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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 73

[Docket No. TTB–2014–0004; T.D. TTB–119A; Re: T.D. TTB–119]

RIN: 1513–AB97

Electronic Submission of Forms, the Finished Products Records for Distilled Spirits Plants, and Closures on Certain Distilled Spirits Products; Correction

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

ACTION: Direct final rule; Treasury decision; Correction.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) recently published a direct final rule amending its regulations regarding the electronic submission of forms and other documents. Among other provisions, those amendments added a new section providing that any requirement in the TTB regulations to submit a form to another agency may be met by the electronic submission of the form to the other agency, as long as that agency provides for and authorizes the electronic submission of the form. This final rule corrects those recent amendments by amending the definition of the term “form” to encompass all documents required by the TTB regulations to be submitted to any other agency, as well as to TTB, and by inserting a cross reference to that definition in the new section on the electronic submission of forms to other agencies.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Michael D. Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, at 202–453–1039, ext. 135.

SUPPLEMENTARY INFORMATION:

Recent Amendments to 27 CFR Part 73

The electronic submission of forms to the Alcohol and Tobacco Tax and Trade Bureau (TTB) is governed by the regulations in 27 CFR Part 73, Electronic Signatures; Electronic Submission of Forms. Part 73 sets forth the conditions under which TTB allows current and prospective industry members to submit forms to TTB or to other agencies electronically, and to use electronic signatures or digital signatures to sign those forms, in lieu of submitting paper documents with handwritten signatures.

When first issued in 2003, part 73 did not address the electronic submission to other agencies of forms that are required by the TTB regulations to be submitted to those agencies (see T.D. TTB–5, 68 FR 58600, October 10, 2003). To address this issue, as well as several other regulatory issues, TTB published T.D. TTB–119 in the **Federal Register** on March 27, 2014, at 79 FR 17029. The regulatory amendments made by T.D. TTB–119 became effective on April 28, 2014.

Among other regulatory changes, T.D. TTB–119 amended 27 CFR 73.1(a)(2) to state that part 73 sets forth the conditions under which TTB allows the electronic submission of certain forms to other agencies, where applicable, in addition to the conditions for the electronic submission of certain forms to TTB. To accomplish this purpose, T.D. TTB–119 added new subpart D, “Electronic Filing of Documents with Other Agencies,” to part 73, which consisted of one new section, § 73.40. This new section provides that any requirement in the TTB regulations to submit a form to another agency may be satisfied by submitting the form electronically to that agency, as long as the agency provides for and authorizes the electronic submission of that form and the submitter satisfies any registration or related requirement of that agency for this electronic submission.

A full discussion of the amendments made by T.D. TTB–119, including TTB’s authority to issue regulations under the Internal Revenue Code of 1986, as amended (26 U.S.C.), and the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.), may be found in the preamble to that final rule.

Need for Correction of T.D. TTB–119

In part 73, the term “form” is defined in § 73.3 to mean “all documents required by 27 CFR, chapter I, to be submitted to TTB.” In T.D. TTB–119, when adding a provision allowing the electronic submission of forms required by the TTB regulations to be submitted to other agencies, TTB inadvertently neglected to amend this definition to include documents required by 27 CFR chapter I to be submitted to other agencies. Therefore, TTB is correcting the definition of the term “form” in § 73.3 in order to clarify that, when used in part 73, the term “form”

includes all documents required by 27 CFR chapter I to be submitted to TTB or to any other agency. In addition, TTB is amending new § 73.40 to add a cross reference to the amended definition of “form” in § 73.3 in order to clarify that the provisions of § 73.40 regarding the electronic submission of forms to other agencies apply to all documents required by the TTB regulations to be submitted to other agencies, not just official TTB forms (documents issued by TTB that bear an Office of Management and Budget control number).

These corrections are merely clarifying in nature and do not change any existing regulatory or recordkeeping requirement.

Inapplicability of Prior Notice and Comment Procedures and Delayed Effective Date Requirement

TTB is issuing this final rule without prior notice and opportunity for public comment in accordance with sections 553(b)(A) and (B) of the Administrative Procedure Act (5 U.S.C. 553(b)(A) and (B)). These provisions authorize an agency to issue a rule without prior notice and comment when it issues rules of agency procedure or when an agency for good cause finds that prior notice and public comment procedures are unnecessary. Because the amendments contained in this final rule merely make technical corrections to existing procedural regulations in order to clarify the application of those provisions to documents submitted electronically to other agencies, and because these corrections do not change TTB’s interpretation of any regulation or the requirements of any recordkeeping provision, TTB has determined that the 5 U.S.C. 553(b) prior notice and public comment requirement does not apply to this final rule.

Because this final rule merely makes technical corrections to existing regulations to clarify the application of those provisions to documents submitted electronically to other agencies and does not change TTB's interpretation of any regulation or the requirements of any recordkeeping provision, TTB finds good cause under 5 U.S.C. 553(d)(3) to dispense with the effective date limitation in 5 U.S.C. 553(d).

Drafting Information

Michael D. Hoover of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

List of Subjects in 27 CFR Part 73

Electronic filing, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth in the preamble, TTB is correcting 27 CFR chapter I, part 73 as follows:

PART 73—Electronic Signatures; Electronic Submission of Forms

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

Authority: 26 U.S.C. 6011(f), 6061(b), 7502(c); 44 U.S.C. 3504 Note.

§ 73.3 [Amended]

2. In § 73.3, the definition of the term “Form(s)” is amended by adding the words “or any other agency” before the period at the end of the definition.

§ 73.40 [Amended]

3. In § 73.40, the first sentence is amended by adding the parenthetical phrase “(as that term is defined in § 73.3)” after the words “to submit a form”.

Dated: August 25, 2014.

John J. Manfreda,
Administrator.

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