

or rental of display, storage, floor or warehouse space at premises owned or controlled by a retailer. ATF substituted the term "retailer" for "trade buyer" in this provision to clarify its application.

Section 11.32, Defective Products

The current regulation specifically allows products which are unmarketable for specific reasons to be exchanged for an equal quantity of identical products, but is silent as to whether such products may be returned for cash or credit. Industry Circular 81-11 states that a return of such products for cash or credit is not precluded by § 11.32. ATF proposed changing this regulation to incorporate the provisions of Industry Circular 81-11 into the section. The proposed revision also deleted references to mutilated and missing strip stamps since they are no longer a requirement. No objection to these changes was received, however, DISCUS pointed out that allowing returns for mutilated or missing tamper evident closures would "clearly serve the public interest." ATF concurs and has incorporated that language in the final rule.

Section 11.34, Products Which May No Longer Be Lawfully Sold

ATF proposed revising the current regulation to allow the return of a product if, due to a change in law or regulation over which the trade buyer has no control, a particular size or brand is no longer permitted to be sold. The addition of the phrase "over which the trade buyer has no control" was intended to address situations in which the trade buyer is a State agency with the authority to delist a particular product.

The Forum comment said this section, as proposed, and the preamble discussion were confusing. ATF intended to make it clear that by administratively delisting a particular product, a State or a political subdivision of a State acting as a trade buyer could not gain a right of return that would not be available to a commercial trade buyer. On review, ATF notes that a State legislature may have other, legitimate, reasons for prohibiting sale of a particular product, so the wording of the section has been changed from "law or regulation" to "regulation or administrative procedure."

Section 11.35, Termination of Business

ATF is revising this section to cite § 11.39 instead of the incorrect § 11.40 citation.

Obsolete Rulings and Circulars

The following revenue ruling, ATF rulings and industry circulars are incorporated into the regulations or superseded by amended regulations; they will become obsolete on the effective date of these regulations: Revenue Ruling 54-162, 1954-1 C.B. 340; ATF Ruling 81-1, 1981-2 ATF Q.B. 27 and ATF Ruling 81-6, 1981-4 ATF Q.B. 23; Industry Circulars 81-7, 81-11 and 86-16. ATF Ruling 77-17 was made obsolete by T.D. ATF-74 (45 FR 63242), effective November 24, 1980, but a number of commenters cited it in this rulemaking.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a Regulatory Assessment is not required.

Regulatory Flexibility Act

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. In Notice No. 794, we specifically asked for comments as to whether small businesses would be significantly affected by our proposals. Wine Institute, the one commenter who addressed this issue, stated that the rules, as proposed, would not have a significant impact on a substantial number of small entities. A majority of the commenters who wrote in support of our proposals concerning slotting fees said that any change in our policy would have a significant adverse impact on their small businesses. The final rule adopts the proposals in this area, so there should be no adverse impact.

A final area of concern to commenters was ATF's proposal to raise dollar limits on things of value which may be given to retailers under Subpart D of Part 6. ATF proposed raising the limit on certain promotional items from \$160 to \$500, and a number of commenters noted this large an increase would place small and medium size businesses at a competitive disadvantage. In view of these comments, ATF is adopting a limit of \$300, a more moderate increase over the existing dollar limit.

Paperwork Reduction Act

The collection of information contained in this final rule has been approved by the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on

the collection of information should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to: Reports Management Officer, Information Programs Branch, Room 3450, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226.

The collection of information in this regulation is in 27 CFR Parts 6, 8, and 10. This information is required by ATF to protect the public interest and ensure fair trade competition in the alcoholic beverage industry. The information will be used to analyze promotional activities as part of an investigation. The likely respondents are industry members.

The authority to require reports which is stated in this final rule is to be used on a case-by-case basis only, and does not apply to industry members in general. The estimated number of respondents in any given year is 20, with one report being required from each respondent. The estimated average annual burden associated with this collection of information is 1 hour per respondent.

Drafting Information

The principal author of this document is Marjorie Ruhf, Wine, Beer, Spirits and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and the Treasury Department participated in developing the document.

List of Subjects

27 CFR Part 6

Advertising, Alcohol and alcoholic beverages, Antitrust, Credit and trade practices.

27 CFR Part 8

Alcohol and alcoholic beverages, Antitrust, and Trade practices.

27 CFR Part 10

Alcohol and alcoholic beverages, Antitrust, and Trade practices.

27 CFR Part 11

Alcohol and alcoholic beverages, Antitrust, and Trade practices.

Issuance

Title 27, Chapter I, is amended as follows:

PART 6—"TIED-HOUSE"

Paragraph 1. The authority citation for part 6 is revised to read as follows: