

area of the consolidated Port of Puget Sound. The Regional Commissioner supports the expansion request with the stipulation that no additional staff will be required to operate the expanded facilities and marinas.

Proposed Seattle Port Limits

The geographical area within the proposed new boundaries will be as follows:

Beginning at the intersection of NW. 205th Street and the waters of Puget Sound, proceeding in an easterly direction along the King County line to its intersection with 100th Avenue, NE., thence southerly along 100th Avenue, NE. and its continuation to the intersection of 100th Avenue, SE. and 240th Street, SE., thence westerly along 240th Street, SE. to its intersection with North Central Avenue., thence southerly along North Central Avenue, its continuation as South Central Avenue and 83rd Avenue South and its connection to Auburn Way North, thence southerly along Auburn Way North and its continuation as Auburn Way South to its intersection with State Highway 18, thence westerly along Highway 18 to its intersection with A Street, SE., then southerly along A Street, SE. to its intersection with the King County Line, then westerly along the King County Line to its intersection with the waters of Puget Sound and then northerly along the shores of Puget Sound to its intersection with NW. 205th Street, the point of beginning, all within the County of King, State of Washington.

If the proposed extension of the consolidated port of entry of Puget Sound is adopted, the list of Customs ports of entries in 19 CFR 101.3(b) will be amended accordingly.

Comments

Prior to adoption of this proposal, consideration will be given to written comments timely submitted to Customs. Submitted comments will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), Section 1.4, Treasury Department Regulations (31 CFR 1.4), and section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m., at the Regulations Branch, Office of Regulations and Rulings, 1099 14th Street NW., Suite 4000, Washington, DC.

Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

The Regulatory Flexibility Act and Executive Order 12866

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Thus, although this document is being issued with notice for public comment, because it relates to agency management and organization it is not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Agency reorganization matters such as this proposed port extension are exempt from consideration under Executive Order 12866.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other office participated in its development.

George J. Weise,

Commissioner of Customs.

Approved: August 24, 1995.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

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19 CFR Part 101

Name Change for Consolidated Port of Philadelphia

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to change the name of the Consolidated Port of Philadelphia to the Consolidated Port of the Delaware River and Bay, and to identify the participating ports within the consolidated port.

DATES: Comments must be received on or before November 13, 1995.

ADDRESSES: Comments (preferable in triplicate) must be submitted to the U.S. Customs Service, ATTN: Regulations Branch, Franklin Court, 1301 Constitution Avenue NW., Washington, DC 20229, and may be inspected at the Regulations Branch, 1099 14th Street NW., Suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: A. Donald Gilman, Office of Congressional and Public Affairs, (202) 927-1169.

SUPPLEMENTARY INFORMATION:

Background

Section 101.3, Customs Regulations (19 CFR 101.3), lists as one of Customs ports of entry Philadelphia-Chester, Pa. and Wilmington, Del. This port includes the named cities and includes Camden, Gloucester City and Salem, New Jersey and territory described in T.D. 84-195. The port of entry is popularly known as the Consolidated Port of Philadelphia.

After a meeting with trade community representatives from both Wilmington, Delaware and Philadelphia, Pennsylvania, Customs has determined that the name of the consolidated port should be changed to the Consolidated Port of the Delaware River and Bay, and that participating ports within the consolidated port would be identified. The Wilmington, Delaware trade community strongly favors such a name change, and the Philadelphia trade community has not expressed any objection to that suggestion.

Proposal

Accordingly, Customs is proposing in this document to change the name of the port of Philadelphia-Chester, PA. and Wilmington, Del., popularly known as the Consolidated Port of Philadelphia to the Consolidated Port of the Delaware River and Bay. If the proposed name change of the port is adopted, the list of ports in 19 CFR 101.3(b) will be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are timely submitted to Customs. All such comments received from the public pursuant to this notice of proposed rulemaking will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, 1099 14th Street NW., Suite 4000, Washington, DC.

Regulatory Flexibility Act

Although this document is being issued for public comment, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, the document is not subject to the regulatory analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

Agency organization matters such as this are exempt from Executive Order 12866.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

Approved: August 23, 1995.

Michael H. Lane,

Acting Commissioner of Customs.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

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Bureau of Alcohol, Tobacco and Firearms**27 CFR Parts 4, 5, 7, 13, and 19**

[Notice No. 815]

RIN 1512-AB34

Procedures for the Issuance, Denial, and Revocation of Certificates of Label Approval, Certificates of Exemption From Label Approval, and Distinctive Liquor Bottle Approvals (93F-029P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to issue regulations specifically setting forth the procedures for the issuance, denial, and revocation of certificates of label approval (COLAs), certificates of exemption from label approval, and distinctive liquor bottle approvals. The proposed denial and revocation regulations are new, whereas the proposed issuance regulations are more specific than the current regulations. The proposed regulations would also codify the procedures for administratively appealing the denial or revocation of certificates of label approval, exemptions from label approval, or distinctive liquor bottle approvals.

DATES: Written comments to this proposed rule must be received by December 12, 1995.

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. 815).

Copies of the proposed regulation and any written comments received will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 6480, 650 Massachusetts Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Robert White, Coordinator, 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**

The Federal Alcohol Administration (FAA) Act, 27 U.S.C. § 205(e), provides ATF, as the delegate of the Secretary of the Treasury, with authority to promulgate regulations with respect to the bottling, packaging, and labeling of distilled spirits, wine, and malt beverages in order to prohibit deception of the consumer, and provide the consumer with adequate information as to the identity and quality of the product.

In order to carry out such requirements, domestic bottlers and producers are prohibited from bottling distilled spirits, wines, or malt beverages, and importers are prohibited from removing bottled distilled spirits, wines, or malt beverages from Customs custody, unless they have in their possession a certificate of label approval covering such products, "issued by the Secretary in such manner and form as he shall by regulations prescribe." 27 U.S.C. § 205(e). The law provides an exemption from these requirements for products which are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce.

The regulations implementing these statutory provisions provide that no person shall bottle or pack wine, distilled spirits, or malt beverages unless application is made to the Director and an approved certificate of label approval, ATF Form 5100.31, is issued. 27 CFR §§ 4.50(a), 5.55(a), and 7.41. The regulations also provide that no bottled wines, distilled spirits, or malt beverages shall be released from Customs custody for consumption unless an approved certificate of label approval, ATF Form 5100.31, is deposited with the appropriate Customs officer at the port of entry. 27 CFR §§ 4.40(a), 5.51(a), and 7.31(a).

A bottler of wine or distilled spirits who can show to the satisfaction of the Director that the product is not to be sold, offered for sale, or shipped or

delivered for shipment or otherwise introduced in interstate or foreign commerce, must make application for exemption from the labeling requirements of the FAA Act on ATF Form 5100.31 in accordance with the instructions on the form. If the application is approved, a certificate of exemption from label approval will be issued on the same form. 27 CFR §§ 4.50(b) and 5.55(b). Certificates of exemption from label approval are not issued for malt beverages.

Finally, the ATF Form 5100.31 is also used to obtain approval for distinctive liquor bottles, pursuant to the regulations appearing at 27 CFR § 19.633(a). ATF's authority to regulate liquor bottles is derived from section 5301 of the Internal Revenue Code of 1986, 26 U.S.C. § 5301. However, the approval of a distinctive liquor bottle also includes the approval of the label on that bottle, pursuant to the FAA Act.

Revocation of COLAs

ATF reviews over 60,000 applications for certificates of label approval, exemptions from label approval, and distinctive liquor bottle approvals every year. There is no doubt that errors will occasionally occur in the approval process. Thus, there is clearly a necessity for some type of revocation procedure.

Since the enactment of the FAA Act in 1935, ATF and its predecessor agencies have taken the position that the statutory authority to issue certificates of label approval also included an implied statutory authority to cancel or revoke such certificates in the event that such certificates were approved in error. There have never been formal procedures in the regulations for denial or revocation of certificates of label approval. However, ATF has utilized informal procedures for denials and revocations, where applicants or certificate holders who wished to contest a denial or revocation were given an opportunity to do so in writing, or through informal meetings with Bureau officials.

The certificate of label approval was never intended to convey any type of proprietary interest to the certificate holder. On the contrary, Paragraph III(1)(c) of Form 5100.31 provides that "[t]his certificate is issued for Bureau of Alcohol, Tobacco and Firearms use only and does not constitute trademark protection, or relieve any person from liability for violations of the FAA Act and related regulations and rulings." The certificate of label approval is a statutorily mandated tool used to help ATF in its enforcement of the labeling requirements of the FAA Act.