



This document is scheduled to be published in the Federal Register on 01/23/2017 and available online at <https://federalregister.gov/d/2017-00334>, and on FDsys.gov

[Billing Code: 4810-31-P]

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 24 and 27

[Docket No. TTB-2016-0014; Notice No. 168; Re: T.D. TTB-147]

RIN: 1513-AC31

Implementation of Statutory Amendments Requiring the Modification of the Definition of Hard Cider

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**, by means of a temporary rule, the Alcohol and Tobacco Tax and Trade Bureau (TTB) implements changes made to the definition of “hard cider” in the Internal Revenue Code of 1986 by the Protecting Americans from Tax Hikes Act of 2015. The modified definition broadens the range of wines eligible for the hard cider tax rate. TTB is amending its regulations to reflect the modified definition of hard cider effective for products removed on or after January 1, 2017, and to set forth new labeling requirements to identify products to which the hard cider tax rate applies. The new labeling requirements include both a one-year transitional rule and a new labeling requirement that takes effect for products removed on or after January 1, 2018. The text of the regulations in that temporary rule published

elsewhere in this issue of the **Federal Register** serves as the text of the proposed regulations.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please send your comments on this document to one of the following addresses:

- Internet: <https://www.regulations.gov> (via the online comment form for this document as posted within Docket No. TTB–2016–0014 at

“Regulations.gov,” the Federal e-rulemaking portal);

- U.S. Mail: Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; or

- Hand delivery/courier in lieu of mail: Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 400, Washington, DC 20005.

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

You may view copies of this document, the related temporary rule, and any comments TTB receives about this proposal at <https://www.regulations.gov> within Docket No. TTB–2016–0014. A link to that docket is posted on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 168. You also may view copies of this document, the temporary rule, and any comments TTB receives about this proposal by appointment at the TTB

Information Resource Center, 1310 G Street, and NW. Washington, DC 20005.
Please call (202) 453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Kara Fontaine, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; telephone (202) 453–1039, ext. 103.

SUPPLEMENTARY INFORMATION:

Background

On December 18, 2015, the President signed into law the Consolidated Appropriations Act, 2016 (Pub. L. 114–113). Division Q of this Act is titled the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). Section 335(a) of the PATH Act amends the Internal Revenue Code of 1986 (IRC) at 26 U.S.C. 5041 by modifying the definition of hard cider for excise tax classification purposes. Pursuant to section 335(b) of the PATH Act, the amended definition of hard cider applies to such products removed on or after January 1, 2017. The PATH Act does not change the tax rate applicable to wine eligible for the hard cider tax rate; rather, it broadens the range of products to which the hard cider tax rate applies. Among other things, the range of products to which the hard cider tax rate applies will include certain sparkling and carbonated products and certain products that are subject to the requirements of the Federal Alcohol Administration Act (FAA Act).

Elsewhere in this issue of the **Federal Register**, TTB is publishing temporary regulations making amendments to parts 24 and 27 of the TTB regulations (27 CFR parts 24 and 27) to implement the changes made to the

definition of “hard cider” in the Internal Revenue Code of 1986 by the PATH Act. 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 Sought

TTB requests comments from interested members of the public on the proposed changes to our regulations in 27 CFR parts 24 and 27, which are described in detail in the temporary rule issued in conjunction with this notice of proposed rulemaking and published elsewhere in this issue of the **Federal Register**. TTB is particularly interested in comments on the labeling provisions and any alternatives to requiring that “Tax Class 5041(b)(6)” appear on the labels of products to which the hard cider tax rate applies. Please provide specific information in support of your comments.

Submitting Comments

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

- Federal e-Rulemaking Portal: You may send comments via the online comment form posted with this proposed rule within Docket No. TTB–2016–0014 on “Regulations.gov,” the Federal e-rulemaking portal, at <https://www.regulations.gov>. A direct link to that docket is available under Notice No. 168 on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml>. Supplemental files may be attached to comments submitted via Regulations.gov.

For complete instructions on how to use Regulations.gov, click on the sites “Help” tab.

- U.S. Mail: You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.

- 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 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this proposed rule. Your comments must reference Notice No. 168 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. TTB does not acknowledge receipt of comments and considers all comments as originals.

In your comment, please clearly state if you are commenting for yourself or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity’s name as well as your name and position title. In your comment via Regulations.gov, please enter the entity’s name in the “Organization” blank of the online comment form. If you comment via postal mail or hand delivery/courier, 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

TTB will post, and you may view, copies of this proposed rule, the related temporary rule, and any online or mailed comments received about this proposal within Docket No. TTB–2016–0014 on the Federal e-rulemaking portal. A direct link to that docket is available on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 168. You may also reach the relevant docket through the Regulations.gov search page at <https://www.regulations.gov>. For information on how to use Regulations.gov, click on the site’s “Help” tab.

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. TTB may omit voluminous attachments or material that it considers unsuitable for posting.

You may view copies of this proposed rule, the related temporary rule, and any electronic or mailed comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20005. You may also obtain copies for 20 cents per 8.5- x 11- inch page. Contact TTB’s information specialist at the above address or by

telephone at (202) 453–2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act, Paperwork 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

Dana Register and Kara Fontaine of the Regulations and Rulings Division drafted this document with the assistance of other Alcohol and Tobacco Tax and Trade Bureau personnel.

List of Subjects

27 CFR Part 24

Administrative practice and procedure, Cider, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Hard Cider, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspections, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and Recordkeeping requirements, Wine.

Proposed Amendments to the Regulations

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR chapter I, parts 24 and 27 as follows:

PART 24—WINE

1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5121, 5122–5124, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

2. [The proposed amendatory instructions and the proposed regulatory text for part 24 are the same as the amendatory instructions and the amendatory 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 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

3. The authority citation for part 27 continues to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121, 5122-5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5382, 5555, 6109, 7805.

4. [The proposed amendatory instructions and the proposed regulatory text for part 27 are the same as the amendatory instructions and the amendatory 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: December 7, 2016.

John J. Manfreda,

Administrator.

Approved: January 4, 2017.

Timothy E. Skud,

Deputy Assistant Secretary
(Tax, Trade and Tariff Policy).

[FR Doc. 2017-00334 Filed: 1/19/2017 8:45 am; Publication Date: 1/23/2017]