

submitted and shall comply with the document marking and affidavit requirements set forth in this paragraph. The NRC has no obligation to review documents not so marked to determine whether they contain information eligible for withholding under paragraph (a) of this section. Any documents not so marked may be made available to the public at the NRC Website, <http://www.nrc.gov>.

(i) The submitter shall ensure that the document containing information sought to be withheld is marked as follows:

(A) The top of the first page of the document and the top of each page containing such information must be marked "Confidential Information Submitted Under 10 CFR 2.790," to indicate it contains information the submitter seeks to have withheld.

(B) Each page containing information sought to be withheld from public disclosure must indicate, adjacent to the information, or at the top if the entire page is affected, the basis (i.e., trade secret, personal privacy, etc.) for proposing that the information be withheld from public disclosure under paragraph (a) of this section.

(ii) The request for withholding must be accompanied by an affidavit that—

(A) Identifies the document or part sought to be withheld;

(B) Identifies the official position of the person making the affidavit;

(C) Declares the basis for proposing the information be withheld, encompassing considerations set forth in § 2.790(a);

(D) Includes a specific statement of the harm that would result if the information sought to be withheld is disclosed to the public; and

(E) Indicates the location(s) in the document of all information sought to be withheld.

(iii) In addition, an affidavit accompanying a withholding request based on paragraph (a)(4) of this section must contain a full statement of the reason for claiming the information should be withheld from public disclosure. Such statement shall address with specificity the considerations listed in paragraph (b)(4) of this section. In the case of an affidavit submitted by a company, the affidavit shall be executed by an officer or upper-level management official who has been specifically delegated the function of reviewing the information sought to be withheld and authorized to apply for its withholding on behalf of the company. The affidavit shall be executed by the owner of the information, even though the information sought to be withheld is submitted to the Commission by another

person. The application and affidavit shall be submitted at the time of filing the information sought to be withheld. The information sought to be withheld shall be incorporated, as far as possible, into a separate paper. The affiant must designate with appropriate markings information submitted in the affidavit as a trade secret, or confidential or privileged commercial or financial information within the meaning of § 9.17(a)(4) of this chapter, or confidential information within the meaning of § 9.17(a)(6) of this chapter, and such information shall be subject to disclosure only in accordance with the provisions of § 9.19 of this chapter.

* * * * *

(c) The Commission either may grant or deny a request for withholding under this section.

(1) If the request is granted, the Commission will notify the submitter of its determination to withhold the information from public disclosure.

(2) If the Commission denies a request for withholding under this section, it will provide the submitter with a statement of reasons for that determination. This decision will specify the date, which will be a reasonable time thereafter, when the document will be available at the NRC Website, <http://www.nrc.gov>. The document will not be returned to the submitter.

(3) Whenever a submitter desires to withdraw a document from Commission consideration, it may request return of the document, and the document will be returned unless the information—

(i) Forms part of the basis of an official agency decision, including but not limited to, a rulemaking proceeding or licensing activity;

(ii) Is contained in a document that was made available to or prepared for an NRC advisory committee;

(iii) Was revealed, or relied upon, in an open Commission meeting held in accordance with 10 CFR part 9, subpart C;

(iv) Has been requested in a Freedom of Information Act request; or

(v) Has been obtained during the course of an investigation conducted by the NRC Office of Investigations.

* * * * *

(e) Submitting information to NRC for consideration in connection with NRC licensing or regulatory activities shall be deemed to constitute authority for the NRC to reproduce and to distribute sufficient copies to carry out the Commission's official responsibilities. The Commission may waive the requirements of this paragraph on request, or on its own initiative, in

circumstances the Commission deems appropriate.

(1) Any person submitting information shall—

(i) Be deemed to represent to the NRC that he or she has legal authority to submit the document and to permit NRC to reproduce and distribute the document; and

(ii) Hold the Commission harmless from damages that result from the Commission's reproduction or distribution of the documents.

(2) Documents will be returned to the submitter and will not be considered by the Commission in the absence of a waiver of this regulation in the following types of situations:

(i) A document bearing a copyright notice not accompanied by a statement authorizing the Commission to make copies of the material in accordance with this section;

(ii) A document containing or accompanied by a statement restricting the copying of the material; or

(iii) A document that bears or is accompanied by a statement representing that the submitter lacks authority to permit NRC to copy and distribute the document.

* * * * *

Dated at Rockville, Maryland, this 11th day of October, 2001.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 01-26114 Filed 10-16-01; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 40

[Notice No. 931]

RIN 1512-AC32

Elimination of Application To Remove Tobacco Products From Manufacturer's Premises For Experimental Purposes (2000R-353P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule eliminates the requirements that manufacturers of tobacco products apply to ATF to remove tobacco products from their factories in bond for experimental purposes and maintain the approved applications for their records. In place of these requirements, manufacturers of

tobacco products will prepare and maintain records of tobacco products removed from their factories in bond for experimental purposes. In addition, this proposed rule defines "experimental purposes" under section 5704(a) of Title 26 of the United States Code.

DATES: Written comments must be received on or before December 17, 2001.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Room 5003, 650 Massachusetts Avenue, NW., Washington, DC 20226, (Attention: Notice Number 931). See the Public Participation section of this notice for alternative means of commenting.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226; (202) 927-8210; or alctob@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

1. Background

Elimination of Application

We are proposing to eliminate the applications that manufacturers of tobacco products are required to submit for removing tobacco products in bond from their factories for experimental purposes. We believe that these applications are not necessary to protect the revenue. ATF will continue to conduct selected examinations and audits of manufacturers of tobacco products, including those who remove tobacco products in bond for experimental purposes.

In addition, manufacturers of tobacco products will continue to report the kind and amounts of tobacco products removed in bond for experimental purposes for use off factory premises. This reporting is done every month on ATF Form 5210.5 as a separate item and provides ATF an invaluable tool to monitor the operations of tobacco manufacturers in respect to such removals. Overall, this proposed rule allows greater flexibility and choice in managing our limited government resources.

The amount of taxes involved in such removals for experimental purposes is not significant. The total potential tax liability at the present tax rates for such shipments is estimated to be no more than \$500,000. This potential tax liability is not significant when compared to the total excise tax collections for tobacco products. It is less than 0.001 percent of the total excise taxes collected from tobacco products. In addition, ATF has not had any significant tax losses associated

with such removals. Also, ATF has rarely, if ever, denied an application submitted by a manufacturer for removing tobacco products in bond for experimental purposes.

This notice of proposed rulemaking eliminates the burdens imposed on the manufacturer to prepare and file applications and on ATF to take action on such applications. A manufacturer typically spends about 30 minutes to prepare, send and file each application. ATF typically spends a similar amount of time acting upon, sending and filing each application. ATF estimates that 100 of these applications are received each year.

Definition of Experimental Purposes

This notice of proposed rulemaking defines "experimental purposes" under section 5704(a) of Title 26 of the United States Code and provides additional examples of uses for such experimental purposes. However, the proposed rule retains the examples that are not considered experimental.

2. Public Participation

Who May Comment on This Notice?

ATF requests comments on the proposed regulations from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practicable to do so. However, assurance of consideration can only be given if comments are received on or before the closing date.

Will ATF Keep My Comments Confidential?

ATF cannot recognize any material in comments as confidential. Comments may be disclosed to the public. If you consider your material to be confidential or inappropriate for disclosure to the public, you should not include it in the comment. We may also disclose the name of any person who submits a comment.

Can I Review Comments Received?

Yes. You may view and copy written comments on this project during normal business hours in the ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226, telephone (202) 927-8480. For information on filing a Freedom of Information Act request for a copy of the comments, please call (202) 927-8480, FAX (202) 927-8866 or E-mail: FOIAMail@atfhq.atf.treas.gov. (ATF cannot accept FOIA requests via E-mail).

How Do I Send Facsimile Comments?

You may submit comments of not more than three pages of facsimile transmission to (202) 927-8525.

Facsimile comments must:

- Be legible;
- Be 8½" × 11" in size;
- Contain a legible written signature;

and

- Be not more than three pages.
- We will not acknowledge receipt of facsimile transmissions. We will treat facsimile transmissions as originals.

How Do I Send Comments by E-mail?

If you send an e-mail, you must follow these instructions. E-mail comments must:

- Contain your name, mailing address, and e-mail address;
- Contain the word "Notice" and its number in the subject or reference line of the e-mail;
- Contain your company or association affiliation, if pertinent to your comment;
- Contain your reason for commenting (manufacturer, importer, consumer, etc.);
- Be legible when printed in a 8½" × 11" size (no special characters or symbols); and

- Be addressed to nprm@atfhq.atf.treas.gov.

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

Can I Request a Public Hearing?

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

3. Regulatory Analyses and Notices

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

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

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

It is certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities (see the following discussion concerning the Paperwork Reduction Act. Accordingly, a regulatory flexibility analysis is not required. Pursuant to 26 U.S.C. 7805(f), this proposed regulation was submitted

to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received.

Does the Paperwork Reduction Act Apply to This Proposed Rule?

Yes. The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection(s) of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (ATF), Office of Information and Regulatory Affairs, Washington, D.C., 20503, with copies to the Chief, Document Services Branch, Room 3450, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Comments are specifically requested concerning:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Alcohol, Tobacco and Firearms, including whether the information will have practical utility;
- The accuracy of the estimated burden associated with the proposed collection of information;
- How the quality, utility, and clarity of the information to be collected may be enhanced; and
- How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology.

The collection of information in this proposed regulation is contained in 27 CFR 40.232(e). ATF uses this information to verify the kind and amount of tobacco products removed in bond from the premises of manufacturers for experimental purposes. In addition, ATF may use this information to determine that the persons to whom such removals are made are using the tobacco products for legitimate experimental purposes and that the tobacco products are properly destroyed or returned to the premises of a manufacturer following their experimental use. If such tobacco products are not destroyed or returned to the premises of a manufacturer, ATF will use this information to collect the taxes due.

The collection of information is mandatory. The likely respondents may include small businesses or organizations. The estimated annual

burden per respondent will vary depending on the number of shipments that manufacturers of tobacco products remove from their premises in bond for experimental purposes. Estimated total annual recordkeeping burden under this proposed rule is 1 hour since the records to be maintained are customary and usual for private and business purposes. Estimated average annual burden per respondent and/or recordkeeper is less than 1 hour. The estimated number of recordkeepers is 165.

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.

“Plain Language” Changes

During the revision of the regulations in this document, we also tried to simplify and clarify the language of the affected section of the regulations. Any suggestions for improving the readability of these regulations may be submitted as comments to the cross-referenced notice of proposed rulemaking.

4. Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and the Treasury Department participated in developing the document.

List of Subjects in 27 CFR Part 40

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic fund transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

Authority and Issuance

We propose to amend Title 27 of the Code of Federal Regulations as follows:

PART 40—MANUFACTURERS OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Paragraph 1. The authority citation for part 40 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805, 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 40.232 is revised to read as follows:

§ 40.232 Experimental purposes.

A manufacturer of tobacco products may use tobacco products without determination and payment of tax as set forth in this section.

(a) *What are experimental purposes?* Experimental purposes are operations or tests carried out under controlled conditions to discover an unknown scientific principle or to gather facts about an existing scientific principle. Examples of experimental purposes are:

(1) Use by manufacturers to determine scientific facts relating to tobacco products, such as content of certain chemicals;

(2) Use by producers of machines designed to package such products for testing and experimenting in the operation of these machines; and

(3) Use in laboratories, hospitals, medical centers, institutes, colleges, and universities, for scientific, technical, or medical research.

(b) *What purposes are not experimental?* Tobacco products used for advertising or consumer testing outside the factory premises, or as salesmen's or customers' samples are not experimental purposes.

(c) *Use in factory.* A manufacturer of tobacco products may use tobacco products without determination and payment of tax for experimental purposes in a factory.

(d) *Use outside factory.* A manufacturer may remove tobacco products in bond for experimental purposes outside a factory. When tobacco products are shipped for experimental purposes outside the factory, the proprietor of the factory remains liable for the taxes imposed by 26 U.S.C. 5701 until the occurrence of one of the following events:

(1) The tobacco products are returned to the premises of the factory from which they were shipped; or

(2) The tobacco products are destroyed during or after the use of such products for experimental purposes.

(e) *Record of use.* In addition to the records prescribed by § 40.183, a manufacturer who removes tobacco products in bond for experimental purposes outside a factory must prepare and maintain a record containing the following information:

(1) Name and address of the consignee;

(2) Kind and quantity of tobacco products removed;

(3) Description of packaging, if any, of the tobacco products removed;

(4) Description of how and when the consignee will use the tobacco products; and

(5) Disposition of any remaining tobacco products after the consignee's use.

(Approved by the Office of Management and Budget under Control Number 1512-) (72 Stat. 1418, as amended; 26 U.S.C. 5704)

Signed: August 28, 2001.

Bradley A. Buckles,

Director.

Approved: September 12, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary

(Regulatory, Tariff and Trade Enforcement).

[FR Doc. 01-25843 Filed 10-16-01; 8:45 am]

BILLING CODE 4810-31-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-2236; MM Docket No. 01-254; RM-10264; MM Docket No. 01-255; RM-10265; MM Docket No. 01-256; RM-10266; MM Docket No. 01-257; RM-10267; MM Docket No. 01-258; RM-10268; MM Docket No. 01-259; RM-10269; MM Docket No. 01-260; RM-10270; MM Docket No. 01-261; RM-10271]

Radio Broadcasting Services; Atoka, OK; Wright City, OK; Benavides, TX; Bad Axe, MI; Bearden, AR; Grandin, MO; Pawhuska, OK; and Early, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes new allotments to Atoka, OK; Wright City, OK; Benavides, TX; Bad Axe, MI; Bearden, AR; Grandin, MO; Pawhuska, OK; and Early, TX. The Commission requests comments on a petition filed by Maurice Salsa, proposing the allotment of Channel 290A at Atoka, OK, as that community's second local FM transmission service. Channel 290A can be allotted to Atoka at a restricted site located 1.8 kilometers southeast of the community, utilizing coordinates 34-22-25 NL and 96-06-57 WL. See Supplementary Information, *infra*.

DATES: Comments must be filed on or before November 19, 2001, and reply comments on or before December 4, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, as follows: Maurice Salsa, 5616 Evergreen Valley Drive, Kingwood, TX 77345 (petitioner for Atoka, OK; Wright City, OK; and Pawhuska, OK); Jeraldine Anderson, 1702 Cypress Drive,

Irving, TX 75061 (petitioner for Benavides, TX; and Early, TX); Charles Crawford, 4553 Bordeaux Ave., Dallas, TX 75205 (petitioner for Bad Axe, MI; Bearden, AR; and Grandin, MO).

FOR FURTHER INFORMATION CONTACT:

Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-254; MM Docket No. 01-255; MM Docket No. 01-256; MM Docket No. 01-257; MM Docket No. 01-258; MM Docket No. 01-259; MM Docket No. 01-260; and MM Docket No. 01-261, adopted September 19, 2001, and released September 28, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893.

In addition to the above, the Commission requests comments on a petition filed by Maurice Salsa proposing the allotment of Channel 226A at Wright City, Oklahoma, as that community's first local aural transmission service. Channel 226A requires a site restriction 5.0 kilometers northeast of the community, utilizing coordinates 34-05-58 NL and 94-58-34 WL.

The Commission further requests comments on a petition filed by Jeraldine Anderson proposing the allotment of Channel 282A at Benavides, Texas, as that community's second local FM transmission service. Channel 282A requires a site restriction 5.3 kilometers south of the community, utilizing coordinates 27-32-59 NL and 98-25-11 WL. Additionally, as Benavides is located within 320 kilometers of the U.S.-Mexico border, concurrence of the Mexican government will be requested for this allotment.

The Commission further requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 231A at Bad Axe, Michigan, as that community's second local FM transmission service. Channel 231A can be allotted to Bad Axe at city reference coordinates 43-48-12 NL and 83-00-00 WL. However, as Bad Axe is located within 320 kilometers of the U.S.-Canada border, concurrence of the Canadian government will be requested for this allotment.

The Commission further requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 224A at Bearden, Arkansas, as that community's first local aural transmission service. Channel 224A can be allotted to Bearden at city reference coordinates 33-43-24 NL and 92-36-54 WL.

The Commission further requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 283A at Grandin, Missouri, as that community's first local aural transmission service. Channel 283A can be allotted to Grandin at city reference coordinates at 36-49-45 NL and 90-49-22 WL.

The Commission further requests comments on a petition filed by Maurice Salsa proposing the allotment of Channel 233A at Pawhuska, Oklahoma, as that community's second local FM transmission service. Channel 233A can be allotted to Pawhuska at a restricted site located 11.7 kilometers north of the community, utilizing coordinates 36-46-16 NL and 96-21-39 WL.

The Commission further requests comments on a petition filed by Jeraldine Anderson proposing the allotment of Channel 294A at Early, Texas, as that community's first local aural transmission service. Channel 294A can be allotted to Early at city reference coordinates 31-44-31 NL and 98-56-43 WL.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.