

Subpart D — ADMINISTRATIVE

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-437a

27 CFR Part 25

ACTION: Treasury decision, final rule; correction.

SUMMARY: This document makes one correction to a final rule published in the Federal Register of January 19, 2001, regarding delegation of authorities contained in part 25, title 27 Code of Federal Regulations (CFR).

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

The Bureau of Alcohol, Tobacco and Firearms (ATF) published a document in the Federal Register of January 19, 2001 (66 FR 5477). The words “regional director (compliance)” in the last sentence of Sec. 25.284(d) should have been changed to “appropriate ATF officer”. This document corrects this error.

Correction

In rule FR Doc. 01-1164 published on January 19, 2001, make the following correction:

On page 5480, in the second column, the third and last sentences of Sec. 25.284(d) are corrected 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 appropriate ATF officer 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.
* * * *

Signed: March 29, 2001

Bradley A. Buckles,
Director

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

Technical Amendments to Regulations

T.D. ATF-446

27 CFR Parts 55, 70, 270 and 275

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

ACTION: Treasury decision, final rule.

SUMMARY: This Treasury decision makes technical amendments and corrects typographical errors in parts 55, 70, 270 and 275 of title 27 Code of Federal Regulations (CFR). All changes are to provide clarity and uniformity throughout these regulations.

EFFECTIVE DATE: March 27, 2001.

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

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) administers regulations published in title 27, Code of Federal Regulations. These regulations are updated April 1 of each year to incorporate new or revised regulations that were published by ATF in the Federal Register during the preceding year. ATF identified several amendments that are needed to provide clarity and uniformity to the regulations in 27 CFR.

These amendments do not make any substantive changes and are only intended to improve the clarity of title 27.

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 1320, do not apply to this final rule because there are no 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. 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). No comments were received.

Executive Order 12866

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

Administrative Procedure Act

Because this final rule merely makes technical amendments 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 author of this document is Nancy Kern, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 55

Administrative practice and procedure, Authority delegations, Customs duties and inspection, Explosives, Hazardous materials, Imports, Penalties, Reporting and recordkeeping requirements, Safety, Security measures, Seizures and forfeitures, Transportation, and Warehouses.

27 CFR Part 70

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Bankruptcy, Claims, Disaster assistance, Excise taxes, Firearms and ammunition, Government employees, Law enforcement, Law enforcement officers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, and Tobacco.

27 CFR Part 270

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, and Tobacco.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Customs duties and inspections, Electronic fund transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, and Tobacco.

Authority and Issuance

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

PART 55—COMMERCE IN EXPLOSIVES

Paragraph 1. The authority citation for part 55 continues to read as follows:

Authority: 18 U.S.C. 847.

Par. 2. In Sec. 55.11, revise the definitions of “Chief, Firearms, and Explosives Licensing Center” and “Explosive Materials” to read as follows:

§ 55.11 Meaning of terms.

* * * *

Chief, Firearms and Explosives Licensing Center. The ATF official responsible for the issuance and renewal of licenses and permits under this part.

* * * *

Explosive materials. Explosives, blasting agents, water gels and detonators. Explosive materials include, but are not limited to, all items in the “List of Explosive Materials” provided for in Sec. 55.23.

* * * *

Par. 3. Remove the reference “AFT” each place it appears and add, in its place, the reference “ATF” in the following places:

- a. Section 55.23;
- b. Section 55.71;
- c. Section 55.105(b); and
- d. Section 55.126(d).

Par 4. In Sec. 55.128, revise the second sentence to read as follows:

§ 55.128 Discontinue of business.

* * * Where discontinuance of the business or operations is absolute, the records required by this subpart shall be delivered within 30 days following the business or operations discontinuance to any ATF office located in the division in which the business was located, or to the ATF Firearms Out-of-Business Records Center, 2029 Stonewall Jackson Drive, Falling Waters, West Virginia, 25419. * * *

Par. 5. Amend Sec. 55.218 as follows:

- a. Revise the table heading “Public highways with traffic volume 3000 or less vehicles/day” to read “Public highways with traffic volume of 3000 or fewer vehicles/day.”
- b. Add the reference “(1.5 lbs.)” at the end of the first sentence in paragraph (3) of the Notes to the Table of Distances for Storage of Explosives.
- c. Revise the table heading “Passenger railways—public highways with traffic volume of more than 3,000 vehicles/day” to read “Passenger railways—public highways with traffic volume of more than 3,000 vehicles/day.”

PART 70—PROCEDURE AND ADMINISTRATION

Par. 6. The authority citation for part 70 continues to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331-6343, 6401-6404, 6407, 6416, 6423, 6501-6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656-6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601-7606, 7608-7610, 7622, 7623, 7653, 7805.

Par. 7. In the third sentence of Sec. 70.803(c), remove the words “under Sec. 71.22” and add, in its place, the words “Sec. 71.701(d).”

PART 270—MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 8. The authority citation for part 270 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703-5705, 5711-5713, 5721-5723, 5731, 5741, 5751, 5753, 5761-5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 9. Amend Secs. 270.165 and 270.165a by removing the OMB control number citation at the end of each section.

Par. 10. In the OMB control number citation in Sec. 270.216, remove reference “1512-0488”, and add in its place the reference “1512-0502.”

PART 275—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 11. The authority citation for part 275 continues to read as follows:

Authority: 18 U.S.C 2342; 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5712, 5713, 5721, 5722, 5723, 5741, 5754, 5761, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 12. In the OMB control number citation in Sec. 275.72, remove the reference “1512-0488”, and add in its place, the reference “1512-0502.”

Bradley A. Buckles,
Director

Approved: March 8, 2001

Timothy E. Skud,
Acting 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

Technical Amendment to Regulations; Correction

T.D. ATF-446a

27 CFR Parts 55, 70, and 270

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

ACTION: Correcting amendments.

SUMMARY: This document contains correcting amendments to the Treasury decision, which was published in the Federal Register on March 27, 2001 (66 FR 16601), regarding technical amendments to Title 27, Code of Federal Regulations (CFR).

EFFECTIVE DATE: March 27, 2001.

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

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) published a document in the Federal Register of March 27, 2001 (66 FR 16601). Sections 55.128, 55.218, and 70.803(c) were erroneously revised. Also, the OMB numbers in Secs. 270.165 and 270.165a were erroneously removed. This document corrects these errors.

Accordingly, 27 CFR part 55, 70, and 270 are corrected to make the following correcting amendments:

PART 55—COMMERCE IN EXPLOSIVES

Paragraph 1. The authority citation for part 55 continues to read as follows:

Authority: 18 U.S.C. 847.

Par. 2. The second sentence in Sec. 55.128 is revised to read as follows:

§ 55.128 Discontinuance of business.

* * * * Where discontinuance of the business or operations is absolute, the records required by this subpart must be delivered within 30 days following the business or operations discontinuance to any ATF office located in the region in which the business was located, or to the ATF Out-of-Business Records Center, Spring Mills Office Park, 882 T. J. Jackson Drive, Falling Waters, West Virginia 25419.

* * * *

Par. 3. Section 55.218 is amended by adding the reference “(1.5 lbs.)” after “1½ lbs.” in paragraph (3) to the Notes of the Table of Distances for Storage of Explosives.

PART 70—PROCEDURE AND ADMINISTRATION

Par. 4. On page 16602, in the Federal Register of March 27, 2001, remove amendatory instruction paragraph 7.

PART 270—MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 5. The authority citation for part 270 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703-5705, 5711-5713, 5721-5723, 5731, 5741, 5751, 5753, 5761-5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 6. Section 270.165 is amended by adding the following at the end of the section to read as follows:

* * * *

(Approved by Office of Management and Budget under control number 1512-0467)

Par. 7. Section 270.165a is amended by adding the following at the end of the section to read as follows:

* * * *

(Approved by Office of Management and Budget under control number 1512-0457)

Signed: April 10, 2001

Bradley A. Buckles,
Director

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

Labeling Proceedings; Delegation of Authority

T.D. ATF-449

27 CFR Part 13

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 regulations on “Labeling Proceedings” with the “appropriate ATF officer” and requires that persons file documents required by those regulations with the “appropriate ATF officer” or in accordance with the instructions on the ATF form. This final rule removes the definitions of, and references to, specific ATF officers subordinate to the Director. Concurrently with this Treasury Decision, ATF Order 1130.21 is being published. Through this order, the Director has delegated the authorities in those regulations to the appropriate ATF officers and specified the ATF officers with whom appeals and other documents are filed.

EFFECTIVE DATE: April 13, 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 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 the Federal Alcohol Administration Act (FAA). 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. 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 has decided that all delegations of the Director’s authorities will be compiled in ATF Delegation Orders. Each part or related parts of title 27 Code of Federal Regulations (CFR) will have its own corresponding order in which all authorities of the Director are delegated. Using a delegation order for this purpose eliminates the necessity of rewriting the regulations each time there is a change in authority or a change to the title of an ATF officer. 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.

ATF has begun making these changes 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 delegation order, ATF minimizes the time expended in notifying interested parties of current delegations of authority.

Accordingly, this final rule rescinds all authorities of the Director in part 13 that were previously delegated. All references to specific ATF officers, other than the Director, have been removed and replaced with the words “appropriate ATF officer.” Along with this final rule, ATF is publishing ATF Order 1130.21, Delegation Order—Delegation of

the Director's Authorities in Part 13—Labeling Proceedings. This Order lists the specific ATF officers with whom appeals and other documents are to be filed.

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 13 to provide that 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 1130.21. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule amends Subpart A—Scope and Construction of Regulations, and Subpart C—Applications of 27 CFR part 13. Specifically, two new sections, Sec. 13.2 and Sec. 13.20, are added. Section 13.2 is added to recognize the authorities in part 13 and to identify ATF Order 1130.21 as the instrument reflecting such delegations. Section 13.20 is added to indicate who is authorized to prescribe the forms required by this part and how to access those forms, and to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed.

This final rule also makes a typographical amendment correcting the reference to Sec. 13.45 to read Sec. 13.44 in Sec. 13.72(b).

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). 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 M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 13

Administrative practice and procedure, Alcohol and alcoholic beverages, Appeals, Applications, Certificates of label approval, Certificates of exemption from label approval, Denials, Distinctive liquor bottle approvals, Informal conferences, Labeling, Revocations.

Authority and Issuance

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

PART 13—LABELING PROCEEDINGS

Paragraph 1. The authority citation for part 13 continues to read as follows:

Authority: 27 U.S.C. 205(e), 26 U.S.C. 5301 and 7805.

Par. 2. In Subpart A, add Sec. 13.2 to read as follows:

* * * *

§ 13.2 Delegations of the Director.

All of the regulatory authorities of the Director contained in part 13 of the regulations are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.21, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 13—Labeling Proceedings. ATF delegation orders, such as ATF Order 1130.21, 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/>).

* * * *

§ 13.11 [Amended]

Par. 3. Amend Sec. 13.11 as follows:

a. Remove the definitions of “Assistant Director, Alcohol and Tobacco,” “Chief, Alcohol and Tobacco Programs Division,” “Chief, Product Compliance Branch” and “Product Compliance Branch Specialist.”

b. Add and list alphabetically, the new definition “Appropriate ATF officer,” to read as follows:

§ 13.11 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 1130.21, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 13—Labeling Proceedings.

* * * *

c. Remove the word “Director” in the definition of the term “Liquor bottle” and add, in substitution, the words “appropriate ATF officer.”

Par. 4. In Subpart C, add Sec. 13.20 to read as follows:

§ 13.20 Forms prescribed.

(a) The appropriate ATF officer is authorized to prescribe all forms required by this part. All of the information called for in each form must be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, the information called for in each form is that which is required by this part. The form will be filed in accordance with the instructions on 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/>).

§ 13.21 [Amended]

Par. 5. Amend Sec. 13.21 as follows:

a. In the first sentence of paragraph (a), remove the words “to the Product Compliance Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226” and add, in substitution, the words “according to the instructions for that form”; and

b. Revise paragraph (b) to read as follows:

§ 13.21 Application for certificate.

* * * *

(b) Time period for action on application. Within 90 days of receipt of an application, the appropriate ATF officer must notify the applicant whether the application has been approved or denied. The appropriate ATF officer may extend this period of time once, by an additional 90 days, if he or she finds that unusual circumstances require additional

time to consider the issues presented by an application. If the appropriate ATF officer extends the period, he or she must notify the applicant by letter, along with a brief explanation of the issues presented by the label. If the applicant receives no decision from the appropriate ATF officer within the time periods set forth in this paragraph, the applicant may file an appeal as provided in Sec. 13.25.

§ 13.23 [Amended]

Par. 6. In Sec. 13.23, remove the words “a Product Compliance Branch Specialist” and add, in substitution, the words “the appropriate ATF officer.”

§§ 13.25, 13.26, 13.27, 13.41, 13.42, 13.43, 13.52, 13.53, 13.54, and 13.61 [Amended]

Par. 7. Amend part 13 by removing the words “Chief, Product Compliance Branch,” and the words “Chief, Alcohol and Tobacco Programs Division,” each place they appear, and adding, in substitution, the words “appropriate ATF officer” in the following places:

- a. Section 13.25(a);
- b. Section 13.26(a) and (b);
- c. Section 13.27(c);
- d. Section 13.41;
- e. Section 13.42;
- f. Section 13.43(a) and (b);
- g. Section 13.52;
- h. Section 13.53;
- i. The first sentence of paragraph (a) and the first, third, and fourth sentences of paragraph (b) in Sec. 13.54; and
- j. Section 13.61(b).

§ 13.25 [Amended]

Par. 8. Amend paragraph (b) of Sec. 13.25 by removing the words “Specialist or the Chief, Product Compliance Branch” and add, in substitution, the words “appropriate ATF officer.”

Par. 9. Revise paragraphs (a) and (b) of Sec. 13.27 to read as follows:

§ 13.27 Second appeal of qualification or denial.

(a) Form of appeal. The decision after appeal of qualification or denial may be appealed in writing to the appropriate ATF officer within 45 days after the date of that decision. If the appropriate ATF officer concludes that the qualified approval or denial was correct, a copy of the application, marked “appeal denied,” must be returned to the applicant, with an explanation of the decision and the specific laws or regulations relied upon in qualifying or denying the application. If the appropriate ATF officer concludes that the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle application should be approved without qualification, the applicant may resubmit ATF Form 5100.31 and the certificate will be issued.

(b) Time limits for decision after second appeal. Within 90 days of receipt of the second appeal, the appropriate ATF officer must notify the appellant whether the appeal has been granted or denied. If an applicant requests an informal conference as part of an appeal, as authorized in Sec. 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The appropriate ATF officer may extend this period of time once, by an additional 90 days, if he or she finds that unusual circumstances require additional time to consider the unique issues presented by an appeal. If the appropriate ATF officer extends the time period, he or she must notify the applicant by letter, briefly explaining the issues presented by the label. The decision made on the second appeal shall be the final decision of ATF.

* * * *

Par. 10. Revise Sec. 13.44 to read as follows:

§ 13.44 Appeal of revocation.

(a) Filing of appeal. A certificate holder who wishes to appeal the decision to revoke a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, may file a written appeal setting forth why the holder believes that the decision was erroneous. The appeal must be filed with the appropriate ATF officer within 45 days after the date of receipt of the decision to revoke a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

(b) Judicial review. An appeal to the appropriate ATF officer is required prior to application to the Federal courts for review of any revocation of a certificate.

§ 13.45 [Amended]

Par. 11. Amend Sec. 13.45 as follows:

a. Remove the words “Assistant Director, Alcohol and Tobacco” from the first sentence in paragraph (a) and from the first, third and fourth sentences in paragraph (b), and add, in substitution, the words “appropriate ATF officer”; and

b. Revise the last sentence of paragraph (b) to read “The final decision after appeal will be the final decision of ATF.”

§ 13.54 [Amended]

Par. 12. Amend Sec. 13.54 as follows:

a. Revise the last sentence of paragraph (a) to read “The decision after appeal will be the final decision of the ATF.”

b. Revise the last sentence of paragraph (b) to read “The decision of the appropriate ATF officer shall be the final decision of the ATF.”

Par. 13. Revise Sec. 13.62 to read as follows:

§ 13.62. Third-party comment on certificates.

When a third party (such as foreign government, another Federal agency, a State agency, an industry association, a competitor of a certificate holder, a consumer or consumer group, or any other interested person) wishes to comment on an approved certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, such comments should be submitted in writing to the appropriate ATF officer who will review the subject of the comment. If the comment raises an issue that is outside the scope of ATF's statutory or regulatory authority, or the appropriate ATF officer determines that the certificate is in compliance with applicable law and regulations, the commenter will be informed that no further action will be taken. If the appropriate ATF officer determines that the commenter has raised a valid issue that ATF has authority to address, he or she will initiate appropriate action. The appropriate ATF officer may, in his or her discretion, notify the commenter as to the action being taken by ATF with respect to the certificate.

* * * *

§ 13.71 [Amended]

Par. 14. Revise Sec. 13.71 to read as follows:

§ 13.71 Informal conferences.

(a) General. As part of a timely filed written appeal of a notice of denial, a notice of proposed revocation, or a decision to revoke a certificate, an applicant or certificate holder may file a written request for an informal conference with the appropriate ATF officer deciding the appeal.

(b) Informal conference procedures. The appropriate ATF officer and the applicant or certificate holder will agree upon a date for an informal conference. The informal conference is for purposes of discussion only, and no transcript shall be made. If the applicant or certificate holder wishes to rely upon arguments, facts, or evidence presented at the informal conference, he or she has 10 days after the date of the conference to incorporate such arguments, facts, or evidence in a written submission to the appropriate ATF officer.

§ 13.72 [Amended]

Par. 15. Amend Sec. 13.72(b) as follows:

a. Remove the words "from the Chief, Alcohol and Tobacco Programs Division, pursuant to Sec. 13.45" and add, in substitution, the words "pursuant to Sec. 13.44"; and

b. Remove the words "Assistant Director, Alcohol and Tobacco" and add, in substitution, the words "appropriate ATF officer."

§ 13.74 [Amended]

Par. 16. Amend the first sentence of Sec. 13.74 by removing the words “by the Chief, Alcohol and Tobacco Programs Division, or the Assistant Director, Alcohol and Tobacco.”

§ 13.92 [Amended]

Par. 17. Amend Sec. 13.92 by removing the words “Chief, Product Compliance Branch, the Chief, Alcohol and Tobacco Programs Division, or the Assistant Director, Alcohol and Tobacco” and add, in substitution, the words “appropriate ATF officer deciding the appeal.”

Bradley A. Buckles,
Director

Approved: March 13, 2001

Timothy E. Skud,
Acting 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

T.D. ATF-450

27 CFR Part 70

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

ACTION: Treasury decision, final rule.

SUMMARY: This final rule places most ATF authorities contained in its Procedure and Administration regulations with the “appropriate ATF officer” and requires that persons file documents required these regulations with the “appropriate ATF officer” or in accordance with the instructions on the ATF form. Concurrently with this Treasury Decision, ATF Order 1130.19 is being issued and will be made available as specified in this rule. Through this order, the Director has delegated most of the authorities to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports, which are not ATF forms, are filed. In addition, this final rule corrects some typographical errors and updates the disclosure provisions.

EFFECTIVE DATE: May 29, 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) or at alctob@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

Delegations of Authority

Pursuant to Treasury Order 120-01 (formerly 221), dated June 6, 1972, and 120-03, dated November 5, 1990, 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 section 4181 of chapter 32 and chapters 51, 52 and 53 of the Internal Revenue Code of 1986 (IRC) and 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 such provisions, 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 70 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 1130.19, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 70, Procedure and administration, 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 70 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 70 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 1130.19. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule eliminates all references to an ATF region, which were comprised of certain States for ATF administrative purposes but no longer exist. Also, this final rule eliminates the definition of “delegate” in Sec. 70.11 and the references to “delegate” in Sec. 70.803. The definition of delegate in Sec. 70.11 is any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the delegation order. To prevent any misunderstanding or confusion with the ATF delegation order, ATF Order 1130.19, we are removing this term from the aforementioned sections of 27 CFR part 70.

This final rule also makes various technical amendments to Subpart D—Administrative and Miscellaneous Provisions of 27 CFR part 70. Specifically, a new Sec. 70.3 is added to recognize the authority of the Director to delegate regulatory authorities in part 70 and to identify ATF Order 1130.19 as the instrument reflecting such delegations. Also, Sec. 70.2 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be 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.

Typographical and Miscellaneous Corrections

This final rule removes a sentence from Sec. 70.438 that refers to an obsolete ATF publication, corrects references to other sections of regulations in Sec. 70.253(b)(1) and (2) and in Sec. 70.438, corrects Sec. 70.224 that refers to the general statute of limitations on collecting an assessment in accordance with 26 U.S.C. 6502, and corrects Sec. 70.482(e) by raising the amount for which a Chief Counsel’s opinion need not be filed for offers-in-compromise in accordance with 26 U.S.C. 7122(b).

Disclosure Changes

In Sec. 70.802 we have eliminated the card index record of permits, which is no longer maintained, and made appropriate changes to the information available or provided by ATF because of the disclosure restrictions of 26 U.S.C. 6103.

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 70

Administrative practice and procedure, Alcohol and alcoholic beverages, Arms and munitions, Authority delegations (Government Agencies), Bankruptcy, Cigars and cigarettes, Claims, Customs duties and inspection, Disaster Assistance, Excise taxes, Law enforcement, Penalties, Privacy, Seizures, Surety bonds, Tobacco.

Authority and Issuance

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

PART 70—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 70 continues to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331-6343, 6401-6404, 6407, 6416, 6423, 6501-6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656-6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406,

7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601-7606, 7608-7610, 7622, 7623, 7653, 7805.

§§ 70.2, 70.25, 70.26, 70.61, 70.94, 70.161, 70.182, 70.191, 70.213, 70.301, 70.31, 70.482 and 70.485(a) [Amended]

Par. 2. In part 70 remove the word “Director” each place it appears and add, in substitution, the words “appropriate ATF officer” each place it appears in the following places:

- a. Section 70.2(a);
- b. Section 70.25(a)(4);
- c. Section 70.26(c)(2)(ii);
- d. Section 70.61(a)(1)(i) introductory text, (a)(1)(i)(C) and (a)(2);
- e. Section 70.94(a);
- f. Section 70.161(a)(4)(i)(B);
- g. Section 70.182(a);
- h. Section 70.191(b) introductory text;
- i. Section 70.213;
- j. Section 70.301(a);
- k. Section 70.311;
- l. Section 70.482(a) introductory text; and
- m. Section 70.485(a).

Par. 3. Section 70.2 is further amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 70.2 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/>).

Par. 4. In Subpart A—Scope, a new Sec. 70.3 is added as follows:

§ 70.3 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this Part 70 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.19, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 70, Procedure and administration. ATF delegation orders, such as ATF Order 1130.19, 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 70.11 is amended by removing the definitions of “ATF officer”, “Chief, Tax Processing Center”, “Delegate”, “Regional director (compliance)”, and

“Special agent in charge”, and by adding a new definition of “Appropriate ATF officer” to read as follows:

§ 70.11 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 1130.19, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 70, Procedure and Administration.

* * * *

§§ 70.21, 70.100, 70.167, 70.168, 70.169, 70.181, 70.182, 70.183, 70.184, 70.185, 70.186, 70.187, 70.188, 70.206, 70.253, 70.263, 70.413, 70.433, 70.425, 70.504, 70.507, 70.602, 70.606, 70.608 and 70.609 [Amended]

Par. 6. Part 70 is further amended by removing the words “regional director (compliance)” and “regional director’s” each place it appears and adding, in substitution, the words “appropriate ATF officer” and “appropriate ATF officer’s”, respectively, in the following places:

- a. Section 70.21;
- b. Section 70.100;
- c. The last sentence of the undesignated paragraph following Sec. 70.167(b)(1)(iii);
- d. Section 70.168(a);
- e. Section 70.169;
- f. Section 70.181(b)(1) and (2), and (c)(1)(i) and (ii), (c)(2), (c)(3)(i), introductory text of (c)(4)(i), undesignated paragraph after (c)(4)(ii)(D), and (c)(4)(iv) introductory text, (c)(5) introductory text, (c)(5)(ii)(B) and (c)(8);
- g. Section 70.182(a)(1), (3), (4) introductory text and (6)(ii), and (b);
- h. Section 70.183(b)(2), (3), (6), (7) introductory text, (9)(ii) and (11);
- i. Section 70.184(a), (b), (c) introductory text, and (c) (1);
- j. Section 70.185(a), (b) and (c);
- k. Section 70.186(b)(2) and (c);
- l. Section 70.187(a);
- m. Section 70.188;
- n. Section 70.206(a)(1), (b)(3)(ii), the introductory text and the last sentence of (b)(4)(ii), (b)(4)(ii)(A), the undesignated paragraph following (b)(4)(ii)(B), (b)(4)(iii), (c)(2) and (3);
- o. Section 70.253(b)(2);
- p. Section 70.263(d);
- q. Section 70.413(a);
- r. The third sentence of Sec. 70.433(a);
- s. Section 70.435(i);
- t. Section 70.504(c)(2);
- u. Section 70.507(g);
- v. Section 70.602(a) and (b)(1) introductory text;

- w. Section 70.606 introductory text;
- x. Section 70.608; and
- y. Section 70.609.

§ 70.21 [Amended]

Par. 7. Section 70.21 is further amended by removing the phrase “through the region”.

§ 70.22 [Amended]

Par. 8. Section 70.22 is amended as follows:

- a. By removing the words “authorized officer or employee of the Bureau” and adding, in substitution, the words “appropriate ATF officer” in paragraph (a);
- b. By removing the words “officers and employees of the Bureau designated in paragraph (c) of this section” and, in substitution, adding the words “appropriate ATF officers” in the first sentence of paragraph (b);
- c. By removing the words “The officers and employees designated in paragraph (c) of this section may designate any other employee of the Bureau” and adding, in substitution, the words “Such ATF officer may designate an appropriate ATF officer” in the second sentence of paragraph (b);
- d. By removing the words “other employee” and adding, in substitution, the words “officer” in the third sentence in paragraph (b); and
- e. By removing paragraph (c).

Par. 9. Paragraph (b) of Sec. 70.23 is revised to read as follows:

§ 70.23 Service of summonses.

* * * *

(b) Persons who may serve summonses. Any appropriate ATF officer may serve a summons issued under 26 U.S.C. 7602.

* * * *

§ 70.24 [Amended]

Par. 10. The first sentence of Sec. 70.24(b) is amended by removing the words “The officers and employees of the Bureau designated in paragraph (c) of Sec. 70.22” and adding, in substitution, the words “Appropriate ATF officers”.

Par. 11. Section 70.30 is revised to read as follows:

§ 70.30 Time and place of examination.

(a) Time and place. The time and place of examination pursuant to the provisions of 26 U.S.C. 7602 must be such time and place as may be fixed by an appropriate ATF officer and as are reasonable under the circumstances. The date fixed for appearance shall not be less than 10 days from the date of the summons.

(b) Restrictions on examination of taxpayer. No taxpayer is to be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless an authorized internal revenue or an appropriate ATF officer, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

(68A Stat. 902, as amended (26 U.S.C. 7605))

Par. 12. Section 70.31 is revised to read as follows:

§ 70.31 Entry of premises for examination of taxable objects.

(a) General. An appropriate ATF officer may, in the performance of his or her duty, enter in the daytime any building or place where any articles or objects subject to tax are made, produced, or kept, so far as it may be necessary for the purpose of examining said articles or objects and also enter at night any such building or place, while open, for a similar purpose.

(b) Distilled spirits plants. Any appropriate ATF officer may, at all times, as well by night as by day, enter any plant or any other premises where distilled spirits are produced or rectified, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment and facilities thereon; and make such gauges and inventories as such officer deems necessary. Whenever any appropriate ATF officer, having demanded admittance, and having declared his or her name and office, is not admitted to such premises by the proprietor or other person having charge thereof, such officer may at all times, use such force as is necessary for such officer to gain entry to such premises.

(c) Authority to break up grounds. An appropriate ATF officer, and any person acting in his or her aid, may break up the ground on any part of a distilled spirits plant, or any other premises where spirits are produced or rectified, or any ground adjoining or near to such plant or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to determine whether such pipe or other conveyance conveys or conceals any spirits, mash, wort, or beer, or other liquor, from the sight or view of the appropriate ATF officer, so as to prevent or hinder such officer from taking a true account thereof.

(68A Stat. 903, 72 Stat. 1357 (26 U.S.C. 7606, 5203))

§ 70.32 [Amended]

Par. 13. Section 70.32 is amended by removing the phrase "of the Bureau" and by adding the words "appropriate ATF" before the word "officer" each place it appears.

Par. 14. The introductory text of Sec. 70.33 is revised to read as follows:

§ 70.33 Authority of enforcement officers of the Bureau.

Appropriate ATF officers may perform the following functions:

* * * *

Par. 15. Section Sec. 70.34 is revised to read as follows:

§ 70.34 Listing by appropriate ATF officers of taxable objects owned by nonresidents.

Whenever there are any articles in any internal revenue district subject to tax, which are not owned or possessed by, or under the care or control of, any person within such district, and of which no list has been transmitted to the appropriate ATF officer, as required by law or by regulations prescribed pursuant to law, an appropriate ATF officer shall enter the premises where such articles are situated, make such inspection of the articles as may be necessary, and make lists of the same according to the forms prescribed. Such lists, being subscribed by the appropriate ATF officer, are sufficient lists of such articles for all purposes.

* * * *

Par. 16. Section 70.40 is revised to read as follows:

§ 70.40 Authority to administer oaths and certify.

Appropriate ATF officers are authorized to administer such oaths or affirmations and to certify to such papers as may be necessary under the tax laws administered by the Bureau, the Federal Alcohol Administration Act, or regulations issued thereunder, except that the authority to certify must not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive.

(68A Stat. 904 (26 U.S.C. 7622))

Par. 17. Section 70.41 is amended by revising the first sentence of paragraph (a); the first, second and last sentences of paragraph (c); the first sentence of paragraph (d); and the last two sentences of paragraph (f) to read as follows:

§ 70.41 Rewards for information relating to violations of tax laws administered by the Bureau.

(a) In general. An appropriate ATF officer may approve such reward as he or she deems suitable for information that leads to the detection and punishment of any person guilty of violating any tax law administered by the Bureau or conniving at the same. * * *

(c) Amount and payment of reward. All relevant factors, including the value of the information furnished in relation to the facts developed by the investigation of the violation, must be taken into account in determining whether a reward must be paid, and,

if so, the amount thereof. The amount of a reward shall represent what the appropriate ATF officer deems to be adequate compensation in the particular case, normally not to exceed 10 percent of the additional taxes, penalties, and fines which are recovered as a result of the information. * * * No person is authorized under these regulations to make any offer, or promise, or otherwise to bind the appropriate ATF officer with respect to the payment of any reward or the amount thereof.

(d) Submission of Information. Persons desiring to claim rewards under the provisions of 26 U.S.C. 7623 and this section may submit information relating to violations of tax laws administered by the Bureau to an appropriate ATF officer. * * *

* * * *

(f) Filing claim for reward. * * * Claim for reward under the provisions of 26 U.S.C. 7623 must be made on ATF Form 3200.13. ATF Form 3200.13 should be obtained from the office where the information is filed.

* * * *

Par. 18. The section heading and paragraphs (a)(1), (b) and (c)(1) of Sec. 70.42 are revised to read as follows:

§ 70.42 Returns prepared or executed by appropriate ATF officers.

(a) Preparation of returns—(1) General. If any person, required by provisions of 26 U.S.C. enforced and administered by the Bureau or by the regulations prescribed thereunder to make a return, fails to make such return, it may be prepared by an appropriate ATF officer provided the person required to make the return consents to disclose all information necessary for the preparation of such return. The return upon being signed by the person required to make it must be received by the appropriate ATF officer, as the return of such person.

* * * *

(b) Execution of returns—(1) General. If any person, required by provisions of 26 U.S.C. enforced and administered by the Bureau or by the regulations prescribed thereunder to make a return, fails to make a return at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the appropriate ATF officer must make such return from such officer's own knowledge and from such information as the officer can obtain through testimony or otherwise.

(2) Status of returns. Any return made in accordance with paragraph (b)(1) of this section and subscribed by the appropriate ATF officer is prima facie good and sufficient for all legal purposes.

(c) Cross references. (1) For provisions that the return executed by an appropriate ATF officer will not start the running of the period of limitations on assessment and collection, see 26 U.S.C. 6501(b)(3) and Sec. 70.222(b) of this part.

* * * *

Par. 19. Section 70.51 is revised to read as follows:

§ 70.51 Collection authority.

The taxes imposed by provisions of 26 U.S.C. enforced and administered by the Bureau must be collected by appropriate ATF officers.

(26 U.S.C. 6301)

§§ 70.61, 70.77, 70.96, 70.167 [Amended]

Par. 20. Part 70 is further amended by removing the phrase “regional director(s) (compliance) or the Chief, Tax Processing Center,” or “regional director (compliance) or the Chief, Tax Processing Center” and adding, in substitution, the words “the appropriate ATF officer” each place it appears in the following places:

- a. The introductory text of Sec. 70.61(a)(1)(i);
- b. Section 70.77(b)(1) and (2);
- c. Section 70.96(a)(1)(iv), (a)(2) and (a)(3); and
- d. Section 70.167(a)(2)(ii).

§§ 70.61, 70.71 and 70.123 [Amended]

Par. 21. Part 70 is further amended by removing the words “regional directors (compliance) and Chief, Tax Processing Center” or “regional director (compliance) and Chief, Tax Processing Center” and adding, in substitution, the words “appropriate ATF officers” each place that they appear in the following places:

- a. Section 70.61 (a)(1)(i)(D) and (a)(3);
- b. Section 70.71 introductory text; and
- c. Section 70.123(b)(2).

Par. 22. The first three sentences of Sec. 70.64 are revised to read as follows:

§ 70.64 Receipt for taxes.

The appropriate ATF officer must, upon request, issue a receipt for each tax payment made (other than a payment for stamps sold or delivered). In addition, an appropriate ATF officer or employee must issue a receipt for each payment of 1 dollar or more made in cash, whether or not requested. In the case of payments made by check, the canceled check is usually a sufficient receipt. * * *

* * *

§§ 70.71, 70.73, 70.74, 70.75, 70.76, 70.77, 70.81, 70.82, 70.92, 70.96, 70.98, 70.101, 70.113, 70.122, 70.123, 70.124, 70.161, 70.162, 70.163, 170.164, 70.223, 70.271, 70.281, 70.447, 70.481 and 70.486 [Amended]

Par. 23. Part 70 is further amended by removing the words “regional director (compliance) or the Chief, Tax Processing Center” or “regional director (compliance) or Chief, Tax Processing Center” and adding, in substitution, the words “appropriate ATF officer” each place it appears in the following places:

- a. Section 70.71(a); (b)(1)(ii) and (b)(2);
- b. Section 70.73;

- c. Section 70.74(c)(1) and (c)(2);
- d. Section 70.75(b) and (c);
- e. Section 70.76(a), (b)(3), (c) and (d);
- f. Section 70.77(a)(1) and (2);
- g. Section 70.81(a);
- h. Section 70.82;
- i. Section 70.92(c) and (d)(2)(i);
- j. The fourth sentence of Sec. 70.96(c);
- k. The third sentence of Sec. 70.98(b);
- l. Section 70.101;
- m. Section 70.113(b);
- n. Section 70.122;
- o. Section 70.123(b)(1);
- p. Section 70.124;
- q. Section 70.161(a)(1), (2) and (b);
- r. Section 70.162(a) and (b);
- s. Section 70.163(b)(1) and (c);
- t. Section 170.164(b)(1) introductory text;
- u. Section 70.223(d);
- v. Section 70.271(d)(1);
- w. Section 70.281(b)(2) introductory text, (b)(2)(vi), and (b)(3)(v);
- x. Section 70.447;
- y. Section 70.481(a), and (b)(2)(ii), (3)(ii) and (4)(iii); and
- z. Section 70.486.

§ 70.72 [Amended]

Par. 24. Section 70.72 is amended by:

- a. Removing the first sentence; and
- b. Removing the words “assessment officer” and adding, in substitution, the words “appropriate ATF officer” in the remaining first and fourth sentences.

§§ 70.73, 70.96 and 70.98 [Amended]

Par. 25. Part 70 is further amended by removing the words “regional director (compliance) of the region in which the taxpayer is located or with the Chief, Tax Processing Center” and adding, in substitution, the words “appropriate ATF officer” each place it appears in the following places:

- a. The first sentence of Sec. 70.74(b);
- b. The second sentence of Sec. 70.96(c); and
- c. The second sentence of Sec. 70.98(b).

Par. 26. The introductory text of paragraph (a) of Sec. 70.75 is revised to read as follows:

§ 70.75 Jeopardy assessment of alcohol, tobacco, and firearms taxes.

(a) If the appropriate ATF officer believes that the collection of any tax imposed under provisions of 26 U.S.C. enforced and administered by the Bureau will be jeopardized by delay, the appropriate ATF officer must, whether or not the time otherwise prescribed by law for filing the return or paying such tax has expired, immediately assess such tax, together with all interest, additional amounts and additions to the tax provided by law. An appropriate ATF officer will make an assessment under this section if collection is determined to be in jeopardy because at least one of the following conditions exists.

* * * *

§ 70.96 [Amended]

Par. 27. The third sentence of Sec. 70.96(c) is amended by removing the words “ATF officer working under the supervision of the regional director (compliance)” and adding, in substitution, the words “appropriate ATF officer”.

§ 70.123 [Amended]

Par. 28. Section 70.123(a)(2) is amended by removing the words “regional director (compliance), for the region in which the claimant is located, or, in the case of special (occupational) tax, with the Chief, Tax Processing Center” and adding, in substitution, the words “appropriate ATF officer”.

Par. 29. In Sec. 70.125, paragraph(a), the last sentence of paragraph (b), and paragraph (c) are revised to read as follows:

§ 70.125 Abatements.

(a) The appropriate ATF officer may abate the unpaid portion of any assessment or liability, if the assessment is in excess of the correct tax liability, if the assessment is made subsequent to the expiration of the period of limitation applicable thereto, or if the assessment has been erroneously or illegally made.

(b) * * * All such claims must be filed with the appropriate ATF officer who made demand for the amount assessed.

(c) The appropriate ATF officer may issue uniform instructions to abate amounts the collection of which is not warranted because of the administration and collection costs.

* * * *

§ 70.126 [Amended]

Par. 30. Section 70.126 is amended by removing the words “regional director (compliance) or the Chief, Tax Processing Center, or an authorized certifying officer designated by the regional director (compliance) or the Chief, Tax Processing Center” and adding, in substitution, the words “appropriate ATF officer”.

§§ 170.149 and 170.161 [Amended]

Par. 31. Part 70 is further amended by removing the words “Chief, Tax Processing Center or the regional director (compliance)” and adding, in substitution, the words “appropriate ATF officer” each place it appears in the following places:

- a. The introductory text of paragraph (a)(3) and paragraph (b)(2)(i)(A) of Sec. 70.149; and
- b. The last sentence of Sec. 70.161(c).

Par. 32. In Sec. 70.150 the introductory text of paragraph (a) is revised to read as follows:

§ 70.150 Release of lien or discharge of property.

(a) Release of lien. An appropriate ATF officer is charged with releasing liens or discharging property from liens. The appropriate ATF officer must issue a certificate of release of a lien imposed with respect to any tax imposed by a provision of 26 U.S.C. enforced and administered by the Bureau, not later than 30 days after the day on which either:

* * * *

§§ 70.150, 70.164, 70.170, 70.187, 70.205, 70.231, 70.241, 70.242 and 70.245 [Amended]

Par. 33. Part 70 is further amended by removing the words “Chief, Tax Processing Center” or “Chief, Tax Processing Center’s” and adding, in substitution, the words “appropriate ATF officer” or the words “appropriate ATF officer’s”, respectively, each place they appear in the following places:

- a. Section 70.150 (a)(1) and (2), (b), (c)(1), (2) and (3), (d), (e)(1) introductory text and (e)(2)(i) introductory text, (e)(2)(i)(B);
- b. Section 70.164(c);
- c. Section 70.170(b);
- d. Section 70.187 (a) and (b);
- e. Section 70.205(a)(1), (a)(2)(i) and (a)(2)(ii)(C), (b)(1) except the last sentence and (b)(2), and (c)(1) except the last sentence, (e)(2), (e)(3) and (e)(4);
- f. Section 70.231(i)(3);
- g. Section 70.241(a)(8);
- h. Section 70.242(a) and (c); and
- i. Section 70.245 section heading, (a) and (c)(2) and (d).

§§ 70.150, 70.151, 70.161, 70.162, 70.163, 70.164, 70.167, 70.187, 70.204, 70.205, 70.206, 70.207, 70.208, 70.209, 70.210, 70.241, 70.281, 70.413, 70.414, 70.481 and 70.482 [Amended]

Par. 34. Part 70 is further amended by removing the word “official” or “official’s” and adding, in substitution, the word “officer” or “officer’s”, respectively, each place they appear in the following places:

- a. Section 70.150 (b)(1), (b)(2)(i), (b) (3), (c)(1) and (c)(2);
- b. Section 70.151(a), (b), (d), (e)(1), (f)(3) and (g)

- c. Section 70.161(a)(2);
- d. Section 70.162(c) and (d);
- e. Section 70.163(a)(1) and (c);
- f. Section 70.164(b)(1)(i) and (ii), (b)(2)(i), (b)(2)(ii), and (c);
- g. Section 70.167(a)(4), (b)(2) introductory text and (b)(3);
- h. Section 70.186(a)(5);
- i. The undesignated paragraph after Sec. 70.204(a)(3);
- j. Section 70.205(b)(1) and (e)(2);
- k. Section 70.206(b)(4)(ii)(B);
- l. Section 70.207(b)(1)(iii);
- m. Section 70.208;
- n. Section 70.209 (a) and (b);
- o. Section 70.210(a)(1);
- p. Section 70.241(a)(8);
- q. Section 70.281(b)(2)(vi) and (3)(iv);
- r. Section 70.413(c)(1);
- s. Section 70.414(k);
- t. Section 70.481(b)(2) introductory text, (3)(i), (3)(ii)(B) and (4) introductory text; and
- u. Section 70.482(d)(1)(i).

§ 70.151 [Amended]

Par. 35. Section 70.151(g) is further amended by removing the words “the regional director (compliance) of the region in which a notice of Federal tax lien was filed or the Chief, Tax Processing Center” and adding, in substitution, the words “an appropriate ATF officer”.

Par. 36. Section 70.161 is amended by:

a. Revising the first, second, third and eleventh sentences of paragraph (a)(1) to read as follows:

§ 70.161 Levy and distraint.

(a) Authority to levy—(1) In general. If any person liable to pay any tax neglects or refuses to pay the tax within 10 days after notice and demand, the appropriate ATF officer who initiated the assessment may proceed to collect the tax by levy, provided the taxpayer has been furnished the notice described in Sec. 70.162(a) of this part. The appropriate ATF officer may levy upon any property, or rights to property, whether real or personal, tangible or intangible, belonging to the taxpayer. The appropriate ATF officer may also levy upon property with respect to which there is a lien provided by 26 U.S.C. 6321 for the payment of the tax. For exemption of certain property from levy, see 26 U.S.C. 6334 and Secs. 70.241 through 70.245 of this part.

* * * For example, if on the first day of the month a delinquent taxpayer sold personal property subject to an agreement that the buyer remit the purchase price on the last day of the month, a levy made on the buyer on the 10th day of the month would reach the amount due on the sale, although the buyer need not satisfy the levy by paying over the amount to the appropriate ATF officer until the last day of the month. * * *

b. Removing the words “Chief, Tax Processing Center or to the region director (compliance) having jurisdiction over such person” in the fifth sentence of paragraph (c) and adding, in substitution, the words “appropriate ATF officer”.

Par. 37. The introductory text of Sec. 70.163(a)(2)(ii) is revised to read as follows:

§ 70.163 Surrender of property subject to levy.

(a) * * *

(2) * * *

(ii) Notwithstanding paragraph (a)(1) of this section, if a levy has been made upon property or rights to property subject to levy which a bank engaged in the banking business in the United States or a possession of the United States is in possession of (or obligated with respect to), an appropriate ATF officer shall not enforce the levy with respect to any deposits held in an office of the bank outside the United States or a possession of the United States, unless the notice of levy specifies that such officer intends to reach such deposits. The notice of levy must not specify that such officer intends to reach such deposits unless that officer making such levy believes:

* * * *

§ 70.165 [Amended]

Par. 38. Section 70.165 is amended by adding the word “appropriate” before the words “ATF officer”.

Par. 39. Paragraphs (a)(1), (a)(2)(i)(C) and (D), and (a)(4), and the introductory text of paragraph (b)(1) of Sec. 70.167 are revised to read as follows:

§ 70.167 Authority to release levy and return property.

(a) Release of levy—(1) Authority. An appropriate ATF officer may release the levy upon all or part of the property or rights to property levied upon as provided in paragraphs (a)(2), (3) and (4) of this section. A levy may be released under paragraph (a)(3) of this section only if the delinquent taxpayer complies with such of the conditions thereunder as an appropriate ATF officer may require and if the appropriate ATF officer determines that such action will facilitate the collection of the liability. * * *

* * * *

(2) * * *

(i) * * *

(C) The taxpayer has entered into an agreement under 26 U.S.C. 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise (an appropriate ATF officer is not required to release the levy in this case if release of such levy would jeopardize the secured creditor status of the United States).

(D) An appropriate ATF officer has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

(4) Release where value of interest of United States is insufficient to meet expenses of sale. An appropriate ATF officer may release the levy as authorized under paragraph

(a)(1) of this section if that officer determines that the value of the interest of the United States in the seized property, or in the part of the seized property to be released is insufficient to cover the expenses of the sale of such property.

* * * *

(b) Return of property—(1) General rule. If an appropriate ATF officer determines that property has been wrongfully levied upon, the appropriate ATF officer may return:

* * * *

§§ 70.167 and 70.251 [Amended]

Par. 40. Part 70 is further amended by removing the words “a regional director (compliance) or the Chief, Tax Processing Center” and adding, in substitution the words “an appropriate ATF officer” each place they appear in the following places:

a. Section 70.167(a)(2)(i) introductory text and (a)(3); and

b. Section 70.251(a)(2) and (b).

Par. 41. The first sentence of paragraph (b)(2) and paragraph (c) of Sec. 70.168 are revised to read as follows:

§ 70.168 Redemption of property.

* * * *

(b) * * *

(2) Price. Such property or tract of property may be redeemed upon payment to the purchaser, or in case the purchaser cannot be found in the county in which the property to be redeemed is situated, then to the appropriate ATF officer, for the use of the purchaser, the purchaser’s heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of 20 percent per annum. * * *

* * * *

(c) Record. When any real property is redeemed, the appropriate ATF entry of the fact to be made upon the record of sale kept in accordance with 26 U.S.C. 6340 and Sec. 70.187 of this part, and such entry is evidence of such redemption. The party who redeems the property must notify the appropriate ATF officer of the date of such redemption and of the transfer of the certificate of sale, the amount of the redemption price, and the name of the party to whom such redemption price was paid.

* * * *

§ 70.181 [Amended]

Par. 42. Section 70.181 is further amended by:

a. Adding the word “appropriate” before the words “ATF officer” in paragraphs (a), (c)(3)(ii) and (c)(4)(iii);

b. Removing the phrase “within the ATF region where the seizure is made” from the second sentence and the phrase “within such region” from the third sentence in paragraph (b)(1);

c. Removing the phrase “or cause the ATF officer conducting the sale to adjourn” and the comma preceding such phrase in paragraph (c)(2); and

d. Removing “AFT” before the word “officer” in paragraph (c)(5)(ii)(D).

§§ 70.181, 70.182, 70.183, 70.204 and 70.251 [Amended]

Par. 43. Part 70 is further amended by removing the term “ATF” before the word “officer” or “officers” each place it appears in the following places:

- a. Paragraph (c)(5)(ii)(E) and the first sentence of paragraph (c)(8) of Sec. 70.181;
- b. Section 70.182(a)(2)(ii), (6)(iv) and (v), (7) and (9);
- c. Section 70.183 (b)(4), (9)(iv) and (v), (10);
- d. The last sentence of the undesignated paragraph after Sec. 70.204(a)(3); and
- e. Section 70.251(b).

Par. 44. The fourth and subsequent sentences of paragraph (a)(2)(i) of Sec. 70.182 are revised to read as follows:

§ 70.182 Disposition of personal property acquired by the United States.

(a) Sale—* * *

* * * *

(2) Time, place, manner and terms of sale.

(i) Time, notice, and place of sale. * * * In addition, the appropriate ATF officer may use such other methods of advertising as such officer believes will result in obtaining the highest price for the property. Generally, the place of sale will be within the area where the property was originally acquired by the United States. However, if the appropriate ATF officer believes that a substantially higher price may be obtained, the sale may be held outside such area.

* * * *

Par. 45. Section 70.183 is further amended by:

- a. Removing the words “regional director (compliance) for the region in which the property is situated” and adding, in substitution, the words “appropriate ATF officer” each place they appear in paragraphs (a), (b) introductory text, (c) and (e);
- b. Removing the words “regional director (compliance) for the region in which the property is located” and adding, in substitution, the words “appropriate ATF officer” in paragraph (d); and
- c. Revising paragraph (f) to read as follows:

§ 70.183 Administration and disposition of real estate acquired by the United States.

* * * *

(f) Authority of appropriate ATF officer. Notwithstanding the other paragraphs of this section, the appropriate ATF officer may, when such officer deems it advisable, take charge of, and assume responsibility for, any real estate to which this section is applicable. In such case, such officer will notify in writing the appropriate ATF officer from whom he or she is taking charge and assuming responsibility. Also, in any case where a single parcel of real estate is situated in an area in which more than one officer

has jurisdiction, the appropriate ATF officer may designate in writing one officer who is to be in charge of, and responsible for, the entire property.

* * * *

§ 70.187 [Amended]

Par. 46. The first sentence of Sec. 70.187(a) is further amended by removing the words “that region” and adding, in substitution, the words “his or her jurisdiction”.

Par. 47. Section 70.191(a) is revised to read as follows:

§ 70.191 Authorization.

(a) In general. A civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture (with respect to the provisions of 26 U.S.C. enforced and administered by the Bureau) will be commenced when the appropriate ATF officer, directs that the action be commenced.

* * * *

Par. 48. Paragraph (a) of Sec. 70.192 is revised to read as follows:

§ 70.192 Action to enforce lien or to subject property to payment of tax.

(a) Civil actions. In any case where there has been a refusal or neglect to pay any tax (with respect to the provisions of 26 U.S.C. enforced and administered by the Bureau) or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or designated delegate at the request of the appropriate ATF officer, may direct a civil action to be filed in any court of the United States to enforce the lien of the United States under the Internal Revenue Code with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which the delinquent has any right, title or interest, to the payment of such tax or liability. In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the appropriate ATF officer during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

* * * *

§ 70.205 [Amended]

Par. 49. The last sentences of 70.205(b)(1) and (c)(1) are amended by removing the phrase “the authority of the Chief, Tax Processing Center and the regional director (compliance) to release a lien or to discharge” and adding, in substitution, the words “releasing a lien or discharging”.

Par. 50. The second sentence of Sec. 70.206(a)(1) is amended by removing the phrase “the Chief, Tax Processing Center, has consented to the sale” and adding, in substitution, the words “a consent to the sale has been made”.

Par. 51. Section 70.206 is further amended by:

- a. Removing the phrase “a regional director (compliance)” and adding, in substitution, the words “an appropriate ATF officer” in the introductory text of paragraph (b)(1), and the first undesignated sentence following paragraph (b)(4)(ii)(B); and
- b. Revising paragraphs (c)(1) and (4) to read as follows:

§ 70.206 Discharge of liens; redemption by United States.

* * * *

(c) Certificate of redemption—(1) In general. If an appropriate ATF officer exercises the right of redemption of the United States described in paragraph (a) of this section, the appropriate ATF officer shall apply to the officer designated by local law, if any, for the documents necessary to evidence the fact of redemption and to record title to the redeemed property in the name of the United States. If no such officer has been designated by local law, or if the officer designated by local law fails to issue the necessary documents, the appropriate ATF officer is authorized to issue a certificate of redemption for the property redeemed by the United States.

* * * *

(4) Application for release of right of redemption. Upon application of a party with a proper interest in the real property sold in a nonjudicial sale described in 26 U.S.C. 7425(b) and Sec. 70.204 of this part, which real property is subject to the right of redemption of the United States described in this section, the appropriate ATF officer may, in that officer’s discretion, release the right of redemption with respect to the property. The application for the release must be submitted in writing to an appropriate ATF officer and must contain such information as the appropriate ATF officer may require. If the appropriate ATF officer determines that the right of redemption of the United States is without value, no amount shall be required to be paid with respect to the release of the right of redemption.

* * * *

Par. 52. Paragraph (b) of Sec. 70.222 is revised to read as follows:

§ 70.222 Time return deemed filed for purposes of determining limitations.

* * * *

(b) Returns executed by appropriate ATF officers. The execution of a return by an appropriate ATF officer under the authority of section 6020(b) of the Internal Revenue Code does not start the running of the statutory period of limitations on assessment and collection.

* * * *

Par. 53. Paragraphs (a)(1) and (2)(i) of Sec. 70.224 are revised to read as follows:

§ 70.224 Collection after assessment.

(a) Length of period—(1) General rule. In any case in which a tax has been assessed within the statutory period of limitation properly applicable thereto, a proceeding in court

to collect such tax may be begun, or levy for the collection of such tax may be made, within 10 years after the assessment thereof.

(2) Extension by agreement.

(i) The 10-year period of limitation on collection after assessment of any tax may, prior to the expiration thereof, be extended for any period of time agreed upon in writing by the taxpayer and the appropriate ATF officer. Whenever necessary to protect the revenue, such officer may also execute a written agreement with the taxpayer to extend the period of limitation. The extension becomes effective upon execution of the agreement by both the taxpayer and such officer.

* * * *

Par. 54. The first sentence of Sec. 70.227 is revised to read as follows:

§ 70.227 Suspension of running of period of limitation; wrongful seizure of property of third party.

The running of the period of limitations on collection after assessment prescribed in 26 U.S.C. 6502 (relating to collection after assessment) shall be suspended for a period equal to a period beginning on the date property (including money) is wrongfully seized or received by an appropriate ATF officer and ending on the date 30 days after the date on which the appropriate ATF officer returns the property pursuant to 26 U.S.C. 6343(b) (relating to authority to return property) or the date 30 days after the date on which a judgment secured pursuant to 26 U.S.C. 7426 (relating to civil actions by persons other than taxpayers) with respect to such property becomes final. * * *

* * * *

§ 70.253 [Amended]

Par. 55. Paragraphs (b)(1) and (2) of Sec. 70.253 are further amended by removing “Sec. 70.67” and adding, in substitution, “70.167”.

§ 70.262 [Amended]

Par. 56. Paragraph (b)(4) of Sec. 70.262 is further amended by removing the phrase “by the regional director (compliance)”.

Par. 57. Paragraph (c)(2) of Sec. 70.262 is amended by removing the words “by the regional director (compliance) or the Chief, Tax Processing Center”.

§ 70.281 [Amended]

Par. 58. Section 70.281 is further amended by:

a. Removing the words and punctuation “(which may be obtained from the regional director (compliance) or the Chief, Tax Processing Center),” from paragraph (a)(1); and

b. Removing the words “acceptable in discretion of ATF officials” from the section heading of paragraph (b)(2).

Par. 59. Paragraph (a) and the first sentence of paragraph (b) of Sec. 70.304 are revised to read as follows:

§ 70.304 Place for filing documents other than returns.

(a) If a document, other than a return, is required to be filed with an ATF office, such document may be hand delivered to such office.

(b) For purposes of this section, a return or document will be considered to be hand carried if it is brought to an ATF supervisor of the ATF office by the person required to file the return or other document, or by the person's agent. * * *

§ 70.306 [Amended]

Par. 60. The fifth sentence of Sec. 70.306(a) is amended by removing the words "Director, the Chief, Tax Processing Center, or a regional director (compliance)" and adding, in substitution, the words "appropriate ATF officer".

§ 70.333 [Amended]

Par. 61. Section 70.333 is amended by removing the words "Director, or to a regional director (compliance) or to the Chief, Tax Processing Center" and adding, in substitution, the words "appropriate ATF officer".

§ 70.411 [Amended]

Par. 62. Section 70.411 is amended by:

a. Removing the words "regional director (compliance), of the ATF region in which operations are to be conducted" and adding, in substitution, the words "appropriate ATF officer" in paragraph (b);

b. By removing the third and fourth sentences and adding, in substitution, the sentence "Supplies of prescribed forms may be obtained from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153." in the introductory text of paragraph (c); and

c. By removing the phrase "by ATF officers" in paragraph (c)(16).

§§ 70.412 and 70.413 [Amended]

Par. 63. Part 70 is further amended by removing the phrase "with the regional director (compliance)" each place it appears in the following places:

a. The first sentence of Sec. 70.412(a); and

b. Section 70.413((c)(2) introductory text, (d) introductory text and (e).

Par. 64. The third sentence Sec. 70.412(a) is amended by removing the phrase "by the regional director (compliance)" each place it appears.

Par. 65. Paragraph (b) of Sec. 70.413 is revised to read as follows:

§ 70.413 Claims.

* * * *

(b) Claims for abatement. When the tax on distilled spirits, wines, or beer is assessed and the taxpayer thinks that the tax is not due under the law, such taxpayer may file a claim for abatement of the tax on ATF Form 5620.8 with the officer who made demand for the tax. Such officer may call upon the taxpayer to file a bond in double the amount of the tax in order to insure collection of the tax if the claim is rejected. When the claim is acted upon, the taxpayer is notified of the allowance or rejection of the claim. If the claim is rejected, such officer, will initiate action to collect the tax.

* * * *

Par. 66. The last sentence of Sec. 70.414(a) is revised to read as follows:

§ 70.414 Preparation and filing of claims.

(a) Distilled spirits at distilled spirits plants. * * * It is not necessary to file a claim for credit of tax on taxpaid samples taken by appropriate ATF officers from distilled spirits plants, as the appropriate ATF officer will allow credit, without claim, for tax on such samples.

* * * *

Par. 67. Section 70.416 is revised to read as follows:

§ 70.416 Application for approval of interlocking directors and officers under section 8 of the Federal Alcohol Administration Act.

Any person who is an officer or director of a corporation now engaged in business as a distiller, rectifier, or blender of distilled spirits, or of an affiliate thereof, who desires to take office in other companies similarly engaged, must obtain permission to do so from the appropriate ATF officer. Applications for such permission to take office must be prepared and filed in accordance with instructions available from the appropriate ATF officer.

Par. 68. Section 70.418 is revised to read as follows:

§ 70.418 Conferences.

Any person desiring a conference with ATF, relative to any matter arising in connection with such person's operations, will be accorded such a conference upon request. No formal requirements are prescribed for such conference.

Par. 69. Section 70.419 is revised to read as follows:

§ 70.419 Representatives.

Title 31 CFR part 8 is applicable to all representatives of the taxpayer, for any conference with ATF.

§ 70.432 [Amended]

Par. 70. Section 70.432 is further amended by:

a. Removing the words “with, and obtaining a permit from, the regional director (compliance) for the region in which operations are to be conducted” from paragraph (a) and adding, in substitution, the words “and obtaining a permit”;

b. Removing the words “with the regional director (compliance) for the region in which operations are to be conducted” from paragraph (b); and

c. Removing the words “with the regional director (compliance) for the region in which the customs warehouse is located” from paragraph (d).

Par. 71. The fourth and last sentences of paragraph (a) and the second sentence of paragraph (b) of Sec. 70.433 are revised to read as follows:

§ 70.433 Collection of taxes.

(a) Tobacco products. * * * Tax returns, with remittances, are filed by the domestic manufacturer in accordance with instructions on the appropriate ATF form. * * * Tax returns in Puerto Rico, with remittances, are filed in accordance with instructions on the appropriate ATF form.

(b) Cigarette papers and tubes. * * * Such returns, with remittances, are filed in accordance with the instructions on the appropriate ATF form. * * *

§ 70.438 [Amended]

Par. 72. Section 70.438 is amended by:

a. Revising the regulatory reference in the first sentence from 70.131(b) to 70.431(b); and

b. Removing the second, third and fourth sentences.

Par. 73. Section 70.471 is revised to read as follows:

§ 70.471 Rulings.

(a) Requests for rulings. Any person who is in doubt as to any matter arising in connection with:

(1) Operations or transactions in the alcohol tax area or under the Federal Alcohol Administration Act;

(2) Operations or transactions in the tobacco tax area; or

(3) The taxes relating to machine guns, destructive devices, and certain other firearms imposed by chapter 53 of the Internal Revenue Code; the registration by importers and manufacturers of, and dealers in, such firearms; the registration of such firearms; the licensing of importers and manufacturers of, and dealers in, firearms and ammunition, and collectors of firearms and ammunition curios and relics under chapter 44 of title 18

of the United States Code; the licensing of manufacturers, importers, limited manufacturer of, and dealers in, explosives and issuance of permits for users of explosives under chapter 40 of title 18 of the United States Code; and registration of importers of, and permits to import, arms, ammunition, and implements of war, under section 38 of the Arms Export Control Act of 1976; and the taxes relating to pistols, revolvers, firearms (other than pistols and revolvers), shells and cartridges imposed by chapter 32 of the Internal Revenue Code, may request a ruling thereon by addressing a letter to the appropriate ATF official. A ruling can be issued only from Bureau Headquarters unless the issues involved are clearly covered by currently effective rulings or come within the plain intent of the statutes or regulations.

(b) Routine requests for information. Routine requests for information should be addressed to the appropriate ATF officer.

§ 70.481 [Amended]

Par. 74. Paragraph (b)(1) of Sec. 70.481 is amended by removing the phrase “entered into by an authorized ATF official”.

Par. 75. Section 70.482 is amended by:

- a. Removing paragraphs (d)(1)(ii) through (v);
- b. Redesignating paragraph (d)(1)(vi) as paragraph (d)(1)(ii);
- c. Revising the last sentence of the redesignated paragraph (d)(1)(ii) and the introductory text of paragraph (e) and the undesignated paragraph after paragraph (e)(3).
- (d) Removing the dollar amount “\$500” in the undesignated sentence following paragraph (e)(3) and adding, in substitution, the words, including the punctuation, “\$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.” The revisions read as follows:

§ 70.482 Offers in compromise of liabilities (other than forfeiture) under 26 U.S.C.

* * *

(d) * * *

(1) * * *

(ii) * * * When final action has been taken, the proponent is notified of the acceptance or rejection of the offer.

* * *

(e) Record. Except as otherwise provided in this paragraph, if an offer in compromise is accepted, there shall be placed on file the opinion of counsel for the Bureau with respect to such compromise, with the reason therefor, and including a statement of: * * *

* * *

(3) * * *

However, no such opinion shall be required with respect to the offer in compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty is less than \$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.

* * *

Par. 76. Section 70.483 is revised to read as follows:

§ 70.483 Offers in compromise of violations of Federal Alcohol Administration Act.

The Federal Alcohol Administration Act provides penalties for violations of its provisions. The appropriate ATF officer is authorized to compromise such liabilities. Persons desiring to submit offers in compromise may submit such offers on Form 5640.2. When the offer is acted upon, the proponent is notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer in compromise is returned to the proponent. If the offer is accepted, the proponent is notified and the case is closed.

§ 70.484 [Amended]

Par. 77. Section 70.484 is amended by removing the words “Director or designated delegate” each place it appears and adding, in substitution, the words “appropriate ATF officer”.

Par. 78. The first, third and fourth sentences of Sec. 70.506 are revised to read as follows:

§ 70.506 Execution and filing of claim.

Claims to which this subpart is applicable must be executed on Form 2635 (5620.8) in accordance with the instructions on the form. * * * Claims for credit or refund of taxes collected by district directors of customs, to which the provisions of section 6423, I.R.C., are applicable and which Customs regulations (19 CFR Part 24—Customs Financial and Accounting Procedure) require to be filed with the appropriate ATF officer, must be executed and filed in accordance with applicable Customs regulations and this subpart. The claim must set forth each ground upon which the claim is made in sufficient detail to apprise the appropriate ATF officer of the exact basis therefor. * * *

§ 70.601 [Amended]

Par. 79. Section 70.601 is amended by removing the definition of “Region”.

Par. 80. Paragraph (a)(1) of Sec. 70.603 is revised to read as follows:

§ 70.603 Execution and filing of claim.

(a) General. (1) Claims under this subpart must be filed on Form 2635 (5620.8). * * * *

Par. 81. Section 70.701 is amended by revising paragraph (a)(1) and the last sentence of paragraph (c) to read as follows:

§ 70.701 Rules and regulations.

(a) Formulation. (1) Alcohol, tobacco, firearms, and explosives rules take various forms. The most important rules are issued as Treasury decisions, prescribed by the Director, and approved by the Secretary. Other rules may be issued over the signature of the Director or the signature of any appropriate ATF officer. The channeling of rules varies with the circumstances.

Treasury decisions are prepared within the appropriate ATF offices. After approval by the Director, Treasury decisions are forwarded to the Secretary for further consideration and final approval.

* * * *

(c) Petition to change rules. * * * Petitions must be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226.

* * * *

b. Removing the word “officials” in the first sentence of paragraph (d)(2)(i)(A) and adding, in substitution, the word “officers”;

c. Removing the words “Associate Director (Compliance Operations) and adding, in substitution, the words “appropriate ATF officer” in paragraph (d)(2)(iv)(A);

d. Removing the words “Assistant Director” each place they appear and adding, in substitution, the words “appropriate ATF officer” in paragraph (d)(2)(iv)(B); and

e. Removing the words “Assistant Directors” and adding, in substitution, the words “appropriate ATF officers” in paragraph (d)(2)(iv)(C).

§ 70.801 [Amended]

Par. 82. Section 70.801 is amended by removing the words “Chief, Disclosure Branch” and adding, in substitution, the words “Bureau of Alcohol, Tobacco and Firearms”.

Par. 83. Section 70.802 is amended by:

a. Removing the words “in the office of the regional director (compliance) who received the offer and in the office of the Assistant Director (Liaison and Public Information)” and adding, in substitution, the words “with the appropriate ATF officer” in the first sentence of paragraph (a);

b. Removing the words “operating permits under 26 U.S.C. 5171, and industrial use permits under 26 U.S.C. 5271” and the commas preceding and following these words, and removing the words “in the offices of regional director (compliance)” in paragraph (b)(1);

c. Removing paragraph (b)(2);

d. Revising paragraph (c) and the second, third and fifth sentences of paragraph (g) to read as follows:

§ 70.802 Rules for disclosure of certain specified matters.

* * * *

(c) List of plants and permittees. Upon request, the appropriate ATF official shall furnish a list of any type of qualified proprietor or permittee if the disclosure is not prohibited by law.

* * * *

(g) Comments received in response to a notice of proposed rulemaking. * * * Comments may be inspected in the Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. The request to inspect comments must be in writing and signed by the person making the request and should be addressed to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. * * * Copies of comments (or portions thereof) may be obtained by a written request addressed to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. * * *

* * * *

e. Removing the words “Chief, Alcohol and Tobacco Programs Division” and adding, in substitution, the words “appropriate ATF officer” from the first sentence of paragraph (d);

f. Removing the words “in the office of regional director (compliance)” and adding, in substitution the words “from the appropriate ATF officer” in paragraph (e); and

g. Removing the words “Deputy Associate Director (Regulatory Enforcement)” and adding, in substitution, the words “appropriate ATF officer” in paragraph (f).

Par. 84. Section 70.803 is amended by revising the first two sentences of paragraph (c), paragraph (d), paragraph (e)(1), paragraph (e)(2), the last sentence of paragraph (e)(3), paragraphs (e)(4) and (5), and the first two sentences of paragraph (f) to read as follows:

§ 70.803 Requests or demands for disclosure in testimony and in related matters.

* * * *

(c) Disclosure of ATF records or information prohibited without prior approval of the appropriate ATF officer. The disclosure, including the production, of ATF records or information to any person outside the Department of the Treasury or to any court, administrative agency, or other authority, in response to any request or demand for the disclosure of such records or information shall be made only with the prior approval of the appropriate ATF officer. However, nothing in this section restricts the disclosure of ATF records or information for which the appropriate ATF officer has determined that the disclosure is authorized under any provision of statute, Executive order, or regulations, or for which a procedure has been established by the Director. * * *

(d) Delegation of authority to determine disclosure and establish procedures. The appropriate ATF officer is hereby authorized to determine whether or not ATF officers and employees will be permitted to disclose ATF records or information in response to:

(1) A request by any court, administrative agency, or other authority, or by any person, for the disclosure of such records or information; or

(2) A demand for the disclosure of such records or information.

(3) The Director is also authorized to establish such other procedures as he or she may deem necessary with respect to the disclosure of ATF records or information by ATF officers and employees. Any determination by the appropriate ATF officer as to whether

ATF records or information will be disclosed, or any procedure established by the Director in connection therewith, must be made in accordance with applicable statutes, Executive orders, regulations, and any instructions that may be issued by the Secretary. Notwithstanding the preceding provisions of this paragraph, the appropriate ATF officer shall, where either the Secretary or such officer deems it appropriate, refer the opposing of a request or demand for disclosure of ATF records or information to the Secretary.

(e) Procedure in the event of a request or demand for ATF records or information—

(1) Request procedure. Any ATF officer or employee who receives a request for ATF records or information, the disposition of which is not covered by a procedure established by the Director, must promptly communicate the contents of the request to the appropriate ATF officer. The officer or employee must await instructions from the appropriate ATF officer concerning the response to the request. * * *

(2) Demand procedure. Any ATF officer or employee who is served with a demand for ATF records or information, the disposition of which is not covered by a procedure established by the Director, must promptly, and without awaiting appearance before the court, administrative agency, or other authority, communicate the contents of the demand to the appropriate ATF officer. The ATF officer or employee must await instructions from the appropriate ATF officer concerning the response to the demand. If it is determined by the appropriate ATF officer that the demand should be opposed, the U.S. attorney, his or her assistant, or other appropriate legal representative shall be requested to respectfully inform the court, administrative agency, or other authority that the appropriate ATF officer has instructed the ATF officer or employee to refuse to disclose the ATF records or information sought. If instructions have not been received from the appropriate ATF officer at the time when the ATF officer or employee is required to appear before the court, administrative agency, or other authority in response to the demand, the U.S. attorney, his or her assistant, or other appropriate legal representative must be requested to appear with the ATF officer or employee upon whom the demand has been served and request additional time in which to receive such instructions. In the event the court, administrative agency, or other authority rules adversely with respect to the refusal to disclose the records or information pursuant to the instructions of the appropriate ATF officer, or declines to defer a ruling until instructions from the appropriate ATF officer have been received, the ATF officer or employee upon whom the demand has been served must, pursuant to this section, respectfully decline to disclose the ATF records or information sought.

(3) Affidavit required for testimony. * * * The appropriate ATF officer may, upon request and for good cause shown, waive the requirement of this paragraph.

(4) Time limit for serving request or demand. The request or demand, together with the affidavit or statement (if required by paragraph (e)(3) of this section), must be served at least 5 working days prior to the scheduled date of testimony or disclosure of records, in order to ensure that the appropriate ATF officer has adequate time to consider whether to grant the request or demand. The appropriate ATF officer may, upon request and for good cause shown, waive the requirement of this paragraph.

(5) Factors to be considered in determining whether a request or demand will be granted. The appropriate ATF officer must consider whether granting the request or demand would be appropriate under the relevant rules of procedure and substantive law

concerning privilege. Among the requests or demands that will not be granted are those that would, if granted, result in—

(i) The violation of a statute, such as 26 U.S.C. 6103 or 7213, or a rule of procedure, such as the grand jury secrecy rule (F.R.Cr.P. Rule 6(e)), or a specific regulation;

(ii) The disclosure of classified information;

(iii) The disclosure of a confidential source or informant, unless the ATF officer or employee and the source or informant, have no objection;

(iv) The disclosure of investigative records compiled for law enforcement purposes if enforcement proceedings would thereby be impeded, or of investigative techniques and procedures whose effectiveness would thereby be impaired, unless the appropriate ATF officer determines that the administration of justice requires disclosure;

(v) The disclosure of trade secrets without the owner's consent; or

(vi) Testimony in a case in which ATF has no interest, records or other official information.

(f) State cases. The appropriate ATF officer, may, in the interest of Federal and State law enforcement, upon receipt of demands or requests of State authorities, and at the expense of the State, authorize employees under their supervision to attend trials and administrative hearings in liquor, tobacco, firearms, or explosives cases in which the State is a party or on behalf of the State in any criminal case, to produce records, and to testify as to facts coming to their knowledge in their official capacities. However, in cases where a defendant in a criminal case requests or demands testimony or the production of ATF records or information, authorization from the appropriate ATF officer is required. *

* *

* * * *

Signed: April 5, 2001

Bradley A. Buckles,
Director

Approved: April 12, 2001

Timothy E. Skud,
Acting 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

T.D. ATF-451

27 CFR Part 250

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

ACTION: Treasury decision, final rule.

SUMMARY: This final rule places ATF authorities contained in ATF regulations, with the “appropriate ATF officer” and requires that persons file documents required by ATF regulations, 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 1130.23 is being published. Through this order, the Director has delegated all of the authorities in ATF regulations to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports, which are not ATF forms, are filed. In addition, this final rule makes a few corrections and provides an additional option for filing a statement of eligibility for flavors.

EFFECTIVE DATE: May 1, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Room 5003, Washington, DC 20226; (202-927-8210) or 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) and 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 chapter 51 of the IRC or 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 250 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 1130.23, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 250, Liquors and Articles from Puerto Rico and the Virgin Islands, 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 250 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 250 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 1130.23. 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 250. First, a new Sec. 250.3 is added to recognize the authority of the Director to delegate regulatory authorities in part 250 and to identify ATF Order 1130.23 as the instrument reflecting such delegations. Second, Sec. 250.2 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be 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.

Miscellaneous Changes

We have given an option to file ATF Form 5154.1 for persons who require a statement of eligibility for flavors to be used in the computation of the effective tax rate for distilled spirits. This ATF form may be used in lieu of the statement of composition prescribed by 27 CFR 250.50a(b).

Corrections

Two corrections have been made. First, we have corrected the text of Sec. 250.118 to insure that the district director is referenced in this entire section. Second, we have removed Sec. 250.277 which no longer applies because T.D. ATF-206 (50 FR 23949) eliminated the use and reports of strip stamps.

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 250

Alcohol and alcoholic beverages, Administrative practice and procedure, Authority delegations (Government agencies), Beer, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds, Transportation, Warehouses, Wine.

Authority and Issuance

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

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Paragraph 1. The authority citation for part 250 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5081, 5111, 5112, 5114, 5121, 5122, 5124, 5131-5134, 5141, 5146, 5207, 5232, 5271, 5276, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

§§ 250.2, 250.11, 250.43, 250.209, 250.314, 250.316, 250.319 and 250.331 [Amended]

Par. 2. In part 250 remove the words “Director” each place it appears and add, in substitution, the words “appropriate ATF officer” in the following places:

- a. Section 250.2(a);
- b. The definition of “Liquor bottle” in Sec. 250.11;
- c. Section 250.43;
- d. Section 250.209;
- e. The first sentence of Sec. 250.314(b);
- f. Section 250.316;
- g. Section 250.319; and
- h. The third, fourth and last sentence of Sec. 250.331(b).

Par. 3. Section 250.2 is further amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 250.2 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/>).

Par. 4. In Subpart A—Scope of Regulations, a new Sec. 250.3 is added as follows:

§ 250.3 Delegations of the Director.

All of the regulatory authorities of the Director contained in this part 250 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.23, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 250, Liquors and Articles from Puerto Rico and the Virgin Islands. ATF delegation orders, such as ATF Order 1130.23, 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 250.11 is further amended by:

a. Removing the definitions of “ATF officer”, “Chief, Puerto Rico Operations, “Region”, “Regional director (compliance), and “United States Bureau of Alcohol, Tobacco and Firearms office”; and b. Adding a new definition of “Appropriate ATF officer” to read as follows:

§ 250.11 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 1130.23, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 250, Liquors and Articles from Puerto Rico and the Virgin Islands.

* * * *

Par. 6. Section 250.37 is revised to read as follows:

§ 250.37 United States Bureau of Alcohol, Tobacco and Firearms officers.

Appropriate ATF officers are authorized to collect internal revenue taxes on liquors and articles subject to tax, which are to be shipped to the United States.

Par. 7. Section 250.50a(b)(2) is revised to read as follows:

§ 250.50a Verification of eligible flavors.

* * * *

(b) * * *

(2) A statement of composition using ATF Form 5154.1 or a letterhead request that lists the—

(i) Name and percentage of alcohol by volume of the flavor; and

(ii) Name and quantity of each ingredient used in the manufacture of the flavor.

* * * *

§§ 250.52, 250.81, 250.96, 250.105, 250.110, 250.112, 250.112a, 250.126 and 250.222 [Amended]

Par. 8. Part 250 is amended by removing the words “Chief, Puerto Rico Operations” or “Chief, Puerto Rican Operations,” and adding, in substitution, the words “appropriate ATF officer” each place it appears in the following places:

- a. Section 250.52(b) and (c);
- b. Section 250.81;
- c. Section 250.96;
- d. Section 250.105;
- e. Section 250.110;
- f. Section 250.112(c)(1), (c)(4) and (e);
- g. Section 250.112a(c)(1);
- h. Section 250.126; and
- i. Section 250.222(b) and (c).

Par. 9. Section 250.54 is revised to read as follows:

§ 250.54 Filing and disposition of formulas.

Formulas required by this subpart must be submitted, and disposed of, in accordance with the instructions on the prescribed ATF form. The applicant shall maintain copies of approved formulas available for examination by revenue agents.

Par. 10. Section 250.61 is revised to read as follows:

§ 250.61 General.

Every person filing a bond under this subpart, or consent of surety on such bond, must file it in accordance with the instructions on the form.

§§ 250.62a, 250.65, 250.70, 250.70a, 250.71, 250.72, 250.74, 250.75, 250.112, 250.112a, 250.194, 250.276, 250.303 and 250.331 [Amended]

Par. 11. Part 250 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. Section 250.62a;
- b. Section 250.65;
- c. Section 250.70;
- d. Section 250.70a;
- e. Section 250.71(c) and (d);
- f. Section 250.72;
- g. Section 250.74;
- h. Section 250.75;
- i. Section 250.112(e);
- j. Section 250.112a(b)(3);

- k. Section 250.194;
 - l. The first and second sentence of Sec. 250.276;
 - m. Section 250.303; and
 - n. The first and second sentence of Sec. 250.331(b).
- Par. 12.** Section 250.112(c)(3) is revised to read as follows:

§ 250.112 Returns for semimonthly periods.

(c) Filing. * * *

(3) The remittance may be in any form that is authorized to be accepted under the provisions of Sec. 70.61 of this chapter.

* * * *

§ 250.112a [Amended]

Par. 13. The first sentence of Sec. 250.112a(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”.

§ 250.113 [Amended]

Par. 14. Section 250.113(a) is amended by removing the words “on file with the Chief, Puerto Rico Operations”.

§§ 250.116, 250.174 and 250.310 [Amended]

Par. 15. Part 250 is further amended by inserting the word “appropriate” before the words “ATF officer” or “ATF officers” each place they appear in the following places:

- a. The second to the last sentence of Sec. 250.116;
- b. Section 250.174(a) and (e); and
- c. Section 250.310(a) and (e).

Par. 16. The second to the last sentence in Sec. 250.118 is amended by removing the word “director” and adding in substitution the words “district director of customs”.

Par. 17. Section 250.119 is revised to read as follows:

§ 250.119 Disposition of forms by district director of customs.

Two copies of the Form 487B will be forwarded to the appropriate ATF officer, and one copy of the form will be retained by the district director of customs and be available for inspection by appropriate ATF officers.

Par. 18. The second and third sentences of Sec. 250.128 are revised to read as follows:

§ 250.128 Taxpayment at port of arrival.

* * * *The tax may be paid to an appropriate ATF officer, and an ATF receipt obtained, or the tax may be paid to the director of customs, who will issue a customs receipt. If payment is to be made to an appropriate ATF officer, the director of customs will notify the appropriate ATF officer of the amount of tax due. * * * *

Par 19. Section 250.172 is amended:

- a. In paragraph (a) by removing the preceding comma and the words “but references therein to a regional director (compliance) shall apply, for purposes of this part, to the Chief, Puerto Rico Operations”;
- b. By revising paragraph (b) to read as follows:

§ 250.172 Bonds.

* * * *

(b) Approval required. No person bringing eligible articles into the United States from Puerto Rico may file monthly claims for drawback under the provisions of this subpart until a bond on ATF Form 5154.3 has been approved.

Par. 20. Section 250.173 is amended by:

- a. Revising paragraph (a) to read as set forth below; and
- b. Removing the phrase “with the Chief, Puerto Rico Operations,” from the first sentence of paragraph (d).

§ 250.173 Claims for drawback.

(a) General. Persons bringing eligible articles into the United States from Puerto Rico must file claim for drawback on ATF Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate ATF officer must allow the drawback of taxes at a rate of \$1 less than the lesser of \$10.50 a proof gallon or the rate specified in 26 U.S.C. 5001(a).

* * * *

§ 250.193 [Amended]

Par. 21. The last sentence of Sec. 250.193(b) is amended by removing the phrase “regional director (compliance) of the consignee’s region” and adding, in substitution, the words “appropriate ATF officer”.

§ 250.197 [Amended]

Par. 22. Section 250.197 is amended by removing the phrase “regional director (compliance) of each region in which a consignee’s distilled spirits plant is located” and adding, in substitution, the words “appropriate ATF officer”.

Par. 23. Section 250.199f(c) is revised to read as follows:

§ 250.199f Consignee premises.

* * * *

(c) Distribution of forms. The proprietor shall keep and send copies according to the instructions on the form.

* * * *

Par. 24. Section 250.224 is revised to read as follows:

§ 250.224 Filing and disposition of formulas.

Formulas required by this subpart must be submitted, and disposed of, in accordance with the instructions on the prescribed ATF form. The applicant shall maintain copies of approved formulas available for examination by insular agents.

Par. 25. Section 250.275(a) is revised to read as follows:

§ 250.275 Filing.

(a) All records and reports required by this part will be maintained separately, by transaction or reporting date, at the importer's place of business. The appropriate ATF officer may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to appropriate ATF or Customs officers desiring to examine the files or delay in the timely submission of documents.

* * * *

Par. 26. The first sentence of Sec. 250.276 is revised to read as follows:

§ 250.276 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part shall be retained for not less than three years, and during this period shall be available, during business hours, for inspection and copying by appropriate ATF or customs officers. * * *

Par. 27. The undesignated heading preceding Sec. 250.277 is removed.

§ 250.277 [Removed]

Par. 28. Section 250.277 is removed and reserved.

Par. 29. Section 250.308 is amended:

a. By removing in paragraph (a) the preceding comma and the words “, but references therein to a regional director (compliance) shall apply, for purposes of this part to the Chief, Puerto Rico Operations”; and

b. By revising paragraph (b) to read as follows:

§ 250.308 Bonds.

* * * *

(b) Approval required. No person bringing eligible articles into the United States from the Virgin Islands may file monthly claims for drawback under the provisions of this subpart until a bond on ATF Form 5154.3 has been approved.

Par. 30. Section 250.309 is amended by:

- a. Revising paragraph (a) to read as set forth below; and
- b. Removing the phrase “with the Chief, Puerto Rico Operations,” from the first sentence of paragraph (d).

§ 250.309 Claims for drawback.

(a) General. Persons bringing eligible articles into the United States from the Virgin Islands must file claim for drawback on ATF Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate ATF officer must allow the drawback of taxes at a rate of \$1 less than the lesser of \$10.50 a proof gallon or the rate specified in 26 U.S.C. 5001(a).

* * * *

§ 250.314 [Amended]

Par. 31. Section 250.314 is amended by:

- a. Removing the phrase “to the Director” in the second sentence in paragraph (a).
- b. Removing the phrase “from the Director” in the third sentence in paragraph (a).
- c. Removing the word “Director’s” and adding, in substitution, the words “appropriate ATF officer’s” in the third sentence in paragraph (b).

Par. 32. Section 250.318 is revised to read as follows:

§ 250.318 Liquor bottles denied entry.

Filled liquor bottles not conforming to the provisions of this subpart shall be denied entry into the United States: Provided, That, upon letterhead application, in triplicate, the appropriate ATF officer may, in nonrecurring cases, authorize the release from customs custody of distilled spirits in bottles, except those coming under the provisions of Sec. 250.316, which, through unintentional error, do not conform to the provisions of this subpart, if such officer finds that such release will not afford jeopardy to the revenue.

§ 250.331 [Amended]

Par. 33. Section 250.331 is further amended by:

- a. Removing from the first sentence of paragraph (a) the words “regional director (compliance) of the region in which his place of business is located” and adding, in substitution, the words “appropriate ATF officer”.
- b. Removing the second sentence of paragraph (b).

Signed: March 14, 2001

Bradley A. Buckles,
Director

Approved: March 28, 2001

Timothy E. Skud,
Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement)