

(4) Other failures to comply with the Act. You may bring an action for any alleged failure by the Agency to comply with the requirements of the Act or failure to comply with any rule published by the Agency to implement the Act provided it can be shown that:

(i) The action was intentional or willful;

(ii) The Agency's action adversely affected you; and

(iii) The adverse action was caused by the Agency's actions.

(b) Jurisdiction and time limits.

(1) Action may be brought in the district court for the jurisdiction in which you reside or have a place of residence or business, or in which the Agency records are situated, or in the District of Columbia.

(2) The statute of limitations is two years from the date upon which the cause of action arises, except for cases in which the Agency has materially and willfully misrepresented any information requested to be disclosed and when such misrepresentation is material to the liability of the Agency. In such cases the statute of limitations is two years from the date of discovery of the misrepresentation by you.

(3) A suit may not be brought on the basis of injury, which may have occurred as a result of the Agency's disclosure of a record prior to September 27, 1975.

(c) Criminal penalties.—(1) Unauthorized disclosure. It is a criminal violation of the provisions of the Act for any officer or employee of the Agency to knowingly and willfully disclose a record in any manner to any person or agency not entitled to receive it, for failure to meet the conditions of disclosure listed in S U.S.C. 552a(b), or without the written consent or at the request of the individual to whom the record pertains. Any officer or employee of the Agency found guilty of such misconduct shall be fined not more than \$5,000.

(2) Failure to publish a public notice. It is a criminal violation of the Act to willfully maintain a system of records and not publish the prescribed public notice. Any officer or employee of the Agency found guilty of such misconduct shall be fined not more than \$5,000.

(3) Obtaining records under false pretenses. The Act makes it a criminal offense to knowingly and willfully request or gain access to a record about an individual under false pretenses. Any person found guilty of such an offense may be fined not more than \$5,000.

#### § 505.13 General exemptions (Subsection (j)).

(a) General exemptions are available for systems of records which are maintained by the Central Intelligence Agency (Subsection (j)(1)), or maintained by an agency which performs as its principal function any activity pertaining to the enforcement of the criminal laws (Subsection (j)(2)).

(b) The Act does not permit general one exemption of records compiled primarily for a non-criminal purpose, even though there are some quasi-criminal aspects to the investigation and even though the records are in a system of records to which the general exemption applies.

#### § 505.14 Specific exemptions (Subsection (k)).

The specific exemptions focus more on the nature of the records in the system of records than on the agency. The following categories of records may be exempt from disclosure:

(a) Subsection (k)(1). Records which are specifically authorized under criteria established under an Executive Order to be kept secret in the interest of national defense or foreign policy, and which are in fact properly classified according to such Executive Order;

(b) Subsection (k)(2). Investigatory records compiled for law enforcement purposes (other than material within the scope of subsection (j)(2) as discussed in § 505.13(a)). If any individual is denied any right, privilege, or benefit for which she/he would otherwise be eligible, as a result of the maintenance of such material, the material shall be provided to the individual, unless disclosure of the material would reveal the identity of a source who has been pledged confidentiality;

(c) Subsection (k)(3). Records maintained in connection with protection of the President and other VIPs accorded special protection by statute;

(d) Subsection (k)(4). Records required by statute to be maintained and used solely as statistical records.

(e) Subsection (k)(5). Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only if disclosure of the material would reveal the identity of a confidential source that furnished information to the Government.

(f) Subsection (k)(6). Testing or examination records used solely to determine individual qualifications for appointment or promotion in the Federal service when the disclosure of

such would compromise the objectivity or fairness of the testing or examination process.

(g) Subsection (k)(7). Evaluation records used to determine potential for promotion in the armed services, but only if disclosure would reveal the identity of a confidential source.

#### § 505.15 Exempt systems of records used.

The BBG is authorized to use exemptions (k)(1), (k)(2), (k)(4), (k)(5) and (k)(6).

[FR Doc. 02-4551 Filed 2-26-02; 8:45 am]

BILLING CODE 8610-01-P

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Parts 45 and 46

[T.D. ATF-472]

RIN 1512-AC59

#### Delegation of Authority

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), 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](mailto: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, 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***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 §§ 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).”

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.

\* \* \* \* \*

**§ 46.150 [Amended]**

**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
- b. 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”.

**§ 46.270 [Removed and reserved]**

**Par. 28.** Remove and reserve § 46.270.

Signed: November 13, 2001.

**Bradley A. Buckles,**

*Director.*

**Timothy E. Skud,**

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

[FR Doc. 02-4386 Filed 2-26-02; 8:45 am]

**BILLING CODE 4810-31-P**

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 175**

**[USCG-2000-8589]**

**RIN 2115-AG04**

**Wearing of Personal Flotation Devices (PFDs) by Certain Children Aboard Recreational Vessels**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is requiring that children under age 13 aboard recreational vessels wear personal flotation devices (PFDs), or lifejackets. During 1995-1998, 105 children under 13 died in the water, 66 of them by drowning. This rule should reduce the number of children who drown because they were not wearing lifejackets.

**DATES:** This final rule is effective March 29, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2000-8589 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this final rule, call Carl Perry, Coast Guard, telephone: 202-267-0979. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

**SUPPLEMENTARY INFORMATION:**