



# The Rulemaking Process— How It Works and What To Expect

Presented by  
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Regulations and Rulings Division



5/2008

# TTB — Mission and Authority



## TTB's Mission

- Collect Federal excise taxes for alcohol and tobacco products (nearly \$15 billion annually), and collect firearms and ammunition excise taxes
- Ensure products are labeled, advertised, and marketed in accordance with applicable laws and regulations
- Administer laws and regulations to protect consumers and revenue, and also promote voluntary compliance

Alcohol and Tobacco Tax and Trade Bureau



## Our Statutory Authority

- Internal Revenue Code (26 U.S.C.):
  - Chapter 51—distilled spirits, wine, and beer
  - Chapter 52—tobacco products and cigarette papers and tubes
  - Sections 4181 and 4182—firearms and ammunition excise taxes
- Federal Alcohol Administration Act (FAA Act, 27 U.S.C. Chapter 8)
- Alcoholic Beverage Labeling Act (Government warning label)
- Webb-Kenyon Act (27 U.S.C. Section 122)

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## Alcohol and Tobacco Regulations

- Contained in Chapter I, Title 27, Code of Federal Regulations (27 CFR chapter 1)
- Each CFR title is divided into “parts,” which cover a particular subject, and each part is further divided into “subparts” and within each subpart “sections”
- TTB administers 36 parts

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## Regulated Industries

- Beer
- Wine
- Distilled Spirits
- Tobacco
- Firearms and Ammunition Excise Tax (FAET)
- Other Alcohol:
  - Alcohol Fuel
  - Manufacturer of Nonbeverage Products (MNBP)
  - Industrial Alcohol
  - Specially Denatured Alcohol (SDA)
  - Tax-free Alcohol

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## Regulations and Rulings Division Responsibilities

- Assess program needs for new or amended regulations
- Develop regulations to implement new or amended laws
- Resolve technical questions affecting tax classifications
- Publish rulings, industry circulars, and other publications

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# Rulemaking — Overview

- Our Government is designed with a system of checks and balances and is divided into three branches – Judicial, Legislative, and Executive
- The Department of the Treasury and TTB are under the Executive branch

- Laws and regulations are the legal foundation for TTB to “collect the revenue” and to “protect the public”
- Congress develops and passes laws that govern TTB’s programs
- Laws passed by Congress authorize regulatory agencies to promulgate regulations to implement the agency’s statutory programs



## Regulatory Agencies

- Regulatory agencies:
  - Are empowered to create and enforce regulations that carry the full force of law
  - Create regulations according to rules and processes defined by the Administrative Procedure Act (APA)

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## Administrative Procedure Act

- The APA defines a regulation (or rule) as:
  - An agency statement ... designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.
- The process of “rulemaking” is defined as:
  - Agency action which regulates future conduct of groups of persons or a single person; it is essentially legislative in nature, not only because it operates in the future but because it is primarily concerned with policy considerations.

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# Rulemaking — The Process

**TTB Expo** **Rulemaking—  
Simplified Version**

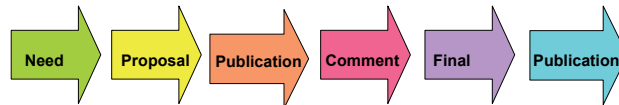
- A regulation may be needed ...new legislation, receipt of petition, or result of internal review
- Proposed regulatory document is created and forwarded to Treasury for approval
- Proposed regulatory document is published in the Federal Register



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## Rulemaking—Simplified Version (Cont'd)

- The public considers the proposal and submits comments to TTB
- TTB considers all comments, revises the proposed regulatory document (as necessary), and forwards a final regulatory document to Treasury for approval and Federal Register publication



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## Rulemaking — Step-by-Step (Cont'd)

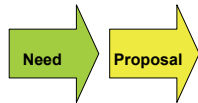
- Step 1—Initiating Events:
  - Statutory Mandates
  - Petitions
  - Agency Referrals
  - Agency Decision



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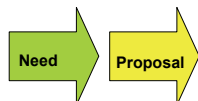


- Step 2—Decision on Type of Rulemaking Action:
  - Advance Notice of Proposed Rulemaking (ANPRM)
  - Notice of Proposed Rulemaking (NPRM)
  - Interim (or Temporary) Final Rule
  - Final Rule



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- Step 3—Rule Development:
  - Informal Rulemaking
    - All of TTB's rulemaking projects are done under the label "Informal" rulemaking.
    - Involves providing our reasons for proposing the rulemaking, a detailed summary of the proposed regulations, along with associated amendatory instructions and regulatory text.



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## Rulemaking — Step-by-Step (Cont'd)

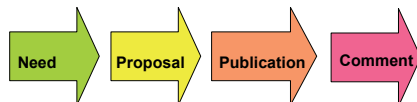
- Step 4—Agency Signature and Publication:
  - RRD Director
  - Offices of Primary Interest
  - Assistant Administrator (Headquarters Operations)
  - Counsel
  - Administrator
  - Treasury
  - Federal Register Publication



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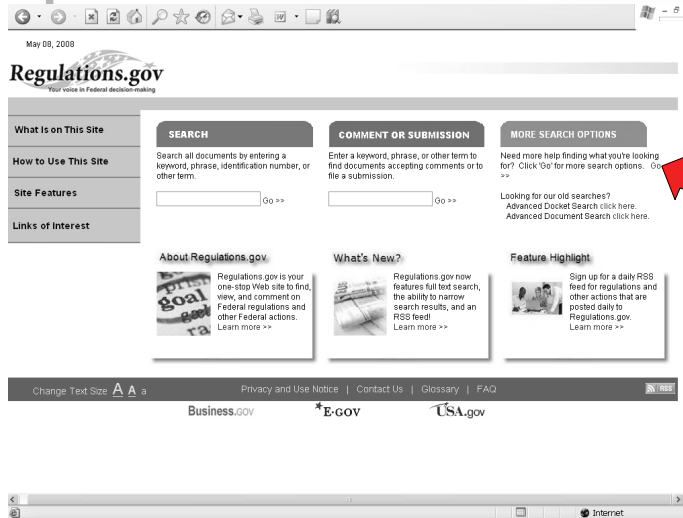
## Rulemaking — Step-by-Step (Cont'd)

- Step 5—Public Comment Period:
  - Public Hearings
  - E-Docket
  - Comment Period Duration



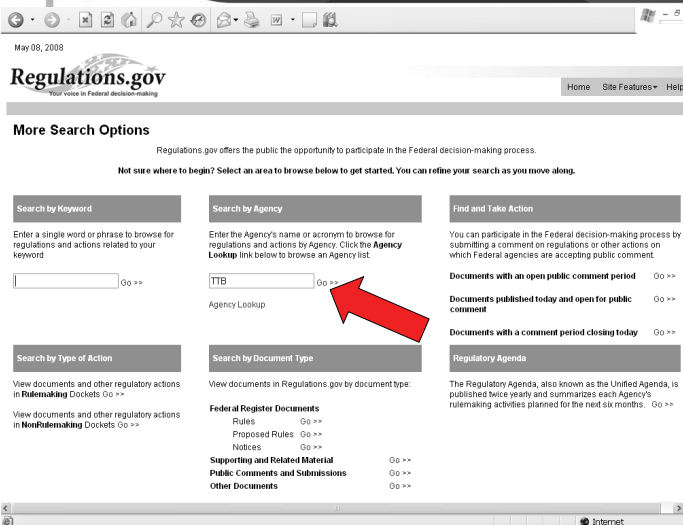
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# Rulemaking — Step-by-Step (Cont'd)



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# Rulemaking — Step-by-Step (Cont'd)



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# Rulemaking — Step-by-Step (Cont'd)

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Document Sub Type  
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Docket Type  
-Rulemaking (21)  
-Nonrulemaking (14)

Comment Period  
-Open (3)  
-Closed (32)

Comment Period Ends  
-Within 30 Days (1)  
-Within 90 Days (2)

Comment Period Started  
-Comments Start Today (1)  
-Last 1 Days (1)  
-Last 2 Days (1)  
-Last 15 Days (2)  
-Last 30 Days (3)  
-Last 90 Days (32)  
-Older Than 90 Days (28)  
-Older Than 180 Days (2)  
-Older Than A Year (24)

Notice No. 83, Proposed Revision of Distilled Spirits Plant Regulations  
Send a Comment or Submission Notification

Agency TTB Document Type: PROPOSED RULES Comments Due: Aug 6, 2008  
Docket #: TTB-2008-0004 Document #: TTB-2008-0004-0001

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Notice No. 82, Proposed Establishment of the Snipes Mountain Viticultural Area  
Send a Comment or Submission Notification

Agency TTB Document Type: PROPOSED RULES Comments Due: Jun 27, 2008  
Docket #: TTB-2008-0003 Document #: TTB-2008-0003-0001

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# Rulemaking — Step-by-Step (Cont'd)

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**Public Comment and Submission Form**  
Docket and Document Information

Docket ID: TTB-2008-0004  
Docket Title: Notice No. 83 -- Proposed Revision of Distilled Spirits Plant Regulations  
Document ID: TTB-2008-0004-0001  
Document Title: Notice No. 83, Proposed Revision of Distilled Spirits Plant Regulations

View Document

How to Comment  
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-2008-0004 on Regulations.gov, the Federal e-rulemaking portal); or  
• Mail: Director, Regulations and Rules 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 and any comments we receive about this proposal at <http://www.regulations.gov>. A direct link to the appropriate Regulations.gov docket is available under Notice No. 83 on the TTB Web site at [http://www.ttb.gov/spirits/spirits\\_rulemaking.shtml](http://www.ttb.gov/spirits/spirits_rulemaking.shtml). You also may view copies of this notice and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20020. To make an appointment, call 202-927-2400.

Submitter Information

\* # First Name  \* denotes required field  
# Middle Initial  \* denotes public viewable field  
\* # Last Name   
\* Mailing Address   
Mailing Address 2   
\* # City

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**TTB Expo** **Rulemaking — Step-by-Step (Cont'd)**

The screenshot shows the Regulations.gov website interface. At the top, there is a navigation bar with links for Home, User Tips, Reports, Accessibility On, and Help. Below this is a form for submitting a public comment or submission. The form includes fields for:
 

- Phone Number (format: ###-###-####)
- Fax Number
- Organization Name
- Submitter's Representative
- Government Agency Type (dropdown menu)
- Government Agency (dropdown menu)

 Below these fields is a section titled "Public Comment or Submission" with a sub-section for "General Comments". A red arrow points to the text area for general comments. Below the text area is an "Attachments (Optional)" section with a "Browse" button and an "Add Attachment" button. The footer of the page includes logos for Business.gov, E-GOV, and USA.gov, along with a navigation menu and the text "Alcohol and Tobacco Tax and Trade Bureau".

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**TTB Expo** **Rulemaking — Step-by-Step (Cont'd)**

- Step 6—Agency Decision Based upon Comments:
  - Final Rule
  - Issue New NPRM (with new comment period)
  - Withdraw the Proposal

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    graph LR
      A[Need] --> B[Proposal]
      B --> C[Publication]
      C --> D[Comment]
      D --> E[Final]
    
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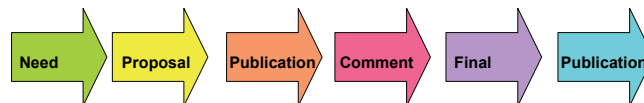
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- Step 7—Preparation of Final Rule Documents:
  - Preamble Write-up and Regulatory Language
  - Revise and Finalize Regulatory Document
  - Prepare Regulatory Package



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- Step 8—Agency Signature and Publication:
  - Submit Final Rule to Treasury (may also be forwarded to Office of Management and Budget)
  - Inform Interested Parties in Congress
  - Final Approval and Signatures
  - Publication of Final Rule in Federal Register with Effective Date



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## RRD Contact Information

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- Gerry Isenberg, Assistant Director
  - [gerald.isenberg@ttb.gov](mailto:gerald.isenberg@ttb.gov)

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