

§41.261

27 CFR Ch. I (4-1-13 Edition)

the principal business office of an importer of processed tobacco, as a result of action of local authorities, the importer must, within 30 days of such change, make application on TTB F 5230.5 for an amended permit. Whenever the importer wishes to change the location of the premises used for the storage of processed tobacco imported or received by the importer to an extent that would be inconsistent with the location information submitted with the importer's last permit application, the importer must apply for, and obtain, an amended permit before such a change in premises takes place.

[T.D. TTB-78, 74 FR 29416, June 22, 2009, as amended by T.D. TTB-104, 77 FR 37304, June 21, 2012]

OPERATIONS OF IMPORTERS OF PROCESSED TOBACCO

§ 41.261 Records.

(a) Any person who imports, or who knowingly causes to be imported, processed tobacco must make and keep records of operations and transactions. A person purchasing processed tobacco from the importer in a domestic transaction and who does not knowingly cause the processed tobacco to be imported is not required to make and keep records unless the terms and conditions of the importation are controlled by the person placing the order with the importer (for example, the importer is not an independent contractor but the agent of the person placing the order). Records maintained must reflect the date and quantity of processed tobacco:

- (1) Imported;
- (2) Received otherwise than through importation, together with the name and address of the person from whom it was received;
- (3) Returned to customs custody or exported;
- (4) Transferred or sold to a person who holds a TTB permit as an importer or manufacturer of tobacco products or of processed tobacco or as an export warehouse proprietor;
- (5) Except in the case of returns to customs custody or exportations, transferred or sold to a person who does not hold a TTB permit as an importer or manufacturer of tobacco

products or of processed tobacco or as an export warehouse proprietor; and

- (6) Lost or destroyed; and
- (7) Transferred between buildings that are covered under the same permit but that are not located in the same city, town, village, or State.

(b) The records of any importer who transfers or sells processed tobacco to a person who does not hold a TTB permit as an importer or manufacturer of tobacco products or of processed tobacco or as an export warehouse proprietor must include dated, commercial records that show the following information about each removal:

(1) The full name and business address (including city and State) of the purchaser (if there is a purchaser) or the full name and business address of the recipient (if there is no purchaser), or personal address if the purchaser or recipient is not a business;

(2) The full name, business address (including city and State), and driver's license number of the person picking up the processed tobacco for delivery;

(3) The license number of the vehicle in which the processed tobacco is picked up for delivery to purchaser or transferee;

(4) The street address of the destination of the processed tobacco;

(5) The quantity of processed tobacco in the shipment.

(c) The entries in the records required under this section must be made for each day by the close of the business day following the day on which the transfer or sale occurs. There is no particular format prescribed for the records required under this section (and commercial records may be used), although the required information must be readily ascertainable from the records kept. In the case of a removal under paragraph (a)(5) of this section that involves shipment by a common carrier, the appropriate TTB officer may approve an alternate method or procedure pursuant to §41.26 of this part through which the importer may keep records regarding the common carrier and its means of tracking (including pick up and delivery) of the shipment in lieu of the information required by paragraphs (b)(2) and (b)(3) of this section. No records are required to

be kept under this part regarding processed tobacco within customs custody, although this will not preclude TTB review of records related to such processed tobacco as may be appropriate for purposes of the enforcement of the provisions of this part.

(26 U.S.C. 5741)

[T.D. TTB-78, 74 FR 29416, June 22, 2009, as amended by T.D. TTB-104, 77 FR 37305, June 21, 2012]

§ 41.262 Reports.

(a) *General.* Every importer of processed tobacco must prepare a monthly report on TTB F 5220.6 in accordance with the instructions for the form. The report must be prepared at the times specified in this section and must be prepared whether or not any operations or transactions occurred during the period covered by the report. The importer must retain a copy of each report in accordance with the provisions of this subpart. The importer need not include in the reports under this part information regarding processed tobacco that is in customs custody.

(b) *First report(s).* The first monthly report must be submitted by the 15th day of the month following the month in which the permit is issued. If the importer is operating as an importer of processed tobacco under the transitional rule in accordance with § 41.233, the importer must submit the first report by the 15th day of the month following the month in which TTB provides written acknowledgement of the receipt of the application filed under § 41.232.

(c) *Reports of no activity.* Reports with the notation “No Activity” must be made for those months in which no activity occurs.

(d) *Reports of sales and transfers.* (1) Except as otherwise provided in paragraph (d)(2) of this section, an importer that exports processed tobacco or transfers or sells processed tobacco to someone other than a person holding a permit as an importer or manufacturer of processed tobacco or tobacco products or as an export warehouse proprietor must report each such exportation, sale, or transfer on TTB F 5250.2 by the close of the next business day following the day of exportation, sale,

or transfer, in accordance with the instructions on the form.

(2) In the case of removals for export, as an alternative to the procedure prescribed in paragraph (d)(1) of this section, the importer may submit to TTB monthly summary reports of such removals in a format approved by the appropriate TTB officer. Prior to the use of such an alternate procedure, the importer must obtain written approval from the appropriate TTB officer.

(3) An importer that ships or transfers processed tobacco for scientific testing or testing of equipment which results in the destruction of the processed tobacco or the return of the processed tobacco is not required to report such shipment or transfer on TTB F 5250.2.

(e) *Concluding report.* When a transfer of ownership of the business of an importer of processed tobacco described in § 41.252(b) occurs, or when a change in control of a corporation described in § 41.252(d) occurs, a concluding report with the notation “Concluding Report” must be made for the month or partial month during which the transfer of ownership or change in control becomes effective. A concluding report must also be made for the month or partial month during which an importer concludes operations under the permit or authorization.

(26 U.S.C. 5722)

[T.D. TTB-78, 74 FR 29416, June 22, 2009, as amended by T.D. TTB-104, 77 FR 37305, June 21, 2012]

§ 41.263 Maintenance of records and reports.

All records and reports required by this subpart must be maintained separately, chronologically by transaction or reporting date, at the importer’s principal place of business. The appropriate TTB officer may, pursuant to a written request, authorize files, or an individual file, to be maintained at another business location under the control of the importer, provided that the alternative location does not cause undue inconvenience to TTB when attempting to examine the files and does not delay the timely transmittal of