



Testing of Chewing Tobacco and Snuff Products

To: Chewing Tobacco and Snuff Products Manufacturers and Importers, and Others Concerned.

I. Purpose.

The purpose of this Procedure is to advise of the method used by the Alcohol and Tobacco Tax and Trade Bureau (TTB) for evaluating the size of the particles that make up products potentially classifiable as chewing tobacco or snuff under the Internal Revenue Code of 1986 (IRC) at 26 U.S.C. 5702. This Procedure supersedes ATF Procedure 87–4.

II. Background.

Section 13202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272) amended 26 U.S.C. 5701 to impose taxes on smokeless tobacco (snuff and chewing tobacco) effective July 1, 1986. As amended by that Act, 26 U.S.C. 5702(m)(2) and (3) define the terms “snuff” and “chewing tobacco” as follows:

- Snuff is any finely cut, ground, or powdered tobacco that is not intended to be smoked.
- Chewing tobacco is any leaf tobacco that is not intended to be smoked.

In 1987, TTB’s predecessor agency, the Bureau of Alcohol, Tobacco and Firearms (ATF), issued ATF Procedure 87–4 to advise the public of a method that ATF would use to aid in distinguishing between chewing tobacco and snuff based on a product’s particle size. According to Procedure 87–4, ATF wished to consider the distinction being made in the marketplace between chewing tobacco and snuff products, and the agency had therefore procured over 100 samples of such products being sold in the market shortly after the effective date of the tax. The ATF laboratory evaluated the samples using variations of some of the techniques suggested by members of the smokeless tobacco industry and, as a result, determined that a sieve method to determine particle size could be used to distinguish between products which traditionally have been considered to be chewing tobacco (tobacco leaves of larger particle size) and those considered to be snuff (finer tobacco particle size).

TTB believes that the sieve testing method set forth in ATF Procedure 87-4 recognizes that the leaf tobacco in chewing tobacco is cut (as opposed to being whole, intact leaf) and that, to distinguish between cut leaf tobacco consistent with chewing tobacco and finely cut leaf tobacco consistent with snuff, information about the sizes of the particles of the products may be important. Consequently, TTB is reissuing, with some updates, the sieve testing method set forth in ATF Procedure 87-4.

TTB is publishing the updated method because we believe it still provides important information with regard to whether a product is "finely cut" leaf tobacco, and because we have found confusion in the industry with regard to what the employment of the sieve testing method implies. The employment of the method and the information it conveys about a product's particle size contribute to TTB's overall evaluation of a product for tax classification purposes. Information provided by the sieve testing method is considered along with other information, such as the product's visual appearance, method of manufacture, and any documentation submitted by the manufacturer or importer. Particle size may or may not be relevant to the tax classification of the product, and the fact that TTB Scientific Services Division may conduct the sieve test along with other testing does not make its results relevant. Further, the employment of the sieve testing method alone does not determine a product's tax classification, as such a result would not provide all of the analytical information necessary to determine whether a product meets one of the statutory definitions set forth in 26 U.S.C. 5702(m). For example, this method does not provide information regarding whether the particles in question have any characteristics of "leaf tobacco" or whether the product particles are tobacco at all. In addition, the method would not provide useful analytical results if the application of the method changed the physical characteristics of the product, for example, if the moisture content of a product sample should be so low that the vibration of the apparatus caused disintegration of the product particles.

III. Sieve Testing Method.

a. General Methodology.

The sieving operation consists of mechanically vibrating on a sieve, during a 4-minute cycle, three approximately equal samples of smokeless tobacco to determine the percentage of the sample that is retained on the sieve and the percentage of the sample that passes through the sieve.

b. Apparatus.

- (1) Testing sieves, covered with wire screens according to DIN ISO 3310 and A.S.T.M. E-11-87, No. 10 mesh (0.0787 inch or 2.00 millimeters), with covers and collecting pans.

(2) Electric 8-inch sieve shaker, using horizontal circular sieving motion.

(3) Standard analytical balance.

c. Sample Preparation.

Three samples of approximately 30 grams each are selected for each test. Depending on the size of the consumer package, the three samples may come from the same consumer package or may come from several individual packages. Each of the three samples will be spread by hand over the surface of a screen as it rests on a pan.

d. Testing Procedure.

- (1) The tares of the varying component combinations are obtained by weighing. If using the Smokeless Tobacco Sieving Operation Laboratory Worksheet (see Exhibits below¹), enter the tare of the cover, sieve, and pan on line 2; enter the tare of the cover and sieve on line 5; and enter the tare of the cover and pan on line 8.
- (2) The weight of the samples and the associated components (the cover, sieve, and pan) is determined and, if using the Worksheet, entered on line 1. The net weight of the sample is obtained by subtracting from the weight of the sample and the associated components, the tare of the associated components. If using the Worksheet, line 2 is subtracted from line 1 to provide the net weight of the sample in line 3. The covers are removed from the two sieves which will not be at the top of the shaker array.
- (3) The three samples are stacked in the sieve shaker, and the shaker is activated for 4 minutes. The sieve is removed from the shaker and the two covers are replaced. (Note: Covers are used on all sieves during the manipulations of the samples to prevent moisture loss between the initial and final weighing.)
- (4) The combined weight of the cover, sieve, and its contents after vibration is determined and, if using the Worksheet, entered on line 4. The combined weight of the cover, pan, and its contents is determined and, if using the Worksheet, entered on line 7.

¹ Included with this Procedure are two exhibits: Exhibit 1 is a blank Smokeless Tobacco Sieving Operations Laboratory Worksheet. Exhibit 2 is a completed Smokeless Tobacco Sieving Operations Laboratory Worksheet containing hypothetical data.

e. Computations.

- (1) The net weight of the sample retained on the sieve (line 6 of the Worksheet) is determined by subtracting from the combined weight of the cover and the sieve and its contents (line 4), the tare of the cover and the sieve (line 5).
- (2) The net weight of the sample which passed through the sieve (line 9 of the Worksheet) is determined by subtracting from the combined weight of the cover and the pan and its contents (line 7), the tare of the cover and the pan (line 8).
- (3) The total weight of the sieved sample (line 10 of the Worksheet) is determined by adding the net weights of the sample retained on the sieve and the sample which passed through the sieve (lines 6 and 9).
- (4) The percentage of the sample retained on the sieve (line 11 of the Worksheet) is determined by dividing the net weight of the sample retained on the sieve (line 6) by the total weight of the sieved sample (line 10) and multiplying the result by 100.
- (5) The percentage of the sample which passed through the sieve (line 12 of the Worksheet) is determined by dividing the net weight of the sample which passed through the sieve (line 9) by the total weight of the sieved sample (line 10) and multiplying the result by 100.
- (6) The mean percentages are determined by taking the average of the results of the three samples tested. If using the Worksheet, the mean for percentage on the sieve is the average of the figures on line 11 and the mean for percentage on the pan is the average of the figures on line 12.
- (7) If the mean for percentage on the sieve exceeds 50 percent, the particle size of the sample is consistent with that of other chewing tobacco products reviewed. If the mean for percentage on the pan equals or exceeds 50 percent, the particle size of the sample is consistent with that of other snuff products.

IV. Inquiries.

General inquiries concerning this Procedure may be addressed to one of the following:

Director, Regulations and Rulings Division
Alcohol and Tobacco Tax and Trade Bureau
1310 G Street, NW, Box 12
Washington, DC 20220

Telephone: 202-453-2265

E-mail: Regulations@ttb.gov

Inquiries concerning the sieve testing method should be addressed to:

TTB Scientific Services Division
National Laboratory Center
Tobacco Laboratory
6000 Ammendale Road
Beltsville, MD 20705

Date Approved: January 14, 2014

/s/

John J. Manfreda,

John J. Manfreda
Administrator
Alcohol and Tobacco Tax and Trade Bureau

EXHIBIT

LABORATORY WORK SHEET
(Smokeless Tobacco Sieving Operation)

Sample Number	Date		
Sample Name			
TRIPPLICATE SAMPLES			
(Weight in Grams)			
	# 1	# 2	# 3
1. Cover, sieve, pan, sample (Before vibration)			
2. Tare of cover, sieve, pan			
3. Net weight of sample			
4. Cover, sieve, and contents after vibration			
5. Tare of cover & sieve			
6. Net retained on sieve			
7. Cover, pan, and contents after vibration			
8. Tare of cover and pan			
9. Net through sieve			
10. Sample on sieve & pan *(6 + 9)			
11. Percent on sieve *(6/10) x 100			
12. Percent on pan *(9/10) x 100			
13. SUMMARY	**	**	**
PERCENTAGES	Mean %	Range %	Std. Dev. %
a. On Sieve *(11)			
b. On Pan *(12)			

* Parenthetical references are to line number sources for computations.

** These sample statistics (range, % std. dev., Var. Coefficient) are based on the minimum amount of data necessary (3 samples) for statistical computations, and are presented merely as examples of possible statistical results and not as proof of the accuracy or precision of the test method.

EXHIBIT

LABORATORY WORK SHEET
(Smokeless Tobacco Sieving Operation)

Sample Number	Date			
Sample Name				
TRIPLICATE SAMPLES (Weight in Grams)				
	# 1	# 2	# 3	
1. Cover, sieve, pan, sample (Before vibration)	1139.1	1149.7	1112.3	
2. Tare of cover, sieve, pan	1104.7	1116.3	1076.9	
3. Net weight of sample	34.4	33.4	35.4	
4. Cover, sieve, and contents after vibration	704.6	708.5	709.3	
5. Tare of cover & sieve	700.8	707.0	706.7	
6. Net retained on sieve	3.8	1.5	2.6	
7. Cover, pan, and contents after vibration	673.9	680.9	642.6	
8. Tare of cover and pan	643.5	649.3	609.9	
9. Net through sieve	30.4	31.6	32.7	
10. Sample on sieve & pan *(6 + 9)	34.2	33.1	35.3	
11. Percent on sieve *(6/10) x 100	11.11	4.53	7.37	
12. Percent on pan *(9/10) x 100	88.89	95.47	92.63	
13. SUMMARY				
PERCENTAGES	Mean %	Range %	Std. Dev. %	Var. Coefficient
a. On Sieve *(11)	7.67	4.53 – 11.11	3.30	43.02
b. On Pan *(12)	92.33	88.89 – 95.47	3.30	3.57

* Parenthetical references are to line number sources for computations.

** These sample statistics (range, % std. dev., Var. Coefficient) are based on the minimum amount of data necessary (3 samples) for statistical computations, and are presented merely as examples of possible statistical results and not as proof of the accuracy or precision of the test method.