to put product identification codes on the consumer packages, ATF does not believe it should allow the intent of the producer to be frustrated by third parties. It is the producer who will have to bear the costs of recalls if product identification codes have been obliterated by distributors. It is the consumer who will suffer if the obliteration of such marks makes it impossible to trace problems with contaminated products. Finally, such actions make it more difficult for ATF to trace problems with products already in the market place.

Thus, ATF is proposing an amendment to the regulations which will specifically prohibit the labeling or relabeling of products if the effect of such action is to remove from labels or containers "product identification codes" placed on the label or container by the producer for tracing purposes. The term "product identification code" is defined to include any numbers, letters, symbols, dates, or other codes placed on the label or container by which the producer may be able to trace a product back to a particular production lot or batch, bottling line, or date of removal.

Under the proposed regulations, if it is necessary for anyone but the producer to remove the original label from the product, the product identification code must be put back on the new label. ATF believes that this proposal will adequately address the problem before us, without imposing an undue burden on any part of the industry. Most importantly, it will ensure that an important consumer protection mechanism voluntarily placed on consumer packages by manufacturers will not be thwarted.

Although ATF is not proposing to require product identification codes on labels or packages, it is the opinion of the Bureau that such codes are useful, and should be encouraged. If at any time we find that the lack of such codes is hampering the exercise of our consumer protection function, we may wish to reconsider this option.

Products Bottled for Exportation

Although products which are bottled for exportation are not required to be covered by certificates of label approval, ATF believes that the prohibition on alteration of labels applies to such products. The alteration or mutilation of required information on labels, as well as product identification codes, would hamper ATF's efforts in tracing the illegal diversion of nontaxpaid alcoholic beverages which were intended for exportation. One of the purposes of the FAA Act was to aid in the collection of

taxes on distilled spirits, wines, and malt beverages. Thus, we have authority under the FAA Act to extend these provisions to products which are intended to be exported.

Prior Approval for Relabeling Distilled Spirits

The amendments to Part 5, relating to the labeling of distilled spirits products, would also resolve a problem which was inadvertently created by T.D. ATF–198, 50 FR 8456 (1985). In that amendment to the regulations, the requirement that ATF give prior approval for the relabeling of distilled spirits was removed, as long as the products were relabeled in accordance with an approved label. This created an unintended inconsistency with Parts 4 and 7, which do require prior approval for the relabeling of wines and malt beverages, respectively.

The proposed amendment would reinstate in section 5.31 the requirement that approval be obtained from ATF prior to relabeling distilled spirits. ATF does not believe that this is a burdensome requirement, in light of the statutory provision prohibiting any relabeling unless done in accordance with regulations issued by the Secretary. However, the proposed regulations will specify that such permission need not be obtained for relabeling products in Customs bonded warehouses or foreign trade zones, as long as such relabeling is done under the supervision of Customs officers, in compliance with all applicable Customs requirements, and the effect of the relabeling is not to remove from the container or label any information which is mandatory under ATF regulations, or any product identification code placed on the container or label by the producer for tracing purposes.

Miscellaneous

ATF is also proposing to add to section 7.20 a provision which is already found in slightly different forms in sections 4.30 and 5.31. This provision authorizes, without prior approval from ATF, the addition of a label identifying the wholesale or retail distributor, or identifying the purchaser or consumer, as long as the label contains no reference whatever to the characteristics of the product. The proposed regulations will standardize this provision for wines, distilled spirits, and malt beverages. Furthermore, the approval procedure in all three sections is also standardized for the sake of consistency. Although the current regulations in sections 4.30 and 7.20 do not specifically condition approval for relabeling on the existence of a

certificate of label approval for the new labels, such a policy has always been enforced by ATF. The proposed regulations will spell out this requirement.

Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this Executive Order.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant impact on a substantial number of small entities. This notice requests comments on a proposal to make it unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand or label on wine, distilled spirits, or malt beverages held for sale in interstate or foreign commerce or after shipment therein, including products held in a foreign trade zone or Customs bonded warehouse. if the effect of such action is to remove mandatory information required by ATF regulations, or to remove a product identification code placed on the label or container by the producer for tracing purposes. The proposal would also reinstate a requirement for prior approval for relabeling of distilled spirits products. This proposal does not mandate new labeling requirements, but merely protects and preserves mandatory information already required under the regulations, and product identification codes which a producer voluntarily chooses to put on the product. Thus, the proposal should not have a significant economic impact on a substantial number of small entities.

Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected: (1) to have significant secondary or incidental effects on a substantial number of small entities, or (2) to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to 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