

Business activity	Controlled substances	DEA application forms	Application fee (\$)	Registration period (years)	Coincident activities allowed
(x) Chemical Analysis	Schedules I–V .....	New—225 ..... Renewal—225a ....	130 130	1	May manufacture and import controlled substances for analytical or instructional activities; may distribute such substances to persons registered or authorized to conduct chemical analysis, instructional activities, or research with such substances and to persons exempted from registration pursuant to section 1301.24; may export such substances to persons in other countries performing chemical analysis or enforcing laws related to controlled substances or drugs in those countries; and may conduct instructional activities with controlled substances.

\* \* \* \* \*

Dated: October 7, 2003.

**Laura M. Nagel,**

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 03–25817 Filed 10–9–03; 8:45 am]

BILLING CODE 4410–09–P

**DEPARTMENT OF THE TREASURY****Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 73**

[T.D. TTB–5; Notice No. 5]

RIN 1513–AA61

**Electronic Signatures; Electronic Submission of Forms (2000R–458P)****AGENCY:** Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.**ACTION:** Treasury decision, final rule.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) amends its regulations to permit industry members to use electronic technology to reduce the need for and storage of paper documents. In order to accomplish our goals, we are adding a new part 73 that will allow you to use electronic, rather than handwritten, signatures to sign certain forms, and to submit certain forms to TTB electronically through a TTB-approved electronic document receiving system.

**EFFECTIVE DATE:** October 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** Lisa M. Gesser, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 128, Morganza, MD 20660; telephone 301–290–1460.

**SUPPLEMENTARY INFORMATION:****What Will This Final Rule Do?**

This final rule amends the regulations to allow you to:

- Use electronic signatures to sign certain forms you submit to us instead of using traditional handwritten signatures; and
- Submit certain forms to TTB electronically through an electronic document receiving system that we approve.

**Why Does TTB Want To Allow You To Submit Certain Forms Electronically?**

We believe that by giving you the option to submit certain forms electronically, instead of requiring paper documents, we can:

- Reduce the costs associated with submitting and maintaining large volumes of paper documents;
- Improve the quality and accessibility of data;
- Allow for the faster review and approval of a variety of documents; and
- Allow for a variety of our documents to be available around the clock.

**What Is TTB's Authority To Implement These Regulations?**

Our authority to implement these regulations comes from:

(1) *Government Paperwork Elimination Act (GPEA)*. GPEA was signed into law on October 21, 1998. GPEA directs Federal agencies to provide for the optional use and acceptance of electronic documents and signatures, and electronic recordkeeping, where practical, by October 2003. (See Secs. 1702–1710 of Pub. L. 105–277.)

(2) *Internal Revenue Code of 1986 (26 U.S.C.)* The Internal Revenue Code of 1986 authorizes the Secretary of the Treasury to, by regulation, encourage electronic filing, address what constitutes a timely filed electronic

document, and develop procedures for the acceptance of signatures in digital or other electronic form. (See 26 U.S.C. 6011, 6061, and 7502.)

(3) *Electronic Signatures in Global and National Commerce Act of 2000 (E-SIGN)*. E-SIGN provides that no contract, signature, or record relating to a transaction shall be denied legal effect solely because it is in electronic form, nor may a document be denied legal effect solely because an electronic signature or record was used in its formation. E-SIGN applies to documents that are created in a commercial, consumer, or business transaction. It does not cover transactions that are uniquely governmental such as a compliance report. (See Public Law 106–229.)

(4) *Office of Management and Budget Circular A–130*. OMB's Circular A–130 requires agencies to employ electronic information collection techniques where such means will reduce the burden on the public, increase efficiency, reduce costs, and help provide better service. (See Circular A–130, Para. 8.a.1(k).)

**How Does TTB Plan on Implementing Electronic Filing?**

We are creating a new part 73 in title 27 CFR, chapter I, entitled “Electronic Signatures; Electronic Submission of Forms.” Part 73 explains our overall policy regarding electronic signatures and the electronic submission of certain forms to TTB.

*Electronic Signatures*

Upon the effective date of this final rule, we recognize electronic signatures executed to certain electronic forms as the full equivalent of, and having the same legal effect as, traditional handwritten signatures executed on paper. We will notify you, by publishing a general notice in the **Federal Register** and on our Web site (<http://>

*www.ttb.gov*), when you may use electronic signatures to execute certain electronic forms. The general notice will provide you with specific instructions about how to submit and what technology will be acceptable to TTB.

#### *Electronic Submission of Forms to TTB*

We are in the process of developing the means to allow you to submit forms electronically. This is a lengthy process; we will need to develop the hardware and software components to accept each different type of form. Once we are able to accept a certain form, we will announce in the **Federal Register** and on our Web site that you may register to submit that form electronically. The announcement will provide you with instructions on how to register.

#### **Will I Still Have To Maintain Paper Copies?**

If the regulations require you to maintain certain documents in paper format, you must continue to maintain those documents in paper format even if you submit them to us electronically. Nothing in part 73 alters any other regulatory or statutory requirement that records be maintained in paper format. This part does provide that TTB may publish a general notice in the **Federal Register** authorizing you to maintain certain documents electronically instead of in paper form.

#### **Notice of Proposed Rulemaking**

On April 11, 2003, we published a notice of proposed rulemaking, Notice No. 5, in the **Federal Register** (68 FR 17760) to solicit comments regarding our proposal to add the new part 73 to chapter I of title 27. The notice requested comments from interested persons by May 12, 2003.

#### **Comments on Notice of Proposed Rulemaking**

We did not receive any comments as a result of Notice No. 5.

#### **Regulatory Analyses and Notices**

##### *Paperwork Reduction Act*

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new reporting or recordkeeping requirements.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires an agency to conduct a regulatory flexibility analysis of any rule that may have a significant economic impact on a substantial number of small entities. We certify that

this final rule will not have such an impact because the electronic submission of forms to TTB and the use of electronic signatures are voluntary. This final rule only applies to those people who seek our approval to transmit certain forms electronically to us.

##### *Executive Order 12866*

This regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this rule is not subject to the analysis required by this Executive Order.

##### *Executive Order 13132*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires Federal agencies to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." This rule does not have federalism implications. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule will not require States to accept electronic reports. The effect of this rule will be to provide additional regulatory flexibility to States because States could choose to accept electronic data that would also satisfy our reporting requirements.

#### **Drafting Information**

The principal author of this document is Lisa M. Gesser, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau.

#### **List of Subjects in 27 CFR Part 73**

Electronic signatures, Reporting and recordkeeping requirements.

#### **Authority and Issuance**

■ For the reasons set out in the preamble, we amend chapter I of title 27 of the Code of Federal Regulations by adding a new part 73 to read as follows:

### **PART 73—ELECTRONIC SIGNATURES; ELECTRONIC SUBMISSION OF FORMS**

#### **Subpart A—General Provisions**

Sec.

#### **Scope**

73.1 What does this part do?

#### **Definitions**

73.3 What terms must I know to understand this part?

#### **Subpart B—Electronic Signatures**

73.10 What does subpart B cover?

73.11 What are the required components and controls for acceptable electronic signatures?

73.12 What security controls must I use for identification codes and passwords?

#### **Subpart C—Electronic Filing of Documents With TTB**

73.30 What does subpart C cover?

73.31 May I submit forms electronically to TTB?

73.32 May I electronically sign forms I submit electronically to TTB?

73.33 Am I legally bound by a form I sign electronically?

73.34 When is an electronically submitted form considered timely filed?

73.35 Do I need to keep paper copies of forms I submit to TTB electronically?

**Authority:** 26 U.S.C. 6011, 6061, 7502; 15 U.S.C. 7001, 7004.

#### **Subpart A—General Provisions**

#### **Scope**

##### **§ 73.1 What does this part do?**

(a) This part provides the conditions under which we will allow you to:

(1) Use electronic signatures or digital signatures executed to electronic forms instead of traditional handwritten signatures executed on paper forms; and

(2) Electronically submit certain forms to TTB.

(b) This part does not require you to submit forms to us electronically.

#### **Definitions**

##### **§ 73.3 What terms must I know to understand this part?**

You need to know the following terms to understand this part:

27 *CFR*. Title 27 of the Code of Federal Regulations, chapter I.

*Biometrics*. A method of verifying an individual's identity based on measurement of the individual's physical feature(s) or repeatable action(s) where those features and/or actions are both unique to that individual and measurable.

*Digital signature*. An electronic signature based upon cryptographic methods of originator authentication, computed by using a set of rules and a set of parameters such that the identity of the signer and the integrity of the data can be verified. A signer creates a digital signature by using public-key encryption to transform a message digest of an electronic message. If a recipient of the digital signature has an electronic message, message digest function, and the signer's public key, the recipient can verify:

(1) Whether the transformation was accomplished with the private key that

corresponds to the signer's public key; and

(2) Whether the electronic message has been altered since the transformation was made.

*Electronic document receiving system.* Any set of apparatus, procedures, software, records, or documentation used to receive documents communicated to it via a telecommunications network.

*Electronic signature.* A computer data compilation of any symbol or series of symbols executed, adopted, or authorized by an individual to be the legally binding equivalent of the individual's handwritten signature, and that:

(1) Identifies and authenticates a particular person as the source of the electronic message; and

(2) Indicates such person's approval of the information contained in the electronic message.

*Form(s).* The term form(s), when used in this part, includes all documents required by 27 CFR, chapter I, to be submitted to TTB.

*Handwritten signature.* The scripted name or legal mark of an individual handwritten by that individual and executed or adopted with the present intention to authenticate a writing in a permanent form. The act of signing with a writing or marking instrument such as a pen or stylus is preserved. The scripted name or legal mark, while conventionally applied to paper, may also be applied to other materials or devices that capture the name or mark.

*Paper format.* A paper document.

*TTB.* Refers to the Alcohol and Tobacco Tax and Trade Bureau within the Department of the Treasury.

*You and I.* "You" and "I" refer to the organization or person who must maintain records or submit documents to TTB to satisfy the requirements of 27 CFR, chapter I.

## Subpart B—Electronic Signatures

### § 73.10 What does subpart B cover?

This subpart provides the conditions under which TTB will allow you to use electronic signatures executed to electronic forms instead of traditional handwritten signatures executed on paper forms. Where electronic signatures and their associated electronic forms meet the requirements of this part, TTB will consider the electronic signatures to be the equivalent of full handwritten signatures, initials, and other general signings this chapter requires.

### § 73.11 What are the required components and controls for acceptable electronic signatures?

(a) *Electronic signatures not based on biometrics.* If you use electronic signatures that are not based upon biometrics you must:

(1) Employ at least two distinct identification components such as an identification code and a password;

(2) Use both identification components when executing an electronic signature to an electronic document; and

(3) Ensure that the electronic signature can only be used by the authorized user.

(b) *Electronic signatures based on biometrics.* If you use electronic signatures based upon biometrics, they must be designed to ensure that they cannot be used by anyone other than their genuine owners.

### § 73.12 What security controls must I use for identification codes and passwords?

If you use electronic signatures based upon use of identification codes in combination with passwords, you must employ controls to ensure their security and integrity. These controls must include:

(a) Maintaining the uniqueness of each combined identification code and password, such that no two individuals have the same combination of identification code and password;

(b) Ensuring that identification code and password issuances are periodically checked, recalled, or revised (*e.g.*, to cover such events as password aging);

(c) Following loss management procedures to electronically deauthorize lost, stolen, missing, or otherwise potentially compromised tokens, cards, or other devices that bear or generate identification code or password information, and to issue temporary or permanent replacements using suitable, rigorous controls;

(d) Using transaction safeguards to prevent unauthorized use of passwords and/or identification codes, and to detect and report in an immediate and urgent manner any attempts at their unauthorized use to the system security unit and, as appropriate, to organizational management; and

(e) Initial and periodic testing of devices, such as tokens or cards, that bear or generate identification code or password information to ensure that they function properly and have not been altered in any unauthorized manner.

## Subpart C—Electronic Filing of Documents with TTB

### § 73.30 What does subpart C cover?

This subpart provides the conditions under which we will allow you to satisfy certain reporting requirements of this chapter by submitting forms to us electronically.

### § 73.31 May I submit forms electronically to TTB?

Yes; you may submit an electronic form, instead of a paper form, to satisfy any reporting requirement in this chapter, only if:

(a) We have published a notice in the **Federal Register** and on our Web site (<http://www.ttb.gov>) announcing that we are prepared to receive a particular form electronically;

(b) You have registered to do so pursuant to the instructions in a notice published in the **Federal Register** and on our Web site as stated above;

(c) You submit the electronic form to an electronic document receiving system that we have designated for the receipt of that specific form; and

(d) The electronic form bears valid electronic signatures, as provided in subpart B of this part, to the same extent that the paper submission for which it substitutes would bear handwritten signatures.

### § 73.32 May I electronically sign forms I submit electronically to TTB?

You may electronically sign the electronic form you submit to us if:

(a) You have registered with TTB to do so and have certified, prior to the time of such use, that the electronic signatures or digital signatures in your system are intended to be the legally binding equivalent of traditional handwritten signatures;

(b) The electronic or digital signature meets the standards of this part and is authorized by TTB in accordance with this part; and

(c) The electronic or digital signature is sufficiently trustworthy and reliable that the signing party may not repudiate the signature.

### § 73.33 Am I legally bound by a form I sign electronically?

Yes; by electronically signing a form you submit to us, you are agreeing to be legally bound to the same extent as if you applied a traditional handwritten signature on a paper document submitted to satisfy the same reporting requirement. Persons using electronic signatures shall, upon TTB's request, provide additional certification or testimony that a specific electronic signature is the legally binding

equivalent of the signer's handwritten signature.

**§ 73.34 When is an electronically submitted form considered timely filed?**

If you submit a form to our electronic document receiving system, your report will be considered filed on the date of the electronic postmark given by that system.

**§ 73.35 Do I need to keep paper copies of forms I submit to TTB electronically?**

Nothing in this part alters any other regulatory or statutory requirement that records be maintained in paper format. If the regulations in this chapter require you to keep paper copies of certain forms, you must continue to do so unless TTB otherwise authorizes you to maintain electronic copies of these documents through a general notice in the **Federal Register** or through a variance.

Dated: May 29, 2003.

**Arthur J. Libertucci,**  
*Administrator.*

Approved: September 5, 2003.

**Timothy E. Skud,**

*Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[CGD05-03-031]

RIN 1625-AA08

**Special Local Regulations for Marine Events; Prospect Bay, Kent Island Narrows, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent special local regulations for the "Thunder on the Narrows" boat races, an annual marine event held on the waters of Prospect Bay near Kent Island Narrows, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of Prospect Bay during the event.

**DATES:** This rule is effective November 10, 2003.

**ADDRESSES:** Comments and material received from the public, as well as

documents indicated in this preamble as being available in the docket, are part of docket CGD05-03-031 and are available for inspection or copying at Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** S. L. Phillips, Project Manager, Auxiliary and Recreational Boating Safety Branch at (757) 398-6204.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On March 31, 2003, we published a notice of proposed rulemaking (NPRM) entitled "Special Local Regulations for Marine Events; Prospect Bay, Kent Island Narrows, MD" in the **Federal Register** (68 FR 15417). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

**Background and Purpose**

Each year on the first Saturday and Sunday of August, the Kent Narrows Racing Association sponsors the "Thunder on the Narrows" powerboat races. The event consists of 75 Hydroplanes and Jersey Speed Skiffs racing in heats counter-clockwise around a 1.5-mile oval racecourse on the waters of Prospect Bay, Kent Island Narrows, Maryland. A fleet of approximately 200 spectator vessels normally gathers nearby to view the event. Due to the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of the spectators, participants and transiting vessels.

**Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation will prevent traffic from transiting a portion of Prospect Bay during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the

extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the proposed regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit Prospect Bay and Kent Narrows by navigating around the regulated area.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605 (b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Prospect Bay during the event.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only 2 days each year. Vessel traffic will be able to pass safely around the regulated area. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

**Assistance for Small Entities**

Under section 213 (a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. No assistance was requested and none was provided.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Enforcement Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by