

“significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on September 4, 2009.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

* * * *Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
22-Oct-09 ...	IA	COUNCIL BLUFFS	COUNCIL BLUFFS MUNI ...	9/5812	8/22/2009	RNAV (GPS) RWY 32, ORIG.
22-Oct-09 ...	OK	MC ALESTER	MC ALESTER RGNL	9/5892	8/24/2009	VOR/DME RWY 20, AMDT 20C.
22-Oct-09 ...	OK	MC ALESTER	MC ALESTER RGNL	9/5904	8/24/2009	LOC RWY 2, AMDT 4A.
22-Oct-09 ...	CO	HOLYOKE	HOLYOKE	9/6789	8/24/2009	RNAV (GPS) RWY 14, ORIG-A.
22-Oct-09 ...	WA	BELLINGHAM	BELLINGHAM INTL	9/6999	8/24/2009	RNAV (GPS) RWY 34, ORIG-A.
22-Oct-09 ...	AZ	FORT HUACHUCA/SIERRA VISTA.	SIERRA VISTA MUNI-LIBBY AAF.	9/7966	9/2/2009	RADAR-1, AMDT 4.
22-Oct-09 ...	AZ	FORT HUACHUCA/SIERRA VISTA.	SIERRA VISTA MUNI-LIBBY AAF.	9/7967	9/2/2009	RNAV (GPS) RWY 8, ORIG.

[FR Doc. E9-22072 Filed 9-23-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 40, 41, and 45

[Docket No. TTB-2009-0002; T.D. TTB-81; Re: Notice No. 99, T.D. TTB-78, Notice No. 95]

RIN 1513-AB75

Extension of Package Use-Up Rule for Roll-Your-Own Tobacco and Pipe Tobacco (2009R-368P)

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

ACTION: Temporary rule; Treasury decision.

SUMMARY: On June 22, 2009, the Alcohol and Tobacco Tax and Trade Bureau published T.D. TTB-78, which included amendments to the notice requirements applicable to packages of roll-your-own tobacco and pipe tobacco. The temporary regulations provided a use-up period, until August 1, 2009, for manufacturers and importers to continue to remove packages that did not meet the new notice requirements. Those temporary regulations also included a new rule governing when a

product in a package bearing the declaration “pipe tobacco” would be classified as roll-your-own tobacco for tax purposes. This temporary rule extends the use-up period and delays application of the new classification rule. It also corrects two minor errors in the previously published regulatory texts. We also are soliciting comments from all interested parties on these new amendments through a notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

DATES: *Effective Date:* This temporary rule is effective *September 24, 2009* through June 22, 2012.

FOR FURTHER INFORMATION CONTACT: Amy R. Greenberg, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau (202-453-2265).

SUPPLEMENTARY INFORMATION:

Background

On June 22, 2009, the Alcohol and Tobacco Tax and Trade Bureau (TTB) published a temporary rule in the **Federal Register** (T.D. TTB-78, 74 FR 29401) to implement certain changes made to the Internal Revenue Code of 1986 by the Children’s Health Insurance Program Reauthorization Act of 2009 (Pub. L. 111-3; 123 Stat. 8) (the Act). The regulatory changes made by the temporary rule went into effect on June 22, 2009. In the same issue of the

Federal Register, TTB published a notice of proposed rulemaking (Notice No. 95, 74 FR 29433) inviting comments on the temporary regulations.

The temporary rule included new requirements regarding the packaging and labeling of pipe tobacco and roll-your-own tobacco to distinguish between these two products for tax purposes and to reflect the expansion of the statutory definition of roll-your-own tobacco generally to include cigar wrapper and filler. Specifically, the amendments adopted in the temporary rule resulted in the following regulatory standards:

- A package of processed tobacco that bears the notice required for pipe tobacco is deemed to be roll-your-own tobacco if the package does not bear the words “pipe tobacco” in direct conjunction with, parallel to, and in substantially the same conspicuousness of type and background as the brand name each time the brand name appears on the package, or if the package or accompanying materials bear any representation that would suggest a use other than as pipe tobacco. (See 27 CFR 40.25a(b) and 41.30(b)).

- Only the words “pipe tobacco” are acceptable as a designation on a package of pipe tobacco. The words “Tax Class L” are no longer authorized as an alternative designation. (See 27 CFR 40.216a(a), 41.72a(a), and 45.45a(a)). However, a manufacturer or importer

may, until August 1, 2009, continue to remove packages of pipe tobacco that bear the designation "Tax Class L", if such packages were in use prior to April 1, 2009. (See 27 CFR 40.216c(a), 41.72c(a), and 45.45c(a)).

• Only the words "roll-your-own tobacco", "cigarette tobacco", "cigar tobacco", "cigarette wrapper", and "cigar wrapper" are acceptable as designations on a package of roll-your-own tobacco. The words "Tax Class J" are no longer authorized as an alternative designation. (See 27 CFR 40.216b(a), 41.72b(a), and 45.45b(a)). However, a manufacturer or importer may, until August 1, 2009, continue to remove packages of roll-your-own tobacco that bear the designation "Tax Class J", if such packages were in use prior to April 1, 2009. (See 27 CFR 40.216c(a), 41.72c(a), and 45.45c(a)). In addition, a manufacturer or importer may, until August 1, 2009, remove roll-your-own tobacco for which the appropriate designation is "cigar tobacco", "cigarette wrapper", or "cigar wrapper" even if the packages of such products do not meet the requirements of §§ 40.216b, 41.72b, or 45.45b. (See 27 CFR 40.216c(b), 41.72c(b), and 45.45c(b)).

In the preamble to T.D. TTB-78, we set forth the rationale for these regulatory changes. Among other points, we noted that the tax increases adopted in section 701 of the Act resulted in a significant difference in the rate of tax imposed on pipe tobacco (\$2.8311 per pound) and the rate of tax imposed on roll-your-own tobacco (\$24.78 per pound); prior to the amendments made by the Act, the two rates were the same. Because of the revenue implications resulting from the tax rate changes, we stated that we are currently evaluating analytical methods and other standards to differentiate between the two products for tax purposes, as the current regulations contain no such standard beyond a repeat of the statutory definitions. We also noted that the definitions of these products require consideration of the packaging and labeling of the product in order to determine its classification. Under 26 U.S.C. 5702(n), the term "pipe tobacco" means 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 to be smoked in a pipe. Under 26 U.S.C. 5702(o), as amended by section 702 of the Act, the term "roll-your-own tobacco" means 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 or cigars, or for use as wrappers thereof. Accordingly, due to the incentive for industry members to present roll-your-own tobacco as pipe tobacco in the marketplace (and thus pay the lower tax rate), and due to the inclusion of packaging and labeling as a determining factor in the definitions (and thus classifications) of these products, the packaging and labeling of the products must clearly distinguish one product from the other. The circumstances in which a product is deemed to be roll-your-own tobacco rather than pipe tobacco in the amended texts are intended to ensure that the tax collected on the product is consistent with the way the product is presented to the consumer.

The inclusion of the terms "cigar wrapper," "cigarette wrapper," and "cigar filler" as terms that would be acceptable designations on packages of roll-your-own merely reflects the statutory change to the definition of roll-your-own tobacco. As with the removal of the words "Tax Class J" and "Tax Class L", the inclusion of these new terms is intended to ensure both that the product clearly conveys the appropriate classification of the product for tax purposes and that the manufacturer and importer can use as a designation a term more specific to the type of product being offered.

The use-up provisions were intended to allow industry members time to comply with these new requirements while, at the same time, minimizing the jeopardy to the revenue.

Comments Received

In response to Notice No. 95, we have received two comments raising concerns regarding the classification and notice provisions described above, which we believe warrant immediate consideration. The commenters are Kellie L. Newton, who submitted a comment on behalf of the Pipe Tobacco Council, Inc. ("PTC"), and Harold N. Bynum, who submitted a comment on behalf of John Middleton Co. ("JMC"). Both commenters requested that TTB extend use-up periods for the notice and classification-related requirements that apply to pipe tobacco products, asserting that the use-up period in the temporary regulations (that is, to August 1, 2009) gave insufficient time for manufacturers and importers of pipe tobacco to comply with the new requirements.

In its comment, PTC requested that TTB extend the period during which packaging not in compliance with the new regulatory provisions could be used to "at least May 1, 2010." PTC asserted that the existing use-up period would

cause "substantial irreparable economic harm to the manufacturers and importers of pipe tobacco." PTC stated that the 40 days provided "is not sufficient time for the manufacturers and importers of pipe tobacco to fully comprehend the required packaging and labeling changes, to assess current inventory, and to design, order and receive new packaging or stickers that comply with the required changes." PTC stated: (1) It often takes five to six months for companies to introduce new packaging; (2) the existing use-up period could cost the industry as much as \$2,400,000 to obtain and put into use new packaging; (3) extending the use-up to May 1, 2010, would still cause the industry to incur as much as \$1,400,000 in design, packaging, delivery, and labor costs; and (4) additional financial losses would include the loss of existing inventories of packaging that could not be brought into compliance with the new provisions. PTC estimated significant losses to the U.S. economy if manufacturers must stop removing product because of issues arising from the packaging and labeling requirements. The commenter noted that, in the past, TTB has provided for longer use-up periods when it has required the industry to change labels and packages of tobacco products. For example, on June 29, 2000, TTB's predecessor agency, the Bureau of Alcohol, Tobacco and Firearms (ATF) published in the **Federal Register** an extension of a compliance date for the marking of roll-your-own tobacco, thereby adding six months to an original four month use-up period.

In its comment, JMC asserted that the classification and notice requirements are "unnecessarily burdensome." JMC asked that TTB extend the use-up provision related to the notice requirement on pipe tobacco packaging to allow use of existing packaging materials until final rules are adopted. With regard to the classification issue, JMC pointed out that the provisions set forth in §§ 40.25a and 41.30, in which the packaging bears on the classification of the products in question, were not subject to a use-up period in the temporary regulations, and JMC asked that TTB make a use-up provision equally applicable to both the classification and notice-related packaging provisions.

According to JMC, very little of the pipe tobacco packaging on the market on June 22, 2009, met both the new notice and classification-related marking requirements, and there was no indication in the Act that such requirements would be forthcoming. JMC estimated that it will take

approximately three months or more for JMC to develop, print, and move into use new packaging materials, at a cost in excess of \$150,000.00, and JMC further stated that the company will have in excess of one million pieces of packaging materials on hand that will be wasted if the use-up period is not extended. JMC further noted that, for JMC's last packaging change with TTB implications, TTB allowed a one-year use up of its previous packaging. JMC believes the extension of a use-up period until the temporary regulations are finalized through publication of a final rule is need because of the "fluid nature of rule making" under which, based on comments received, TTB may make changes to the requirements that would result in yet another packaging change.

In addition to concerns about the length of the use-up period, JMC asserted that it is unreasonable for the new regulations to apply the use-up period only to packages that were in use on April 1, 2009, because manufacturers may have begun using new packaging materials after April 1, 2009, but prior to June 22, 2009, unaware of the impending changes required by the temporary rule. According to JMC, it would be legitimate to restrict the use-up provision to products that were marketed as pipe tobacco prior to the passage of the Act.

JMC further asserted that the extension of the use-up provision "can be done in such a way that the revenue from roll-your-own tobacco products will not be threatened," by applying the extension only to products that were marketed as pipe tobacco prior to the passage of the Act. JMC noted that the new regulations also provide that a product will be deemed to be roll-your-own tobacco even if it bears a "pipe tobacco" notice if the package or accompanying materials bear any representation that would suggest a use other than as pipe tobacco. JMC believes that this provision, in combination with the application of the extension only to products that were sold as pipe tobacco prior to the passage of the Act, would be adequate to protect the revenue "without placing an unreasonable burden on established manufacturers of pipe tobacco."

We note that the submission by JMC also questioned the new package labeling requirements as "not authorized or required by the CHIPRA legislation." We are not addressing this issue at this time. We will address this issue along with other comments received in response to Notice No. 95.

TTB Analysis and Finding

We have carefully considered the above comments, including the statements regarding the costs that would be incurred by manufacturers and importers without an extension of the use-up period, and the potential for jeopardy to the revenue involved in extending the compliance deadline under the second use-up rule. We have also received and considered requests from persons who are engaged in business as manufacturers or importers of cigar wrappers and who, by virtue of the change to the definition of roll-your-own tobacco made by section 702 of the Act, only recently came into the TTB statutory and regulatory regime. These industry members have asked TTB to provide an extended use-up period applicable to the notice requirements for their products.

Based on the information before us, we believe that a persuasive case has been made for an extension of the periods specified for the use-up rules and for delaying application of the new classification rule. Accordingly, in this document we are amending §§ 40.25a and 41.30 to provide that during the period from June 22, 2009, through March 23, 2010, manufacturers and importers may continue to remove products as pipe tobacco even though the packages do not bear the declaration "pipe tobacco" with the brand name in the manner prescribed in paragraph (b)(3)(i) of each of those sections. We are also revising the use-up rules in §§ 40.216c, 41.72c, and 45.45c to provide that during the period from June 22, 2009, through March 23, 2010, a manufacturer or importer of tobacco products may remove packages of pipe tobacco or roll-your-own tobacco that do not meet the applicable notice requirements, provided that such packages bear the designation "Tax Class L" (to designate pipe tobacco) or "Tax Class J" (to designate roll-your-own tobacco) and were in use prior to June 22, 2009. These revised use-up provisions also provide that, during the same period, a manufacturer or importer may remove roll-your-own tobacco for which the applicable designation is "cigar tobacco," "cigarette wrapper," or "cigar wrapper" even if the packages of such products do not meet the requirements of §§ 40.216b, 41.72b, or 45.45b. Thus, these amendments provide an extension of the use-up period for current packaging that is equally applicable to both the classification and the notice-related packaging provisions. In addition, these amendments provide additional time for manufacturers and importers to bring

packaging into compliance with the new packaging requirements.

As the amendments in this document reflect, we do not believe it is appropriate to extend the date by which packages must be brought into compliance until May 2010 (as was proposed by PTC) or until a final rule is published (as was proposed by JMC). We believe that the extended use-up periods suggested by these commenters are too long to be consistent with good regulatory practice. In addition, we do not believe that the circumstances here are sufficiently similar to those of prior, longer, use-up periods that the commenters described in their submissions.

As was noted in T.D. TTB-78, in the present circumstance the classification of the products has significant revenue implications. The extent to which the packaging clearly conveys the use for which the product is offered will directly affect the assessment of whether a product is, because of its packaging or labeling, "likely to be offered to, or purchased by, consumers" as a pipe tobacco or a roll-your-own tobacco. The incentive for industry members to manipulate the packaging and labeling of such products, particularly during the period in which TTB is evaluating but has not published definitive analytical methods or other standards for distinguishing between the two products, is significant. Earlier examples of use-up periods provided by TTB or ATF did not have similar revenue consequences. For example, the extension of the use-up period for roll-your-own tobacco product packages published by ATF in the **Federal Register** on June 29, 2000, took place when the tax rates imposed on pipe tobacco and on roll-your-own tobacco were equivalent (\$0.9567 per pound). We believe that the extended use-up period provided in the present temporary rule recognizes both the financial concerns of industry members and the revenue requirements of the Act (and the implementation and enforcement realities that accompany them).

With regard to the comment by JMC concerning the unreasonableness of the requirement that packages must have been in use prior to April 1, 2009, to qualify for continued removal until the end of the use-up period, we note that the use of the June 22, 2009, date in the amended regulatory texts contained in this document address that concern. This change conforms the start of the new use-up period to the date of the publication of T.D. TTB-78 (that is, June 22, 2009). It also obviates the need to address the suggestion of JMC to apply

the use-up provision only to products that were marketed as pipe tobacco prior to the passage of the Act.

Finally, we note that the temporary regulations adopted in T.D. TTB-78 contained two minor errors of omission, which this document corrects. Specifically, we are amending 27 CFR 41.81(c)(6) and (7) to bring those provisions, which concern information on pipe tobacco and roll-your-own tobacco that importers must include on customs forms or in authorized electronic transmissions, into conformity with the amendments that T.D. TTB-78 made to the notice requirements for such products. In § 41.81(c)(6), we have removed the term “Tax Class L” as a designation for pipe tobacco. In § 41.81(c)(7), we have removed the term “Tax Class J” as a designation for roll-your-own tobacco and have added the other acceptable designations for roll-your-own tobacco: “cigarette tobacco”, “cigarette wrapper”, “cigar tobacco”, or “cigar wrapper”.

Temporary Rule

Based on the June 22, 2009, effective date of the package and notice provisions which are the subject of the regulatory changes contained in this document, and based on the need to extend the August 1, 2009, termination date of the use-up provisions and to delay application of the new classification rule as discussed above, TTB believes that it is necessary to adopt these regulatory changes immediately.

Public Participation

To submit comments on this proposal, please refer to the notice of proposed rulemaking, Notice No. 99, published in the “Proposed Rules” section of this issue of the **Federal Register**.

You may view copies of all the CHIPRA-related rulemaking documents and any comments we receive about them within Docket No. TTB-2009-0002 at <http://www.regulations.gov>. A direct link to this docket is posted on the TTB Web site at <http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml> under Notice No. 99. You also may view copies of those rulemaking documents and comments by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. Please call 202-453-2270 to make an appointment.

Regulatory Flexibility Act

We certify that this temporary rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory

flexibility analysis is not required. The regulatory obligations and relevant collections of information which are the subject of this temporary rule derive directly from the Internal Revenue Code of 1986, as amended. 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 businesses.

Paperwork Reduction Act

TTB has provided estimates of the burden that the collection of information contained in these regulations imposes, and the estimated burden has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned control number 1513-0101.

Under the Paperwork Reduction Act of 1995, 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 OMB control number. Comments concerning suggestions for reducing the burden of the collections of information in this document should be directed to Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044-4412;
- 202-453-2686 (facsimile); or
- formcomments@ttb.gov (e-mail).

Executive Order 12866

This is not a significant regulatory action as defined in E.O. 12866. Therefore, it requires no regulatory assessment.

Inapplicability of Prior Notice and Comment and Delayed Effective Date Procedures

Because this document makes necessary changes to regulatory provisions that are already in effect, and because these changes are needed immediately to avoid unintended negative consequences on industry members arising out of the existing regulations, it is found to be impracticable to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b).

Pursuant to the provisions of 5 U.S.C. 553(d)(2), and (d)(3), we are issuing these regulatory amendments without a delayed effective date. These amendments affect regulatory provisions that TTB adopted as an

interpretative rule implementing Public Law 111-3 as provided for in section 553(d)(2). TTB also has determined that good cause exists to provide industry members with immediate relief from the unintended consequences of the existing regulations, in accordance with section 553(d)(3).

Drafting Information

Amy R. Greenberg of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

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 45

Administrative practice and procedure, Authority delegations (Government agencies), Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Tobacco.

Amendments to the Regulations

■ For the reasons set forth in the preamble, title 27, chapter I, of the Code of Federal Regulations is amended as follows:

PART 40—MANUFACTURE OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

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

Authority: 26 U.S.C. 5142, 5143, 5146, 5701-5705, 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. In § 40.25a, paragraph (b)(3) is amended by removing the words “Any tobacco” and adding, in their place, the words “Subject to paragraph (b)(4) of this section, any tobacco”, and a new paragraph (b)(4) is added to read as follows:

§ 40.25a Pipe tobacco and roll-your-own tobacco tax rates and classification.

* * * * *

(b) * * *

(4) During the period from June 22, 2009, through March 23, 2010, manufacturers may continue to remove products as pipe tobacco in packages that do not bear the declaration "pipe tobacco" in the manner prescribed in paragraph (b)(3)(i) of this section.

■ 3. Section 40.216c is revised to read as follows:

§ 40.216c Package use-up rule.

(a) During the period from June 22, 2009, through March 23, 2010, a manufacturer of tobacco products may remove packages of pipe tobacco or roll-your-own tobacco that do not meet the requirements of § 40.216a(a) or § 40.216b(a), provided that such packages bear the designation "Tax Class L" (to designate pipe tobacco) or "Tax Class J" (to designate roll-your-own tobacco) and were in use prior to June 22, 2009.

(b) During the period from June 22, 2009, through March 23, 2010, a manufacturer may remove roll-your-own tobacco for which the applicable designation is "cigar tobacco," "cigarette wrapper," or "cigar wrapper" even if the packages of such products do not meet the requirements of § 40.216b.

PART 41—IMPORTATION OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

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

Authority: 26 U.S.C. 5701–5705, 5708, 5712, 5713, 5721–5723, 5741, 5754, 5761–5763, 6301, 6302, 6313, 6402, 6404, 7101, 7212, 7342, 7606, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 5. In § 41.30, paragraph (b)(3) is amended by removing the words "Any tobacco" and adding, in their place, the words "Subject to paragraph (b)(4) of this section, any tobacco", and a new paragraph (b)(4) is added to read as follows:

§ 41.30 Pipe tobacco and roll-your-own tobacco.

* * * * *

(b) * * *

(4) During the period from June 22, 2009, through March 23, 2010, importers may continue to remove products as pipe tobacco in packages that do not bear the declaration "pipe tobacco" in the manner prescribed in paragraph (b)(3)(i) of this section.

■ 6. Section 41.72c is revised to read as follows:

§ 41.72c Package use-up rule.

(a) During the period from June 22, 2009, through March 23, 2010, an importer of tobacco products may remove packages of pipe tobacco or roll-your-own tobacco that do not meet the requirements of § 41.72a(a) or § 41.72b(a), provided that such packages bear the designation "Tax Class L" (to designate pipe tobacco) or "Tax Class J" (to designate roll-your-own tobacco) and were in use prior to June 22, 2009.

(b) During the period from June 22, 2009, through March 23, 2010, an importer may remove roll-your-own tobacco for which the applicable designation is "cigar tobacco," "cigarette wrapper," or "cigar wrapper" even if the packages of such products do not meet the requirements of § 41.72b.

■ 7. In § 41.81, paragraphs (c)(6) and (c)(7) are revised to read as follows:

§ 41.81 Taxpayment.

* * * * *

(c) * * *

(6) *For pipe tobacco:* The importer will show the designation "pipe tobacco", the number of pounds and ounces, the rate of tax, and the tax due.

(7) *For roll-your-own tobacco:* The importer will show the designation "roll-your-own tobacco" or any other acceptable designation ("cigarette tobacco", "cigarette wrapper", "cigar tobacco", or "cigar wrapper"), the number of pounds and ounces, the rate of tax, and the tax due.

* * * * *

PART 45—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES

■ 8. The authority citation for part 45 continues to read as follows:

Authority: 26 U.S.C. 5702–5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805; 44 U.S.C. 3504(h).

■ 9. Section 45.45c is revised to read as follows:

§ 45.45c Package use-up rule.

(a) During the period from June 22, 2009, through March 23, 2010, a manufacturer of tobacco products may remove packages of pipe tobacco or roll-your-own tobacco that do not meet the requirements of § 45.45a(a) or § 45.45b(a), provided that such packages bear the designation "Tax Class L" (to designate pipe tobacco) or "Tax Class J" (to designate roll-your-own tobacco) and were in use prior to June 22, 2009.

(b) During the period from June 22, 2009, through March 23, 2010, a manufacturer may remove roll-your-own tobacco for which the applicable designation is "cigar tobacco," "cigarette wrapper," or "cigar wrapper" even if the packages of such products do not meet the requirements of § 45.45b.

Signed: August 23, 2009.

John J. Manfreda,
Administrator.

Approved: September 4, 2009.

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

[FR Doc. E9–23180 Filed 9–23–09; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket No. USCG–2009–0755]

RIN 1625–AA00

Safety Zone: Robert Moses Causeway Bridge State Boat Channel, Captree, NY

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the waters of the State Boat Channel surrounding the Robert Moses Causeway located in Captree, New York due to ongoing construction. This rule is necessary to protect vessels transiting the area from hazards imposed by construction barges and equipment; entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, CT.

DATES: This interim rule is effective from September 24, 2009 until May 28th, 2010. The safety zone has been enforced with actual notice since September 8, 2009. Comments and related material must reach the Coast Guard on or before November 9, 2009. Requests for public meetings must be received by the Coast Guard on or before October 1, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2009–0755 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