

where CWD has become established in wild deer, elk or moose.

\* \* \* \* \*

10. A new § 81.5 is added to read as follows:

**§ 81.5 State prohibitions on cervid movement not related to CWD.**

State laws and regulations prohibiting the entry of farmed or captive cervids for reasons unrelated to CWD are not preempted by this part.

Done in Washington, DC, this 25th day of March 2009.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E9-7026 Filed 3-30-09; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Parts 40, 41, 44, 46, and 71

[Docket No. TTB-2009-0001; Notice No. 93; Re: T.D. TTB-75]

RIN 1513-AB70

#### **Increase in Tax Rates on Tobacco Products and Cigarette Papers and Tubes; Floor Stocks Tax on Certain Tobacco Products, Cigarette Papers, and Cigarette Tubes; and Changes to Basis for Denial, Suspension, or Revocation of Permits (2009R-118P)**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Notice of proposed rulemaking; cross-reference to temporary rule.

**SUMMARY:** Elsewhere in this issue of the **Federal Register**, the Alcohol and Tobacco Tax and Trade Bureau is issuing a temporary rule implementing certain provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). The text of the regulations in the temporary rule published in the Rules and Regulations section of this issue of the **Federal Register** serves as the text of the proposed regulations.

**DATES:** Comments must be received on or before June 1, 2009.

**ADDRESSES:** You may send comments on this notice to one of the following addresses:

- <http://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB-2009-0001 at "Regulations.gov," the Federal e-rulemaking portal);
- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and

Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412; or

• *Hand Delivery/Courier in Lieu of Mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

See the **Public Participation** section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, any comments received, and the related temporary rule at <http://www.regulations.gov>.

A direct link to the appropriate Regulations.gov docket is also available under Notice No. 93 on the TTB Web site at [http://www.ttb.gov/regulations\\_laws/all\\_rulemaking.shtml](http://www.ttb.gov/regulations_laws/all_rulemaking.shtml). You also may view copies of these documents by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202-927-2400.

**FOR FURTHER INFORMATION CONTACT:** For questions concerning floor stocks tax, contact the National Revenue Center, Alcohol and Tobacco Tax and Trade Bureau (*FloorStocksTax@ttb.gov*, 513-684-3334 or 1-877-TTB-FAQS (1-877-882-3277)); for other questions concerning this document, contact Amy Greenberg, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau (202-927-8210).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In the Rules and Regulations section of this issue of the **Federal Register**, we are publishing a temporary rule setting forth regulatory amendments to implement certain provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). The temporary rule amends the existing regulations to reflect increases in the tax rates on tobacco products and cigarette papers and tubes, revising existing floor stocks tax regulations to reflect the scope of the CHIPRA floor stocks tax provisions, and revising existing regulations to include the new statutory criteria for denial, suspension, or revocation of tobacco permits.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) is responsible for the administration of the Internal Revenue Code of 1986 provisions relating to qualification of manufacturers of tobacco products and cigarette papers and tubes, importers of those products, and export warehouses for those products. TTB is also responsible for collecting the excise taxes on tobacco products and cigarette papers and tubes removed from

domestic production facilities and brought to the United States from Puerto Rico. In addition, TTB is responsible for collecting the floor stocks tax imposed by CHIPRA on tobacco products (except large cigars) and cigarette papers and tubes held for sale on April 1, 2009.

The temporary regulations published elsewhere in this issue of the **Federal Register** involve amendments to parts 40, 41, 44, 46, and 71 of the TTB regulations (27 CFR parts 40, 41, 44, 46, and 71). The text of the temporary regulations serves as the text of these proposed regulations. The preamble to the temporary regulations explains the proposed regulations.

#### **Public Participation**

##### *Comments Invited*

We invite comments from interested members of the public on this proposed rulemaking.

##### *Submitting Comments*

You may submit comments on this notice by one of the following three methods:

- *Federal e-Rulemaking Portal:* You may electronically submit comments on this notice through "Regulations.gov," the Federal e-rulemaking portal. A direct link to the Regulations.gov docket containing this notice and its related comment submission form is available on the TTB Web site at [http://www.ttb.gov/regulations\\_laws/all\\_rulemaking.shtml](http://www.ttb.gov/regulations_laws/all_rulemaking.shtml) under Notice No. 93. You may also reach this notice and its related comment form via the Regulations.gov search page at <http://www.regulations.gov>. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on "User Guide" under "How to Use this Site."

- *Mail:* You may send written comments to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.

- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 93 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. We do not

acknowledge receipt of comments, and we consider all comments as originals.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via <http://www.regulations.gov>, please enter the entity's name in the "Organization" blank of the comment form. If you comment via mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

#### *Confidentiality*

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

#### *Public Disclosure*

On the Federal e-rulemaking portal, Regulations.gov, we will post, and you may view, copies of this notice, any electronic or mailed comments we receive about this proposal, and the related temporary rule. A direct link to the Regulations.gov docket containing this notice and the comments received on this proposal is available on the TTB Web site at [http://www.ttb.gov/regulations\\_laws/all\\_rulemaking.shtml](http://www.ttb.gov/regulations_laws/all_rulemaking.shtml) under Notice No. 93. You may also reach the relevant docket through the Regulations.gov search page at <http://www.regulations.gov>.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. We may omit voluminous attachments or material that we consider unsuitable for posting.

You also may view copies of this notice, any electronic or mailed comments we receive about this proposal, and the related temporary rule by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- × 11-inch page. Contact our information specialist at the above address or by telephone at 202-927-2400 to schedule an appointment or to request copies of comments or other materials.

### **Regulatory Flexibility Act, Paper Work Reduction Act, and Executive Order 12866**

Since the regulatory text proposed in this notice of proposed rulemaking is identical to that contained in the companion temporary rule published elsewhere in this issue of the **Federal Register**, the analyses contained in the preamble of the temporary rule concerning the Regulatory Flexibility Act, the Paperwork Reduction Act, and Executive Order 12866 also apply to this proposed rule.

#### **Drafting Information**

Marjorie Ruhf of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document. However, other personnel participated in its development.

#### **List of Subjects**

##### *27 CFR Part 40*

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

##### *27 CFR Part 41*

Cigars and cigarettes, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Virgin Islands, Warehouses.

##### *27 CFR Part 44*

Aircraft, Armed forces, Cigars and cigarettes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Vessels, Warehouses.

##### *27 CFR Part 46*

Administrative practice and procedure, Cigars and cigarettes, Claims, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

##### *27 CFR Part 71*

Administrative practice and procedure, Alcohol and alcoholic beverages, Tobacco.

#### **Proposed Amendments to the Regulations**

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR parts 40, 41, 44, 46, and 71 as follows:

### **PART 40—MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES**

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.

2. [The proposed amendatory instructions and the proposed amended regulatory text for part 40 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

### **PART 41—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES**

3. The authority citation for part 41 continues to read as follows:

**Authority:** 18 U.S.C. 2342; 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5712, 5713, 5721–5723, 5741, 5754, 5761–5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

4. [The proposed amendatory instructions and the proposed amended regulatory text for part 41 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

### **PART 44—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX**

5. The authority citation for part 44 continues to read as follows:

**Authority:** 26 U.S.C. 5142, 5143, 5146, 5701, 5703, 5704, 5708, 5711–13, 5721–5723, 5731, 5741, 5751, 5754, 6066, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

6. [The proposed amendatory instructions and the proposed amended regulatory text for part 44 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

## PART 46—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

7. The authority citation for Part 46 continues to read as follows:

**Authority:** 18 U.S.C. 2341–2346, 26 U.S.C. 5704, 5708, 5751, 5754, 5761–5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805; 44 U.S.C. 3504(h), 49 U.S.C. 782, unless otherwise noted.

8. [The proposed amendatory instructions and the proposed amended regulatory text for part 46 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

## PART 71—RULES OF PRACTICE IN PERMIT PROCEEDINGS

9. The authority citation for part 71 is revised to read as follows:

**Authority:** 26 U.S.C. 5271, 5181, 5712, 5713, 7805, 27 U.S.C. 204.

10. [The proposed amendatory instructions and the proposed amended regulatory text for part 71 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

Signed: March 10, 2009.

**John J. Manfreda,**  
Administrator.

Approved: March 12, 2009.

**Timothy E. Skud,**  
Deputy Assistant Secretary. (*Tax, Trade, and Tariff Policy*).

[FR Doc. E9–7076 Filed 3–27–09; 11:15 am]

BILLING CODE 4810–31–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2009–0159]

RIN 1625–AA00

#### Safety Zone; Barge BDL235, Pago Pago Harbor, American Samoa

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes a temporary 100-foot (30.5 meter) radius safety zone around the 142 foot Barge BDL235 while it is performing operations in and around the

CHEHALIS wreck. The wreck's approximate position is 14°16.52' S, 170°40.56' W and centered about 350 feet north of the fuel dock in Pago Pago Harbor, American Samoa. The safety zone is necessary to protect other vessels and the general public from hazards associated with dive operations.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before April 15, 2009 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG–2009–0159 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202–493–2251.

(3) Mail: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Lieutenant Commander Marcella Granquist, Waterways Management Division, U.S. Coast Guard Sector Honolulu, telephone 808–842–2600. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

#### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0159), indicate the specific section of this

document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, USCG–2009–0159 in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and we may change the rule based on your comments.

#### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, USCG–2009–0159 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or at Sector Honolulu, 433 Ala Moana Blvd, Honolulu, Hawaii, 96813 between 7:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).