

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 24**

[T.D. ATF-409]

RIN 1512-AB87

Delegation of Authority**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 part 24, title 27 Code of Federal Regulations (CFR), with the "appropriate ATF officer" and requires that persons file documents required by part 24, title 27 Code of Federal Regulations (CFR), with the "appropriate ATF officer" or in accordance with the instructions on the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director. Concurrently with this Treasury Decision, ATF Order 1130.5 is being published. Through this order, the Director has delegated most of the authorities in 27 CFR part 24 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: March 22, 1999.**FOR FURTHER INFORMATION CONTACT:**

Robert Ruhf, Revenue Operations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (202-927-8220).

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 24 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 1130.5, Delegation Order—Delegation of the Director's Authorities in part 24, Wine, 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 24 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 24 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 1130.5. 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 C—Administrative and Miscellaneous Provisions of 27 CFR part 24. Specifically, a new § 24.19 is added to recognize the authority of the Director to delegate regulatory authorities in part 24 and to identify ATF Order 1130.5 as the instrument reflecting such delegations. Also, § 24.20 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed.

ATF intends to 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 24

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

Authority and Issuance

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

PART 24—WINE

Paragraph 1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 24.3 [Removed]

Par. 2. Section 24.3 is removed.

Par. 3. Section 24.10 is amended by removing the definitions of “Area supervisor”, “ATF Officer”, “Region”, and “Regional director (compliance)” and by adding a new definition of “Appropriate ATF officer” to read as follows:

§ 24.10 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 1130.5, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 24—Wine.

* * * * *

Par. 4. In Subpart C—Administrative and Miscellaneous Provisions, the undesignated center heading of “Authorities of the Director” is amended by removing the words “of the Director”.

Par. 5. A new § 24.19 is added in Subpart C after the undesignated center heading of “Authorities”, to read as follows:

§ 24.19 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this Part 24 are

delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.5, Delegation Order—Delegation of the Director’s Authorities in 27 CFR Part 24—Wine. ATF delegation orders, such as ATF Order 1130.5, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

§ 24.20, 24.21, 24.22, 24.87, 24.127, 24.245, 24.246, 24.247, 24.248, 24.249, and 24.250 [Amended]

Par. 6. In part 24 remove the words “Director” each place it appears and add, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 24.20(a);
- (b) Section 24.21(a) introductory text, and (c);
- (c) Section 24.22(a) introductory text, and (b);
- (d) Section 24.87;
- (e) Section 24.127;
- (f) Section 24.245;
- (g) Section 24.246(a)(1);
- (h) Section 24.247;
- (i) Section 24.248;
- (j) Section 24.249(a); and (k) Section 24.250(b)(9).

Par. 7. Section 24.20 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 24.20 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 22150–5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

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§ 24.21, 24.26, 24.27, 24.28, 24.29, 24.30, 24.31, 24.32, 24.52, 24.60, 24.62, 24.65, 24.66, 24.69, 24.70, 24.77, 24.91, 24.96, 24.105, 24.107, 24.108, 24.110, 24.111, 24.115, 24.116, 24.120, 24.123, 24.124, 24.125, 24.135, 24.137, 24.140, 24.141, 24.150, 25.154, 25.155, 24.157, 24.159, 24.165, 24.166, 24.167, 24.169, 24.170, 24.183, 24.191, 24.231, 24.236, 24.242, 24.249, 24.260, 24.265, 24.272, 24.273, 24.276, 24.278, 24.279, 24.296, 24.300 and 24.313 [Amended]

Par. 8. Part 24 is further amended by removing the words “regional director (compliance)” each place it appears and adding, in substitution, the words “appropriate ATF officer” in the following places:

- (a) Section 24.21(b);
- (b) Section 24.26;

- (c) Section 24.27;
- (d) Section 24.28;
- (e) Section 24.29;
- (f) Section 24.30;
- (g) Section 24.31;
- (h) Section 24.32;
- (i) Section 24.52(a);
- (j) Section 24.60;
- (k) Section 24.62;
- (l) Section 24.65(a) introductory text,
- (b) introductory text, and (c) introductory text;
- (m) Section 24.66(a);
- (n) Section 24.69(b);
- (o) Section 24.70;
- (p) Section 24.77(c), (d) and (e);
- (q) Section 24.91(c);
- (r) Section 24.96(a);
- (s) Section 24.105;
- (t) Section 24.107;
- (u) Section 24.108;
- (v) Section 24.110(c)(1);
- (w) Section 24.111;
- (x) Section 24.115;
- (y) Section 24.116;
- (z) Section 24.120;
- (aa) Section 24.123;
- (bb) Section 24.124;
- (cc) Section 24.125(c);
- (dd) Section 24.135(b)(4), (c), (d) and (e);
- (ee) Section 24.137(a), (b)(3) and (c);
- (ff) Section 24.140(a) and (b)(3);
- (gg) Section 24.141;
- (hh) Section 24.150;
- (ii) Section 24.154;
- (jj) Section 24.155 (a), introductory text and (b);
- (kk) Section 24.157;
- (ll) Section 24.159;
- (mm) Section 24.165;
- (nn) Section 24.166;
- (oo) Section 24.167(a);
- (pp) Section 24.169;
- (qq) Section 24.170(a) and (b);
- (rr) Section 24.183;
- (ss) Section 24.191;
- (tt) Section 24.231;
- (uu) Section 24.236;
- (vv) Section 24.242 (a), introductory text, (b), (c)(1), introductory text, and (c)(2);
- (ww) Section 24.249(c);
- (xx) Section 24.260;
- (yy) Section 24.265;
- (zz) Section 24.272(b)(3) and (e);
- (aaa) Section 24.273(b);
- (bbb) Section 24.276;
- (ccc) Section 24.278(h);
- (ddd) Section 24.279(a);
- (eee) Section 24.296(a) and (b);
- (fff) Section 24.300(d); and
- (ggg) Section 24.313, introductory text.

Par. 9. In Subpart C—Administrative and Miscellaneous Provisions, the undesignated center headings of “Authorities of the Regional Director (Compliance)” and “Authorities of ATF Officers” are removed.

§ 24.22 [Amended]

Par. 10. Paragraph (b) of § 24.22 is amended by removing the words "the regional director (compliance) for transmittal to".

Par. 11. Paragraph (c) of § 24.22 is amended by removing the phrase "the regional director (compliance), or the Director" and adding, in substitution, the phrase "appropriate ATF officer".

§§ 24.36, 24.230 and 24.235 [Amended]

Par. 12. Section 24.36, § 24.230, and paragraph (b) of § 24.235 are amended by removing the words "area supervisor" and adding, in substitution, the words "appropriate ATF officer".

Par. 13. Section 24.25 is revised to read as follows:

§ 24.25 Emergency variations from requirements.

(a) *General.* The appropriate ATF officer may approve construction, equipment, and methods of operation other than as specified in this part, when in the judgment of such officer an emergency exists, the proposed variations from the specified requirements are necessary, and the proposed variations:

(1) Will afford the security and protection to the revenue intended by the prescribed specifications;

(2) Will not hinder the effective administration of this part; and

(3) Will not be contrary to any provisions of law.

(b) *Application.* The proprietor must submit a written application to the appropriate ATF officer within 24 hours of any temporary approval granted under paragraph (c) of this section, which describes the proposed variation, and sets forth the reasons therefor.

(c) *Temporary Approval.* The proprietor who desires to employ an emergency variation from requirements must contact the appropriate ATF officer and request temporary approval until the written application, required by paragraph (b) of this section, is acted upon. The appropriate ATF officer will be a subordinate of the ATF officer designated in paragraph (a) of this section. Where the emergency threatens life or property, the proprietor may take immediate action to correct the situation without prior notification; however, the proprietor must promptly contact the appropriate ATF officer and file with that officer a report concerning the emergency and the action taken to correct the situation.

(d) *Conditions.* The proprietor must, during the period of variation from requirements granted under this section, comply with the terms of the approved application. A failure to comply in good

faith with any procedures, conditions, and limitations will automatically terminate the authority for a variation. Upon termination of the variation, the proprietor must fully comply with requirements of regulations for which the variation was authorized. Authority for any variation may be withdrawn whenever in the judgment of the appropriate ATF officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the variation.

§§ 24.30, 24.35, 24.37, 24.40, 24.54, 24.77, 24.91, 24.117, 24.259, 24.291, 24.293, 24.300 and 24.304 [Amended]

Par. 14. Part 24 is further amended by adding the word "appropriate" before the words "ATF officer" each place it appears in the following places:

- (a) Section 24.30;
- (b) Section 24.35;
- (c) Section 24.37;
- (d) Section 24.40;
- (e) Section 24.54(c);
- (f) Section 24.77(d);
- (g) Section 24.91, introductory text;
- (h) Section 24.117;
- (i) Section 24.259(c);
- (j) Section 24.291(c);
- (k) Section 24.293(b);
- (l) Section 24.300(b) and (e)(3); and
- (m) Section 24.304(a).

§ 24.31 [Amended]

Par. 15. Section 24.31 is amended by removing the phrase "a designated", and in substitution, adding the phrase "an appropriate".

Par. 16. Section 24.41 is revised to read as follows:

§ 24.41 Office facilities.

The appropriate ATF officer may require the proprietor to furnish temporarily a suitable work area, desk and equipment necessary for the use of appropriate ATF officers in performing Government duties whether or not such office space is located at the specific premises where regulated operations occur or at corporate business offices where no regulated activity occurs. Such office facilities will be subject to approval by the appropriate ATF officer.

§ 24.52 [Amended]

Par. 16. The second sentence of paragraph (b) of § 24.52 is amended by removing the words "regional director (compliance) of the region in which the bonded wine premises or taxpaid wine bottling house is located" and adding, in substitution, the phrase "appropriate ATF officer".

Par. 17. The first, fifth and sixth sentences of paragraph (b) of § 24.77 are revised to read as follows:

§ 24.77 Experimental wine.

* * * * *

(b) *Qualification.* An institution that wants to conduct experimental wine operations must apply in letter form to the appropriate ATF officer. * * * The applicant must, when required by the appropriate ATF officer, furnish as part of the application, additional information that may be necessary to determine whether the application should be approved. Operations may not begin until authorized by the appropriate ATF officer.

* * * * *

Par. 19. The second and last sentences of § 24.80 are revised to read as follows:

§ 24.80 General.

* * * The formula must be prepared and filed on ATF F 5120.29, Formula and Process for Wine, in accordance with the instructions on the form.* * * Except for research, development, and testing, no special natural wine, agricultural wine, or, if required to be covered by an approved formula, wine other than standard wine may be produced prior to approval by the appropriate ATF officer of a formula covering each ingredient and process (if the process requires approval) used in the production of the product.

* * * * *

Par. 20. The third and sixth sentences of § 24.81 are revised as follows:

§ 24.81 Filing of formulas.

* * * After a change in formula is approved, the original formula must be surrendered to the appropriate ATF officer. * * * The appropriate ATF officer may at any time require the proprietor to file a statement of process in addition to that required by the ATF F 5120.29 or any other data to determine whether the formula should be approved or the approval continued.

* * * * *

§ 24.82 [Amended]

Par. 21. The fourth sentence of § 24.82 is amended by removing the words "Director or the regional director (compliance)" and adding, in substitution, the words "appropriate ATF officer".

§ 24.100 [Amended]

Par. 22. Section 24.100 and the introductory text of paragraph (g) of § 24.300 are amended to remove the phrase "to the regional director (compliance)".

§ 24.101 [Amended]

Par. 23. The first and second sentences of paragraph (a) of § 24.101

are amended to remove the phrase "with the regional director (compliance)" and in the first sentence only add, in substitution, the phrase "as provided in § 24.105".

Par. 24. Section 24.103 is revised to read as follows:

§ 24.103 Other operations.

Upon the specific approval of the appropriate ATF officer, other operations not provided for in this part may be conducted on wine premises. Authority to conduct other operations may be obtained by submitting an application to the appropriate ATF officer. The application must specifically describe the operation to be conducted and the wine premises and equipment to be used. An appropriate ATF officer may make any inquiry necessary to determine whether the conduct of other operations on wine premises would jeopardize the revenue, conflict with wine operations, or be contrary to law. Other operations authorized under this section will be conducted in accordance with the conditions, limitations, procedures, and terms stated in the approved application. Authority to conduct other operations may be withdrawn whenever the appropriate ATF officer determines the conduct of the other operations on wine premises jeopardizes the revenue, conflicts with wine operations, or is contrary to law.

§§ 24.106, 24.114, 24.135, and 24.137 [Amended]

Par. 25. The fourth sentence of § 24.106, the second and third sentences of § 24.114, the introductory text of paragraph (b) of § 24.135 and paragraph (b) of § 24.137 are amended to remove the phrase "with the regional director (compliance)".

§ 24.109 [Amended]

Par. 26. The second sentence of paragraph (k) of § 24.109 is amended by removing the words "regional director (compliance) of any ATF region" and adding, in substitution, the phrase "appropriate ATF officer" and the fourth and fifth sentences are amended by removing the words "regional director (compliance)" and by adding, in substitution, the phrase "appropriate ATF officer".

Par. 27. Paragraph (d) of § 24.110 is revised to read as follows:

§ 24.110 Organizational Documents.

* * * * *

(d) *Availability of additional corporate documents.* The originals of documents required to be submitted under this section and additional documents that may be required by the

appropriate ATF officer (such as articles of incorporation, bylaws, and any certificate issued by a State authorizing operations) must be made available to any appropriate ATF officer upon request.

* * * * *

§ 24.116 [Amended]

Par. 28. The last sentence of § 24.116 is amended to remove the words "regional director" and adding, in substitution, the phrase "appropriate ATF officer".

§ 24.131 [Amended]

Par. 29. Section 24.131 is amended to remove the words "regional director (compliance) through the area supervisor" from the first sentence and the words "regional director (compliance)" from the third sentence and adding in both sentences, in substitution, the phrase "appropriate ATF officer".

Par. 30. The first and second sentences of § 24.145 are revised to read as follows:

§ 24.145 General requirements.

Each person required to file a bond or consent of surety under this part must prepare, execute and submit the bond or consent of surety on the prescribed form in accordance with this part and the instructions printed on the form. A person may not commence or continue any business or operation relating to wine until all bonds and consents of surety required under this part with respect to the business or operation have been approved by the appropriate ATF officer.* * *

§ 24.201 [Amended]

Par. 31. The first sentence of § 24.201 is amended by removing the phrase "from the Director" and adding, in substitution, the word "an".

§ 24.211 [Amended]

Par. 32. The second sentence of § 24.211 is amended by removing the words "with the Director".

Par. 33. Paragraph (b) of § 24.249 is revised to read as follows:

§ 24.249 Experimentation with new treating material or process.

* * * * *

(b) *Application.* The proprietor who wants to conduct experimentation must file an application with the appropriate ATF officer setting forth in detail the experimentation to be conducted and the facilities and equipment to be used. The proposed experimentation must not be conducted until the appropriate ATF officer has determined that the conduct of such experimentation must not

jeopardize the revenue, conflict with wine operations, or be contrary to law, and has approved the application.

* * * * *

§ 24.250 [Amended]

Par. 34. Paragraph (a) of § 24.250 is amended by removing the following phrase "regional director (compliance) of the region in which the bonded wine premises is located" and adding, in substitution, the phrase "appropriate ATF officer".

§ 24.250 [Amended]

Par. 35. Paragraph (c) of § 24.250 is revised by removing the word "Director" in the first sentence and, in substitution, adding the phrase "appropriate ATF officer", and removing the last two sentences.

Par. 36. Paragraph (d) of § 24.250 is revised to read as follows:

§ 24.250 Application for use of new treating material or process.

* * * * *

(d) *Processing of application.* After evaluation of the data submitted with the application, the appropriate ATF officer will make a decision regarding the acceptability of the proposed treatment in good commercial practice. The appropriate ATF officer will notify the proprietor of the approval or disapproval of the application.

* * * * *

§ 24.267 [Amended]

Par. 37. Section 24.267 is amended by removing the words "regional director (compliance) or nearest designated" and adding, in substitution, the word "appropriate".

Par. 38. The text of 24.268 is revised to read as follows:

§ 24.268 Losses by fire or other casualty.

The proprietor must immediately report any loss by theft, fire or other casualty, or any other extraordinary or unusual loss to the appropriate ATF officer. If required by the appropriate ATF officer, the proprietor must file a claim under the provisions of § 24.65. The volume of wine loss must be reported on ATF F 5120.17 for the reporting period during which the loss occurred.

* * * * *

§ 24.272 [Amended]

Par. 39. Paragraph (b)(1) of § 24.272 is amended by removing the words "regional director (compliance) of each ATF region in which taxes are paid" and adding, in substitution, the words "appropriate ATF officer".

Par. 40. Paragraph (a) of § 24.294 is revised to read as follows:

§ 24.294 Destruction of Wine.

(a) *General.* Wine on bonded wine premises may be destroyed on or off wine premises by the proprietor without payment of tax. A proprietor who wants to destroy wine on or off wine premises must file with the appropriate ATF officer an application stating the kind, alcohol content, and approximate volume of wine to be destroyed, where the wine is to be destroyed, and the reason for destruction. Wine to be destroyed must be inspected, and the destruction supervised, by an appropriate ATF officer unless the appropriate ATF officer authorizes the proprietor to destroy the wine without inspection and supervision. The wine must not be destroyed until the proprietor has received authority from the appropriate ATF officer.

Par. 41. The third sentence of paragraph (a) introductory text, of § 24.300 is amended by removing the phrase "submitted to the regional director (compliance)".

Par. 42. § 24.300, paragraph (c) and the third and fifth sentences of paragraph (g)(2) are revised to read as follows:

§ 24.300 General.

* * * * *

(c) *Prescribed forms.* All reports required by this part must be submitted on forms prescribed by § 24.20. Entries will be made as indicated by the headings of the columns and lines, and as required by the instructions for the form. Report forms are furnished free of cost.

* * * * *

(g) *ATF F 5120.17, Report of bonded wine premises operations.* * * *

(2) * * * A proprietor who is commencing operations during a calendar year and expects to meet these criteria may use a letter notice to the appropriate ATF officer, and file an annual ATF F 5120.17 for the remaining portion of the calendar year. * * * If there is a jeopardy to the revenue, the appropriate ATF officer may at any time require any proprietor otherwise eligible for annual filing of a report of bonded wine premises operations to file such report monthly.

* * * * *

Signed: December 9, 1998.

John W. Magaw,
Director.

Approved: February 9, 1999.

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

[FR Doc. 99-6736 Filed 3-19-99; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF JUSTICE**28 CFR Part 79**

[A.G. Order No. 2213-99]

RIN 1105-AA49

Radiation Exposure Compensation Act: Evidentiary Requirements; Definitions; and Number of Times Claims May Be Filed

AGENCY: Civil Division, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice ("the Department") amends its existing regulations implementing the Radiation Exposure Compensation Act to: allow claimants to submit affidavits or declarations in support of a claim to establish smoking and alcohol consumption histories where no other records exist; allow the use of pathology reports of tissue biopsies as additional means by which claimants can present evidence of a compensable non-malignant respiratory disease; amend the definitions of "smoker" and "non-smoker"; include *in situ* lung cancers under the definition of primary cancers of the lung; and allow claimants who have filed claims prior to the implementation of these regulations and have been denied compensation to file another three times.

DATES: Effective date: April 21, 1999. This final rule will apply to all claims pending with the Radiation Exposure Compensation Act Program ("RECA Program") as of this date.

FOR FURTHER INFORMATION CONTACT: Gerard W. Fischer (Assistant Director), (202) 616-4090, and Lori Beg (Attorney), (202) 616-4377, U.S. Department of Justice, Civil Division, P.O. Box 146, Ben Franklin Station, Washington, D.C. 20044-0146.

SUPPLEMENTARY INFORMATION:**Background**

On May 23, 1997, the Attorney General published a notice of proposed rulemaking in the **Federal Register**, 62 FR 28393 (1997), setting forth proposed amendments to the regulations implementing the Radiation Exposure Compensation Act, Pub. L. 101-426, 104 Stat. 920 (1990) (codified as amended at 42 U.S.C. 2210 note) ("RECA" or "Act"). Comments were received over a period of 30 days ending on July 22, 1997. In response to several requests from the public for additional time, the comment period was reopened on August 29, 1997, for an additional 30-day period ending on September 29, 1997. The Department of Justice received 31

letters, each containing one or more comments regarding the proposed amendments. Commenters included both interested individuals and organizations. Most of the comments were positive, applauding the proposed changes and encouraging their swift implementation.

The Department carefully reviewed all of the comments, several of which resulted in changes to the proposed rule. Specifically, the final rule will not introduce standards for the use of high resolution computed tomography ("HRCT") reports, which were included in § 79.36(a)(ii)(A)(2) of the proposed rule. The Department received many substantive comments on the proposed use of HRCT reports as a means by which claimants can present evidence of a compensable non-malignant respiratory disease. In order to respond to those comments, the Department engaged in extensive research and consultation. Presently, there is no consensus in the medical community for standardized criteria for the use of HRCT reports in the diagnosis of non-malignant respiratory diseases. Accordingly, as soon as the Department, in consultation with its designated medical and scientific experts, is able to identify recognized standards for the use of HRCT reports, the Department will implement appropriate regulations.

Furthermore, the final rule amends the definitions of "heavy smoker" and "smoker" to exclude, and the definition of "non-smoker" to include, claimants who stopped smoking at least fifteen years prior to the date of diagnosis of disease. These definitions apply to claimants diagnosed with a compensable non-malignant respiratory disease as well as those diagnosed with lung cancer, as originally proposed. The Department is convinced that the evidence supports this approach.

Discussion of Changes and Comments

Following are summaries and discussions of the comments, which have been grouped together according to their similarity. Minor or technical issues are not discussed.

In some cases, commenters suggested that the Department incorporate certain regulatory provisions that would modify statutory requirements relating to the criteria for compensation. Section 5 of the RECA authorizes claims only by individuals employed in uranium mines in particular states. Accordingly, the implementing regulations limit compensation to individuals employed in uranium mines in those states and exclude those individuals employed in uranium mines elsewhere as well as those individuals employed in uranium