

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 25****[T.D. ATF-437]****RIN 1512-AC20****Delegation of Authority for Part 25****AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.**ACTION:** Treasury decision, final rule.

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

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

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

SUPPLEMENTARY INFORMATION:**Background**

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

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

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

Accordingly, this final rule rescinds all authorities of the Director in part 25 that were previously delegated and places those authorities with the "appropriate ATF officer." All of the authorities of the Director that were not previously delegated are also placed with the "appropriate ATF officer." Along with this final rule, ATF is publishing ATF Order 1130.10, Delegation Order—Delegation of the Director's Authorities in 27 CFR part 25, Beer, which delegates certain of these authorities to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in part 25 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition, this final rule also eliminates all references in the regulations that identify the ATF officer with whom an ATF form is filed. This is because ATF forms will indicate the officer with whom they must be filed. Similarly, this final rule also amends part 25 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the "appropriate ATF officer" identified in ATF Order 1130.10. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule also makes various technical amendments to Subpart A—Scope of Regulations of 27 CFR part 25. First, a new § 25.6 is added to recognize the authority of the Director to delegate regulatory authorities in part 25 and to identify ATF Order 1130.10 as the instrument reflecting such delegations. Second, § 25.3 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed. Third, this rule removes

from part 25 of Title 27 of the Code of Federal Regulations the definition of the term "delegate." This term is used only in the definition of Secretary in part 25 of Title 27 of the Code of Federal Regulations. We have removed the definition of "delegate" to be consistent with most parts of title 27 of the Code of Federal Regulations and to minimize potential confusion and misunderstanding with the appropriate ATF officers to whom the Director has delegated authority.

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

Executive Order 12866

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

Administrative Procedure Act

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

Drafting Information

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

List of Subjects in 27 CFR Part 25

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

Authority and Issuance

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

PART 25—BEER

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

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

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

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

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

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

§ 25.3 Forms prescribed.

- (a) * * * The form will be filed in accordance with the instructions for the form.
- (b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950,

Springfield, Virginia 22150–5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

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

§ 25.6 Delegations of the Director.

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

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

§ 25.11 Meaning of Terms.

* * * * *

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

* * * * *

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

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

- (a) The definition of Barrel in § 25.11;
- (b) Section 25.22;
- (c) Section 25.24(a)(7);
- (d) Section 25.25(a);
- (e) Section 25.42(c);
- (f) Section 25.52(a)(2) and (b)(1), (2), (3);
- (g) Section 25.61(a) and (c);
- (h) Section 25.63;
- (i) Section 25.66(c)(1);
- (j) Section 25.71(a)(2) and (b)(1);
- (k) Section 25.72(b)(2);

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

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

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

- (a) Section 25.31;
- (b) Section 25.42 introductory text;
- (c) Section 25.64;
- (d) Section 25.66(d);
- (e) Section 25.68(b);
- (f) Section 25.127;
- (g) Section 25.213(c);
- (h) Section 25.251(c);
- (i) Section 25.252(c);
- (j) Section 25.291(c)(2)(ii);
- (k) Section 25.294(c); and
- (l) Section 25.300(a) and (d)(3).

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

§ 25.51 Right of Entry and Examination.

An appropriate ATF officer may enter, during normal business hours, a brewery or other place where beer is stored and may, when the premises are open at other times, enter those premises in the performance of official duties. Appropriate ATF officers may

make inspections as the appropriate ATF officer deems necessary to determine that operations are conducted in compliance with the law and this part. The owner of any building or place where beer is produced, made, or kept, or person having charge over such premises, who refuses to admit an appropriate ATF officer acting under 26 U.S.C. 7606, or who refuses to permit an appropriate ATF officer to examine beer must, for each refusal, forfeit \$500.

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

§ 25.52 Variations from requirements.

* * * * *

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

* * * * *

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

§ 25.61 General requirements for notice.

* * * * *

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

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§ 25.62 [Amended]

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

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

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

(a) Section 25.65;

(b) Section 25.78;

(c) Section 25.81(b) introductory text;

(d) Section 25.276(b); and (e) The last sentence of § 25.286(a).

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

§ 25.81 [Amended]

Par. 14. Section 25.81 (c) is amended by removing from the introductory text

the words "regional director (compliance) through the ATF area supervisor" and adding, in substitution, the words "appropriate ATF officer".

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

§ 25.85 Notice of permanent discontinuance.

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

* * * * *

§ 25.91 [Amended]

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

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

§ 25.101 Disapproval of bonds or consents of surety.

* * * * *

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

* * * * *

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

§ 25.141 Barrels and kegs.

* * * * *

(b) * * *

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

* * * * *

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

§ 25.142 Bottles.

* * * * *

(b) * * *

(2) * * * The coding system employed will permit an appropriate

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

* * * * *

§ 25.165 [Amended]

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

§ 25.184 [Amended]

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

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

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

* * * * *

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

* * * * *

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

§ 25.222 Notice of brewer.

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

* * * * *

§§ 25.222 and 25.225 [Amended]

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

(a) Section 25.222(b); and

(b) Section 25.225(b)(2).

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

§ 25.223 Destruction of beer off brewery premises.

* * * * *

(b) *Destruction with supervision.* The appropriate ATF officer may require that an appropriate ATF officer verify the information in the notice of destruction or witness the destruction of the beer. The appropriate ATF officer may also require a delay in the destruction of the beer or, if the place of destruction is not readily accessible to an appropriate ATF

officer, may require that the beer be moved to a more convenient location. In this case, the brewer may not destroy the beer except under the conditions imposed by the appropriate ATF officer.

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

§ 25.273 Action on application.

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

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

§ 25.276 Operations and records.

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

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

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

(e) *Notification of appropriate ATF officer.* (1) A brewer who sustains a loss of beer before transfer of title of the beer to another person and who desires to adjust the tax on the excise tax return or to file a claim for refund or for relief from liability of tax, must, on learning of the loss of beer, immediately notify in writing the appropriate ATF officer of the nature, cause, and extent of the loss, and the place where the loss occurred. Statements of witnesses or other supporting documents must be furnished if available.

(2) A brewer possessing unmerchantable beer and who desires to adjust the tax on the excise tax return or to file a claim for refund or for relief from liability must notify in writing the appropriate ATF officer, of the circumstances by which the beer became unmerchantable, and must state why the beer cannot be salvaged and returned to the market for consumption or sale.

§ 25.283 [Amended]

Par. 29. Section 25.283(e) is amended by removing the words “with the regional director (compliance) of the

region in which the beer was lost, returned, destroyed, or rendered unmerchantable”.

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

§ 25.284 Adjustment of tax.

* * * * *

(d) *Beer lost, destroyed or rendered unmerchantable.* * * * A brewer may not make an adjustment prior to notification required under § 25.282(e). When beer appears to have been lost due to theft, the brewer may not make an adjustment to the tax return until establishing to the satisfaction of the regional director (compliance) that the theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

* * * * *

§ 25.285 [Amended]

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

§ 25.297 [Amended]

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

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

Signed: July 19, 2000.

Bradley A. Buckles,
Director.

Approved: August 1, 2000.

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

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 30

[T.D. ATF-438]

RIN 1512-AC16

Delegation of Authority in 27 CFR Part 30

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

ACTION: Treasury decision, final rule.

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

EFFECTIVE DATE: January 19, 2001.

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

SUPPLEMENTARY INFORMATION:

Background

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

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is