

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, 7 and 16

[T.D. ATF-425]

RIN 1512-AB98

Delegation of Authority (99R-247P)

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

ACTION: Treasury Decision, Final rule.

**SUMMARY:** Authority delegation. This final rule places most ATF authorities contained in parts 4, 5, and 7, title 27 Code of Federal Regulations (CFR), with the “appropriate ATF officer” and requires that persons file documents required by parts 4, 5, and 7, title 27 CFR, with the “appropriate ATF officer” or in accordance with the instructions on the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director. Concurrently with this Treasury Decision, ATF Order 1130.2A is being published. Through this order, the Director has delegated most of the authorities in 27 CFR parts 4, 5 and 7 to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports that are not ATF forms are filed. Finally, this final rule removes the definition of, and a reference to, the Director in part 16, title 27 CFR.

**DATES:** Effective March 7, 2000.

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

**SUPPLEMENTARY INFORMATION:**

**Background**

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

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

Accordingly, this final rule rescinds all authorities of the Director in parts 4, 5, and 7 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 1130.2A, Delegation Order-Delegation of the Director's Authorities in 27 CFR parts 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages, 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 4, 5 and 7 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.

To conform to these changes, this final rule removes the definition of “Director” and the one reference to the Director in part 16. The reference to the Director is found in 27 CFR 16.30. This section states that certificates of label/bottle approval or exemption from label approval are issued pursuant to parts 4, 5, and 7.

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 4, 5 and 7 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 1130.2A. 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 subparts A of 27 CFR parts 4, 5 and 7. First, new sections are added in each part to recognize the authority of the Director to delegate regulatory authorities and to identify ATF Order 1130.2A as the instrument reflecting such delegations. Second, various sections are amended in each part to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed.

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

#### Paperwork Reduction Act

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

#### Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

## 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 4

Advertising, Authority delegations, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and Containers, Reporting and recordkeeping requirements, Wine.

### 27 CFR Part 5

Advertising, Authority delegations, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and Containers, Reporting and recordkeeping requirements.

### 27 CFR Part 7

Advertising, Authority delegations, Beer, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and Containers, Reporting and recordkeeping requirements.

### 27 CFR Part 16

Alcohol and alcoholic beverages, Consumer protection, Customs duties and inspection, Health, Imports.

## Authority and Issuance

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

### PART 4--LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

§§ 4.3, 4.21, 4.23, 4.24, 4.33, 4.37, 4.38, 4.39, 4.40, 4.50, 4.52, and 4.64 [Amended]

Par. 2. In part 4 remove the word “Director” each place it appears and add, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 4.3(a);
- (b) Section 4.21(b)(3)(iii);
- (c) Section 4.23(c)(2);
- (d) Section 4.24(a)(1) and (c)(1);
- (e) Section 4.33(b);
- (f) Section 4.37(c);
- (g) Section 4.38(h);
- (h) Section 4.39(a)(4) and (5), (d), (g), (i)(2)(iii) and (3), and (j);
- (i) Section 4.40(c);
- (j) Section 4.50(b);
- (k) Section 4.52; and
- (l) Section 4.64(a)(4) and (5).

Par. 3. Section 4.3 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 4.3 Forms prescribed.

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

(b) Forms may be requested from the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22153-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

\* \* \* \* \*

Par. 4. A new § 4.4 is added to Subpart A to read as follows:

§ 4.4 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this Part 4 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.2A, Delegation Order--Delegation of the Director's Authorities in 27 CFR parts 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages.

ATF delegation orders, such as ATF Order 1130.2A, are available to any interested person by mailing a request to the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22150-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

Par. 5. Section 4.10 is amended by removing the definition “Regional director (compliance)”, and by adding a new definition of “Appropriate ATF officer” to read as follows:

#### § 4.10 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 1130.2A, Delegation Order--Delegation of the Director's Authorities in 27 CFR part 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages.

\* \* \* \* \*

Par. 6. The first and last sentences of paragraph (b)(1) of § 4.24 are amended to remove the words “Director” and “Director's”, respectively, and by adding, in substitution, the phrases “appropriate ATF officer” and “appropriate ATF officer's”.

Par. 7. Paragraph (b)(1) of § 4.30 is amended to remove the words “Regional director (compliance)” and adding, in substitution, the words “appropriate ATF officer”.

Par. 8. Paragraph (a) of § 4.50 is amended by removing the words “application is made to the Director and” and adding to the end of the sentence the phrase “by the appropriate ATF officer”.

#### PART 5--LABELING AND ADVERTISING OF DISTILLED SPIRITS

Par. 9. The authority citation for part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205. §§ 5.3, 5.22, 5.23, 5.26, 5.28, 5.34, 5.35, 5.36, 5.38, 5.42, 5.46, 5.51, 5.55 and 5.65 [Amended]

Par. 10. In part 5 remove the word “Director” each place it appears and add, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 5.3(a);
- (b) Section 5.22(k)(1) and (2), and (l)(2);
- (c) Section 5.26(b);
- (d) Section 5.28, introductory text;
- (e) Section 5.34(a);
- (f) Section 5.35(a);
- (g) Section 5.36(d);
- (h) Section 5.38(c);
- (i) Section 5.42(a)(4) and (5), and (b)(7);
- (j) Section 5.46(d)(1);
- (k) Section 5.51(c);
- (l) Section 5.55(a), (b) and (c); and
- (m) Section 5.65(a)(4) and (5), and (g).

Par. 11. Section 5.3 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 5.3 Forms prescribed.

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

(b) Forms may be requested from the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22153-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

\* \* \* \* \*

Par. 12. A new § 5.4 is added to Subpart A to read as follows:

§ 5.4 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this part 5 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.2A, Delegation Order--Delegation of the Director's Authorities in 27 CFR parts 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages. ATF delegation orders, such as ATF Order 1130.2A, are available to any interested person by mailing a request to the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22150-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

Par. 13. Section 5.11 is amended by removing the definition "Area supervisor", and by adding a new definition of "Appropriate ATF officer" to read as follows:

§ 5.11 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 1130.2A, Delegation Order--Delegation of the Director's Authorities in 27 CFR part 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages.

\* \* \* \* \*

Par. 14. The first sentence of paragraph (a) of § 5.26 is amended by removing the phrase "with the Director".

Par. 15. Paragraph (c) of § 5.32 is amended by removing the phrase "by the Director".

Par. 16. Paragraph (g) of § 5.33 is amended by removing the words "Director or regional director (compliance)" and adding, in substitution, the words "appropriate ATF officer".

Par. 17. Paragraph (f) of § 5.36 is revised as follows:

§ 5.36 Name and address.

\* \* \* \* \*

(f) Trade names. The trade name of any permittee appearing on any label must be identical to the trade name listed on the permittee's basic permit.

\* \* \* \* \*

PART 7--LABELING AND ADVERTISING OF MALT BEVERAGES

Par. 18. The authority citation for part 7 continues to read as follows:

Authority: 27 U.S.C. 205. §§ 7.3, 7.23, 7.24, 7.25, 7.29, 7.31, 7.54 [Amended]

Par. 19. In part 7 remove the word “Director” each place it appears and add, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 7.3(a);
- (b) Section 7.23(b);
- (c) Section 7.24(g);
- (d) Section 7.25(a);
- (e) Section 7.29(a)
- (4) and (5), and (d);
- (f) Section 7.31(c); and
- (g) Section 7.54(a)(4) and (5).

Par. 20. Section 7.3 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

#### § 7.3 Forms prescribed.

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

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22153-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

\* \* \* \* \*

Par. 21. A new § 7.5 is added to subpart A to read as follows:

#### § 7.5 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this Part 7 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.2A, Delegation Order--Delegation of the Director's Authorities in 27 CFR parts 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages. ATF delegation orders, such as ATF Order 1130.2A, are available to any interested person by mailing a request to the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22150-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

Par. 22. Section 7.10 is amended by removing the definition “Regional director (compliance)”, and by adding a new definition of “Appropriate ATF officer” to read as follows:

#### § 7.10 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 1130.2A, Delegation Order--Delegation of the Director's Authorities in 27 CFR part 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages.

\* \* \* \* \*

Par. 23. The second sentence of paragraph (c)(1) of § 7.20 is amended by removing the words “regional director (compliance)” and adding, in substitution, the words “appropriate ATF officer”.

Par. 24. The first sentence of paragraph (f) of § 7.24 is amended by removing the phrase “by the Director”.

Par. 25. Paragraph (a) of § 7.41 is revised to read as follows:

§ 7.41 Certificates of label approval.

(a) Requirement. No person may bottle or pack malt beverages, or remove malt beverages from the plant where bottled or packed unless an approved certificate of label approval, ATF Form 5100.31, is issued.

\* \* \* \* \*

#### PART 16--ALCOHOLIC BEVERAGE HEALTH WARNING STATEMENT

Par. 26. The authority citation for Part 16 continues to read as follows:

Authority: 27 U.S.C. 205, 215, 218; 28 U.S.C. 2461 note.

Par. 27. Section 16.10 is amended by removing the definition of “Director.”

Par. 28. Section 16.30 is amended by removing the phrase “by the Director”.

Signed: August 12, 1999.

John W. Magaw,

*Director.*

Approved: January 3, 2000.

Dennis M. O'Connell,  
*Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).*

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