, in a customs bonded warehouse, in a foreign trade zone, or at the port of export under the supervision of the District Director of the Customs Service. However, there is no such restriction on storage, repacking or consolidation of taxpaid export shipments in transit.

If commenters wish to request that ATF reconsider its position on this matter, we request suggestions as to appropriate safeguards to assure protection to the revenue without placing undue restrictions on persons transporting taxable merchandise in bond. Should there be limitations on allowable location, responsible persons, or time spent in storage? Are records generated during repacking or consolidation which would permit positive identification of the shipment and a "paper trail" for both commercial and regulatory purposes? What sort of permit or bonding requirement should be imposed on facilities where untaxpaid merchandise is stored, repacked or consolidated while in transit?

Wholesaler's Basic Permits and Special Tax Requirements for Purchasers

A second issue noted during ATF review of documentation retained at exporters' premises is the need for wholesalers' permits and payment of special (occupational) tax when someone other than the producer exports alcoholic beverages. Revenue Ruling 60-299 (1960-2 C.B. 619) stated:

A ship chandler who engages in the domestic purchase of distilled spirits, wine or beer for sale (even though he sells them exclusively to vessels engaged in foreign trade) for use as ships supplies must obtain a basic permit as a wholesaler. * * *

A ship chandler who withdraws alcoholic beverages for sale to a ship which is engaged in foreign trade and which uses them as ships' supplies solely outside the jurisdictional limits of the United States, is not subject to special tax as a wholesale dealer since such vessel is not considered a dealer within the meaning of section 5112(a) of the Code, and the sale of spirits to such vessel is not a sale to another dealer as provided in section 5112(b) and (c) of the Code. Such a ship chandler is, however, subject to the special tax as a retail dealer.

ATF believes information on this requirement should be incorporated into the revised regulations.

Other Changes Under Consideration

ATF is considering allowing exporters to claim drawback on ATF Form 5620.8

(2635), a general-purpose claim form, using commercial documents to show exportation instead of the ATF export drawback claim forms. There are several variances in place to permit exporters to maintain full evidence of exportation at their premises and submit a summary of the export shipments covered by a given claim. ATF is evaluating the success of these variances from its own point of view, and solicits industry comments on this subject. As with evidence of exports without payment of tax, if ATF decides to propose allowing exporters to maintain export documentation at their premises, we will propose authority for the District Director and Chief, Technical Services to require submission of the forms where it is deemed necessary. Where the export drawback claimant is also a taxpayer, we are considering allowing the claimant the option of requesting that the proceeds of an approved claim be credited against tax owed by such claimant.

Under existing regulations, all wine exporters must prepare two documents, an export form, and a certificate of tax determination, Form 2605. ATF plans to eliminate the certificate requirement for exports by the bottler who makes the tax determination, and only require such a certificate when the exporter is not the bottler.

Under current alcohol and tobacco export regulations and approved variances, the marks showing that goods are destined for export are sometimes required and sometimes not. The only statutory requirement for export marks applies to taxpaid distilled spirits exported subject to drawback, but many sections of the regulations require export marks. The marking requirements have historically been viewed as a useful enforcement tool. For instance, a consumer may report finding products marked for export on domestic retail shelves. Such "leads" may result in the government's apprehension of a smuggler or enhance a producer's ability to identify an individual who is selling returned goods which should have been destroyed for quality control reasons.

ATF is considering whether export marks should be mandatory in all situations and whether any product so marked that is found in domestic commerce should be subject to forfeiture as property used in violation of the internal revenue laws. Accordingly, we solicit comments from interested persons concerning the advantages or disadvantages of export markings.

In ATF's review of its own regulations, we noted that there was considerable duplication of regulatory

language because there are separate parts of the regulations which cover exportation of "liquors" (alcoholic beverages and denatured alcohol) and tobacco products and cigarette papers and tubes. Since the concepts of tax liability, bond coverage and need for evidence of exportation are the same for all these commodities, and some exporters handle both alcoholic beverages and tobacco products, we solicit comments on the idea of merging the export provisions for alcoholic beverages and denatured alcohol, currently in part 252, and those for tobacco products and cigarette papers and tubes, currently in part 290, into a single part. The export warehouse qualification and operation requirements, which are also in part 290, may then be retained as a separate part or merged into part 270, Manufacture of Tobacco Products, since the qualification, bonding and operational requirements for these activities are closely related and derived from the same or similar sections of the law. Interested persons are invited to comment on these alternatives.

Verification of Evidence Presented

ATF is developing methods of verifying the accuracy of any piece of export documentation presented in support of an export without payment of tax or an export drawback claim by confirming that such shipment was received through legitimate channels at the stated destination. Such confirmation will be done by contacting appropriate officials at the stated destination, either under a bilateral agreement with the destination country under 26 U.S.C. 6103(k)(4) or pursuant to new regulations which ATF is considering adding to the export regulations under the provisions of 26 U.S.C. 6103(k)(6). This section allows disclosure of tax information for investigative purposes in such situations and under such conditions as the Secretary may prescribe by regulations.

Administrative Provisions

The tobacco export regulations at 27 CFR part 290 clearly noted ATF's right of entry and examination and assessment authority, but the liquor export regulations in 27 CFR part 252 do not. We plan to propose such provisions as a part of the revised regulations, along with a reference to the criminal penalties imposed by Titles 18 and 26 of the U.S. Code for falsification or fraudulent execution of export documentation.

Transition to New Rules

When new export rules are implemented, they will supersede existing regulations and all variances under those regulations. Since there are so many different arrangements in place, we understand that a period of transition will be needed. We believe that allowing two months from publication of the final rule to its effective date should provide adequate time for exporters to change to the new procedures. We solicit comments on this subject.

Public Participation

ATF requests comments from all interested persons on the proposals presented in this advance notice. We particularly request statements from exporters on the significance and reliability of available commercial documentation. We also solicit comments on any additional issues related to exportation of alcoholic beverages, denatured alcohol, tobacco products, or paper tubes.

Comments received on or before the closing date will be carefully considered. Comments received after the closing date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date. ATF will not recognize any material or comments as confidential. All comments submitted in response to this notice will be available for public inspection. Any material that the commenter considers confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

Executive Order 12866

It has been determined that this document is not a major regulation as defined in E.O. 12866; therefore, a regulatory impact analysis is not required. The proposals discussed in this advance notice of proposed rulemaking, if adopted in regulations, will not have an annual effect on the economy of \$100 million or more, will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information: The principal author of this document is Marjorie D. Ruhf of the Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 252

Aircraft, Alcohol and alcoholic beverages, Armed Forces, Authority delegations (government agencies), Beer, Claims, Excise taxes, Exports, Fishing vessels, Foreign trade zones, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses, Wine.

27 CFR Part 290

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

Authority: This advance notice of proposed rulemaking is issued under the authority in 26 U.S.C. 7805.

Signed: May 13, 1996.

John W. Magaw,
Director.

Approved: June 5, 1996.

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

[FR Doc. 96-20327 Filed 8-8-96; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08-96-038]

RIN 2115-AE46

Special Local Regulations; Lansing Fish Days, Upper Mississippi River Mile 663.0—663.5, Lansing, IA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the Lansing Fish Days Celebration. This event will be held on August 10 and 11, 1996 at Lansing, Iowa. These regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations are effective from 9 p.m. to 11 p.m. local time on August 10, 1996, and from 2 p.m. to 4 p.m. local time on August 11, 1996.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking for these regulations has not been published and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, the details of the event were not finalized until July 8, 1996, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Background and Purpose

The marine event requiring this regulation is a lighted venetian boat parade and professional water ski show. The event is sponsored by the Lansing Lions Club, Inc. of Lansing, Iowa. Spectators are to maintain a safe distance which will be determined by event sponsor and controlled by Coast Guard patrol commander.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because of the events short duration.

Federalism Assessment

The Coast Guard has analyzed this action in accordance with the principles and criteria of Executive Order 12612 and has determined that this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.C. of Commandant Instruction M16475.1B, (as revised by 61 FR 13563; March 27,