

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

27 CFR Parts 45 and 46

[T.D. ATF-472]

RIN 1512-AC59

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

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule places with the “appropriate ATF officer” all ATF authorities contained in the Removal of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, for Use of the United States regulations and in the Miscellaneous Regulations Relating to Tobacco Products and Cigarette Papers and Tubes. Consequently, this final rule removes the definitions of, and references to, officers and offices subordinate to the Director. This final rule also requires that persons file documents required by these regulations with the “appropriate ATF officer” or in accordance with the instructions on the ATF form. Concurrently with this Treasury Decision, ATF Order 1130.28 is being issued and will be made available as specified in this rule. Through this order, the Director has delegated all 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.

EFFECTIVE DATE: This rule is effective February 27, 2002.

FOR FURTHER INFORMATION

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

SUPPLEMENTARY INFORMATION:

Background

Delegations of Authority

Pursuant to Treasury Orders 120-01 (formerly 221), dated June 6, 1972, and 120-02 (formerly 221-4), dated December 5, 1978, 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 52 of the Internal Revenue Code of 1986 and chapter 114 of Title 18 of the United States Code (U.S.C.). 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 parts 45 and 46 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 1130.28, Delegation of the Director's Authorities in 27 CFR Parts 45 and 46, which delegates certain of these authorities to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in parts 45 and 46 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition, this final rule also eliminates all references in the regulations that identify the ATF officer with whom an ATF form is filed. This is because ATF forms will indicate the

officer with whom they must be filed. Similarly, this final rule also amends parts 45 and 46 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 1130.28. 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 27 CFR parts 45 and 46. New §§ 45.26 and 46.20 are added to recognize the authority of the Director to delegate regulatory authorities for parts 45 and 46 and identifies ATF Order 1130.28 as the instrument reflecting such delegations. Also, §§ 45.27 and 46.21 are added to provide that an appropriate ATF officer prescribes all forms required by this part. In addition, it explains that the instructions for ATF forms identify the ATF officer with whom they must be filed. In addition in part 46, subpart B, which was previously reserved, is now entitled "Administrative Provisions".

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.

Miscellaneous Changes

We are revising the number for an ATF bond form, prescribed by subpart A of 27 CFR Part 46, from 2490 to 5620.10. In addition, we are correcting the title for 27 CFR Part 46 by adding a comma.

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, 5CFR part 1320, do not apply to this final rule because there are no new or revised record-keeping or reporting requirements.

Regulatory Flexibility Act

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

Executive Order 12866

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

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity

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

Drafting Information

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

List of Subjects

27 CFR Part 45

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Tobacco.

27 CFR Part 46

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

Authority and Issuance

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

PART 45--REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES

Paragraph 1. The authority citation for part 45 continues to read as follows:

Authority: 26 U.S.C. 5703, 5704, 5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805, 44 U.S.C. 3504(h).

Par. 2. The heading of part 45 is revised to read as set forth above.

Par. 3. Amend § 45.11 by:

a. Removing the definitions of "Associate Director (Compliance Operations)", "ATF officer", "Region" and "Regional Director (compliance); and

b. Adding a new definition of "Appropriate ATF officer" to read as follows:

§ 45.11 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 1130.28, Delegation of the Director's Authorities in 27 CFR Parts 45 and 46.

* * * * *
§§ 45.21, 45.22 and 45.42 [Amended]

Par. 4. Remove the word "Director" each place it appears and add, in substitution, the words "appropriate ATF officer" in the following places:

a. The introductory text, and the fourth, sixth and seventh sentences of the undesignated paragraph of § 45.21;

b. The introductory text and the third and sixth sentences of the undesignated paragraph of § 45.22; and

c. Section 45.42.

Par. 5. Revise the second sentence of the undesignated paragraph of § 45.21 to read as follows:

§ 45.21 Alternate methods or procedures.

* * * * *

* * * Where a manufacturer desires to employ an alternate method or procedure, the manufacturer must submit a written application to the appropriate ATF officer. * * *

Par. 6. Revise the fourth sentence of the undesignated paragraph of § 45.22 to read as follows:

§ 45.22 Emergency variations from requirements.

* * * * *

* * * Where a manufacturer desires to employ such variation, the manufacturer must submit a written application to the appropriate ATF officer. * * *

§§ 45.23, 45.24 and 45.51 [Amended]

Par. 7. Add the word "appropriate" before the words "ATF officer" each place it appears in the following places:

- a. The heading and text of § 45.23;
- b. § 45.24; and
- c. § 45.51(d).

Par. 8. Add new sections 45.26 and 45.27 to Subpart C—Administrative Provisions to read as follows:

§ 45.26 Delegations of the Director.

The regulatory authorities of the Director contained in this part are delegated to appropriate ATF officers.

These ATF officers are specified in ATF O 1130.28, Delegation of the Director's Authorities in 27 CFR Parts 45 and 46. ATF delegation orders, such as ATF O 1130.28, are available to any interested party by mailing a request to the ATF Distribution Center, PO Box 5950, Springfield, VA 22150-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

§ 45.27 Forms prescribed.

(a) The appropriate ATF officer is authorized to prescribe all forms required by this part. You must furnish all of the information required by each form as indicated by the headings on the form and the instructions for the form, and as required by this part. You must file each form in accordance with its instructions.

(b) You may request forms from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22153-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

Par. 9. Amend § 45.34 by removing the words "regional director (compliance) for the region in which the factory from which the articles were removed is located" and adding, in substitution, the words "appropriate ATF officer".

Par. 10. Amend § 45.36 by removing the words "regional director (compliance), for the region in which the factory from which such articles were removed is located" and adding, in substitution, the words "appropriate ATF officer".

PART 46--MISCELLANEOUS REGULATIONS RELATING TO

TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par. 11. The authority citation for part 46 continues to read as follows:

Authority: 18 U.S.C. 2341-2346, 26 U.S.C. 5708, 5751, 5761-5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805, 44 U.S.C. 3504(h), 49 U.S.C. 782, unless otherwise noted.

Par. 12. Remove the definition of "regional director (compliance)" from § 46.2.

§§ 46.5, 46.7, 46.11, 46.14, 46.15 and 46.150 [Amended]

Par. 13. Remove the words "regional director (compliance)" each place they appear and add, in substitution, the words "appropriate ATF officer" in the following places:

- a. Section 46.5(c);
- b. The third sentence of § 46.7;
- c. Section 46.11(b);
- d. Section 46.14;
- e. Section 46.15; and
- f. Section 46.150(b) and (c).

§§ 46.6, 46.10 and 46.14 [Amended]

Par. 14. Remove the words "Form 2490" each place they appear, and add, in substitution, the words "ATF Form 5620.10" in the following places:

- a. Section 46.6(c);
- b. The heading and text of § 46.10; and
- c. Section 46.14.

Par. 15. Revise the first sentence of § 46.7 to read as follows:

§ 46.7 Execution and filing of claim.

Claims to which this subpart is applicable must be executed on Form 2635 (5620.8) in accordance with instructions for the form. * * *

Par. 16. Revise § 46.13 to read as follows:

§ 46.13 Authority to approve bonds.

An appropriate ATF officer may approve all bonds required by this subpart.

Par. 17. Add Subpart B to read as follows:

Subpart B--Administrative Provisions

Sec.

46.21 Delegations of the Director.

46.22 Forms prescribed.

§ 46.21 Delegations of the Director.

The regulatory authorities of the Director contained in this part are delegated to appropriate ATF officers. These ATF officers are specified in ATF O 1130.28, Delegation of the Director's Authorities in 27 CFR Parts 45 and 46. ATF delegation orders, such as ATF O 1130.28, are available to any interested party by mailing a request to the ATF Distribution Center, PO Box 5950, Springfield, VA 22150-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

§ 46.22 Forms prescribed.

(a) The appropriate ATF officer is authorized to prescribe all forms required by this part. You must furnish all of the information required by each form as indicated by the headings on the form and the instructions for the form, and as required by this part. You must

file each form in accordance with its instructions.

(b) You may request forms from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22153-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

Par. 18. Amend § 46.72 by:

a. Revising the definition of "Appropriate ATF officer".

b. Removing the definitions of "Associate Director (Compliance Operations)", "Region", and "Regional Director".

The revision reads as follows:

§ 46.72 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 1130.28, Delegation of the Director's Authorities in 27 CFR Parts 45 and 46.

* * * * *

§ 46.73 [Amended]

Par. 19. Remove the words "Regional regulatory administrators" from § 46.73 and add, in substitution, the words "An appropriate ATF officer".

Par. 20. Revise § 46.78 to read as follows:

§ 46.78 Action by appropriate ATF officer.

The appropriate ATF officer must

act upon each claim for payment (without interest) of an amount equal to the tax paid or determined filed under this subpart and must notify the claimant. Claims and supporting data involving customs duties will be forwarded to the Commissioner of Customs with a summary statement of such officer's findings.

Par. 21. Revise § 46.79 to read as follows:

§ 46.79 Supervision.

Before payment is made under this subpart in respect of the tax, or tax and duty, on tobacco products, or cigarette papers or tubes rendered unmarketable or condemned by a duly authorized official, such tobacco products, or cigarette papers or tubes must be destroyed by suitable means under the supervision of an appropriate ATF officer who will be assigned for that purpose by another appropriate ATF officer. However, if the destruction of such tobacco products, or cigarette papers or tubes has already occurred, and if the appropriate ATF officer who acts on the claim is satisfied with the supervision of such destruction, ATF supervision will not be required.

§ 46.81 [Removed and reserved]

Par. 22. Remove and reserve § 46.81.

Par. 23. Amend § 46.143 by:

- a. Adding a new definition of "Appropriate ATF officer".
- b. Removing the definitions of "ATF officer" and "Regional Director (compliance)".
- c. The addition reads as follows:

§ 46.143 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 1130.28, Delegation of the Director's Authorities in 27 CFR Parts 45 and 46.

* * * * *

Par. 24. Remove the words "of the region in which the distributor is located" from the first sentence of § 46.150(c).

§§ 46.153, 46.164, and 46.165 [Amended]

Par. 25. Add the word "appropriate" before the words "ATF officer" each place they appear in the following places:

- a. The heading and text of § 46.153;
- b. Section 46.164; and
- c. Section 46.165.

Par. 26. Amend § 46.163 by:

- a. Adding a definition of "Appropriate ATF officer".
- b. Removing the definition of "ATF officer".

The addition reads as follows:

§ 46.163 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 1130.28, Delegation of the Director's Authorities in 27 CFR Parts 45 and 46.

Par. 27. Remove the words " ATF Order 1130.24, Delegation Order -- Delegation of the Director's Authorities in Subpart C and Subpart I of 27 CFR Part 46" from the definition of "appropriate ATF officer" in § 46.192(a) and add, in substitution, the words "ATF Order 1130.28, Delegation of the Director's Authorities in Parts 45 and 46".

Par. 28. Remove and reserve § 46.270.

Signed: November 13, 2001.

Bradley A. Buckles,

Director.

Approved: December 17, 2001.

Timothy E. Skud,

*Acting Deputy Assistant Secretary
(Regulatory, Tariff and Trade
Enforcement.*

(Filed with the Office of the Federal Register on 2-26-02 at 8:45 a.m. as FR Doc. 02-4386; published in the *Federal Register* on 2-27-02 at 67 FR 8881.)

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

**Delegation of Authority;
Correction**

27 CFR Part 46

[T.D. ATF-472a]

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

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to a final rule published by the Bureau of Alcohol, Tobacco and Firearms in the February 27, 2002, *Federal Register*. The final rule concerned the delegation of the Director's authorities in two parts of the Bureau's tobacco regulations. The final rule did not contain an amendatory instruction for one section of the miscellaneous regulations relating to tobacco products and cigarette papers and tubes.

DATES: This rule is effective October 15, 2002.

FOR FURTHER INFORMATION

CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226; telephone 202-927-8210.

SUPPLEMENTARY INFORMATION:

Background

We published a final rule (T.D. ATF 472) in the *Federal Register* on February 27, 2002, (67 FR 8878) placing all of the Director's delegated authorities in parts 45 and 46 of title 27 of the Code of Federal Regulations with the "appropriate ATF officer." The final rule also removed references to specific officers subordinate to the Director.

Along with T.D. ATF 472, we published ATF Order 1130.28, Delegation of the Director's Authorities

in 27 CFR Parts 45 and 46, which delegated certain of these authorities to the appropriate organizational level. The issuance of Order 1130.28 consolidated all delegations of authority into one delegation instrument. This action simplified the process for determining which ATF officer is authorized to perform a particular function and will facilitate the updating of such delegations in the future.

Need for Correction

As published, T.D. ATF 472 did not amend 27 CFR 46.8, Data to be shown in claim. Paragraph 13 of the final rule's amendatory instructions should have contained an additional instruction removing the words "regional director (compliance)" and adding the words "appropriate ATF officer" in the last sentence of § 46.8. This document corrects this inadvertent error, which may prove misleading if it is not clarified.

List of Subjects in 27 CFR Part 46

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

Accordingly, 27 CFR part 46 is corrected by making the following correcting amendment:

PART 46—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Paragraph 1. The authority citation for part 46 continues to read as follows:

Authority: 18 U.S.C. 2341-2346, 26 U.S.C. 5708, 5751, 5761-5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805, 44 U.S.C. 3504(h), 49 U.S.C. 782, unless otherwise noted.

§ 46.8 [Amended]

Par. 2. In the last sentence of § 46.8(f), remove the words "regional director (compliance)" and add, in substitution, the words "appropriate ATF officer".

Signed: October 3, 2002.

Bradley A. Buckles,

Director.

(Filed with the Office of the Federal Register on 10-11-02 at 8:45 a.m. as FR Doc. 02-25999; published in the *Federal Register* on 10-15-02 at 67 FR 63544.)

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

Delegation of Authority for Part 251

27 CFR Part 251

[T.D. ATF-474]

RIN 1512-AC58

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

ACTION: Treasury decision, final rule.

SUMMARY: This final rule places ATF authorities with the “appropriate ATF officer” and requires that persons file documents required 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 1130.12 is being issued and will be available to the public as specified in this rule. Through this order, the Director has delegated all 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 to be filed. In addition, this final rule removes the regulations relating to a repealed tax on imported perfumes.

EFFECTIVE DATE: Effective March 13, 2002.

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

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Order 120-01 (formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws,

the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC) 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 251 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 1130.12, Delegation of the Director's Authorities in 27 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer, which delegates authorities to appropriate ATF officers. The effect of

these changes is to consolidate all delegations of authority in part 251 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 indicate the officer with whom they must be filed. Similarly, this final rule also amends part 251 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 1130.12. These changes will facilitate the identification of the officer with whom forms and other required submissions are to be filed.

This final rule also makes various technical amendments to Subpart A—Scope of Regulations of 27 CFR part 251. First, a new §251.3 is added to recognize the authority of the Director to delegate regulatory authorities in part 251 and to identify ATF Order 1130.12 as the instrument reflecting such delegations. Second, § 251.2 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 rule-makings.

Miscellaneous Changes

Section 136(a) of Public Law 103-465 (108 Stat. 4841), known as the Uruguay Round Agreements Act, repealed section 5001(a)(3) of the Internal Revenue Code of 1986. This section had previously imposed a tax on perfumes imported into the United States containing distilled spirits, a tax of \$13.50 per wine gallon. Consequently, we are removing sections in part 251 of the Code of Federal Regulations that refer to this repealed tax.

Corrections

Sections 251.55 and 251.59 are being amended to remove references to obsolete regulations and an obsolete form.

Regulatory Analysis

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 251

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Govern-

ment agencies), Beer, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Spices and flavorings, Transportation, Warehouses, Wine.

Authority and Issuance

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

PART 251--IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Paragraph 1. The authority citation for part 251 continues to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

§§ 251.2, 251.11, 251.77, 251.181, 251.206, 251.209 and 251.221 [Amended]

Par. 2. Remove the words "Director" each place it appears and add, in substitution, the words "appropriate ATF officer" in the following places:

- (a) Section 251.2(a);
- (b) The definition of "Liquor bottle" in § 251.11;
- (c) Section 251.77(d);
- (d) Section 251.181(a);
- (e) Section 251.206;
- (f) Section 251.209; and
- (g) The undesignated paragraph following § 251.221(b)(3).

Par. 3. Amend § 251.2 by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 251.2 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 § 251.3 is added as follows:

§ 251.3 Delegations of the Director.

All of the regulatory authorities of the Director contained in part 251 of the regulations are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.12, Delegation of the Director’s Authorities in 27 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer. ATF delegation orders, such as ATF Order 1130.12, 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 251.11 is further amended by:

a. Removing the definitions of "ATF Officer", "Region", and "Regional Director comp liance)";

b. Adding a new definition of "Appropriate ATF officer" to read as follows:

§ 251.11 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 1130.12, Delegation of the Director’s Authorities in 27 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer.

* * * * *

Par. 6. Revise the heading for Subpart D to read as follows: Subpart D--Tax On Imported Distilled Spirits, Wines, and Beer-.

Par. 7. Revise the undesignated center heading following the heading for Subpart D to read as follows: Distilled Spirits.

Par. 8. Remove § 251.41.

Par. 9. Redesignate § 251.41a as § 250.41.

Par. 10. Remove the words and punctuation "Regulations 1," and "(Form 1631)" in § 251.55.

Par. 11. Remove the words and punctuation "Regulations 4," each place that they appear in § 251.59.

Par. 12. Amend § 251.77(d) by removing the words "ATF National Laboratory" and adding, in substitution, the words "appropriate ATF officer".

Par. 13. Revise the second sentence of § 251.136(a) to read as follows:

§ 251.136 Filing.

(a) * * * 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 officers desiring to examine the files or delay in the timely submission of documents, and are not inconsistent with Customs recordkeeping requirements (See 19 CFR 163).

* * * * *

Par. 14. Revise § 251.137 to read as follows:

§ 251.137 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part, must be retained for not less than three years, and during this period must be available, during business hours, for inspection and copying by appropriate ATF or Customs officers. Furthermore, the appropriate ATF officer may require these records to be kept for an additional period of not more than three years in any case where the appropriate ATF officer determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, must also be made available for inspection and copying.

Par. 15. Amend the last sentence of § 251.172 by removing the words "regional director (compliance in which

the consignee is located" and adding, in substitution, the words "appropriate ATF officer".

Par. 16. Amend § 251.182 by:

a. Revising paragraphs (b)(1) and (d) to read as follows:

§ 251.182 Application and permit, Form 5150.33.

* * * * *

(b) *Application.* (1) A Government agency of the United States must apply for a permit to procure and withdraw spirits free of tax on Form 5150.33. Upon approval by the appropriate ATF officer, Form 5150.33 will be returned to the agency.

* * * * *

(d) *Cancellation of permit.* All permits on Form 5150.33 and previous editions on Form 1444 remain in force until surrendered or canceled. Upon surrender or cancellation, the Government agency must obtain and destroy all photocopies of the permit furnished to port directors of Customs, and forward the original to the appropriate ATF officer for cancellation.

* * * * *

Par. 17. Amend § 251.204 by:

a. Removing the words "to the Director" from the second sentence of paragraph (a);

b. Removing the word "Director" from the third sentence of paragraph (a) and adding, in substitution, the words "appropriate ATF officer"; and

c. Removing the word "Director" from the introductory text of paragraph (b) and adding, in substitution the words "appropriate ATF officer"; and

d. Removing the word "Director" from the second sentence of undesignated text following paragraph (b) and adding, in substitution, the words "appropriate ATF officer".

Par. 18. Amend § 251.208 by removing the words "regional director (compliance) of the region in which the port of entry is situated" and adding, in substitution, the words "appropriate ATF officer".

Par. 19. Revise the introductory text of paragraphs (a) and (b) of § 251.221 to read as follows:

§ 251.221 Alternate methods or procedures.

(a) *Application.* An importer who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part must file an application, in triplicate, with the appropriate ATF officer. Each application must:

* * * * *

(b) *Approval.* When an application for use of an alternate method or procedure is received, the appropriate ATF officer must determine whether approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue. The appropriate ATF officer may approve the alternate method or procedure if such officer finds that:

* * * * *

Signed: January 16, 2002.

Bradley A. Buckles,

Director.

Approved: January 31, 2002.

Timothy E. Skud,

*Acting Deputy Assistant Secretary
(Regulatory, Tariff and Trade
Enforcement).*

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