

of age structures such as otoliths or scales.

(s) *Additional dealer reporting requirements.* All persons issued a lobster dealer permit under this part are subject to the reporting requirements set forth in paragraph (n) of this section, as well as §§ 648.6 and 648.7 of this chapter, whichever is most restrictive.

■ 6. In § 697.7, paragraph (c)(1)(v) is revised, paragraph (c)(2)(xxi) is added, and paragraph (c)(3)(iii) is revised to read as follows:

**§ 697.7 Prohibitions.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(v) Retain on board, land, or possess any female lobster that do not meet the area-specific v-notch requirements set forth in § 697.20(g).

\* \* \* \* \*

(2) \* \* \*

(xxi) Fail to comply with dealer record keeping and reporting requirements as specified in § 697.6.

\* \* \* \* \*

(3) \* \* \*

(iii) The possession of egg-bearing female American lobsters, v-notched female American lobsters in violation of the v-notch requirements set forth in § 697.20(g), American lobsters that are smaller than the minimum size set forth in § 697.20(a), American lobsters that are larger than the maximum carapace sizes set forth in § 697.20(b), or lobster parts, possessed at or prior to the time when the aforementioned lobsters or parts are received by a dealer, will be prima facie evidence that such American lobsters or parts were taken or imported in violation of these regulations. A preponderance of all submitted evidence that such American lobsters were harvested by a vessel not holding a permit under this part and fishing exclusively within state or foreign waters will be sufficient to rebut the presumption.

\* \* \* \* \*

■ 7. In § 697.20, paragraphs (b)(3) through (b)(7) are revised and paragraph (b)(8) is added; paragraphs (g)(3) and (g)(4) are revised, and paragraphs (g)(5) through (g)(8) are added as follows:

**§ 697.20 Size, harvesting and landing requirements.**

\* \* \* \* \*

(b) \* \* \*

(3) The maximum carapace length for all American lobster harvested in or from the EEZ Nearshore Management Areas 2, 4, 5, and 6 is 5 1/4 inches (13.34 cm).

(4) The maximum carapace length for all American lobster landed, harvested,

or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in one or more of EEZ Nearshore Management Areas 2, 4, 5, and 6 is 5 1/4 inches (13.34 cm).

(5) The maximum carapace length for all American lobster harvested in or from EEZ Offshore Management Area 3 is 6 7/8 inches (17.46 cm).

(6) The maximum carapace length for all American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Offshore Management Area 3 is 6 7/8 inches (17.46 cm).

(7) Effective July 1, 2010, the maximum carapace length for all American lobster harvested in or from EEZ Offshore Management Area 3 or the Outer Cape Lobster Management Area is 6 3/4 inches (17.15 cm).

(8) Effective July 1, 2010, the maximum carapace length for all American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Offshore Management Area 3 or the Outer Cape Lobster Management Area is 6 3/4 inches (17.15 cm).

\* \* \* \* \*

(g) \* \* \*

(3) No person may possess any female lobster possessing a standard v-shaped notch harvested in or from the EEZ Nearshore Management Area 2, 4, 5, 6, or the EEZ Offshore Management Area 3.

(4) No vessel, owner or operator issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, 6 or the EEZ Offshore Management Area 3 may land, harvest or possess any female lobster possessing a standard v-shaped notch.

(5) Through June 30, 2010, no person may possess any female lobster possessing a 1/4-inch (0.64-cm) v-shaped notch harvested in or from the EEZ Outer Cape Lobster Management Area.

(6) Through June 30, 2010, no vessel, owner or operator issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Outer Cape Lobster Management Area may land, harvest or possess any female lobster possessing a 1/4-inch (0.64-cm) v-shaped notch.

(7) Effective July 1, 2010, no person may possess any female lobster possessing a standard v-shaped notch harvested in or from the EEZ Outer Cape Lobster Management Area.

(8) Effective July 1, 2010, no vessel, owner or operator issued a Federal

limited access American lobster permit fishing in or electing to fish in the EEZ Outer Cape Lobster Management Area may land, harvest or possess any female lobster possessing a standard v-shaped notch.

\* \* \* \* \*

[FR Doc. E9-17941 Filed 7-28-09; 8:45 am]

BILLING CODE 3510-22-S

**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-80; Re: T.D. TTB-78 and Notice No. 95]

RIN 1513-AB72

**Implementation of Statutory Amendments Requiring the Qualification of Manufacturers and Importers of Processed Tobacco and Other Amendments Related to Permit Requirements, and the Expanded Definition of Roll-Your-Own Tobacco; Correction**

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

**ACTION:** Temporary rule; Treasury decision; correction.

**SUMMARY:** On June 22, 2009, the Alcohol and Tobacco Tax and Trade Bureau published a temporary rule in the **Federal Register** to implement certain changes made to the Internal Revenue Code of 1986 by the Children's Health Insurance Program Reauthorization Act of 2009. The principal changes involve permit and related requirements for manufacturers and importers of processed tobacco and an expansion of the definition of roll-your-own tobacco. That temporary rule contained several minor inadvertent errors; this document corrects those errors.

**DATES:** *Effective Date:* These amendments are effective July 29, 2009 through June 22, 2012.

**FOR FURTHER INFORMATION CONTACT:** Amy R. Greenberg, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau (202-453-2099).

**SUPPLEMENTARY INFORMATION:** On June 22, 2009, the Alcohol and Tobacco Tax and Trade Bureau (TTB) published a temporary rule in the **Federal Register** to implement certain changes made to the Internal Revenue Code of 1986 by the Children's Health Insurance Program Reauthorization Act of 2009 (see T.D. TTB-78, 74 FR 29401). The temporary rule was effective on the date

of publication, June 22, 2009, and, unless otherwise finalized, will expire on June 22, 2012. The principal changes to our regulations made by T.D. TTB-78 involve permit and related requirements for manufacturers and importers of processed tobacco and an expansion of the definition of roll-your-own tobacco.

After its publication, we found that T.D. TTB-78 contained several minor inadvertent errors. This document corrects these errors.

Three errors involved improperly cited cross-references. In § 40.216c(b), the citation for § 40.216(b) should have read § 40.216b; in § 41.72c, the citation for § 41.72(b) should have read § 41.72b; and in § 45.45c, the citation for § 40.216(b) should have read § 45.45b. Two errors involved improper dates. In § 40.522(b), the date August 15, 2009, cited in the example, should have read August 20, 2009, and in § 45.45c(a), the use up date for packages labeled with “Tax Class L” (to designate pipe tobacco) or “Tax Class J” (to designate roll-your-own tobacco) should have read August 1, 2009, rather than July 1, 2009.

In addition, we are correcting five passages to clarify a date or numerical limit, to clarify a regulation’s intent, or to clarify to whom the regulation applies. In § 40.256, we clarify the last sentence so that the quantity of tobacco products manufactured may be equal to or exceed the quantity transferred or received in bond rather than only exceed that quantity. In § 40.493(a)(2), we clarify that a manufacturer of processed tobacco may continue in business if an application for a permit is submitted on or before June 30, 2009, rather than only before that date. In § 40.496, we clarify that the regulation applies only to manufacturers of processed tobacco operating under a trade name rather than to all manufacturers of processed tobacco. In § 40.513, we clarify that a manufacturer of processed tobacco who changes the factory’s location must apply for and obtain an amended permit before beginning operations at the new location rather than merely apply for an amended permit. In § 40.528, we clarify that the regulation applies to manufacturers of processed tobacco rather than to manufacturers of tobacco products.

We also solicited public comments on the amendments contained in the temporary rule through a concurrent notice of proposed rulemaking (see Notice No. 95, June 22, 2009, 74 FR 29433). Given that the corrections in this document do not make substantial changes to the amendments contained in the temporary rule, we are not issuing a formal correction to the notice of

proposed rulemaking, and we are not extending its comment period, which closes on August 21, 2009.

#### 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 AND 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.

##### § 40.216c [Amended]

■ 2. In paragraph (b) of § 40.216c, revise the cross-reference “§ 40.216(b)” to read “§ 40.216b”.

##### § 40.256 [Amended]

■ 3. In the last sentence of § 40.256, remove the word “exceed” and add in its place the words “be equivalent to, or exceed,”.

##### § 40.493 [Amended]

■ 4. In paragraph (a)(2) of § 40.493, remove the word “Before” and add in its place the words “On or before”.

##### § 40.496 [Amended]

■ 5. In the first sentence of § 40.496, after the words “manufacturer of processed tobacco”, add the words “operating under a trade name”.

##### § 40.513 [Amended]

■ 6. In the first sentence of § 40.513, after the phrase “make application on TTB F 5200.16 for” add the phrase “, and obtain,”.

##### § 40.522 [Amended]

■ 7. In last sentence of paragraph (b) in § 40.522, revise the date “August 15, 2009” to read “August 20, 2009”.

##### § 40.528 [Amended]

■ 8. In the first sentence of § 40.528, remove the phrase “manufacturer of tobacco products” and add in its place the phrase “manufacturer of processed tobacco”.

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

■ 9. 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.

##### § 41.72c [Amended]

■ 10. In paragraph (b) of § 41.72c, revise the cross-reference “§ 41.72(b)” to read “§ 41.71b”.

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

■ 11. 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).

##### § 45.45c [Amended]

■ 12. Amend § 45.45c in paragraph (a) by removing the date “July 1, 2009” and adding in its place the date “August 1, 2009” and in paragraph (b) by revising the cross-reference “§ 40.216(b)” to read “§ 45.45b”.

Dated: July 15, 2009.

**John J. Manfreda,**  
Administrator.

[FR Doc. E9–17920 Filed 7–28–09; 8:45 am]

BILLING CODE 4810-31-P