

Subpart D ¾ ADMINISTRATIVE MATTERS

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS—CHAPTER I—
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE
TREASURY

Delegation of Authority for Parts 20, 21 and 22

27 CFR Parts 20, 21 and 22

T.D. ATF-435

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule places all ATF authorities contained in parts 20, 21 and 22, title 27 Code of Federal Regulations (CFR), with the “appropriate ATF officer” and requires that persons file documents required by such parts, with the “appropriate ATF officer” or in accordance with the instructions for the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director and the word “region.” Concurrently with this Treasury Decision, ATF Order 1130.9 is being published. Through this order, the Director has delegated all of the authorities in 27 CFR parts 20, 21 and 22 to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports, which are not ATF forms, are filed.

EFFECTIVE DATE: This rule is effective January 19, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (telephone 202-927-8210 or e-mail to alctob@atfhq.atf.treas.gov).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Order 120-(formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC). The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under chapter 51, each of these various delegation instruments

must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in parts 20, 21 and 22 that were previously delegated and places those authorities with the “appropriate ATF officer.” All of the authorities of the Director that were not previously delegated are also placed with the “appropriate ATF officer.” Along with this final rule, ATF is publishing ATF Order 1130.9, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Parts 20, 21 and 22, Distilled Spirits Plants, which delegates certain of these authorities to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in parts 20, 21 and 22 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition, this final rule also eliminates all references in the regulations that identify the ATF officer with whom an ATF form is filed. This is because ATF forms will indicate the officer with whom they must be filed. Similarly, this final rule also amends parts 20, 21 and 22 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the “appropriate ATF officer” identified in ATF Order 1130.9. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule also makes various technical amendments to parts 20, 21 and 22 of title 27 of the Code of Federal Regulations. First, new sections are added in each part to recognize the authority of the Director to delegate regulatory authorities and to identify ATF Order 1130.9 as the instrument reflecting such delegations. Second, Sec. 20.21, 21.2, 22.21 of title 27 of the Code of Federal Regulations are amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed. Third, this rule removes from part 22 of title 27 of the Code of Federal Regulations the definition of the term “delegate.” This term is used only in the definition of Secretary in part 22 of title 27 of the Code of Federal Regulations. We have removed the definition of “delegate” to be consistent with most other parts of title 27 of the Code of Federal Regulations and to minimize potential confusion and misunderstanding with the appropriate ATF officers to whom the Director has delegated authority.

ATF has begun to make similar changes in delegations to all other parts of title 27 of the Code of Federal Regulations through separate rulemakings. By amending the regulations part by part, rather than in one large rulemaking document and ATF Order, ATF minimizes the time expended in notifying interested parties of current delegations of authority.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, we can issue this final rule without the notice and public procedure under 5 U.S.C. 553(b). For these same reasons, we are issuing this final rule effective on the same date of its publication in the Federal Register. This final rule is not subject to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 20

Administrative practice and procedure, Advertising, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Chemicals, Claims, Cosmetics, Excise taxes, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Transportation.

27 CFR Part 21

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Chemicals, Packaging and containers, Transportation.

27 CFR Part 22

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Claims, Excise taxes, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Science and technology, Surety bonds, Transportation.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Paragraph 1. The authority citation for part 20 continues to read as follows:

Authority: 20 U.S.C. 5001, 5206, 5214, 5271-5275, 5311, 5552, 5555, 5607, 6065, 7805.

Par. 2. Section 20.11 is amended by removing the definitions of “Area supervisor”, “ATF Officer”, “Region”, and “Regional director (compliance)”, by adding a new definition of “Appropriate ATF officer”, and by revising the definition of “Bulk conveyance” to read as follows:

§ 20.11 Meaning of Terms.

* * * * *

Appropriate ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.9, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Parts 20, 21 and 22.

* * * * *

Bulk conveyance. Any tank car, tank truck, tank ship, or tank barge, or a compartment of any such conveyance, or any other container approved by the appropriate ATF officer for the conveyance of comparable quantities of denatured spirits or articles.

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Par. 3. In Subpart C—Administrative and Miscellaneous Provisions after the undesignated center heading “Authorities”, a new Sec. 20.20 is added as follows:

§ 20.20 Delegations of the Director.

All of the regulatory authorities of the Director contained in this Part 20 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.9, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Parts 20, 21 and 22. ATF delegation orders, such as ATF Order 1130.9, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site <http://www.atf.treas.gov>.

§§ 20.21, 20.22, 20.23, 20.48, 20.91, 20.92, 20.100, 20.103, 20.111, 20.144, 20.177, 20.211, 20.245 and 20.246 [Amended]

Par. 4. Part 20 is further amended by removing the word “Director” each place it appears and adding, in its place, the words “appropriate ATF officer” in the following places:

- (a) Section 20.21(a);
- (b) Section 20.22(a)(2), (3) and (4), and (c);
- (c) Section 20.23;
- (d) Section 20.48(b) and (c);
- (e) Section 20.91(a) and (c);
- (f) Section 20.92(a) and (b);
- (g) Section 20.100(a) introductory text;
- (h) Section 20.103;
- (i) Section 20.111;
- (j) Section 20.144;
- (k) Section 20.178(c)(1);
- (l) Section 20.211(b);
- (m) Section 20.245; and
- (n) Section 20.246.

Par. 5. Section 20.21 is further amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 20.21 Forms prescribed.

- (a) * * * The form will be filed in accordance with the instructions for the form.
- (b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site <http://www.atf.treas.gov>.

Par. 6. The first and second sentences of Sec. 20.22(a)(1) are revised to read as follows:

§ 20.22 Alternate methods or procedures; and emergency variations from requirements.

(a) Alternate methods or procedures—(1) *Application*. A permittee, after receiving approval from the appropriate ATF officer, may use an alternate method or procedure (including alternate construction or equipment) in lieu of a method or procedure prescribed by this part. A permittee wishing to use an alternate method or procedure may apply to the appropriate ATF officer. * * *

* * * * *

§§ 20.22; 20.24, 20.26, 20.28, 20.41, 20.42, 20.43, 20.44, 20.48, 20.50, 20.51, 20.56, 20.57, 20.60, 20.61, 20.62, 20.63, 20.64, 20.68, 20.72, 20.74, 20.79, 20.80, 20.82, 20.132, 20.133, 20.134, 20.161, 20.163, 20.164, 20.181, 20.202, 20.204, 20.205, 20.213, 20.234, 20.235, 20.252, 20.261, 20.262, 20.263 and 20.265 [Amended]

Par. 7. Part 20 is further amended by removing the words “regional director (compliance)” each place it appears and adding, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 20.22(b)(1), (2) and (3);
- (b) Section 20.24;
- (c) Section 20.26;
- (d) Section 20.28(b);
- (e) Section 20.41(c) introductory text;
- (f) Section 20.42(a)(11) and (b);
- (g) Section 20.43(a) introductory text;
- (h) Section 20.44 introductory text;
- (i) Section 20.48(b);
- (j) Section 20.50;
- (k) Section 20.51 introductory text;
- (l) Section 20.56(a)(1), (b) and (c)(1) and (3);
- (m) Section 20.57(b)(1) and (2);
- (n) Section 20.60;
- (o) Section 20.61;
- (p) Section 20.62(a);
- (q) Section 20.63(a);
- (r) Section 20.64;
- (s) Section 20.68(a) introductory text;
- (t) Section 20.72(b);
- (u) Section 20.74;
- (v) Section 20.79;
- (w) Section 20.80;
- (x) Section 20.82;
- (y) Section 20.132(c);
- (z) Section 20.133(a) introductory text and (b);
- (aa) Section 20.134(c);
- (bb) Section 20.161(c)(3);
- (cc) Section 20.163(c)(2);
- (dd) Section 20.164(e);
- (ee) Section 20.181(a);

- (ff) Section 20.202(a);
- (gg) Section 20.204(b);
- (hh) Section 20.205(f);
- (ii) Section 20.213(a) and (b);
- (jj) Section 20.234(b)(3);
- (kk) Section 20.235(c);
- (ll) Section 20.252(a);
- (mm) Section 20.261;
- (nn) Section 20.262(d);
- (oo) Section 20.263(d); and
- (pp) Section 20.265(b).

Par. 8. Section 20.22(c) is amended by removing the phrase “or the regional director (compliance)” each place it appears.

Par. 9. Section 20.25 is revised to read as follows:

§ 20.25 Permits.

The appropriate ATF officer must issue permits for the United States or a Governmental agency as provided in Sec. 20.241 and industrial alcohol user permits, Form 5150.9, required under this part.

§§ 20.27, 20.28, 20.37, 20.117, 20.166, 20.170, 20.213, 20.261, 20.262, 20.263 and 20.265 [Amended]

Par. 10. Part 20 is further amended by adding the word “appropriate” before the words “ATF officer” or “ATF officers” each place it appears in the following places:

- (a) Section 20.27;
- (b) Section 20.28(a);
- (c) Section 20.37;
- (d) Section 20.117(d)(2)(iv);
- (e) Section 20.166;
- (f) Section 20.170;
- (g) Section 20.213(b);
- (h) Section 20.261;
- (i) Section 20.262(c);
- (j) Section 20.263(c); and
- (k) Section 20.265(a) introductory text.

Par. 11. The last sentence of Sec. 20.45(c)(1) is revised to read as follows:

§ 20.45 Organizational Documents.

* * * * *

(c) *Statement of interest.* (1) * * * If a corporation is wholly owned or controlled by

another corporation, persons owning 10% or more of each of the classes of stock of the parent corporation are considered to be the persons interested in the business of the subsidiary, and the names and addresses of such persons must be submitted to the appropriate ATF officer if specifically requested.

* * * * *

§§ 20.53 and 20.205 [Amended]

Par. 12. Part 20 is further amended by removing the phrase “with the regional director (compliance)” each place it appears in the following places:

- (a) Section 20.53; and
- (b) Section 20.205 introductory text.

Par. 13. The first sentence of Sec. 20.62(a) is amended to remove the phrase “within the same region”.

Par. 14. Paragraph (c) of Sec. 20.92 is revised to read as follows:

§ 20.92 Samples.

* * * * *

(c) The appropriate ATF officer may, at any time, require submission of samples of:

- (1) Any ingredient used in the manufacture of an article, or;
- (2) Any article.

* * * * *

Par. 15. Paragraph (a) of Sec. 20.95 is amended to remove the phrase “on request by the Director”.

Par. 16. Paragraph (b) of Sec. 20.100 is revised to read as follows:

§ 20.100 General.

* * * * *

(b) Approval by the appropriate ATF officer of formulas, samples, or statements of process means only that they meet the standards of the Bureau of Alcohol, Tobacco and Firearms. The approval does not require the issuance of a permit under subpart D of this part to withdraw and use specially denatured spirits in those formulas, articles, or statements of process.

* * * * *

Par. 17. Paragraph (d)(2)(v) of Sec. 20.117 is amended by removing the phrase “which may be conditions of approval by the regional director (compliance)”.

Par. 18. Paragraph (b)(1)(ii) of Sec. 20.134 is amended by removing the phrase “regional director (compliance) of the region where the manufacturing site is located” and adding in substitution, the words “appropriate ATF officer”.

Par. 19. Paragraph (b) of Sec. 20.147 is amended by removing the word “Director’s” and adding, in substitution, the words “appropriate ATF officer’s.”

Par. 20. Paragraph (e) of Sec. 20.189 is amended by removing the phrase “by the Director” and adding, in substitution, the phrase “in accordance with subpart F of this part”.

Par. 21. Section 20.190 is revised to read as follows:

§ 20.190 Diversion of articles for internal human use or beverage use.

An appropriate ATF officer who has reason to believe that the spirits in any article are being reclaimed or diverted to beverage or internal human use may direct the permittee to modify an approved formula to prevent the reclamation or diversion. The appropriate ATF officer may require the permittee to discontinue the use of the formula until it has been modified and again approved.

Par. 22. The second sentence of Sec. 20.241 is amended to remove the phrase “from the Director” and adding, in substitution, the phrase “as provided in Sec. 20.25”.

Par. 23. The first sentence of Sec. 20.242(b) is amended by removing the phrase “to the Director” and the preceding comma.

§§ 20.244 and 20.252 [Amended]

Par. 24. Part 20 is further amended by removing the phrase “regional director (compliance) of the region” and adding in substitution, the words “appropriate ATF officer” each place it appears in the following places:

(a) Section 20.244; and (b) Section 20.252(b).

Par. 25. The first sentence of Sec. 20.251 is amended by removing the phrase “for submission on request by the Director” and adding, in substitution, the phrase “as required by Sec. 20.92”.

Par. 26. The first sentence of paragraph (a) of Sec. 20.267 is amended by removing the phrase “submitted to the regional director (compliance)” and adding, in substitution, the phrase “as required by this part”.

Par. 27. The second sentence of paragraph (a) of Sec. 20.267 is amended by removing the words “regional director (compliance)” and adding, in substitution, the words “appropriate ATF officer”.

PART 21—FORMULAS FOR DENATURED ALCOHOL AND RUM

Par. 28. The authority citation for part 21 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5242, 7805.

§§ 21.2, 21.3, 21.5, 21.31 and 21.91 [Amended]

Par. 29. Part 21 is further amended by removing the word “Director” each place it appears and adding, in its place, the words “appropriate ATF officer” in the following places:

- (a) Section 21.2(a);
- (b) Section 21.3(d);
- (c) Section 21.5 introductory text;
- (d) Section 21.31(b); and
- (e) Section 21.91.

Par. 30. Section 21.2 is further amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 21.2 Forms prescribed.

- (a) * * * The form will be filed in accordance with the instructions for the form.
- (b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site <http://www.atf.treas.gov>.

§§ 21.3, 21.21, 21.31, 21.33, 21.34, 21.56 and 21.65 [Amended]

Par. 31. Part 21 is further amended by removing the words “Chief, Chemical Branch” each place it appears and, in substitution, adding the words “appropriate ATF officer” in the following places:

- (a) Section 21.3(b);
- (b) Section 21.21(b) and (c);
- (c) Section 21.31(c);
- (d) Section 21.33(c);
- (e) Section 21.34(c);
- (f) Section 21.56(a);
- (g) Section 21.65(a);

Par. 32. Paragraph (c) of Sec. 21.3 is revised to read as follows:

§ 21.3 Stocks of discontinued formulas.

* * * * *

(c) On approval of an application, filed with the appropriate ATF officer and approved by such officer, destroy those stocks under whatever supervision the appropriate ATF officer requires; or

* * * * *

Par. 33. Paragraph (d) of Sec. 21.3 is further amended by removing the phrases “to be filed with the regional director (compliance) for transmittal to the Director” and the parentheses at the beginning and ending of these phrases.

Par. 34. In Subpart A—General Provisions, a new Sec. 21.7 is added as follows:

§ 21.7 Delegations of the Director.

All of the regulatory authorities of the Director contained Part 21 of the regulations are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.9, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Parts 20, 21 and 22. ATF delegation orders, such as ATF Order 1130.9, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site <http://www.atf.treas.gov>.

Par. 35. Section 21.11 is amended by removing the definitions of “Chief, Chemical Branch” and “Regional director (compliance)” and adding a new definition of “Appropriate ATF officer” to read as follows:

§ 21.11 Meaning of Terms.

* * * * *

Appropriate ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.9, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Parts 20, 21 and 22.

* * * * *

Par. 36. Footnote 1 of Sec. 21.141 is amended by removing the phrase “by the Chief, Chemical Branch”.

PART 22—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Par. 37. The authority citation continues to read as follows:

Authority: 26 U.S.C. 5001, 5121,5142, 5143, 5146, 5206, 5214, 5271-5276, 5311, 5552, 5555, 6056, 6061, 6065, 6109, 6151, 6806, 7011, 7805; 31 U.S.C. 9304, 9306.

Par. 38. Section 22.11 is amended by removing the definitions of “Area supervisor”, “ATF officer”, “Delegate”, “Region” and “Regional director (compliance)” and adding a new definition of “Appropriate ATF officer” as to read as follows:

§ 22.11 Meaning of Terms.

* * * * *

Appropriate ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.9, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Parts 20, 21 and 22.

* * * * *

Par. 39. In Subpart C—Administrative Provisions after the undesignated center heading “Authorities”, a new Sec. 22.20 is added as follows:

§ 22.20 Delegations of the Director.

All of the regulatory authorities of the Director contained in this Part 22 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.9, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Parts 20, 21 and 22. ATF delegation orders, such as ATF Order 1130.9, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site <http://www.atf.treas.gov>.

§§ 22.21, 22.22, 22.24, 22.171, 22.175 and 22.176 [Amended]

Par. 40. Part 22 is further amended by removing the word “Director” each place it appears and adding, in its place, the words “appropriate ATF officer” in the following places:

- (a) Section 22.21(a);
- (b) Section 22.22(a)(2),(3) and (4);
- (c) Section 22.24(a);
- (d) Section 22.171(a);
- (e) Section 22.175; and
- (f) Section 22.176(c).

Par. 41. Section 22.21 is further amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 22.21 Forms prescribed.

- (a) * * * The form will be filed in accordance with the instructions for the form.
- (b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site <http://www.atf.treas.gov>.

Par. 42. The first two sentences of Sec. 22.22(a)(1) and paragraph (c) of Sec. 22.22 are revised to read as follows:

§ 22.22 Alternate methods or procedures; and emergency variations from requirements.

- (a) Alternate methods or procedures—(1) *Application.* A permittee, after receiving approval from the appropriate ATF officer, may use an alternate method or procedure (including alternate construction or equipment) in lieu of a method or procedure

prescribed by this part. A permittee wishing to use an alternate method or procedure may apply to the appropriate ATF officer. * * *

* * * * *

(c) *Withdrawal of approval.* The appropriate ATF officer may withdraw approval for an alternate method or procedure or an emergency variation from requirements, approved under paragraph (a) or (b) of this section, if the appropriate ATF officer finds that the revenue is jeopardized or the effective administration of this part is hindered by the approval.

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§§ 22.22, 22.23, 22.24, 22.25, 22.27, 22.41, 22.42, 22.42, 22.43, 22.44, 22.45, 22.50, 22.51, 22.57, 22.58, 22.61, 22.62, 22.63, 22.64, 22.68, 22.72, 22.74, 22.79, 22.80, 22.82, 22.102, 22.103, 22.111, 22.113, 22.122, 22.124, 22.125, 22.154, 22.162 and 22.164
[Amended]

Par. 43. Part 22 is further amended by removing the words “regional director (compliance)” each place it appears and adding, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 22.22(b)(1), (2) and (3);
- (b) Section 22.23;
- (c) Section 22.24(b);
- (d) Section 22.25;
- (e) Section 22.27(b);
- (f) Section 22.41(b);
- (g) Section 22.42(a)(11);
- (h) Section 22.42(b);
- (i) Section 22.43(a) introductory text;
- (j) Section 22.44 introductory text;
- (k) Section 22.45(c)(1);
- (l) Section 22.50;
- (m) Section 22.51 introductory text;
- (n) Section 22.57(a)(1), (b) and (c)(1) and (3);
- (o) Section 22.58(b)(1) and (2);
- (p) Section 22.61;
- (q) Section 22.62;
- (r) Section 22.63(a);
- (s) Section 22.64;
- (t) Section 22.68(a);
- (u) Section 22.72(b);
- (v) Section 22.74;
- (w) Section 22.79;
- (x) Section 22.80;
- (y) Section 22.82;
- (z) Section 22.102(c) introductory text;
- (aa) Section 22.103;

- (bb) Section 22.111(c)(3);
- (cc) Section 22.113(a)(1);
- (dd) Section 22.122(a);
- (ee) Section 22.124(b);
- (ff) Section 22.125(c);
- (gg) Section 22.154(b)(3);
- (hh) Section 22.162; and
- (ii) Section 22.164(a).

§§ 22.26, 22.27, 22.36, 22.39, 22.113, 22.142 and 22.161 [Amended]

Par. 44. Part 22 is further amended by adding the word “appropriate” before the words “ATF officer” or “ATF officers” each place it appears in the following places:

- (a) Section 22.26;
- (b) Section 22.27(a);
- (c) Section 22.36;
- (d) Section 22.39(c);
- (e) Section 22.113(c);
- (f) Section 22.142(a) and (c); and
- (g) Section 22.161(a) and (d).

Par. 45. The last sentence of Sec. 22.45(c)(1) is revised to read as follows:

§ 22.45 Organizational Documents.

* * * * *

(c) *Statement of interest.* (1) * * * If a corporation is wholly owned or controlled by another corporation, persons owning 10% or more of each of the classes of stock of the parent corporation are considered to be the persons interested in the business of the subsidiary, and the names and addresses of such persons must be submitted to the appropriate ATF officer if specifically requested.

* * * * *

§§ 22.53 and 22.125 [Amended]

Par. 46. Part 22 is further amended by removing the phrase “with the regional director (compliance)” each place it appears in the following places:

- (a) Section 22.53; and
- (b) Section 22.125(a) introductory text.

§ 22.142 [Amended]

Par. 47. Part 22 is further amended by removing the words “area supervisor” each place it appears and adding, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 22.142(a), (c) and (d).

Par. 48. The first sentence of Sec. 22.63(a) is amended by removing the phrase “within the same region”.

Par. 49. The first sentence of Sec. 22.172(b) is amended by removing the phrase “to the Director”.

Par. 50. The second sentence of Sec. 22.174 is amended by removing the words “regional director (compliance) of the region from which the shipment was consigned” and adding, in substitution, the words “appropriate ATF officer.”

Signed: July 13, 2000

Bradley A. Buckles,
Director

Approved: August 1, 2000

John P. Simpson,
Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement)

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS—CHAPTER I—
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE
TREASURY

Delegation of Authority for Parts 17 and 18

27 CFR Parts 17 and 18

T.D. ATF-436

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: Authority delegation. This final rule places most ATF authorities contained in parts 17 and 18, title 27 Code of Federal Regulations (CFR), with the “appropriate ATF officer” and requires that persons file documents required by parts 17 and 18, title 27 Code of Federal Regulations (CFR), with the “appropriate ATF officer” or in accordance with the instructions on the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director. Concurrently with this Treasury Decision, ATF Order 1130.13 is being published. Through this order, the Director has delegated most of the authorities in 27 CFR parts 17 and 18 to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports, which are not ATF forms, are filed.

EFFECTIVE DATE: January 19, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 (202-927-8210).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Decision 120-(formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC). The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under chapter 51, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, in this final rule, the Director of ATF is rescinding all authorities of the Director in parts 17 and 18 which were previously delegated to a specified ATF officer and placing all authorities of the Director with the “appropriate ATF officer.” Along with this final rule, ATF is publishing ATF Order 1130.13, Delegation Order—Delegation of the Director’s Authorities in parts 17 and 18, in which certain of these authorities are then delegated down to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in parts 17 and 18 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the event of a change in delegation or in the event of a restructuring. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition to the above, this final rule also eliminates all references in the regulations which identify the ATF officer with whom an ATF form is filed. Thus, in lieu of identifying the authorized officer in the regulations, the form itself will indicate the officer with whom it shall be filed. Similarly, this final rule also amends parts 17 and 18 to provide that documents other than ATF forms (such as letterhead applications, notices and reports) will be filed with the “appropriate ATF officer.” The “appropriate ATF officer” is the Director’s delegate and will be identified in the accompanying ATF Order (ATF Order 1130.13, Delegation Order—Delegation of the Director’s Authorities in part 17 and 18). These changes will facilitate the identification of the officer with

whom forms and other required submissions are filed in the event that authority to receive such submissions, or the title of the officer, changes.

Consistent with the above, this final rule makes various technical amendments to subpart C—Administrative and Miscellaneous Provisions of 27 CFR parts 17 and 18. Specifically, new Secs. 17.7 and 18.12 will be added to recognize the authority of the Director to delegate regulatory authorities in parts 17 and 18, respectively, and to identify ATF Order 1130.13 as the instrument reflecting such delegations. Also, Secs. 17.2 and 18.16 are amended to provide that the instructions on an ATF form identify the ATF officer with whom it is filed.

ATF has made or will make similar changes in delegations to all other parts of title 27 of the Code of Federal Regulations through separate rulemakings. By amending the regulations part by part, rather than in one large rulemaking document and ATF Order, ATF minimizes the time expended in notifying interested parties of current delegations of authority.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with

notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 17

Alcohol and alcoholic beverages, Authority delegations, Claims, Drugs, Excise taxes, Foods, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds.

27 CFR Part 18

Administrative practice and procedure, Authority delegations, Excise taxes, Exports, Labeling, Reporting and recordkeeping requirements, Security measures, Spices and flavorings, Surety bonds.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

PART 17—DRAWBACK ON TAXPAID DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Paragraph 1. The authority citation for part 17 continues to read as follows:

Authority: 26 U.S.C. 5010, 5131-5134, 5143, 5146, 5206, 5273, 6011, 6065, 6091, 6109, 6151, 6402, 6511, 7011, 7213, 7652, 7805, 5062, 5081, 5111-5113, 5121, 5122, 5142, 5143, 5173, 5206; 31 U.S.C. 9301, 9303, 9304, 9306.

§§ 17.2, 17.3, 17.122 and 17.134 [Amended]

Par. 2. In part 17 remove the word “Director” each place it appears and add, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 17.2(a);
- (b) Section 17.3(a), introductory text, and (c);
- (c) Section 17.122; and
- (d) Section 17.134.

Par. 3. In addition to the amendment made above, Sec. 17.2 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 17.2 Forms prescribed.

- (a) * * * The form will be filed in accordance with the instructions for the form.
- (b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5190, or at the ATF web site <http://www.atf.treas.gov>.

Par. 4. The first sentence of paragraph (b) of Sec. 17.3 is revised to read as follows:

§ 17.3 Alternate methods or procedures.

* * * * *

(b) *Application.* A letter of application to employ an alternate method or procedure must be submitted to the appropriate ATF officer. * * *

* * * * *

§§ 17.6, 17.55, 17.121, 17.161, 17.171, 17.182 and 17.183 [Amended]

Par. 5. Part 17 is further amended by adding the word “appropriate” before the words “ATF officer” each place it appears in the following places:

- (a) Section 17.6;
- (b) Section 17.55;
- (c) Section 17.121(d);
- (d) Section 17.161;
- (e) Section 17.171;
- (f) Section 17.182; and
- (g) Section 17.183(a).

Par. 6. A new Sec. 17.7 is added in Subpart A—General Provisions to read as follows:

§ 17.7 Delegations of the Director.

The regulatory authorities of the Director contained in this part 17 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.13, Delegation Order—Delegation of the Director’s Authorities in 27 CFR parts 17 and 18. ATF delegation orders, such as ATF Order 1130.13, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, VA 22150-5190, or by accessing the ATF web site <http://www.atf.treas.gov>.

Par. 7. Section 17.11 is amended by removing the definitions of “Alcohol and Tobacco Laboratory”, “ATF Officer”, and “Regional director (compliance)”, and by adding a new definition of “Appropriate ATF officer” and revising the definition of “Director” to read as follows:

§ 17.11 Meaning of Terms.

* * * * *

Appropriate ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.13, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Parts 17 and 18.

* * * * *

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of Treasury, Washington, DC 20226.

* * * * *

§§ 17.54, 17.101, 17.107, 17.108, 17.111, 17.112, 17.113, 17.114, 17.125, 17.141, 17.143, 17.147, 17.166, 17.167, 17.168, 17.170 and 17.183 [Amended]

Par. 8. Part 17 is further amended by removing the words “regional director (compliance)” or “regional directors (compliance)” each place it appears and adding, in substitution, the words “appropriate ATF officer” or “appropriate ATF officers”, respectively, in the following places:

- (a) Section 17.54;
- (b) Section 17.101;
- (c) Section 17.107;
- (d) Section 17.108(c);
- (e) Section 17.111 (a) introductory text and (b);
- (f) Section 17.112;
- (g) Section 17.113;
- (h) Section 17.114;
- (i) Section 17.125(a);
- (j) Section 17.141;
- (k) Section 17.143;
- (l) Section 17.147(a);
- (m) Section 17.166(c);
- (n) Section 17.167(b);
- (o) Section 17.168(a);
- (p) Section 17.170; and
- (q) Section 17.183(b) and (c).

Par. 9. The first three sentences of Sec. 17.92 are revised into two sentences to read as follows:

§ 17.92 Filing of refund claim.

Claim for refund of special tax must be filed on ATF Form 2635 (5620.8), Claim—Alcohol, Tobacco and Firearms Taxes. The claim must set forth in detail sufficient reasons and supporting facts of the exact basis of the claim.* * *

* * * * *

Par. 10. The last sentence of Sec. 17.101 is amended to remove the words “Regional directors (compliance)” and add, in substitution, the words “Appropriate ATF officers”.

§§ 17.105, 17.144 and 17.145 [Amended]

Par. 11. Part 17 is further amended by removing the phrase “with the regional director (compliance)” each place it appears in the following places.

- (a) Section 17.105(b);
- (b) Section 17.144; and
- (c) Section 17.145.

Par. 12. Paragraph (b) of Sec. 17.121 is amended to remove the phrase “with the Alcohol and Tobacco Laboratory”.

Par. 13. Section 17.122 is amended by removing the phrase “to the Alcohol and Tobacco Laboratory” and adding, in substitution, the phrase “appropriate ATF officer”.

Par. 14. The third sentence of paragraph (b) of Sec. 17.125 is revised to read as follows:

§ 17.125 Adoption of formulas and processes.

* * * * *

(b) *Adoption of manufacturer’s own formulas from a different location.* * * * A letterhead notice must be filed with the appropriate ATF officer and be accompanied by two photocopies of each formula to be adopted. * * *

* * * * *

§§ 17.126 and 17.136 [Amended]

Par. 15. Part 17 is further amended by removing the phrase “to the Alcohol and Tobacco Laboratory” each place it appears in the following places:

- (a) Section 17.126(a); and
- (b) Section 17.136.

Par. 16. Section 17.131 is amended by removing the phrase “by the Alcohol and Tobacco Laboratory” each place it appears.

Par. 17. The fifth sentence of paragraph (a) of Sec. 17.142 is removed, and the first sentence of paragraph (a) of Sec. 17.142 is revised to read as follows :

§ 17.142 Claims.

(a) *General.* The manufacturer must file claim for drawback with the appropriate ATF officer who has the authority to approve or disapprove claims. * * *

* * * * *

PART 18—PRODUCTION OF VOLATILE FRUIT FLAVOR CONCENTRATE

Par. 18. The authority citation for part 18 continues to read as follows:

Authority: 26 U.S.C. 5001, 5172, 5178, 5179, 5203, 5511, 5552, 6065, 7805; 44 U.S.C. 3504(h).

Par. 19. Section 18.11 is amended by removing the definitions of “ATF officer” and “Regional director (compliance) and by adding the definition of “Appropriate ATF officer” and revising the definition of “Registry number” to read as follows:

§ 18.11 Meaning of Terms.

* * * * *

Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.13, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Parts 17 and 18.

* * * * *

Registry number. The number assigned to a concentrate plant or a bonded wine cellar for an approved application as required by Parts 18 and 24, respectively.

* * * * *

Par. 20. A new Sec. 18.12 is added in Subpart C—Administrative and Miscellaneous Provisions to read as follows:

§ 18.12 Delegations of the Director.

The regulatory authorities of the Director contained in this part 18 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.13, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Parts 17 and 18. ATF delegation orders, such as ATF Order 1130.13, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, VA 22150-5190, or by accessing the ATF web site <http://www.atf.treas.gov>.

§§ 18.13, 18.16 and 18.52 [Amended]

Par. 21. Part 18 is further amended by removing the word “Director” each place it appears and adding, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 18.13(a), introductory text;
- (b) Section 18.16(a); and
- (c) Section 18.52(b).

Par. 22. Paragraph (b) of Sec. 18.13 is revised to read as follows:

§ 18.13 Alternate Methods or Procedures.

* * * * *

(b) *Application.* A proprietor who desires to employ an alternate method or procedure shall submit a written application to the appropriate ATF officer. The application will specifically describe the proposed alternate method or procedure and set forth the reasons therefor. Alternate methods or procedures may not be employed until the application has been approved by the appropriate ATF officer. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the appropriate ATF officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization.

* * * * *

§§ 18.14, 18.22, 18.24 and 18.27 [Amended]

Par. 23. Part 18 is further amended by removing the words “regional director (compliance)” each place it appears and adding, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 18.14(a), introductory text and (b);
- (b) Section 18.22(b);
- (c) Section 18.24; and
- (d) Section 18.27(a).

§§ 18.15, 18.17, 18.19 and 18.61 [Amended]

Par. 24. Part 18 is further amended by adding the word “appropriate” before the phrase “ATF officers” or “ATF officer” each place it appears in the following places:

- (a) Section 18.15;
- (b) Section 18.17;
- (c) Section 18.19; and
- (d) Section 18.61(a) and (b).

Par. 25. Section 18.16 is further amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 18.16 Forms prescribed.

- (a) * * * The form will be filed in accordance with the instructions for the form.
- (b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5190, or at the ATF web site <http://www.atf.treas.gov>.

Par. 26. Section 18.21 is amended by removing the words “to the regional director (compliance)”.

Par. 27. Section 18.26 is amended by removing the words “with the regional director (compliance)”.

Par. 28. Section 18.65 is revised to read as follows:

§ 18.65 Annual report.

An annual report, on Form 1695(5520.2), of concentrate plant operations shall be prepared by each proprietor and forwarded in accordance with the instructions for the form. When a proprietor permanently discontinues the business of manufacturing concentrate, the proprietor shall submit the annual report in accordance with the instructions for the form.

Signed: July 13, 2000

Bradley A. Buckles,
Director

Approved: August 1, 2000

John P. Simpson,
Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement)

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS—CHAPTER I—
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE
TREASURY

Delegation of Authority for Part 25

T.D. ATF-437

27 CFR Part 25

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule places ATF authorities contained in part 25, title 27 Code of Federal Regulations (CFR), with the “appropriate ATF officer” and requires that persons file documents required by part 25, title 27 Code of Federal Regulations (CFR), with the “appropriate ATF officer” or in accordance with the instructions on the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director and the word “region.” Concurrently with this Treasury Decision, ATF Order 1130.10 is being published. Through this order, the Director has delegated most of the authorities in 27 CFR part 25 to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports, which are not ATF forms, are filed.

EFFECTIVE DATE: This rule is effective January 19, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Room 5003, Washington, DC 20226 (telephone 202-927-8210 or e-mail to alctob@atfhq.atf.treas.gov).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Order 120-01 (formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC). The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under chapter 51, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in part 25 that were previously delegated and places those authorities with the “appropriate ATF officer.” All of the authorities of the Director that were not previously delegated are also placed with the “appropriate ATF officer.” Along with this final rule, ATF is publishing ATF Order 1130.10, Delegation Order—Delegation of the Director’s Authorities in 27 CFR part 25, Beer, which delegates certain of these authorities to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in part 25 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner. In addition, this final rule also eliminates all references in the regulations that identify the ATF officer with whom an ATF form is filed. This is because ATF forms will indicate the officer with whom they must be filed. Similarly, this final rule also amends part 25 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the “appropriate ATF officer” identified in ATF Order 1130.10. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule also makes various technical amendments to Subpart A—Scope of Regulations of 27 CFR part 25. First, a new Sec. 25.6 is added to recognize the authority of the Director to delegate regulatory authorities in part 25 and to identify ATF Order 1130.10 as the instrument reflecting such delegations. Second, Sec. 25.3 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed. Third, this rule removes from part 25 of title 27 of the Code of Federal Regulations the definition of the term “delegate.” This term is used only in the definition of Secretary in part 25 of title 27 of the Code of Federal Regulations. We have removed the definition of “delegate” to be consistent with most parts of title 27 of the Code of Federal Regulations and to minimize potential confusion and misunderstanding with the appropriate ATF officers to whom the Director has delegated authority.

ATF has made or will make similar changes in delegations to all other parts of title 27 of the Code of Federal Regulations through separate rulemakings. By amending the regulations part by part, rather than in one large rulemaking document and ATF Order, ATF minimizes the time expended in notifying interested parties of current delegations of authority.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in Executive Order 12866.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with

notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 25

Administrative practice and procedure, Authority delegations, Beer, Claims, Custom duties and inspection, Electronic fund transfers, Excise taxes, Exports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Security measures, Surety bonds, Transportation.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

PART 25—BEER

Paragraph 1. The authority citation for part 25 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5002, 5051-5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5222, 5401-5403, 5411-5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303-8.

§§ 25.3, 25.23, 25.52, 25.142 and 25.155 [Amended]

Par. 2. In part 25 remove the words “Director” each place it appears and add, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 25.3(a);
- (b) Section 25.23(b) introductory text and (c);
- (c) Section 25.52(a)(1), (3), (4) and (5);
- (d) Section 25.142(c); and
- (e) Section 25.155.

Par. 3. Part 25 is further amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) of Sec. 25.3 to read as follows:

§ 25.3 Forms prescribed.

- (a) * * * The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

Par. 4. In Subpart A—Scope of Regulations, a new Sec. 25.6 is added as follows:

§ 25.6 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this part 25 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.10, Delegation Order—Delegation of the Director’s Authorities in 27 CFR part 25, Beer. ATF delegation orders, such as ATF Order 1130.10, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

Par. 5. Section 25.11 is amended by removing the definitions of “Area supervisor”, “ATF officer”, “Delegate”, “Region” and “Regional director (compliance)” and by adding a new definition of “Appropriate ATF officer” to read as follows:

§ 25.11 Meaning of Terms.

* * * * *

Appropriate ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.10, Delegation Order—Delegation of the Director’s Authorities in 27 CFR part 25, Beer.

* * * * *

§§ 25.11, 25.22, 25.24, 25.25, 25.42, 25.52, 25.61, 25.63, 25.66, 25.71, 25.72, 25.74, 25.75, 25.77, 25.81, 25.91, 25.95, 25.96, 25.101, 25.103, 25.104, 25.105, 25.114, 25.144, 25.152, 25.158, 25.165, 25.167, 25.173, 25.182, 25.184, 25.196, 25.223, 25.225, 25.272, 25.274, 25.277, 25.281, 25.282, 25.283, 25.284, 25.291, 25.297 and 25.300 [Amended]

Par. 6. Part 25 is further amended by removing the words “regional director (compliance)” each place they appear and adding, in substitution, the words “appropriate ATF officer” in the following places:

- (a) The definition of Barrel in Sec. 25.11;
- (b) Section 25.22;
- (c) Section 25.24(a)(7);
- (d) Section 25.25(a);
- (e) Section 25.42(c);
- (f) Section 25.52(a)(2) and (b)(1), (2), (3);
- (g) Section 25.61(a) and (c);
- (h) Section 25.63;
- (i) Section 25.66(c)(1);

- (j) Section 25.71(a)(2) and (b)(1);
- (k) Section 25.72(b)(2);
- (l) Section 25.74;
- (m) Section 25.75;
- (n) Section 25.77;
- (o) Section 25.81(e);
- (p) Section 25.91(c) and (d);
- (q) Section 25.95;
- (r) Section 25.96;
- (s) Section 25.101(a) introductory text and (b);
- (t) Section 25.103;
- (u) Section 25.104;
- (v) Section 25.105;
- (w) Section 25.114(a);
- (x) Section 25.144(b);
- (y) Section 25.152(a) undesignated paragraph;
- (z) Section 25.158(c);
- (aa) Section 25.165(b)(3) and (e);
- (bb) Section 25.167(a);
- (cc) Section 25.173(a);
- (dd) Section 25.182;
- (ee) Section 25.184(d);
- (ff) Section 25.196(b);
- (gg) Section 25.223(a);
- (hh) Section 25.225(b)(2);
- (ii) Section 25.272(a) introductory text, (b), (c), (d) and (e);
- (jj) Section 25.274(a);
- (kk) Section 25.277;
- (ll) Section 25.281(c);
- (mm) Section 25.282(b), (c), (d) and (f);
- (nn) Section 25.283(d);
- (oo) Section 25.284(b);
- (pp) Section 25.291(d)(3);
- (qq) Section 25.297(b)(4); and
- (rr) Section 25.300(c).

§§ 25.31, 25.42, 25.64, 25.66, 25.68, 25.127, 25.213, 25.251, 25.252, 25.291, 25.294 and 25.300 [Amended]

Par. 7. Part 25 is further amended by adding the word “appropriate” before the words “ATF officer” or “ATF officers” each place they appear in the following places:

- (a) Section 25.31;
- (b) Section 25.42 introductory text;
- (c) Section 25.64;
- (d) Section 25.66(d);
- (e) Section 25.68(b);

- (f) Section 25.127;
- (g) Section 25.213(c);
- (h) Section 25.251(c);
- (i) Section 25.252(c);
- (j) Section 25.291(c)(2)(ii);
- (k) Section 25.294(c); and
- (l) Section 25.300(a) and (d)(3).

Par. 8. Section 25.51 is revised to read as follows:

§ 25.51 Right of Entry and Examination.

An appropriate ATF officer may enter, during normal business hours, a brewery or other place where beer is stored and may, when the premises are open at other times, enter those premises in the performance of official duties. Appropriate ATF officers may make inspections as the appropriate ATF officer deems necessary to determine that operations are conducted in compliance with the law and this part. The owner of any building or place where beer is produced, made, or kept, or person having charge over such premises, who refuses to admit an appropriate ATF officer acting under 26 U.S.C. 7606, or who refuses to permit an appropriate ATF officer to examine beer must, for each refusal, forfeit \$500.

Par. 9. Section 25.52(d) is revised to read as follows:

§ 25.52 Variations from requirements.

* * * * *

(d) *Withdrawal of approval.* The appropriate ATF officer may withdraw approval of an alternate method or procedure, approved under paragraph (a) or (b) of this section, if the appropriate ATF officer finds that the revenue is jeopardized or the effective administration of this part is hindered by the approval.

* * * * *

Par. 10. The first and second sentences of Sec. 25.61(b) are revised to read as follows:

§ 25.61 General requirements for notice.

* * * * *

(b) Brewer’s Notice, Form 5130.10. Each person must, before commencing business as a brewer, give notice on Form 5130.10. Each person continuing business as a brewer as provided in Sec. 25.71 must give notice on Form 5130.10. * * *

* * * * *

§ 25.62 [Amended]

Par. 11. Section 25.62(b) is amended by removing the words “the regional director of any ATF region” and adding, in substitution, the words “an ATF office”.

§§ 25.65, 25.78, 25.81, 25.276 and 25.286 [Amended]

Par. 12. Part 25 is further amended by removing the phrase “with the regional director (compliance)” each place it appears in the following places:

- (a) Section 25.65;
- (b) Section 25.78;
- (c) Section 25.81(b) introductory text;
- (d) Section 25.276(b); and (e) The last sentence of Sec. 25.286(a).

Par. 13. Section 25.71 (a)(1) is amended by removing the words “to the regional director (compliance)” from the first sentence.

§ 25.81 [Amended]

Par. 14. Section 25.81 (c) is amended by removing from the introductory text the words “regional director (compliance) through the ATF area supervisor” and adding, in substitution, the words “appropriate ATF officer”.

Par. 15. The first through third sentences of Sec. 25.85 are revised to read as follows:

§ 25.85 Notice of permanent discontinuance.

When a brewer desires to discontinue business permanently, he or she must file a notice on Form 5130.10. The brewer must state the purpose of the notice as “Discontinuance of business” and give the date of the discontinuance. When all beer has been lawfully disposed of, appropriate ATF officer will approve the Form 5130.10 and return a copy to the brewer. * * *

* * * * *

§ 25.91 [Amended]

Par. 16. Section 25.91(a) is amended by removing from the second sentence the phrase “with the regional director (compliance)” and the comma preceding this phrase.

Par. 17. Section 25.101(b) is revised to read as follows:

§ 25.101 Disapproval of bonds or consents of surety.

* * * * *

(b) Appeal of disapproval. If the bond or consent of surety is disapproved, the person giving the bond or consent of surety may appeal the disapproval to the appropriate ATF officer, who will grant a hearing in the matter if requested by the applicant or brewer, and

whose decision will be final.

* * * * *

Par. 18. The second and last sentences of Sec. 25.141(b)(2) are revised to read as follows:

§ 25.141 Barrels and kegs.

* * * * *

(b) * * *

(2) * * * The coding system employed will permit an appropriate ATF officer to determine the place of production (including street address if two or more breweries are located in the same city) of the beer. The brewer must notify the appropriate ATF officer prior to employing a coding system.

* * * * *

Par. 19. The second and last sentences of Sec. 25.142(b)(2) are revised to read as follows:

§ 25.142 Bottles.

* * * * *

(b) * * *

(2) * * * The coding system employed will permit an appropriate ATF officer to determine the place of production (including street address if two or more breweries are located in the same city) of the beer. The brewer must notify the appropriate ATF officer prior to employing a coding system.

* * * * *

§ 25.165 [Amended]

Par. 20. Section 25.165(b)(1) is amended by removing the words “regional director (compliance), for each region in which taxes are paid” and adding, in substitution, the words “appropriate ATF officer”.

§ 25.184 [Amended]

Par. 21. Section 25.184(c) is amended by removing the second sentence.

Par. 22. Section 25.213(b) is amended by revising the first and third sentences of the introductory text to read as follows:

§ 25.213 Beer returned to brewery other than that from which removed.

* * * * *

(b) *Notice.* A brewer need not file notice of intention to return beer to a brewery other than the one from which removed unless required by the appropriate ATF officer. * * * The brewer must file it with the appropriate ATF officer. * * *

* * * * *

Par. 23. Section 25.222 (a) is amended by revising the last sentence to read as follows:

§ 25.222 Notice of brewer.

(a) * * * The brewer must submit this notice to the appropriate ATF officer.

* * * * *

§§ 25.222 and 25.225 [Amended]

Par. 24. Part 25 is further amended by removing the words “area supervisor” each place they appear, and adding, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 25.222(b); and
- (b) Section 25.225(b)(2).

Par. 25. Section 25.223(b) is revised to read as follows:

§ 25.223 Destruction of beer off brewery premises.

* * * * *

(b) Destruction with supervision. The appropriate ATF officer may require that an appropriate ATF officer verify the information in the notice of destruction or witness the destruction of the beer. The appropriate ATF officer may also require a delay in the destruction of the beer or, if the place of destruction is not readily accessible to an appropriate ATF officer, may require that the beer be moved to a more convenient location. In this case, the brewer may not destroy the beer except under the conditions imposed by the appropriate ATF officer.

Par. 26. Section 25.273 is revised to read as follows:

§ 25.273 Action on application.

If the appropriate ATF officer approves the application for a pilot brewing plant, he or she will note approval on the application and forward a copy to the applicant. The applicant must file the copy of the approved application at the premises, available for inspection by an appropriate ATF officer.

Par. 27. Section 25.276 (c) amended by revising the first and last sentences to read as follows:

§ 25.276 Operations and records.

* * * * *

(c) Records. The operator of a pilot brewing plant must maintain records which, in the opinion of the appropriate ATF officer, are appropriate to the type of operation being conducted. * * * These records will be available for inspection by an appropriate ATF officer.

* * * * *

Par. 28. Section 25.282(e) is revised to read as follows:

§ 25.282 Beer lost by fire, theft, casualty, or act of God.

* * * * *

(e) Notification of appropriate ATF officer. (1) A brewer who sustains a loss of beer before transfer of title of the beer to another person and who desires to adjust the tax on the excise tax return or to file a claim for refund or for relief from liability of tax, must, on learning of the loss of beer, immediately notify in writing the appropriate ATF officer of the nature, cause, and extent of the loss, and the place where the loss occurred. Statements of witnesses or other supporting documents must be furnished if available. (2) A brewer possessing unmerchantable beer and who desires to adjust the tax on the excise tax return or to file a claim for refund or for relief from liability must notify in writing the appropriate ATF officer, of the circumstances by which the beer became unmerchantable, and must state why the beer cannot be salvaged and returned to the market for consumption or sale.

§ 25.283 [Amended]

Par. 29. Section 25. 283(e) is amended by removing the words “with the regional director (compliance) of the region in which the beer was lost, returned, destroyed, or rendered unmerchantable”.

Par. 30. Section 25.284(d) is amended by revising the third and last sentences to read as follows:

§ 25.284 Adjustment of tax.

* * * * *

(d) Beer lost, destroyed or rendered unmerchantable. * * * A brewer may not make an adjustment prior to notification required under Sec. 25.282(e). When beer appears to have been lost due to theft, the brewer may not make an adjustment to the tax return until establishing to the satisfaction of the regional director (compliance) that the theft occurred before removal from the brewery and occurred without connivance, collusion,

fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

* * * * *

§ 25.285 [Amended]

Par. 31. Section 25.285(a) is amended by removing from the third sentence the words “with regional director (compliance) in which the brewer’s principal place of business is located” and the comma following these words.

§ 25.297 [Amended]

Par. 32. Section 25.297(a) is amended by removing the words “to the regional director (compliance) not later than the 15th day of the month following the close of the month for which prepared”.

Par. 33. Section 25.297(b) is amended by removing from the first sentence the words “with the regional director (compliance) not later than the 15th day of the month following the close of the calendar quarter for which prepared”.

Signed: July 19, 2000

Bradley A. Buckles,
Director

Approved: August 1, 2000

John P. Simpson,
Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement)

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS—CHAPTER I—
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE
TREASURY

Delegation of Authority in 27 CFR Part 30

T.D. ATF-438

27 CFR Part 30

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: Authority delegation. This final rule places all ATF authorities contained in part 30, title 27 Code of Federal Regulations (CFR), with the “appropriate ATF officer.” Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director. Concurrently with this Treasury Decision, ATF Order 1130.17 is being published. Through this order, the Director has delegated the authorities in 27 CFR part 30 to the appropriate ATF officers.

EFFECTIVE DATE: January 19, 2001.

FOR FURTHER INFORMATION CONTACT: Lisa Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202-927-9347) or e-mail at alctob@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Order 120-01 (formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC). The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under chapter 51, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in part 30 that were previously delegated and places those authorities with the “appropriate ATF officer.” Most of the authorities of the Director that were not previously delegated are also placed with the “appropriate ATF officer.” Along with this final rule, ATF is publishing ATF Order 1130.17, Delegation Order—Delegation of the Director’s Authorities in part 30, Gauging Manual, which delegates certain of these authorities to the appropriate organizational level.

The effect of these changes is to consolidate all delegations of authority in part 30 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Lisa Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 30

Alcohol and alcoholic beverages, Measurement standards, Scientific equipment.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

PART 30—GAUGING MANUAL

Paragraph 1. The authority citation for part 30 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 2. Section 30.11 is amended by removing the definitions of “ATF officer” and “Regional director” and by adding a new definition of “Appropriate ATF officer” to read as follows:

§ 30.11 Meaning of terms.

* * * * *

Appropriate ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.17, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 30—Gauging Manual.

* * * * *

§§ 30.11, 30.31, 30.36, 30.43, and 30.51 [Amended]

Par. 3. Part 30 is further amended by removing the words “Director” each place it appears and adding, in substitution, the words “appropriate ATF officer” in the following places:

- (a) The definition of “Bulk conveyance” in Sec. 30.11;
- (b) Section 30.31(b);
- (c) Section 30.36;
- (d) The last sentence of Sec. 30.43; and
- (e) The first sentence of Sec. 30.51.

Par. 4. Section 30.21(c) is revised to read as follows:

§ 30.21 Requirements.

* * * * *

(c) Appropriate ATF Officers. Appropriate ATF officers shall use only hydrometers and thermometers furnished by the Government. However, where this part requires the use of a specific gravity hydrometer, ATF officers shall use precision grade specific gravity hydrometers conforming to the provisions of Sec. 30.24, furnished by the proprietor. However, the appropriate ATF officer may authorize the use of other instruments approved by the appropriate ATF officer as being equally satisfactory for determination of specific gravity and for gauging. From time to time appropriate ATF officers shall verify the accuracy of hydrometers and thermometers used by proprietors.

* * * * *

Par. 5. Section 30.24(a) is amended by adding the word “appropriate” before the words “ATF officers.”

Par. 6. Section 30.24(b) is amended by adding the word “appropriate” before the words “ATF officer.”

Bradley A. Buckles,
Director

Approved: August 11, 2001

John P. Simpson,
Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement)

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS—CHAPTER I—
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE
TREASURY

Delegation of Authority in Part 170

27 CFR Part 170

T.D. ATF-439

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule places all ATF authorities contained in part 170, title 27 Code of Federal Regulations (CFR), with the “appropriate ATF officer” and requires that persons file documents required by 27 CFR part 170, with the “appropriate ATF officer.” Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director. Concurrently with this Treasury Decision, ATF Order 1130.20 is being published. Through this Order, the Director has delegated the authorities in 27 CFR part 170 to the appropriate ATF officers and specified the ATF officers with whom applications, notices, and reports that are not ATF forms are filed.

EFFECTIVE DATE: February 2, 2001.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226, (202-927-9347) or e-mail at alctob@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Order 120-01 (formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC). The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or other delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under chapter 51, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in 27 CFR part 170 that were previously delegated and places those authorities with the “appropriate ATF officer.” Most of the authorities of the Director that were not previously delegated are also placed with the “appropriate ATF officer.” Along with this final rule, ATF is publishing ATF Order 1130.20, Delegation Order—Delegation of the Director’s Authorities in Part 170, Miscellaneous Regulations Relating To Liquor, which delegates certain of these authorities to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in part 170 into one delegation instrument. This action both simplifies the process for determining which ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition, this final rule amends part 170 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the “appropriate ATF officer” identified in ATF Order 1130.20. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule also makes various technical amendments to Subpart C of 27 CFR part 170. Specifically, the authority citation for part 170 has been removed and the authority citation for Subpart C has been revised. In addition, a new Sec. 170.42 is added to recognize the authority of the Director to delegate regulatory authorities in part 170 and to identify ATF Order 1130.20 as the instrument reflecting such delegations. Also, Sec. 170.43 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed. In addition, Sec. 170.43 is amended to correct the address to which requests for forms should be mailed.

ATF intends to make similar changes in delegations to all other parts of 27 CFR through separate rulemakings. By amending the regulations part by part, rather than in

one large rulemaking document and ATF Order, ATF minimizes the time expended in notifying interested parties of current delegations of authority.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedures Act (5 U.S.C. 553), the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. We sent a copy of this final rule to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). We received a comment about specifying the reason why the Regulatory Flexibility Act does not apply and have addressed their concern.

Executive Order 12866

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

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly, because of the nature of this final rule, good cause is found that it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

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

List of Subjects in 27 CFR Part 170

Alcohol and alcoholic beverages, Authority delegations, Distilled spirits, Liquors, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Stills.

Authority and Issuance

Title 27, Chapter I, of the Code of Federal Regulations is amended as follows:

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Paragraph 1. Remove the authority citation for part 170 and revise the authority citation for Subpart C to read as follows:

Authority: 26 U.S.C. 5002, 5101, 5102, 5179, 5291, 5601, 5615, 5687, 7805.

§ 170.42 [Added]

Par. 2. Add a new Sec. 170.42 in Subpart C to read as follows:

§ 170.42 Delegations of the Director.

All of the regulatory authorities of the Director contained in this part are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.20, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 170—Miscellaneous Regulations Relating to Liquor. ATF delegation orders, such as ATF Order 1130.20, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site <http://www.atf.treas.gov>.

§§ 170.43, 170.47, 170.49 [Amended]

Par. 3. Amend part 170 by removing the word “Director” or the words “regional director (compliance)” each place they appear and add, in their place, the words “appropriate ATF officer” in the following places:

- (a) Section 170.43(a);
- (b) Section 170.47(a) and (c); and
- (c) Section 170.49(a), (b) and (c).

§ 170.43 [Amended]

Par. 4. Amend Sec. 170.43 as follows:

- (a) Add the sentence “The form will be filed in accordance with the instructions for the form.” at the end of paragraph (a);
- (b) Remove paragraph (b); and c. Redesignate paragraph (c) as paragraph (b) and revise it to read as follows:

§ 170.43 Forms prescribed.

* * * * *

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site <http://www.atf.treas.gov>.

* * * * *

§ 170.45 [Amended]

Par. 5. Amend Sec. 170.45 by removing the definitions of “ATF officer” and “Regional director (compliance)” and by adding and listing alphabetically, the new definition, “Appropriate ATF officer,” to read as follows:

§ 170.45 Meaning of Terms.

* * * * *

Appropriate ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.20, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 170 “Miscellaneous Regulations Relating to Liquor.

* * * * *

§ 170.55 [Amended]

Par. 6. In Sec. 170.55, revise paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 170.55 Registry of stills and distilling apparatus.

(a) General. Every person having possession, custody, or control of any still or distilling apparatus set up shall, immediately on its being set up, register the still or distilling apparatus, except that a still or distilling apparatus not used or intended for use in the distillation, redistillation, or recovery of distilled spirits is not required to be registered. Registration may be accomplished by describing the still or distilling apparatus on the registration or permit application prescribed in this chapter for qualification under 26 U.S.C. chapter 51 or, if qualification is not required under 26 U.S.C. chapter 51, on a letter application, and filing the application with the appropriate ATF officer. Approval of the application by the appropriate ATF officer will constitute registration of the still or distilling apparatus.

* * * * *

(c) Change in location or ownership. Where any distilling apparatus registered under this section is to be removed to another location, sold or otherwise disposed of, the registrant shall, prior to the removal or disposition, file a letter notice with the appropriate ATF officer. * * *

§ 170.59 [Amended]

Par. 7. Amend the last sentence of Sec. 170.59 by adding the word “appropriate” in front of the words “ATF officer.”

Signed: October 30, 2000

Bradley A. Buckles,
Director

Approved: December 14, 2000

Helen B. Belt,
Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement)