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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 270, 275, 290, 295, 296

[T.D. ATF--424]

RIN 1512-AB92

Implementation of Public Law 105-33, Section 9302, Relating to
the Imposition of Permit Requirements on the Manufacturer of Roll-Your-
Own Tobacco (98R-370P)

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

the Treasury.

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule implements the provision of the Balanced Budget Act of 1997 relating to the new permit requirements on the manufacture of roll-your-own tobacco. This temporary rule also removes references to forms which have previously been made obsolete, and renumbers certain forms to reflect the current ATF numbering system. In the Proposed Rules section of this Federal Register, ATF is also issuing a notice of proposed rulemaking inviting comments on this temporary rule for a 60-day period following the publication of this temporary rule.

DATES: Effective date: December 22, 1999.

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

SUPPLEMENTARY INFORMATION:

Background

This temporary rule implements the provision of the Balanced Budget Act of 1997, Public Law 105-33 ('`the Act''), enacted on August 5, 1997

relating to roll-your-own tobacco. Section 9302 of the Act amends the Internal Revenue Code of 1986 (IRC), 26 U.S.C. 5701 and 5702 by imposing new permit requirements on the manufacture of roll-your-own tobacco.

This temporary rule also makes minor changes to remove references to obsolete forms and to replace old form numbers with current ATF form numbers. This rule also corrects the title of part 270 of title 27 CFR to include manufacturers of cigarette papers and tubes.

Roll-Your-Own Tobacco

Roll-your-own tobacco is defined in the Act to mean ``any tobacco which because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.'' On or after January 1, 2000, manufacturers of roll-your-own tobacco are required to hold a permit. Section 9302(i)(2) of the Act also contains a transitional rule which allows those who on the date of enactment, August 5, 1997, were engaged in the manufacture of roll-your-own tobacco and who make an application for a permit prior to January 1, 2000, to continue to engage in such business pending final action on the application. In addition, by amending the definitions of the terms ``Tobacco products'' and ``Manufacturer of tobacco products'' to include roll-your-own tobacco, the Act subjects manufacturers of such products to all the statutory and regulatory controls set forth in chapter 52 of IRC. These controls include tax payment, permit qualification, bonding, recordkeeping, and civil and criminal sanctions. This rule contains temporary regulations implementing the provisions of section 9302 of the Balanced Budget Act of 1997 described above. In addition, this

temporary rule prescribes the packages, marks, labels, and notice requirements for roll-your-own tobacco.

Specifically, these regulations require that every package of roll-your-own tobacco shall, before removal subject to tax, have imprinted thereon or on a label securely affixed to the package the designation ``roll-your-own tobacco,`` as well as a statement of the pounds and ounces of the product contained in the package. As an alternative to the designation ``roll-your-own tobacco,`` the package may be designated ``Tax Class J.`` The Bureau believes that allowing the use of this alternative designation will adequately protect the revenue by distinguishing the roll-your-own tobacco class from the other classes of tobacco products. This also facilitates the relabeling of many tobacco products which are subject to tax but which are currently labeled as ``smoking tobacco`` rather than roll-your-own tobacco.

This document also contains a use-up rule for packages for roll-your-own tobacco. It allows manufacturers to place roll-your-own tobacco in packages that do not meet the mandatory marking requirements. Under this use-up rule, until April 1, 2000, a manufacturer may continue to place roll-your-own tobacco in packages that were in use prior to January 1, 2000.

Title Change of Part 270

The title of 27 CFR part 270 is being changed to properly reflect the contents of this part. On October 17, 1996, Treasury Decision ATF-384 was published in the Federal Register (61 FR 54084). This decision eliminated Part 285, Manufacturers of Cigarette Papers and Tubes, by merging the contents into part 270 under a new subpart K. As a result

of this action, the title to part 270 should have been changed to properly reflect regulations on the manufacture of tobacco products and the manufacture of cigarette papers and tubes.

Obsolete Forms

Changes to the regulations are being made to remove references to obsolete forms. First this removes the reference to ATF Form 2988 (5200.8), Deferred Tax Return--Puerto Rican Cigars and Cigarettes. This form was eliminated by Treasury Decision ATF-277 published in the Federal Register on November 9, 1988 (53 FR 45266) with the implementation of ATF Form 5000.25, Excise Tax Return--Alcohol and Tobacco (Puerto Rico). References to ATF Form 2137 (5230.7), Monthly Tax Return--Manufacturer of Cigarette Papers and Tubes, and ATF Form 3071 (5210.7), Tax Return--Manufacturer of Tobacco Products, are also removed from the regulations. These forms were made obsolete by Treasury Decision ATF-219 published in the Federal Register on December 17, 1985 (50 FR 51386) with the implementation of ATF Form 5000.24, Excise Tax Return, for domestic producers. References to ATF Forms 3065, Record of Large Cigars, and 3066, Record of Small Cigars, are removed as these forms were inadvertently not removed from the regulations when such recordkeeping requirements were deemed no longer necessary.

Renumbered ATF Forms

Minor changes are made to reflect the correct ATF form number on certain forms. The regulation citation and form changes are as follows:

| Regulation cite in 27 CFR | Old form number | New form number |
|---|-----------------|-----------------|
| 290.147..... | 2140 | 5220.4 |
| 275.86..... | 2145 | 5200.11 |
| [[Page 71930]] | | |
| 290.222, 290.224 through 290.227, 290.232..... | 2147 | 5620.7 |
| 270.201..... | 3067 | 5210.9 |
| 270.202, 275.141..... | 3068 | 5210.5 |
| 270.311, 270.476, 275.170, 275.172. | 3069 (5200.7) | 5200.7 |

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. Moreover, any revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute. Pursuant to 26 U.S.C. 7805(f), this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Executive Order 12866

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

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed under the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)), and pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control numbers 1512-0358 and 1512-0502. 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 OMB.

The collection information in this regulation is found in 27 CFR 270.182, 270.183, 270.216a, 275.72b, and 295.45b. This information is required to ensure proper payment of excise tax on roll-your-own tobacco products.

For further information concerning this collection of information, and where to submit comments on the collection of information, refer to the preamble of the cross-referenced notice of proposed rulemaking published in the proposed rules section of this Federal Register.

Administrative Procedure Act

This document merely implements sections of the law that were enacted on August 5, 1997, and immediate guidance is necessary to implement the provisions of the law. Therefore, it is found to be unnecessary to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b) or subject to the effective date limitation under 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Jackie White, of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 270

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Claims, Electronic fund transfer, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, Tobacco products.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Claims, Customs duties and inspection, Electronic fund transfer, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, Tobacco products, U.S. possessions,

Warehouses.

27 CFR Part 290

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

27 CFR Part 295

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Excise taxes, Labeling, Packaging and containers, Tobacco products.

27 CFR Part 296

Authority delegations, Cigarette papers and tubes, Claims, Disaster assistance, Excise taxes, Floor stocks tax, Penalties, Seizures and forfeitures, Surety bonds, Tobacco products.

Authority and Issuance

Accordingly, title 27 of the Code of Federal Regulations is amended as follows:

PART 270--MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Paragraph 1. The heading of part 270 is revised to read as set forth above:

Par. 2. The authority citation for part 270 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. 3. Section 270.11 is amended by adding the definition for ``Roll-your-own tobacco'' and by revising the definitions ``Manufacturer of tobacco products'' and ``Tobacco products'' to read as follows:

Sec. 270.11 Meaning of terms.

* * * * *

* * * * *

Manufacturer of tobacco products. Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco but does not include:

(1) A person who produces tobacco products solely for that person's own consumption or use; or

(2) A proprietor of a Customs bonded manufacturing warehouse with

respect to the operation of such warehouse.

* * * * *

Roll-your-own tobacco. Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

* * * * *

Tobacco products. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

* * * * *

Par. 4. Subpart E is amended by removing Sec. 270.61b and by revising Sec. 270.61a to read as follows:

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Subpart E--Qualification Requirements for Manufacturers

Sec. 270.61a Transitional rule.

Any person who:

(a) On August 5, 1997, was engaged in business as a manufacturer of roll-your-own tobacco, and

(b) Before January 1, 2000, submits an application as provided in this part to engage in such business, may continue to engage in such business pending final action on such application. Pending such final action, all provisions of chapter 52 of the Internal Revenue Code of 1986 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture

roll-your-own tobacco under such chapter 52.

Sec. 260.61b [Removed]

Par. 5. Section 270.133 is amended by revising the third sentence to read as follows:

Sec. 270.133 Amount of individual bond.

* * * The amount of any such bond (or the total amount including strengthening bonds, if any) need not exceed \$250,000 for a manufacturer producing or receiving cigarettes in bond; need not exceed \$150,000 for a manufacturer producing or receiving cigars, smokeless tobacco, pipe tobacco, or roll-your-own tobacco in bond; and need not exceed \$250,000 for a manufacturer producing or receiving, any combination of tobacco products in bond. * * *

Par. 6. Section 270.181 is revised to read as follows:

Sec. 270.181 General.

Every manufacturer of tobacco products must keep records of his operations and transactions which shall reflect, for each day, the information specified in Sec. Sec. 270.182 and 270.183. For this purpose day shall mean calendar day, except that the regional director (compliance) may, upon application of the manufacturer by letter, in

duplicate, authorize as such day for a factory a 24-hour cycle of operation other than the calendar day. A day once so established as other than the calendar day may be changed only by another application approved by the regional director (compliance). No specific form is required. The manufacturer may use commercial records from which the required information may be readily ascertained for this purpose. The manufacturer shall keep the auxiliary and supplemental records from which such records are compiled and shall keep supporting records, as specified in Sec. Sec. 270.184 and 270.186, of tobacco products removed subject to tax and transferred in bond. Except as provided in Sec. Sec. 270.184 and 270.186, the entries in the commercial records so maintained or kept shall be made not later than the close of the next business day following the day on which the transaction(s) occurred. As used in this section the term business day shall mean any day other than Saturday, Sunday, a legal holiday in the District of Columbia, or a statewide legal holiday in the State wherein the factory to which the records relate is located.

Par. 7. Section 270.182 is amended by revising paragraph (a) to read as follows:

Sec. 270.182 Record of tobacco.

* * * * *

(a) Received (including tobacco resulting from reduction of cigars and cigarettes, and unpackaging of smokeless tobacco, pipe tobacco and roll-your-own tobacco), together with the name and address of the person from whom received;

* * * * *

Par. 8. Section 270.183 is amended by revising the introductory text to read as follows:

Sec. 270.183 Record of tobacco products.

The record of a manufacturer of tobacco products shall show the date and total quantities of all tobacco products, by kind (small cigars-large cigars; small cigarettes-large cigarettes; chewing tobacco-snuff; pipe tobacco; roll-your-own tobacco): * * *

* * * * *

Sec. 270.201 [Amended]

Par. 9. Section 270.201 is amended by removing the reference to ``Form 3067'' and adding in its place the reference ``Form 5210.9'' wherever it appears.

Sec. 270.202 [Amended]

Par. 10. Section 270.202, introductory text, is amended by removing the reference to ``Form 3068'' and adding in its place the reference ``Form 5210.5'' wherever it appears.

Sec. 270.216a [Removed]

Sec. 270.216b [Redesignated as Sec. 270.216a]

Par. 11. Section 270.216a is removed, Sec. 270.216b is redesignated as Sec. 270.216a and a new Sec. 270.216b is added to read as follows:

Sec. 270.216b Notice for roll-your-own tobacco.

(a) Product designation. Every package of roll-your-own tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation ``roll-your-own tobacco.'' As an alternative, packages of roll-your-own tobacco may be designated ``Tax Class J.``

(b) Product weight. Every package of roll-your-own tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement of the actual weight in pounds and ounces of the product contained therein.

(Approved by the Office of Management and Budget under control number 1512-0502)

Par. 12. Section 270.216c is revised to read as follows:

Sec. 270.216c Package use-up rule.

Until April 1, 2000, manufacturers of roll-your-own tobacco, may

continue to place roll-your-own tobacco in packages that do not meet the marking requirements of Sec. Sec. 270.212 and 216b. The manufacturer must have used such packaging for roll-your-own tobacco before January 1, 2000.

Par. 13. The second sentence of Sec. 270.231 is revised to read as follows:

Sec. 270.231 Consumption by employees.

* * * Each employee may also be gratuitously furnished by the manufacturer, for off-factory personal consumption, not more than 5 large cigars or cigarettes, 20 small cigars or cigarettes, or one retail package of chewing tobacco, snuff, pipe tobacco or roll-your-own tobacco, or a proportionate quantity of each, without determination and payment of tax, on each day the employee is at work. * * *

* * * * *

Par. 14. The second sentence of Sec. 270.252 is revised to read as follows:

Sec. 270.252 Reduction of tobacco products to materials.

* * * If the tobacco products have been entered in the factory record as manufactured or received, an entry shall be made in such record of the quantity of pipe tobacco or roll-your-own tobacco and the kind and quantity of cigars, cigarettes, and smokeless tobacco reduced to materials and of the quantity of tobacco resulting from the

reduction. * * *

Par. 15. The first sentence of Sec. 270.255 is revised to read as follows:

Sec. 270.255 Shortages and overages in inventory.

Whenever a manufacturer of tobacco products makes a physical inventory of packaged tobacco products in bond, either as part of normal operations or when required by an ATF officer, and such inventory discloses a shortage or overage in such products by kind as recorded and reported (i.e., small cigars, large cigars, chewing tobacco, snuff,

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pipe tobacco, or roll-your-own tobacco), the manufacturer shall enter such shortage or overage in the records required by Sec. 270.183. * * *

* * * * *

Sec. 270.311 [Amended]

Par. 16. Section 270.311 is amended by removing the reference ``Form 3069 (5200.7)'' and adding in its place the reference ``Form 5200.7'' wherever it appears.

Sec. 270.476 [Amended]

Par. 17. Section 270.476 is amended by removing the reference ``Form 3069 (5200.7)'' and adding in its place the reference ``Form 5200.7'' wherever it appears.

PART 275--IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 18. The authority citation for part 275 continues to read as follows:

Authority: 26 U.S.C. 5701, 5703-5705, 5708, 5722, 5723, 5741, 5761-5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 19. Section 275.11 is amended by revising the definitions of ``Computation or computed,'' ``Manufacturer of tobacco products,'' and ``Tobacco products,'' and by adding a definition for ``Roll-your-own tobacco'' to read as follows:

Sec. 275.11 Meaning of terms.

* * * * *

Computation or computed. When used with respect to the tax on tobacco products of Puerto Rican manufacture, computation or computed shall mean that the bonded manufacturer has ascertained the quantity and kind (small cigars, large cigars, small cigarettes, large

cigarettes, chewing tobacco, snuff, pipe tobacco, or roll-your-own tobacco) of tobacco products and the sale price of large cigars being shipped to the United States; that adequate bond has been posted to cover the payment, in Puerto Rico, of the tax on such products to be deferred under subpart G of this part; that the tax imposed on such products by 26 U.S.C. 7652(a) has been calculated; that the bonded manufacturer has executed an agreement to pay the internal revenue tax which will become due with respect to such products, as provided in this part; and that an ATF officer has verified and executed a certification of such calculation.

* * * * *

Manufacturer of tobacco products. Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco but does not include:

(1) A person who produces tobacco products solely for that person's own consumption or use; or

(2) A proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse.

* * * * *

Roll-your-own tobacco. Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

* * * * *

Tobacco products. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

Par. 20. A new Sec. 275.72b is added to read as follows:

Sec. 275.72b Notice for roll-your-own tobacco.

(a) Product designation. Every package of roll-your-own tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation ``roll-your-own tobacco.'' As an alternative, packages of roll-your-own tobacco may be designated ``Tax Class J.''

(b) Product weight. Every package of roll-your-own tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement of the actual weight in pounds and ounces of the product contained therein.

(Approved by the Office of Management and Budget under control number 1512-0502)

Par. 21. Section 275.81 is amended by adding a new paragraph (c) (7) to read as follows:

Sec. 275.81 Taxpayment.

* * * * *

(c) * * *

(7) For roll-your-own tobacco: The importer will show the designation ``roll-your-own'' or ``Tax Class J'', the number of pounds and ounces, the rate of tax and the amount of tax due.

* * * * *

Sec. 275.86 [Amended]

Par. 22. Section 275.86 is amended by removing the reference to ``Form 2145'' and adding in its place the reference ``Form 5200.11'' wherever it appears.

Par. 23. Section 275.107 is revised to read as follows:

Sec. 275.107 Procedures at port of entry.

(a) The port director of customs at the port of entry will inspect the shipment to determine whether the quantity specified on the Form 3075 is contained in the shipment. He will then execute his certificate on the three copies of the Form 3075 in his possession, and indicate on each copy any exceptions found at the time of release.

(b) The statement of exceptions shall identify each shipping container which sustained a loss; the tobacco products and cigarette papers and tubes reported shipped in such container; and the tobacco products and cigarette papers and tubes lost from such container. Losses occurring as the result of missing packages, cases, or shipping containers shall be listed separately from losses caused by damage.

(c) Where the statement is made on the basis of tobacco products or cigarette papers or tubes missing or damaged, the port director of customs shall show:

(1) The numbers of small cigarettes, large cigarettes, and small cigars.

(2) The number and total sale price of large cigars with a sale price of not more than \$235.294 per thousand,

(3) The number of large cigars with a sale price of more than \$235.294 per thousand,

(4) The number of books or sets of cigarette papers of each different numerical content.

(5) The number of cigarette tubes,

(6) The pounds and ounces of chewing tobacco and snuff,

(7) The pounds and ounces of pipe tobacco, and roll-your-own tobacco.

(d) If the port director of customs finds that the full amount of the tax has not been prepaid, he will require the difference due to be paid to him prior to release of the tobacco products and cigarette papers and tubes. When the inspection of the shipment has been effected, and any additional tax found to be due has been paid to the port director of customs, the shipment may be released.

Par. 24. Section 275.110 is amended by revising paragraph (e) to read as follows:

Sec. 275.110 Computation of tax and execution of agreement to pay tax.

* * * (e) the pounds and ounces of pipe tobacco or roll-your-own tobacco to be shipped, * * *

* * * * *

Par. 25. Section 275.117 is amended by revising paragraph (e) to read as follows:

Sec. 275.117 Procedure at port of entry.

* * * (e) the pounds and ounces of pipe tobacco or roll-your-own tobacco.

* * * * *

Par. 26. Section 275.121 is amended by revising the first sentence, and the last sentence to read as follows:

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Sec. 275.121 Amount of bond.

In order that tobacco products may be shipped to the United States on computation of tax under the provisions of this subpart, the total amount of the bond or bonds shall at all times be in an amount not less than the amount of unpaid tax chargeable at any one time against the bond: Provided, That the amount of any such bond need not exceed \$250,000 where payment of tax on cigarettes or on any combination of tobacco products is deferred; and need not exceed \$150,000 where the tax on cigars, smokeless tobacco, pipe tobacco, or roll-your-own tobacco is deferred. * * * The manufacturer shall charge such account with the amount of tax that was agreed to be paid on Form 2987. The manufacturer must credit the account for the amount paid on Form 5000.25, at the time the tax return is **filed**.

Par. 27. Section 275.139 is amended by revising paragraph (a) to read as follows:

Sec. 275.139 Records.

* * * * *

(a) Date, quantity, kind of cigars, cigarettes, smokeless tobacco, pipe tobacco and roll-your-own tobacco (number of small cigars--large cigars; number of small cigarettes--large cigarettes; pounds and ounces of chewing tobacco--snuff; pounds and ounces of pipe tobacco--roll-your-own tobacco).

* * * * *

Par. 28. Section 275.140 is amended by revising the last sentence and adding a sentence to read as follows:

Sec. 275.140 Taxpayment in the United States.

* * * * *

Such tobacco products and cigarettes papers and tubes shall be separately listed and identified as articles of Puerto Rican manufacture on Form 5000.24. The amount of tax paid on such articles shall be separately stated on Form 5000.24.

Sec. 275.141 [Amended]

Par. 29. Section 275.141 is amended by removing the reference ``Form 3068'' and adding in its place the reference ``Form 5210.5'' wherever it appears.

Secs. 275.170 and 275.172 [Amended]

Par. 30. Remove the reference ``Form 3069 (5200.7)'' and add in place of it the reference ``Form 5200.7'' wherever it appears in the following sections:

- (a) 275.170; and
- (b) 275.172.

PART 290--EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Par. 31. The authority citation for part 290 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703-5705, 5711-5713, 5721-5723, 5731, 5741, 5751, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 32. Section 290.11 is amended by adding the definition for ``Roll-your-own tobacco,'' and by revising the definitions for ``Manufacturer of tobacco products,'' and ``Tobacco products'' to read as follows:

Sec. 290.11 Meaning of terms.

* * * * *

Manufacturer of tobacco products. Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own

tobacco but does not include:

(1) A person who produces tobacco products solely for that person's own consumption or use; or

(2) A proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse.

* * * * *

Roll-your-own tobacco. Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

* * * * *

Tobacco products. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

* * * * *

Par. 33. Section 290.143 is amended by revising paragraph (a) to read as follows:

Sec. 290.143 General.

(a) Every export warehouse proprietor shall at the times specified in this subpart make a true and accurate inventory of products held on ATF Form 5220.3 (3373). This inventory must be submitted to the Regional Director (Compliance), and must specify the following:

(1) The number of small cigars, large cigars, small cigarettes, large cigarettes, cigarette papers, and cigarette tubes held by such proprietor at the times specified in this subpart.

(2) The pounds and ounces of chewing tobacco, snuff, pipe tobacco

and roll-your-own tobacco held by such proprietor at the times specified in this subpart.

(b) * * *

* * * * *

Sec. 290.147 [Amended]

Par. 34. Section 290.147 is amended by removing the reference to ``Form 2140'' and add in its place the reference ``Form 5220.4''.

Secs. 290.222, 290.224, 290.225, 290.226, 290.227, and 290.232 [Amended]

Par. 35. Remove the reference to ``Form 2147'' and add in its place the reference ``Form 5620.7'' wherever it appears in the following sections:

- (a) Section 290.222;
- (b) Section 290.224;
- (c) Section 290.225;
- (d) Section 290.226;
- (e) Section 290.227; and
- (f) Section 290.232.

PART 295--REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT FOR USE OF THE UNITED STATES

Par. 36. The authority citation for part 295 continues to read as

follows:

Authority: 26 U.S.C. 5703, 5704, 5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805, 44 U.S.C. 3504(h).

Par. 37. Section 295.11 is amended by adding the definition for ``Roll-your-own tobacco'', and by revising the definitions for ``Manufacturer of tobacco products,'' and ``Tobacco products'' to read as follows:

Sec. 295.11 Meaning of terms.

* * * * *

Manufacturer of tobacco products. Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco but does not include:

(1) A person who produces tobacco products solely for that person's own consumption or use; or

(2) A proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse.

* * * * *

Roll-your-own tobacco. Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

* * * * *

Tobacco products. Cigars, cigarettes, smokeless tobacco, pipe

tobacco, and roll-your-own tobacco.

* * * * *

Par. 38. Section 295.45b is revised to read as follows:

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Sec. 295.45b Notice for roll-your-own tobacco.

(a) Product designation. Every package of roll-your-own tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation ``roll-your-own tobacco.'' As an alternative, packages of roll-your-own tobacco may be designated ``Tax Class J''.

(b) Product weight. Every package of roll-your-own tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement of the actual weight in pounds and ounces of the product contained therein.

(Approved by the Office of Management and Budget under control number 1512-0502)

Par. 39. Section 295.45c is added to read as follows:

Sec. 295.45c Package use-up rule.

Until April 1, 2000, manufacturers of roll-your-own tobacco, may continue to place roll-your-own tobacco in packages that do not meet the marking requirements of Secs. 270.212 and 216b. The manufacturer

must have used such packaging for roll-your-own tobacco before January 1, 2000.

PART 296--MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS
AND CIGARETTE PAPERS AND TUBES

Par. 40. The authority citation for part 296 continues to read as follows:

Authority: 18 U.S.C. 2341-2346, 26 U.S.C. 5708, 5751, 5761-5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805, 44 U.S.C. 3504(h), 49 U.S.C. 782.

Par. 41. Section 296.72 is amended by revising the definitions for ``Tobacco Products'' to read as follows:

Sec. 296.72 Meaning of Terms.

* * * * *

Tobacco Products. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

* * * * *

Sec. 296.74 [Amended]

Par. 42. The second sentence of Sec. 296.74 is amended by adding

the words ``and roll-your-own-tobacco'' after the term ``pipe tobacco''.

Par. 43. Section 296.163 is amended by revising the definitions for ``Manufacturer of tobacco products'' and ``Tobacco products'' to read as follows:

Sec. 296.163 Meaning of terms.

* * * * *

Manufacturer of tobacco products. Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco but does not include:

(1) A person who produces tobacco products solely for that person's own consumption or use; or

(2) A proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse.

* * * * *

Tobacco Products. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

* * * * *

Signed: August 13, 1999.

John W. Magaw,

Director.

Approved: October 27, 1999.

John P. Simpson,

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

[FR Doc. 99-32602 Filed 12-21-99; 8:45 am]

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