

**DEPARTMENT OF THE TREASURY****Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 1**

[T.D. ATF-416]

RIN 1512-AB94

**Delegation of Authority (99R-159P)****AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.**ACTION:** Treasury Decision, final rule.

**SUMMARY:** This final rule places most ATF authorities contained in part 1, title 27 Code of Federal Regulations (CFR), with the "appropriate ATF officer" and requires that persons file documents required by part 1, 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 1130.6 is being published. Through this order, the Director has delegated most of the authorities in 27 CFR part 1 to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports that are not ATF forms are filed.

**DATES:** This rule is effective September 15, 1999.

**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 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 the Federal Alcohol Administration (FAA) Act. 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 the FAA Act, 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 1 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 1130.6, Delegation Order—Delegation of the Director's Authorities in Part 1, Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits, 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 1 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 1 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 1130.6. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule also makes three various technical amendments to Subpart A—Scope of 27 CFR part 1. First, a new section is added to recognize the authority of the Director to delegate regulatory authorities in part 1 and to identify ATF Order 1130.6 as the instrument reflecting such delegations. Second, § 1.3 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it

must be filed. Third, references to ATF Form 5100.18 are amended to remove its previous form number cited in parentheses.

ATF has begun to make similar changes in delegations to 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 in 27 CFR Part 1

Administrative practices and procedures, Alcohol and alcoholic beverages, Authority delegations, Imports, Liquors, Warehouses, Wine.

#### Authority and Issuance

Title 27, part 1 of the Code of Federal Regulations is amended as follows:

#### PART 1—BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT, NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE, AND BULK SALES AND BOTTLING OF DISTILLED SPIRITS

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

**Authority:** 27 U.S.C. 203, 204, 206, and 211 unless otherwise noted.

2. In Section 1.3 paragraph (a) is amended by removing the word "Director" and adding, in substitution, the phrase "appropriate ATF officer", and by adding a sentence at the end of paragraph (a) and paragraph (b) is revised to read as follows:

#### § 1.3 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 22153-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

3-4. Redesignate § 1.4 as § 1.10.

5. A new § 1.4 is added to Subpart A and reads as follows:

#### § 1.4 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this part 1 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.6, Delegation Order—Delegation of the Director's Authorities in Part 1, Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits. ATF delegation orders, such as ATF Order 1130.6, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

6. Section 1.10 is amended by removing the definitions of "ATF

officer" and "Regional director (compliance)", by revising the definitions of "Applicant" and "Basic permit", and by adding a new definition of "Appropriate ATF officer" to read as follows:

#### § 1.10 Meaning of terms.

\* \* \* \* \*

*Applicant.* Any person who has filed an application for a basic permit under the Federal Alcohol Administration Act with the appropriate ATF officer.

*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 1130.6, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 1, Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits.

\* \* \* \* \*

*Basic permit.* A document issued under the Act authorizing a person to engage in activities at a particular location.

\* \* \* \* \*

§§ 1.24, 1.27, 1.31, 1.42, 1.50, 1.51, 1.52, and 1.55

7. In part 1 remove the words "regional director (compliance)" each place it appears and add, in substitution, the words "appropriate ATF officer" in the following places:

- (a) Section 1.24 introductory text;
- (b) Section 1.27;
- (c) Section 1.31;
- (d) Section 1.42;
- (f) Section 1.50;
- (g) Section 1.51;
- (h) Section 1.52; and
- (i) Section 1.55.

8. Section 1.25 is revised to read as follows:

#### § 1.25 General.

Applications for basic permits to engage in any of the operations set forth in §§ 1.20 to 1.22 must be made on ATF Form 5100.24, 5170.4 or 5100.18, verified as required by § 1.56, and will be accompanied by such affidavits, documents, and other supporting data, as the appropriate ATF officer may require. The application will include all data, written statements, affidavits, documents, or other evidence submitted in support of the application, or upon a hearing.

9. Section 1.29 is revised to read as follows:

#### § 1.29 Individual plant or premises.

An application for a basic permit must be filed, and permit issued, to

cover each individual plant or premises where any of the businesses specified in section 103 of the Act is engaged in.

10. The last sentence of § 1.30 is amended by removing the comma after "(1534)" and "in triplicate, and submitted to the regional director (compliance)" and by adding in its place a period.

11. Section 1.35 is revised to read as follows:

#### § 1.35 Authority to issue, amend, deny, suspend, revoke, or annul basic permits.

The authority and power of issuing, amending, or denying basic permits, or amendments thereof, is conferred upon the appropriate ATF officer except as to agency initiated curtailment. The Director, upon consideration of appeals on petitions for review in part 200 of this chapter, may order the appropriate ATF officer to issue, deny, suspend, revoke, or annul basic permits.

#### §§ 1.40, 1.41 Amended

12. Part 1 is further amended by removing "(1643), with the regional director (compliance)," each place it appears in the following places:

- (a) Section 1.40; and
- (b) Section 1.41.

13. Section 1.56 is revised to read as follows:

#### § 1.56 Oaths and affirmations.

A document must be verified by an oath or affirmation taken before a person authorized by the laws of the United States or by State or local law to administer oaths or affirmations in the jurisdiction where the document is executed when required by:

- (a) Regulation; or
- (b) An appropriate ATF officer.

14. Section 1.58 is amended by adding the word "appropriate" before the words "ATF officers."

15. The introductory text and paragraph (c) of § 1.59 are amended by removing the words "regional director (compliance)" and "regional director's (compliance)" each place they appear and adding, in substitution, the words "appropriate ATF officer" and "appropriate ATF officer's", respectively.

Signed: July 7, 1999.

**John W. Magaw,**  
Director.

Approved: August 13, 1999.

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

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