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## Preface

The Alcohol, Tobacco and Firearms Quarterly Bulletin is the authoritative instrument of the Bureau for announcing official rulings and procedures, and for publishing Treasury decisions, legislation, administrative matters, and other items of general interest. It incorporates, into one publication, matters of the Bureau, which are of public record.

The Bureau publishes rulings and procedures to promote uniform application of the laws and regulations it administers. Rulings interpret the requirement of laws and regulations and apply retroactively unless otherwise indicated; whereas, procedures establish methods for performing operations to comply with such laws and regulations.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department regulations but they may be used as precedents. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings and procedures must be considered. Concerned parties are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

## Definitions

**Rulings and procedures that have an effect on previous rulings or procedures use the following defined terms to describe the effect:**

**AMPLIFIED** is used in a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth in the new ruling. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified.

**CLARIFIED** is used in a situation where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

**DECLARED OBSOLETE** is used in a situation where a previously published ruling is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are declared obsolete because of changes in law or regulations. A ruling may also be declared obsolete because its substance has been included in regulations subsequently adopted.

**MODIFIED** is used in a situation where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, but the new ruling holds that it applies to both A and B, the prior ruling is modified.

**REVOKED** is used in a situation where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling. Rulings which have been revoked have no further effect.

**SUPERSEDED** is used in a variety of situations. The term may be used where the new ruling amplifies a prior ruling if both the position taken in the prior ruling and the position as amplified are contained in the text of the new ruling. The term may be similarly used where the new ruling clarifies or modifies a prior ruling. The term may also be used where, for the purpose of updating references, the new ruling does nothing more than restate the substance and situation of a prior ruling. For example, a ruling issued under former statutes and regulations (e.g. the 1939 Code—26 CFR Part 225) may be reissued under the current statutes and regulations (e.g. the 1954 Code—Part 201). Lastly, the term may be used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings.

**SUPPLEMENTED** is used in situations in which a list, such as a list of curios and relics, is published in a ruling and that list is expanded by adding further items in subsequent rulings. After the original ruling has been supplemented several items, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

## Treasury Decisions – I

### Subpart A – ALCOHOL

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

#### Extension for Johannisberg Riesling; Additional Grape Varieties

**T.D. ATF - 417; Ref. Notice No. 871**

#### 27 CFR Part 4

**ACTION:** Treasury Decision, final rule.

**SUMMARY:** This final rule amends the wine labeling regulations to allow use of the term “Johannisberg Riesling” on American wine labels for an additional seven years. The effect of this amendment allows American wineries additional time to educate consumers regarding the name change and allow for transitional time regarding the labeling, packaging and merchandising of Johannisberg Reisling. Additionally, ATF is adding two new names, Traminette and Aglianico, to the list of prime grape variety names for use in designating American varietal wines.

**EFFECTIVE DATE:** October 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ms. Teri Byers, Regulations Division, 650 Massachusetts Avenue, NW, Washington, DC 20226; Telephone (202) 927-8195, or [alcohol/tobacco@atfhq.atf.treas.gov](mailto:alcohol/tobacco@atfhq.atf.treas.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *Law and Regulations*

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. § 205(e), vests broad authority in the Director, as a delegate of the Secretary of the Treasury, to prescribe regulations intended to prevent deception of the consumer, and to provide the consumer with adequate information as to the identity and quality of the product. Regulations which implement the provisions of section 105(e) as they relate to wine are set forth in title 27, Code of Federal Regulations, Part 4.

The regulations at section 4.23(b) provide that a grape variety name may be used as the type designation of a grape wine if not less than 75 percent of the wine is derived from grapes of that variety. The wine must be labeled with an appellation of origin. Under section 4.23(d), a bottler may use two or more grape variety names as the type

designation of a grape wine if all the wine is made from grapes of the labeled varieties, and the percentage of the wine derived from each grape variety is shown on the label.

#### *T.D. ATF-370*

In 1996, ATF issued a final rule containing a list of approved prime grape variety names which may be used as the designation for American wines. The purpose of creating a list of prime grape variety names was to help standardize wine label terminology and prevent consumer confusion by reducing the large number of synonyms for grape varieties that were previously used for labeling American wines. The rule contained two other lists of alternative names that could be used as grape wine designations until January 1, 1997, or January 1, 1999. Finally, the rule also contained a procedure by which interested persons could petition the Director for the addition of names to the list of prime grape names.

#### *Johannisberg Riesling*

In T.D. ATF-370, ATF announced that the name “Johannisberg Riesling” should no longer be permitted as a grape variety designation on American wines. The true name for this grape variety is simply “Riesling.” However, in the United States, wineries had long used the terms “Johannisberg Riesling” and “White Riesling” to distinguish the true Riesling grape from other grapes that were incorrectly designated as “Riesling.”

The final rule listed “Riesling” as the prime name for this grape. The term “White Riesling” was listed as a synonym for “Riesling.” This term is used internationally as a designation for this wine, and is also the botanical name for this grape.

The final rule placed the name “Johannisberg Riesling” as an alternative name that could be used only to label American wines bottled prior to January 1, 1999. ATF noted that “Johannisberg Riesling” is not the correct name for this grape variety. Furthermore, “Johannisberg” is a German geographic term, and the name of a specific winegrowing region within Germany. Since the final rule authorized use of the name Riesling, standing by itself, as the prime name for wine made from this grape, ATF determined that there was no longer the necessity to distinguish wine made from the true Riesling grape by use of the term “Johannisberg Riesling.” Owing to the necessity to prepare new packaging and marketing materials, its use was authorized for wines bottled prior to January 1, 1999.

#### *Petition*

ATF subsequently received a petition from the law firm of Buchman & O'Brien, filed on behalf of trade associations representing United States wineries. The petition asked ATF to extend the phase-out period for the term Johannisberg Riesling for an additional seven years to January 1, 2006.

The petition provided several reasons for extending the phase-out date. Despite the fact that ATF made it clear in the notices issued prior to T.D. ATF-370 that there was significant controversy surrounding the term Johannisberg Riesling, the petition alleged that ATF failed to provide the industry with notice that it was phasing out the term. The

petitioner also cited the 10 year phase-out period in the recently published Treasury decision relating to Gamay Beaujolais as support for extending the period. The petition asserted that because the Johannisberg Riesling designation had been in documented commercial use for over 100 years, an additional seven years would provide enough transitional time to educate the consuming public regarding the designation change. Finally, the petition states that the abrupt elimination of Johannisberg Riesling would cause material economic harm and hardship to the United States wine industry.

The petitioners also submitted a letter from the Deutsches Weininstitut GmbH in support of the extension. Letters were also submitted from several wineries, including Stimson Lane Vineyards & Estates (“Stimson Lane”) setting forth the reasons for an extension. Stimson Lane noted that in the 1960s and 1970s, “many inferior riesling products were being produced in the United States . . . To overcome the stigma that had become associated with these various rieslings, we and other producers focused our attention and brand investments on the term Johannisberg Riesling to refer to a medium-dry, highly complex wine.”

Stimson Lane argued that it would take several years to educate American consumers that the term “Riesling”, standing alone, now designates the same wine previously known as “Johannisburg Riesling.” In fact, Stimson Lane suggested that the mere prospect was so “overwhelming and complex that the industry has not even begun to agree how they are going to accomplish this.” They noted that the term “Johannisberg Riesling” had been used for more than 100 years, and has sales of 36,000,000 bottles per year. Accordingly, an additional seven years would provide a more reasonable phase-out period.

The petition also included a letter from ELGIN, a marketing communications company, which provided marketing information illustrating the negative impact on wineries and consumers should ATF restrict the Johannisberg Riesling phase-out period to three years. ELGIN drew a comparison between Johannisberg Riesling and the 1982 Nissan Corporation's decision to change the Datsun brand name to Nissan. ELGIN asserted that this change in brand name was implemented in the United States over a six-year period; however, Nissan still saw its share drop in the first two years from 5.9 percent to 4.5 percent due to the name change.

### **Notice No. 871**

In response to the petition, ATF issued Notice No. 871 on January 6, 1999 (64 FR 813). In the notice, ATF proposed extending the phase-out period for an additional seven years. We sought comments on the addition of four grape variety names to the list of prime names.

ATF also issued a rule that temporarily extended the effective date for phasing out the use of “Johannisberg Riesling” on American wine labels. See T.D. ATF-405 (64 FR 753). The date was deferred until September 30, 1999, so that ATF would have time to evaluate the comments received in response to the notice of proposed rulemaking. ATF stated that the proposed extension of the phase-out period did not signify any change in ATF's position regarding the eventual removal of “Johannisberg Riesling” from the list of prime names.

## **Comments Received in Response to Notice No. 871**

ATF received nine comments in response to Notice No. 871. Six comments were in favor of allowing the continued use of the designation “Johannisberg Riesling” on American wine labels for an additional seven years. One comment flatly opposed any extension, while another comment suggested that a two-year extension would be more appropriate. The ninth comment addressed semigeneric designations.

### **Comments in Favor of the Proposed Extension**

Comments in favor of the proposed extension were received from the President's Forum of the Beverage Alcohol Industry, Sand Castle Winery, Stimson Lane Vineyards and Estates, the California Association of Winegrape Growers (CAWG), the Washington Wine Institute and the Washington Wine Commission, and Buchman & O'Brien.

Several commenters stated that an insufficient phase-out period would have a significant economic impact on many growers and vintners. For example, the comment from CAWG stated that the proposed extension was consistent with actions taken by ATF with respect to other labeling terms, such as Gamay Beaujolais, and that “[g]iven the huge investment made by growers and vintners in developing markets for our products, we believe the transition time provided by this proposal is appropriate and fair.”

A comment on behalf of the Washington Wine Institute and Washington Wine Commission noted the “serious economic consequences” to Washington growers and vintners that would result from a shorter phase-out period. The comment stated that “Because 95% of all Riesling wine has been sold in the US as Johannisberg Riesling, we need every minute of the proposed extension period to educate our consumers in the hope that we can minimize ultimate damages to the Riesling category.”

Other wineries also commented that it would take several years to do the type of consumer education necessary to avoid major defections from their brands. Stimson Lane reiterated in its comment the serious economic consequences that would be associated with having to “jettison this name without the necessary transition period requested in our petition.” A comment from Sand Castle Winery reiterated the need to educate the public on the new terminology.

The President's Forum of the Beverage Alcohol Industry reiterated its prior support of the extension, and stated that extension would be in the best interests of consumers and the U.S. wine industry.

JBC International submitted a comment on behalf of CAWG and the Wine Institute. In this comment, it was noted that Wine Institute supported the extension of the phase-out of the term “Johannisberg Riesling.” However, the comment stressed that the industry's position with respect to the term “Johannisberg Riesling,” which is not a semigeneric designation, “does not indicate any future positions the US industry might take with regard to the use of semi-generic terms.”

### **Comments in Opposition to Proposed Extension**

ATF received two comments in opposition to the proposed seven year extension. The National Association of Beverage Importers, Inc. (NABI) suggested that a two year

extension would be more appropriate. Coudert Brothers, on behalf of the Deutscher Weinfonds, opposed any extension of the phase-out period.

NABI suggested that further use of the term “Johannisberg Riesling” would be misleading to consumers, since Johannisberg is a place of origin, and the wine does not come from Johannisberg. While they supported a “reasonable” phaseout period for U.S. winemakers, NABI suggested that a 10 year phase-out (the original three years provided by the final rule, plus the proposed seven year extension) was too long.

The NABI comment also supported ATF's original determination in 1996 to set a 3 year phase-out period, and the adequacy of ATF's notice to the wine industry on this issue. Finally, the NABI comment pointed out that German Riesling wines are not labeled as “Johannisberg Riesling” unless the wines were made from grapes grown in the geographic region of Johannisberg.

Coudert Brothers submitted a comment on behalf of the Deutscher Weinfonds (“DW”), a quasigovernmental authority in the Federal Republic of Germany. The comment opposed the proposed extension as unnecessary. Coudert Brothers reiterated that “Johannisberg Riesling” is not a correct varietal name, and that the term “Johannisberg” is instead a geographic term referencing a district in the Rheingau region of Germany where grapes have been grown for more than a thousand years.

The comment from Coudert Brothers supported the adequacy of ATF's notice on this issue, and suggested that since “Johannisberg Riesling” is not a brand name, the petitioners' analogies to the length of time needed to build consumer recognition of a new brand name were not appropriate.

Finally, the comment from Coudert Brothers noted that the petition had attached a letter in support of the proposed extension from Deutsches Weininstitut GmbH. Coudert Brothers asserted that Deutsches Weininstitut is an affiliate of DW, and that after a full review of the facts and history, Deutsches Weininstitut had reconsidered its statements in that letter and adopted the position of DW.

## **Conclusion**

After carefully considering the comments on this issue, ATF has decided to extend the phase-out period for an additional seven years. Accordingly, the term may be used on labels of American wines bottled prior to January 1, 2006. We believe that this period of time will allow wineries sufficient time to educate consumers regarding the name change, and to make necessary changes in the labeling, packaging, and merchandising of “Riesling” and “White Riesling” wines.

ATF's statutory mandate under the FAA Act is to regulate the use of terms on wine labels so as to ensure that consumers are not misled, but instead are adequately informed as to the identity of the wine. We stand behind the reasons set forth in T.D. ATF-370 for discontinuing the use of “Johannisberg Riesling” as a prime name for a grape variety. It is not the correct name for the variety, and there are two better names (“Riesling” and “White Riesling”) that are recognized throughout the world, and which do not contain the geographic reference “Johannisberg.”

Nonetheless, the vintners and grape growers affected by this decision have made a persuasive case that American consumers still associate the name “Johannisberg Riesling” with the true Riesling grape in the United States. American consumers may not



associate the term “Riesling,” standing by itself, with the wine that has been labeled for so many years as “Johannisberg Riesling.”

It is reasonable to allow the industry an additional seven years to educate consumers as to the true meaning of the “Riesling” and “White Riesling” varietal designations. By the end of this period, American consumers will have sufficient information about the product so that they will be able to make an educated choice once the labeling terminology changes.

Two commenters suggested that ATF should not further perpetuate the use of a misleading geographic term as a varietal name. While ATF agrees that the name “Johannisberg Riesling” should be phased out, it does not agree that its continued use for another seven years will mislead consumers. It should be noted that wines labeled with a varietal designation must also bear an appellation of origin. See 27 C.F.R. § 4.23(a). Thus, the labels for “Johannisberg Riesling” wines will clearly indicate the true geographic origin of the wines. Accordingly, we do not believe that this limited extension of the phase-out period will result in consumer confusion.

### **Traminette and Aglianico**

In Notice No. 871, ATF proposed to add the names “Traminette” and “Aglianico” to the list of approved prime names in § 4.91. As discussed in further detail in the notice, ATF was provided with sufficient evidence to satisfy the requirements under § 4.93. No comments were received regarding these varietal names. Accordingly, ATF is amending § 4.91 to include “Traminette” and “Aglianico” in the list of approved prime names for grape varieties.

### **Vernaccia and Counoise**

In Notice No. 871, ATF also sought additional comments regarding the inclusion of “Vernaccia” and “Counoise” as prime names in § 4.91. No comments were received on either of these names.

Millbrook Winery petitioned ATF for approval of “Vernaccia” as a prime name. Millbrook's petition stated that they obtained Vernaccia cuttings from the foundation Plants Materials Service at the University of California at Davis several years ago, and have cultivated this grape in their vineyards.

As we stated in Notice No. 871, the available literature indicates that the name “Vernaccia” is associated with several unrelated Italian grape varieties, including Vernacci di Oristano, Vernacci di San Gimignano, Vernaccia di Serrapetrona, and Vernaccia Trentina. These varieties include both green and black grapes, and are used in making distinctively different red, white, and sparkling wines.

It was unclear from the petition which “Vernaccia” grape was actually contained in the FPMS collection and grown in U.S. vineyards. Accordingly, ATF sought information on this issue in the notice of proposed rulemaking. However, no comments were submitted. In the absence of a positive identification as to which “Vernaccia” grape is being grown in the United States, the requirements of § 4.93 have not been met with respect to this name. Accordingly, ATF is not adding “Vernaccia” to the list of prime names in section 4.91.

Eberle Winery in Paso Robles, California, petitioned ATF to list “Counoise” in § 4.91. Although this is a well-documented red variety from the Rhone region of France, ATF had insufficient information to determine whether “Counoise” is suitable for wine production in the United States, or the extent to which “Counoise” may be grown domestically.

Accordingly, ATF solicited information on the domestic cultivation of the “Counoise” grape. No comments on this issue were received. Since the requirements of § 4.93 have not been met regarding this grape name, we are not amending § 4.91 to add the name “Counoise.”

### **Trousseau vs. Bastardo**

Section 4.91 currently lists Trousseau as a prime grape name while § 4.92 lists Bastardo as an alternative name for this grape variety which cannot be used for designating American wine bottled after January 1, 1997. Trousseau is a French name for the grape, while Bastardo is the Portuguese name. ATF was asked to reexamine whether the name Bastardo should be authorized as a synonym for Trousseau, or whether Bastardo should replace Trousseau as the prime grape name at § 4.91.

ATF received no comments on this issue. Accordingly, ATF sees no reason to overturn the decision made in T.D. ATF-370. Trousseau will remain the prime name for this grape.

### **Paperwork Reduction Act**

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

### **Regulatory Flexibility Act**

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will extend the phase-out period for the use of the term Johannisberg Riesling and it will permit the use of other grape varietal names. The regulation will not impose any recordkeeping or reporting requirements. Accordingly, a regulatory flexibility analysis is not required because this final rule does not (1) have significant secondary or incidental effects on a substantial number of small entities; or (2) I impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial entities.

### **Executive Order 12866**

It has been determined that this regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this final rule is not subject to the analysis required by this Executive Order.

## Drafting Information

The principal author of this document is Ms. Teri Byers, Regulations Division, Bureau of Alcohol, Tobacco and Firearms. However, other personnel within ATF and the Treasury Department participated in developing this document.

## List of Subject in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspections, Imports, Labeling, Packaging and containers, Wine.

## Authority and Issuance

Accordingly, 27 CFR Part 4, Labeling and Advertising of Wine, is amended as follows:

### PART 4 -- AMENDED

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

**Authority:** 27 U.S.C. 205.

**Par. 2.** Section 4.91 is amended by adding the names “Aglianico” and “Traminette,” in alphabetical order, to the list of prime grape names, to read as follows:

#### § 4.91 List of approved prime names.

The following grape variety names have been approved by the Director for use as type designations for American wines. When more than one name may be used to identify a single variety of grape, the synonym is shown in parentheses following the prime name. Grape variety names may appear on labels of wine in upper or in lower case, and may be spelled with or without the hyphens or diacritic marks indicated in the following list.

\* \* \*

#### Aglianico

\* \* \*

#### Traminette

\* \* \*

**Par. 3.** Section 4.92 is amended by removing the name “Johannisberg Riesling” from paragraph (b) and by adding a new paragraph (c), to read as follows:

**§ 4.92 Alternative names permitted for temporary use.**

(c) Wines bottled prior to January 1, 2006.

<u>Alternative Name</u>	<u>Prime Name</u>
<u>Johannisberg Riesling</u>	<u>Riesling</u>

Signed: July 22, 1999.

**John W. Magaw,**  
*Director*

Approved: August 13, 1999

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

[FR Doc. 99-23784 Filed 09-10-99; 8:45 am]

**SUBPART D – ADMINISTRATIVE**

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

**Technical Amendments**

**T.D. ATF-413**

**27 CFR Parts 24 and 252**

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** This final rule makes technical amendments and conforming changes to the wine and exportation of liquors regulations to provide clarity and uniformity.

**DATES:** Effective August 27, 1999.

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

**SUPPLEMENTARY INFORMATION:**

## **Background**

The Bureau of Alcohol, Tobacco and Firearms (ATF) administers regulations published in Title 27, Code of Federal Regulations. These regulations are updated April 1 of each year to incorporate new or revised regulations that were published by ATF in the Federal Register during the preceding year. ATF identified several amendments that are needed to provide clarity and uniformity to the regulations in 27 CFR.

These amendments do not make any substantive changes and are only intended to improve the clarity of title 27.

## **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 recordkeeping or reporting requirements.

## **Regulatory Flexibility Act**

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

## **Executive Order 12866**

This final rule is not subject to the requirements of Executive Order 12866 because the regulations make nonsubstantive technical corrections to previously published regulations.

## **Administrative Procedure Act**

Because this final rule merely makes technical corrections 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), or subject to the effective date limitation in section 553(d).

## **Drafting Information**

The author of this document is Nancy M. Kern, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

## **List of Subjects**

### *27 CFR Part 24*

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

27 CFR Part 252

Aircraft, Alcohol and alcoholic beverages, Armed forces, Authority delegations, Beer, Claims, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting requirements, Transportation, 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.

**Par. 2.** In Sec. 24.177, revise the fourth sentence to read as follows:

**§ 24.177 Chaptalization (Brix adjustment).**

\* \* \* If grape juice or grape wine is ameliorated after chaptalization, the quantity of pure dry sugar added to juice for chaptalization will be included as ameliorating material. \* \* \*

\* \* \* \* \*

**Par. 3.** In Sec. 24.180, revise the second sentence to read as follows:

**§ 24.180 Use of concentrated and unconcentrated fruit juice.**

\* \* \* Concentrated fruit juice reduced with water to any degree of Brix greater than 22 degrees Brix may be further reduced with water to any degree of Brix between its original density and 22 degrees Brix. \* \* \*

\* \* \* \* \*

**PART 252--EXPORTATION OF LIQUORS**

**Par. 4.** The authority citation for part 252 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

**Par. 5.** In Sec. 252.62, revise the second sentence of paragraph (c) to read as follows:

**§ 252.62 Bond, Form 2735 (5100.30).**

\* \* \* \* \*

(c) \* \* \* \* \* The exporter may reapportion the bond coverage, if changing conditions make this necessary, by filing a consent of surety, ATF Form 1533 (5000.18), for approval by the Director of Industry Operations (DIO).

\* \* \* \* \*

Signed: June 25, 1999.

**John W. Magaw,**  
*Director.*

Approved: June 12, 1999.

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

[FR Doc. 99-22290 Filed 8-26-99; 8:45 am]

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

**Rules of Practice in Permit Proceedings; Technical Amendments**

**T.D. ATF- 414**

**27 CFR Part 200**

**ACTION:** Final rule, Treasury decision

**SUMMARY:** This Treasury decision amends the provisions of 27 CFR part 200 to change the title designation “District Director” to “Director of Industry Operations (DIO)” wherever it appears, and to make other necessary conforming amendments. All such changes are to provide clarity and uniformity throughout Title 27 Code of Federal Regulations.

**EFFECTIVE DATE:** September 10, 1999.

**FOR FURTHER INFORMATION CONTACT:** Nancy M. Kern, Regulations Division, 650 Massachusetts Avenue, NW, Washington, DC 20226, (202-927-8210).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Bureau of Alcohol, Tobacco and Firearms (ATF) administers regulations published in Chapter 1 of Title 27 Code of Federal Regulations. ATF determined that the regulations in Part 200 should be revised to reflect the current ATF field structure reorganization, which established the positions of “Director of Industry Operations” for the respective ATF operating Field Divisions, and eliminated the positions of “District Directors” (formerly Regional Directors) for such districts.

These amendments do not make any substantive changes and are only intended to improve the clarity of Title 27.

**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 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**

This final rule is not subject to the requirements of Executive Order 12866 because the regulations make nonsubstantive technical amendments to previously published regulations.

**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), or with the 30-day delayed effective date under 5 U.S.C. 553(b).

**Drafting Information**

The principal author of this document is Nancy M. Kern, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.



**List of Subjects in 27 CFR 200**

Administrative practice and procedure, Authority delegations.

**Authority and Issuance**

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

**PART 200-RULES OF PRACTICE IN PERMIT PROCEEDINGS**

**Paragraph 1.** The authority citation for part 200 continues to read as follows:

**Authority:** 26 U.S.C. 7805, 27 U.S.C. 204.

**Part 200-[AMENDED]**

**Par. 2.** Section 200.5 is amended as follows:

a) By revising in alphabetical order, the terms, Attorney for the Government, Director of Industry Operations and Initial Decision.

b) By removing the term “District director” and by adding in alphabetical order, the term “Director of Industry Operations”.

The additional revision reads as follows:

**§ 200.5 Meaning of terms.**

\* \* \* \* \*

*Attorney for the Government.* The attorney in the appropriate office of Chief Counsel authorized to represent the Director of Industry Operations in the proceeding.

\* \* \* \* \*

*Director of Industry Operations.* The principal ATF official in a field operations division responsible for administering the regulations in this part.

\* \* \* \* \*

*Initial decision.* The decision of the Director of Industry Operations or administrative law judge in a proceeding on the suspension, revocation or annulment of a permit.

\* \* \* \* \*

**Par. 3.** Section 200.25 is amended by removing the words “Regional Director (compliance)” and by adding the words “Director of Industry Operations (DIO)” in place thereof. Section 200.25 is also amended by removing the words “district director” and by adding the words “director of industry operations” in place thereof.

\* \* \* \* \*

**Par. 4.** The following sections of part 200 are amended by removing the words “district director” each place they appear and adding, in place thereof, the words “director of industry operations”:

- (a) Section 200.27;
- (b) Section 200.29;
- (c) Section 200.31;
- (d) Section 200.35;
- (e) Section 200.36;
- (f) Section 200.37;
- (g) Section 200.38;
- (h) Section 200.45;
- (i) Section 200.46;
- (j) Section 200.48, introductory text;
- (k) Section 200.49;
- (l) Section 200.49a, introductory text;
- (m) Section 200.49b, introductory text and paragraph (b);
- (n) Section 200.55(a), introductory text;
- (o) Section 200.57;
- (p) Section 200.59;
- (q) Section 200.60(a), (b) and (c);
- (r) Section 200.61;
- (s) Section 200.62;
- (t) Section 200.64;
- (u) Section 200.65;
- (v) Section 200.70;
- (w) Section 200.71;
- (x) Section 200.72;
- (y) Section 200.73;
- (z) Section 200.75;
- (aa) Section 200.78;
- (bb) Section 200.79(b);
- (cc) Section 200.80;
- (dd) Section 200.85, introductory text;
- (ee) Section 200.105;
- (ff) Section 200.106(a);
- (gg) Section 200.107;
- (hh) Section 200.109;
- (ii) Section 200.110;
- (jj) Section 200.115;
- (kk) Section 200.116;
- (ll) Section 200.117;
- (mm) Section 200.126;
- (nn) Section 200.129.

**Par. 5.** In §200.95 remove the words “district directors” each place they appear and add, in place thereof, the words “directors of industry operations”.

**Par. 6.** Sections 200.107a, paragraph (3) and 200.108 are amended by removing the words “district director’s” each place they appear and adding the words “director of industry operations”.

**§ 200.27 [Amended]**

**Par. 7.** The section heading for § 200.27 is amended by removing the words “district director” and adding the words “director of industry operations” in place thereof.

**§ 200.107 [Amended]**

**Par. 8.** The undesignated heading that precedes § 200.107 is amended by removing the words “District Director” and adding the words “Director of Industry Operations” in place thereof.

**§ 200.107a [Amended]**

**Par. 9.** The section heading for § 200.107a is amended by removing the words “District Director’s” and adding the words “Director of Industry Operations” in place thereof.

Signed: July 29, 1999.

**John W. Magaw,**  
*Director*

Approved: August 17, 1999

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

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

**Delegation of Authority**

**T.D. ATF - 416**

**27 CFR Part 1**

**ACTION:** Treasury Decision, Final rule

**SUMMARY:** Authority delegation. This final rule places most ATF authorities contained in part 1, title 27 Code of Federal Regulations (CFR), with the “appropriate ATF officer” and requires that persons file documents required by part 1, 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 1130.6 is being published. Through this order, the Director has delegated most of the authorities in 27 CFR part 1 to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports that are not ATF forms are filed.

**DATES:** This rule is effective September 15, 1999

**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 part 1 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 1130.6, Delegation Order - Delegation of the Director's Authorities in Part 1, Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits, 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 1 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 1 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 1130.6. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule also makes three various technical amendments to Subpart A - Scope of 27 CFR part 1. First, a new section is added to recognize the authority of the Director to delegate regulatory authorities in part 1 and to identify ATF Order 1130.6 as the instrument reflecting such delegations. Second, §1.3 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed. Third, references to ATF Form 5100.18 are amended to remove its previous form number cited in parentheses.

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. 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 1**

Administrative practices and procedures, Alcohol and alcoholic beverages, Authority delegations, Imports, Liquors, Warehouses, and Wine.

### **Authority and Issuance**

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

### **PART 1--BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT, NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE, AND BULK SALES AND BOTTLING OF DISTILLED SPIRITS**

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

**Authority:** 27 U.S.C. 203, 204, 206, and 211 unless otherwise noted.

**Par. 2.** Section 1.3(a) is amended by removing the word "Director" and adding, in substitution, the phrase "appropriate ATF officer", and by adding a sentence at the end of paragraph (a) and paragraph (b) is revised to read as follows:

#### **§1.3 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. 3-4.** Redesignate §1.4 as §1.10.

**Par. 5.** A new §1.4 is added to Subpart A and reads as follows:

**§1.4 Delegations of the Director.**

Most of the regulatory authorities of the Director contained in this Part 1 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.6, Delegation Order - Delegation of the Director's Authorities in Part 1, Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits. ATF delegation orders, such as ATF Order 1130.6, 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/>).

**Par. 6.** Section 1.10 is amended by removing the definitions of "ATF officer" and "Regional director (compliance)", by revising the definitions of "Applicant" and "Basic permit", and by adding a new definition of "Appropriate ATF officer" to read as follows:

**§1.4 Meaning of terms.**

\* \* \* \* \*

*Applicant.* Any person who has filed an application for a basic permit under the Federal Alcohol Administration Act with the appropriate ATF officer.

*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 1130.6, Delegation Order - Delegation of the Director's Authorities in 27 CFR Part 1, Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits

\* \* \* \* \*

*Basic permit.* A document issued under the Act authorizing a person to engage in activities at a particular location.

\* \* \* \* \*

**§§ 1.24, 1.27, 1.31, 1.42, 1.50, 1.51, 1.52, and 1.55**

**Par. 7.** In part 1 remove the words "regional director (compliance)" each place it appears and add, in substitution, the words "appropriate ATF officer" in the following places:

- (a) Section 1.24 introductory text;
- (b) Section 1.27;
- (c) Section 1.31;
- (d) Section 1.42;
- (f) Section 1.50;
- (g) Section 1.51;
- (h) Section 1.52; and
- (i) Section 1.55.

**Par. 8.** Section 1.25 is revised to read as follows:

**§1.25 General.**

Applications for basic permits to engage in any of the operations set forth in §§1.20 to 1.22 must be made on ATF Form 5100.24, 5170.4 or 5100.18, verified as required by §1.56, and will be accompanied by such affidavits, documents, and other supporting data, as the appropriate ATF officer may require. The application will include all data, written statements, affidavits, documents, or other evidence submitted in support of the application, or upon a hearing.

**Par. 9.** Section 1.29 is revised to read as follows:

**§1.29 Individual plant or premises.**

An application for a basic permit must be filed, and permit issued, to cover each individual plant or premises where any of the businesses specified in section 103 of the Act is engaged in.

**Par. 10.** The last sentence of §1.30 is amended by removing the comma after "(1534)" and "in triplicate, and submitted to the regional director (compliance)" and by adding in its place a period.

**Par. 11.** Section 1.35 is revised to read as follows:

**§1.35 Authority to issue, amend, deny, suspend, revoke, or annul basic permits.**

The authority and power of issuing, amending, or denying basic permits, or amendments thereof, is conferred upon the appropriate ATF officer except as to agency initiated curtailment. The Director, upon consideration of appeals on petitions for review in part 200 of this chapter, may order the appropriate ATF officer to issue, deny, suspend, revoke, or annul basic permits.

**§§1.40, 1.41 Amended**

**Par. 12.** Part 1 is further amended by removing "(1643), with the regional director (compliance)," each place it appears in the following places:

- (a) Section 1.40; and
- (b) Section 1.41.



**Par. 13.** Section 1.56 is revised to read as follows:

**§1.56 Oaths and affirmations.**

A document must be verified by an oath or affirmation taken before a person authorized by the laws of the United States or by State or local law to administer oaths or affirmations in the jurisdiction where the document is executed when required by:

- (a) Regulation; or
- (b) An appropriate ATF officer.

**Par. 14.** Section 1.58 is amended by adding the word "appropriate" before the words "ATF officers."

**Par. 15.** The introductory text and paragraph (c) of §1.59 is amended by removing the words "regional director (compliance)" and "regional director's (compliance)" each place it appears and adding, in substitution, the words "appropriate ATF officer" and "appropriate ATF officer's", respectively.

Signed: July 7, 1999

**John W. Magaw,**  
*Director*

Approved: August 13, 1999

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

**ADMINISTRATIVE MATTERS – V**

**Subpart C — Treasury Department Orders and Delegation Orders**

**Delegation Order – Delegation of the Director’s Authorities in 27 CFR Part1, Basic Permit Requirements, Nonindustrial Use of Distilled Spirits and Wine, and Bulk Sales and Bottling of Distilled Spirits Under the Federal Alcohol Administration Act**

1. PURPOSE. This order delegates certain authorities of the Director to subordinate ATF officers and prescribes the subordinate ATF officers with whom persons file documents which are not ATF forms.
2. CANCELLATION. ATF O 1100.101A, Delegation Order - Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 1, Basic Permit Requirements Under the FAA Act, dated 9/17/84, is canceled.

3. BACKGROUND. Under current regulations, the Director has authority to take final action on matters relating to basic permit requirements, nonindustrial use of distilled spirits and wine, and bulk sales and bottling of distilled spirits under the Federal Alcohol Administration Act. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.
  
4. DELEGATIONS. Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Order No. 120-1 (formerly 221), dated June 6, 1972, and by 26 CFR 301.7701-9, this ATF order delegates certain authorities to take final action prescribed in 27 CFR Part 1 to subordinate officials. Also, this ATF order prescribes the subordinate officials with whom applications, notices, and reports required by 27 CFR Part 1, which are not ATF forms, are filed. The following table identifies the regulatory sections, authorities and documents to be filed, and the authorized ATF officials. The authorities in the table may not be redelegated. An ATF organization chart showing the directorates involved in this delegation order has been attached.

**John W. Magaw,**  
*Director*

Regulatory Section	Officer(s) Authorized to Act or Receive Document.
§1.3	Chief, Regulations Division
§1.24	Unit Supervisor, National Revenue Center (NRC), or Technical Section Supervisor to issue a permit or to amend a permit (by affixing the signature of the Director) upon the recommendation of the area supervisor for an application for a permit or a permit to wholesale or import other than in Puerto Rico.
§1.24	Section Chief, NRC, or Chief, Technical Services to issue a permit or to amend a permit (by affixing the signature of the Director) upon the recommendation of the area supervisor for an application a permit or a permit other than to wholesale or import other than in Puerto Rico.
§1.24	Chief, Puerto Rico Operations to issue a permit or to amend a permit (by affixing the signature of the Director) for an application for a permit or a permit in Puerto Rico.
§1.25	Area Supervisor, Chief, Puerto Rico Operations, Unit Supervisor, NRC, or Technical Section Supervisor
§1.27	Unit Supervisor, NRC, or Technical Section Supervisor for a permit or a permit to wholesale or import other than in Puerto Rico.
§1.27	Chief, Puerto Rico Operations for a permit in Puerto Rico.
§1.31	Director of Industry Operations
§1.35	Unit Supervisor, NRC, or Technical Section Supervisor to issue a permit or to amend a permit (by affixing the signature of the Director) upon the recommendation of the area supervisor for an application for a permit or a permit to wholesale or import other than in Puerto Rico.
§1.35	Section Chief, NRC, or Chief, Technical Services to issue a permit or to amend a permit (by affixing the signature of the Director) upon the recommendation of the area supervisor for an application a permit or a permit other than to wholesale or import and other than in Puerto Rico.
§1.35	Chief, Puerto Rico Operations to issue a permit or to amend a permit (by affixing the signature of the Director) for an application for a permit or a permit in Puerto Rico.
§1.35	Director of Industry Operations to deny an application for a permit or to suspend, revoke or annul a permit.
§1.42	Unit Supervisor, NRC, or Technical Section Supervisor for a permit other than in Puerto Rico for filing notice.
§1.42	Chief, Puerto Rico Operations, for a permit in Puerto Rico for filing notice.
§1.42	Area Supervisor, Chief, Puerto Rico Operations, Unit Supervisor, NRC, or Technical Section Supervisor to require supplemental data.
§1.50	Director of Industry Operations
§1.51	Director of Industry Operations
§1.52	Area Supervisor or Chief, Puerto Rico Operations
§1.55	Area Supervisor, Chief, Puerto Rico Operations, Unit Supervisor, NRC, or Technical Section Supervisor
§1.56(b)	Director of Industry Operations
§1.58	Inspector, Specialist or Special Agent
§1.59	Section Chief, NRC, Chief, Technical Services, or Chief, Puerto Rico Operations



## Announcements – VI

### Announcement 99-9

#### Major Disaster Areas Proclaimed by the President

The President has determined that certain areas of the United States were adversely affected by disasters of sufficient magnitude to warrant Federal assistance under the Disaster Relief Act of 1974. The specific areas adversely affected as identified by the Administrator, Federal Emergency Management Agency (FEMA) are listed below.

Persons in the affected areas holding for sale alcoholic beverages, cigars, cigarettes, or cigarette papers or tubes, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of these disasters, may be paid an amount equal to the internal revenue taxes and customs duties paid on such products, as provided in 26 U.S.C. 564 and 5708. Claims for such payments should be filed with the Director of Industry Operations, Bureau of Alcohol, Tobacco and Firearms, for the ATF district in which the alcoholic beverages, cigarettes, etc., were held for sale. Claims may be allowed only if filed within six months after the date the FEMA identifies the specific disaster area.

#### **COLORADO 1276**

Type of Disaster:

Counties:

June 22, 1999

Severe storms and flooding

Bent, El Paso, Larimer, Otero,  
Pueblo, Weld

#### **ILLINOIS 1278**

Type of Disaster:

Counties:

June 22, 1999

Severe storms and flash flooding

Jo Daviess

#### **IOWA 1277**

Type of Disaster:

Counties:

June 22, 1999

Severe storms, flooding and  
tornadoes

Black Hawk, Bremer, Buchanan,  
Butler, Chickasaw, Clayton, Clinton,  
Delaware, Dubuque, Fayette,  
Harrison, Jones, Linn, Montgomery,  
Scott

#### **IOWA 1282**

Type of Disaster:

Counties:

August 11, 1999

Severe storms and flooding

Black Hawk, Bremer, Buchanan,  
Butler, Cerro Gordo, Chickasaw,  
Floyd, Harrison, Jones, Mills,  
Pottawattamie, Woodbury, Worth

**MINNESOTA 1283**

Type of Disaster:

Counties:

August 31, 1999

Severe storms, winds and flooding  
Aitkin, Beltrami, Cass, Clay, Cook,  
Hubbard, Itasca, Lake, St. Louis

**MINNESOTA 1288**

Type of Disaster:

Counties:

September 8, 1999

Severe ice storms, flooding and  
heavy rains  
Kittson, Marshall, Pennington, Polk,  
Red Lake, Roseau

**NEBRASKA 1286**

Type of Disaster:

Counties:

September 13, 1999

Severe storms and flooding  
Burt, Douglas, Washington

**NEVADA 1281**

Type of Disaster:

Counties:

August 11, 1999

Severe storms and flash flooding  
Clark

**NORTH DAKOTA 1279**

Type of Disaster:

Counties:

Indian Reservations of:

July 12, 1999

Severe storms, flooding, snow and  
ice, ground saturation, landslides,  
mudslides and tornadoes  
Barnes, Benson, Bottineau, Burke,  
Burleigh, Cass, Cavalier, Dickey,  
Divide, Eddy, Emmons, Foster,  
Grand Forks, Griggs, Kidder,  
LaMoure, Logan, McHenry,  
McIntosh, McLean, Morton,  
Mountrail, Nelson, Pembina, Pierce,  
Ramsey, Ransom, Renville,  
Richland, Rolette, Sargent, Sheridan,  
Sioux, Steele, Stutsman, Towner,  
Traill, Walsh, Ward, Wells, Williams  
The Spirit Lake Tribe, Three  
Affiliated Tribes, Turtle Mountain  
Band of Chippewa, Standing Rock  
Sioux (that portion which lies within  
North Dakota)

**SOUTH DAKOTA 1280**

Type of Disaster:

Indian Reservation:

July 12, 1999

Severe storms, flooding and  
tornadoes  
Pine Ridge

**TEXAS 1287**

Type of Disaster:

Counties:

September 13, 1999

Severe storms and flooding

Aransas, Brooks, Cameron, Duvall,  
Hidalgo, Jim Wells, Kennedy,  
Kleberg, Nueces, San Patricio,  
Webb, Willacy

**UTAH 1285**

Type of Disaster:

Counties:

September 13, 1999

Tornado, severe thunderstorms and  
hail

Salt Lake

**WISCONSIN 1284**

Type of Disaster:

Counties:

September 13, 1999

Severe storms, straight-line winds  
and flooding

Ashland, Bayfield, Douglas,  
Florence, Iron, Oneida, Price, Rusk,  
Sawyer, Vilas

**Amendments to Previously Declared Disasters**

**FLORIDA 3139**

Counties:

Amendment

Clay, Duval, Nassau

**MISSOURI 1270**

Counties:

Amendment

Cole

**OKLAHOMA 1272**

Counties:

Amendment

Latimer

**TENNESSEE 1262**

Counties:

Amendment

Franklin

**TEXAS 1274**

Counties:

Amendment

Gregg, Titus

**Announcement 99-10**

**Unlawful Transportation, Shipment, or Sale of Cigarettes and Domestic Sale of Cigarette Labeled for Export**

On June 16, 1999, the Director signed Industry Circular No. 99-2. It read as follows:

TO: Manufacturers of Cigarettes, Importers, Export Warehouse Proprietors and Other Persons Who Purchase and Sell Cigarettes

**PURPOSE:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing this circular to remind all persons of the Federal laws (and penalties) applying to the shipment, sale or possession of cigarettes and to the domestic sales of cigarettes marked for export. Additionally, this circular briefly addresses the sale of cigarettes on Native American tribal reservations.

**BACKGROUND:** Every State imposes some tax on the sale of cigarettes. The liability for these taxes generally arises once the cigarettes enter the jurisdiction of the State. The vast majority of States requires a "tax stamp or imprint" to be placed on packages of cigarettes to demonstrate that the State tax has been paid. Wholesale distributors in the various States are generally responsible for the payment of the State tax and for affixing the tax stamp or imprint.

Recognizing that the range in State cigarette taxes creates a potential for interstate trafficking in cigarettes to avoid State tax, Congress has enacted Federal laws to help ensure the State cigarette taxes are paid. These Federal laws make it unlawful to traffic in cigarettes to avoid State cigarette taxes. Moreover, these laws impose certain record keeping and reporting requirements on persons who ship cigarettes in interstate commerce. Violations of these Federal laws can result in the imposition of a prison term, a monetary fine, or both. These laws are discussed in detail below to ensure that people who are engaged in the interstate sale or shipment of cigarettes are familiar with these requirements. ATF has encountered a number of situations in which cigarettes are being sold or shipped in violation of these Federal laws.

In addition, ATF has received several inquiries regarding the legality of the domestic sale of cigarettes bearing the export mark "U.S. tax exempt for use outside the U.S." Such sales are governed by Federal law. Violations of these Federal laws can result in the imposition of a Federal prison term, a mandatory fine, or both. These laws are discussed in detail below to ensure that people who engage in the domestic sale of cigarettes marked for export are familiar with these requirements.

### **CONTRABAND CIGARETTE TRAFFICKING ACT**

The Contraband Cigarette Trafficking Act, which can be found at title 18, United States Code, chapter 114, makes it unlawful for any person, other than an "exempt person," to ship, transport, receive, possess, sell, distribute, or purchase "contraband cigarettes." "Contraband cigarettes" are defined as a quantity of more than 60,000 cigarettes that bear no evidence of the payment of any State cigarette tax imposed by the State where such cigarettes are found. The Contraband Cigarette Trafficking Act applies only to cigarettes found in States that require a stamp or other indicia to be placed on cigarette packages to evidence payment of the tax.

The following persons are "exempt persons" under the Contraband Cigarette Trafficking Act:



- \* Any person who holds a Federal permit as a manufacturer of tobacco products or as an export warehouse proprietor.
- \* Any person operating a customs bonded warehouse under the authority of Federal law.
- \* Any person who is an agent of a tobacco product manufacturer, an export warehouse proprietor, or a customs bonded warehouse.
- \* Any person who is a common or contract carrier transporting cigarettes under a proper bill of lading or freight bills which states the quantity, source, and destination of the cigarettes.
- \* Any person licensed or otherwise authorized by the State in which the person possesses the cigarettes, to account for and pay the cigarette taxes imposed by that State, so long as that person is complying with the accounting and payment requirements relating to his or her license or authorization.
- \* Any person who is an agent of the United States, an individual State, or a political subdivision of a State who possesses, ships or receives the cigarettes in connection with the performance of his or her official duties.
- \* Any person operating within a foreign trade zone, established under Federal law, when the cigarettes in question have entered the zone under zone-restricted status. The same exemption applies with respect to foreign imported cigarettes that have been admitted into the zone but have not entered the United States.

The Contraband Cigarette Trafficking Act also requires persons who ship, sell, or distribute more than 60,000 cigarettes in a single transaction to keep certain records about the shipment, receipt, sale, and distribution of such cigarettes. Any person who distributes more than 60,000 cigarettes in a single transaction is required to keep copies of invoices, bills of lading, or other suitable commercial records relating to each distribution of 60,000 cigarettes or more. Dividing a single agreement for the disposition of more than 60,000 cigarettes into multiple deliveries or shipments of smaller components of 60,000 cigarettes or less does not exempt the person from keeping these records.

When an *exempt person/distributor* distributes more than 60,000 cigarettes to another exempt person, **OR**

When an *exempt person/distributor* distributes more than 60,000 cigarettes to a non-exempt person, but **only** where the exempt person/distributor delivers the cigarettes to the non-exempt person's place of business, the distributor's dated commercial records must contain the following information:

- o The full name of the purchaser (or recipient if there is no purchaser)

- o The street address (including city and state) where the cigarettes are destined
- o The quantity of cigarettes distributed

In all other cases where a distributor (exempt or non-exempt person) distributes more than 60,000 cigarettes, the distributor's dated commercial records must show the following:

- o The full name of the purchaser (if any)
- o The name, address (including city and state), and signature of the person receiving the cigarettes
- o The street address (including city and state) where the cigarettes are destined
- o The quantity of cigarettes distributed
- o The driver's license number of the individual receiving the cigarettes
- o The license number of the vehicle in which the cigarettes are removed from the distributor's business premises
- o A declaration by the individual receiving the cigarettes of the specific purpose of receipt (such as personal use, resale, delivery to another person, etc.)
- o A declaration by the person receiving the cigarettes of the name and address of his or her principal when acting as an agent

These dated commercial records must be kept on the business premises of the distributor. Generally, distributors must keep these records for three years following the close of the year in which the records were made. The ATF regulations on the Contraband Cigarette Trafficking Act are found at title 27, Code of Federal Regulations, sections 296.141 to 296.155.

A violation of the Contraband Cigarette Trafficking Act, including failure to keep the required records, is a Federal felony. Conviction of these crimes can result in a Federal prison term, a monetary fine, or both. Moreover, persons who aid and abet violations of the Contraband Cigarette Trafficking Act, or persons who conspire with others to violate the Contraband Cigarette Trafficking Act can be imprisoned and/or fined as well. The Federal aiding and abetting statute can be found at title 18, United States Code, section 2 and the Federal conspiracy statute can be found at title 18, United States Code, section 371.

## **JENKINS ACT**

The Jenkins Act, which can be found at title 15, United States Code, section 375, applies to certain persons who sell cigarettes or advertise the sale of cigarettes in interstate commerce, including mail order sales and advertisements for such sales. Any person who advertises cigarettes for sale (including on the Internet) or who ships cigarettes into a State to any person other than a cigarette distributor licensed by the State must file a statement with the tobacco tax administrator of that State. The statement must list the seller's name, trade name (if any), and address of all business locations.

The Jenkins Act also requires a person who ships cigarettes into a State to any person (other than a person licensed by that State as a wholesale or retail distributor) to report these sales to the tobacco tax administrator. This report must be filed no later than the 10th calendar day of the month and must contain the following information for shipments made into that State during the previous month:

- o The name and address of the person to whom the shipments were made
- o The brand of cigarettes shipped
- o The quantity of cigarettes shipped

Copies of commercial records can be utilized for this report, so long as the commercial record contains all of the necessary information. This report is not required if the shipment is made to a person who is a licensed wholesale or retail distributor in the State into which the cigarettes are shipped.

A violation of the Jenkins Act can result in a Federal prison term, a monetary fine, or both.

## **DOMESTIC SALE OF CIGARETTES MARKED FOR EXPORT**

The Internal Revenue Code of 1986, title 26, United States Code, section 5701 imposes a Federal excise tax on tobacco products manufactured or imported into the United States. This tax does not apply to exported products. Packages of exported products must be marked for export to differentiate them from packages intended for domestic sale. ATF regulations currently permit the re-importation and sale of packages of products marked for export so long as the Federal excise tax and applicable Customs duties are paid when the cigarettes are re-imported.

The Internal Revenue Code has been amended to restrict the re-importation of exported tobacco products. These amendments only permit the re-importation of tobacco products to a Federally licensed manufacturer or a Federally licensed export warehouse proprietor. Tobacco products re-imported to a manufacturer will have to be repackaged to remove the exportation markings before being sold on the domestic market. Tobacco products re-

imported to an export warehouse proprietor can only be exported again or transferred to a tobacco product manufacturer. As a result these amendments will make it unlawful to sell tobacco products marked for export on the U.S. domestic market. These amendments become effective January 1, 2000.

Violations of these provisions can be prosecuted as Federal felonies. Convictions can result in a Federal prison term, a monetary fine, or both. In addition, persons who possess Federally untaxed tobacco products can be assessed the full amount of tax due, plus applicable interest and penalties.

### **SALES/PURCHASES INVOLVING NATIVE AMERICAN RESERVATIONS**

ATF has recently received several inquiries about cigarette sales and purchases that involve Native American reservations. Sales or shipments of cigarettes from Native American Reservations are not exempt from the requirements of the Contraband Cigarette Trafficking Act and the Jenkins Act. Additionally, the application of State taxes and regulatory requirements to sales made on Native American reservations varies depending on the transaction. Accordingly, anytime you engage in transactions involving a Native American Reservation, ATF recommends that you contact your State tobacco tax administrator to determine the extent of your liability for State tobacco tax.

### **STATE TOBACCO TAX ADMINISTRATORS**

Enclosed with this circular is a listing of State tobacco tax contacts. ATF encourages you to contact those offices if you have any question relating to potential liability for State cigarette taxes, record keeping or reporting requirements.

Alabama (334) 242-9600	Louisiana (504) 925-7652	Oklahoma (405) 521-4104
Alaska (907) 465-3691	Maine (207) 287-4755	Ontario (905) 433-6335
Arizona (602) 542-4023	Maryland (410) 974-5388	Oregon (503) 945-8117
Arkansas (501) 682-7187	Massachusetts (617) 887-5090	Pennsylvania (717) 783-4649
California (916) 327-3276	Michigan (517) 322-6303	Rhode Island (401) 277-6260
Colorado (303) 866-2381	Minnesota (800) 657-3618	South Carolina (803) 737-4867

Connecticut  
(860) 297-5891

Mississippi  
(601) 359-1137

South Dakota  
(605) 773-3311

Delaware  
(302) 577-3300

Missouri  
(573) 751-3804

Tennessee  
(615) 741-2679

District of Columbia  
(202) 727-6070

Montana  
(406) 444-1930

Texas  
(512) 463-3869

Florida  
(904) 488-3227

Nebraska  
(402) 471-5676

Utah  
(801) 297-4671

Georgia  
(404) 656-4252

Nevada  
(702) 687-6483

Vermont  
(802) 828-2310

Hawaii  
(808) 587-1622

New Hampshire  
(603) 271-3701

Virginia  
(703) 591-9222

Idaho  
(208) 334-7602

New Jersey  
(609) 984-1225

Washington  
(360) 753-3226

Illinois  
(312) 814-1750

New Mexico  
(505) 827-0762

West Virginia  
(304) 558-8516

Indiana  
(317) 232-2199

New York  
(518) 457-0432

Wisconsin  
(608) 266-2479

Iowa  
(515) 281-8023

North Carolina  
(919) 733-1352

Wyoming  
(307) 777-5293

Kansas  
(913) 296-2461

North Dakota  
(701) 328-3471

Kentucky  
(502) 564-5440

Ohio  
(614) 466-6939

QUESTIONS. If you have any questions or comments in connection with this industry circular, please do not hesitate to contact ATF's Diversion Branch at 202-927-3580.

**Arthur J. Libertucci,**  
*Assistant Director*  
*(Alcohol and Tobacco)*

## **Announcement 99-11**

### **Year 2000 Advisory for Payment of Taxes**

On August 19, 1999, the Director signed Industry Circular No. 99-3. It read as follows:

**TO:** Proprietors of Distilled Spirits Plants, Bonded Wineries, Breweries, Tobacco Products Manufacturers, Cigarette Papers and Tubes Manufacturers, Firearms and Ammunition Manufacturers and Others Concerned

**PURPOSE:** The purpose of this circular is to alert all persons who pay excise tax that they are subject to penalties and interest for any late payment of such taxes, and that the year 2000 (Y2K) may present obstacles that could cause tax payments to be late unless precautions are taken.

**BACKGROUND:** Around January 1, 2000, most computer software and hardware is at risk for error or failure, due to inherent inability to calculate dates or to perform date-related functions. Some computer operating systems and software applications were originally programmed to recognize only the last two digits of a year. As a result, some systems may fail or provide inaccurate calculations if they interpret 00 as 1900 instead of 2000. The failure of systems could have a devastating impact on the ability to conduct business. This is the single largest problem to affect the information technology industry. There are several other dates related to or near the start of year 2000 that may also cause problems. Some known examples of other dates that may cause computer problems are 9/9/99, 12/31/99 and 2/29/2000.

Taxpayers who pay by any type of electronic funds transfer are particularly at risk of incurring a late tax payment because of Y2K errors.

**ADVISORY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is emphasizing that reasonable business care and prudence should be exercised to assure that tax due is paid on time. All taxpayers should make a reasonable effort to determine if their tax payments will transfer timely and properly. If the payment is not on time, 26 U.S.C. 6651(a)(2) provides for a penalty for failure to pay the amount shown as tax on a return on or before the date prescribed for payment of such tax. Section 6656(a) provides a penalty for failure to make timely deposits of taxes. Both of these sections specifically provide that penalties shall be imposed, unless it is shown that the failure to make a timely deposit or payment of tax is due to reasonable cause and not due to willful neglect.

**Taxpayers who are required to pay electronically:** Taxpayers who are liable during any calendar year for \$5 million or more in excise taxes imposed on distilled spirits, wines, beer, or tobacco products are required to pay such taxes during the following year by electronic funds transfer (EFT). The taxpayer's financial institution, either directly or through a correspondent bank, must use either the Fedwire Deposit System (FDS) or the Automated Clearing House (ACH) system. These systems require that the financial institution transmit the EFT payment to a district Federal Reserve Bank (FRB). The industry member is responsible for ensuring that the deposit was made to the FRB.

Industry members who are required to pay by EFT are responsible for ensuring that their banks are Y2K compliant with the FRB, and for determining alternate backups to insure payment by EFT. Industry members should make sure they receive notification from the bank that the funds transfer has gone through on time, or verify the transfer with the bank prior to the close of the day that the tax payment was due. The industry member must exercise ordinary business care and prudence in making contingency plans that include arrangements for the timely tax payment to be made through an alternate system, in the event of a computer that obstructs a particular transfer by EFT.

An industry member who is required to pay by EFT but discovers that it will not be able to pay by EFT may consider paying by check. This will avoid the penalties and interest incurred for late payment if the check is postmarked or received on or before the due date. However, the penalties for failure to timely deposit will still be applicable. Penalties will be assessed for failure to deposit if payments are made through the lockbox (i.e. by paper check), unless the industry member can demonstrate that it exercised ordinary business care and prudence in making contingency plans to pay by either FedWire or ACH. Interest will be assessed for late payments.

Taxpayers who are not required to pay by EFT: Taxpayers may pay their excise taxes by check or money order, or may voluntarily pay by EFT.

Any taxpayer that pays by EFT would be subject to the penalties and interest for late payment if the payment was late due to Y2K problems. However, if they are not required to pay by EFT they would not be subject to the failure to deposit penalties.

Taxpayers who pay by check or money order are responsible for sending their tax payment (e.g., paper check) and tax return to ATF's lockbox address. The industry member must have the mail postmarked or the payment received on or before the due date. The industry member may obtain proof of mailing from the U.S. Post Office to assure that the payment was on time.

Industry Contingency Planning for Internal Systems: Industry members are responsible for ensuring that their internal systems for calculating the amount of excise tax owed are Y2K compliant. Industry members are responsible for developing contingency plans for calculating the amount of excise tax owed if their internal systems fail to be Y2K compliant.

If an industry member's internal system fails because of Y2K problems and the amount of tax can not be calculated, an estimated payment may be made to minimize interest on the late payment. Interest will be owed on estimated payments that are less than the full tax owed. Abatement of penalties will be based on the ordinary business care and prudence exhibited by the industry member in ensuring that its internal systems are Y2K compliant.

The industry member should also be aware that provisions must be made for maintaining all other required records beyond those of the tax records.

Interest and Penalties: There is no provision in the law for forgiving interest when a payment is not timely paid. Unless specific emergency provisions are activated by law interest will be due regardless of the reason for the late payment or underpayment (in the case of estimated tax payment).

Failure to pay and failure to make timely deposit penalties can be waived if reasonable cause can be shown to explain why the payments were late. Reasonable cause will be found only if the taxpayer exercised ordinary business care and prudence in providing for payment, and was nevertheless unable to pay the tax on the due date. Reasonable cause determinations will be made on a case by case basis in light of the facts of the particular situation.

For example, an industry member may be found to have reasonable cause if: (1) it took all precautions such as obtaining a written confirmation from the bank that it was fully Y2k compliant, or Y2K ready, and tests had been done to confirm the readiness; (2) both primary and backup systems failed; (3) internal systems failed despite proven efforts previously made to make it compliant; and (4) the industry member did not wait until the last moment to attempt to make the payment arrangements.

Emergency Provisions: If the President declares a national or local emergency due to Y2K failures, ATF will abate penalties and interest on late payments, within the parameters of the emergency situation.

If there are widespread failures that cause another authority (e.g., Governor, Mayor) to declare a state or local emergency, ATF will take that fact into consideration and may abate the penalties, within the parameters of the emergency situation. An example of an emergency that would be declared locally is if an entire town's electrical power failed due to Y2K problems.

Intervening Laws: To the extent that any laws pertaining to failures arising from Y2K problems apply and differ from this Industry Circular, ATF will abide by such laws. ATF considers compliance with the procedures in this Industry Circular to be consistent with the Y2K Act, Public Law 106-37.

Dates that have a higher risk of interrupting timely Payment: Industry members may wish to pay particular attention to these dates in their Y2K planning efforts.

The first excise tax payment in year 2000 is due January 14, 2000. This payment is for taxable removals made during the period of December 16 through 31, 1999.

The tax payment for removals during the period of January 1 through 15, 2000 is due January 28, 2000.



The tax payment for removals made during any part of September, 1999, or any tax payment due in the later part of September, 1999, is at risk. The Y2K problem is further complicated by 26 U.S.C. 5061(d)(4), "Special rule for tax due in September" which specifies different periods and payment dates in September.

The tax payment for removals during the period of February 1 through 15, 2000 is due February 29, 2000, a leap year.

The dates above are not all inclusive. The Y2K problems and risks have already been encountered and are expected to continue through the year 2001.

World Wide Web Connections:

Federal Financial Institutions Examination Council (FFIEC), regulating agency for banks, has guidelines on Y2K self certification for banks. <http://www.ffiec.gov/>

Small Business Administration has a website to assist small businesses on Y2K issues. <http://www.sba.gov/y2k/>

ATF's website will update policy guidance on emerging issues dealing with Y2K issues. <http://atf.treas.gov/y2k/index.htm>

ATF's Y2K Efforts: The Bureau of Alcohol, Tobacco & Firearms (ATF) relies heavily on automated systems to accomplish its regulatory and enforcement business processes. Consequently, a Year 2000 (Y2K) Program was established to ensure a smooth transition into the new millennium. ATF's Y2K Program is a series of Automated Data Processing (ADP) support services and hardware and software repair and replacement actions. The program is designed to insure that our Information Technology (IT) and Non-Information Technology systems are compliant prior to January 1, 2000. It will also provide executable Continuity of Operations Plans in the event that compliance is not possible.

We have established an initiative to maintain communication called Outreach. Our intent is to reach out to our revenue and data exchange partners to get an understanding of their Y2K activities, concerns and ability to meet their regulatory obligations. As part of the Outreach program ATF has already talked with industry groups about the Y2K problems.

Point of Contact: The point of contact for Y2K problems concerning tax return and payment is the Revenue Division, Phone 202 927-8200. Taxpayers who will not be able to timely file or pay taxes should contact ATF as soon as they know there is a problem so that ATF can work with the taxpayer to minimize the impact.

INQUIRIES: Inquiries concerning this circular should refer to its number and be addressed to the Assistant Director (Alcohol and Tobacco), Bureau of Alcohol, Tobacco and Firearms, Washington DC, 20226.

**John W. Magaw,**

*Director*

## **Announcement 99-12**

On Tuesday, September 14, 1999, the Bureau of Alcohol, Tobacco and Firearms published in the Federal Register, Notice No. 880, Commerce in Explosives; List of Explosive Materials. It read as follows:

**[Notice No. 880]**

### **Commerce in Explosives; List of Explosive Materials**

Pursuant to the provisions of section 841(d) of title 18, U.S.C., and 27 CFR 55.23, the Director, Bureau of Alcohol, Tobacco and Firearms, must revise and publish in the Federal Register at least annually a list of explosives determined to be within the coverage of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials. This chapter covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in section 841(c) of title 18, U.S.C. Accordingly, the following is the 1999 List of Explosive Materials subject to regulation under 18 U.S.C. Chapter 40; it includes both the list of explosives (including detonators) required to be published in the Federal Register and blasting agents.

The list is intended to include any and all mixtures containing any of the materials on the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is not all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in section 841 of title 18, U.S.C. Explosive materials are listed alphabetically by their common names, followed by chemical names and synonyms in brackets.

This revised list supersedes the List of Explosive Materials dated May 1, 1998 (Notice No. 360; 63 FR 24207) and will be effective as of the date of publication in the Federal Register.

### **List of Explosive Materials**

#### **A**

Acetylides of heavy metals.

Aluminum containing polymeric propellant.

Aluminum ophorite explosive.

Amatex.

Amatol.

Ammonal.

Ammonium nitrate explosive mixtures (cap sensitive).

\*Ammonium nitrate explosive mixtures (non cap sensitive).

Aromatic nitro-compound explosive mixtures.

Ammonium perchlorate explosive mixtures.  
Ammonium perchlorate composite propellant.  
Ammonium picrate [picrate of ammonia, Explosive D] .  
Ammonium salt lattice with isomorphously substituted inorganic salts.  
\*ANFO [ammonium nitrate-fuel oil].

## **B**

Baratol.  
Baronol.  
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].  
Black powder.  
Black powder based explosive mixtures.  
\*Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water gel explosives.  
Blasting caps.  
Blasting gelatin.  
Blasting powder.  
BTNEC [bis (trinitroethyl) carbonate].  
Bulk salutes.  
BTNEN [bis (trinitroethyl) nitramine].  
BTTN [1,2,4 butanetriol trinitrate].  
Butyl tetryl.

## **C**

Calcium nitrate explosive mixture.  
Cellulose hexanitrate explosive mixture.  
Chlorate explosive mixtures.  
Composition A and variations.  
Composition B and variations.  
Composition C and variations.  
Copper acetylide.  
Cyanuric triazide.  
Cyclotrimethylenetrinitramine [RDX].  
Cyclotetramethylenetetranitramine [HMX].  
Cyclonite [RDX].  
Cyclotol.

## **D**

DATB [diaminotrinitrobenzene].  
DDNP [diazodinitrophenol].  
DEGDN [diethyleneglycol dinitrate].  
Detonating cord.  
Detonators.

Dimethylol dimethyl methane dinitrate composition.  
Dinitroethyleneurea.  
Dinitroglycerine [glycerol dinitrate].  
Dinitrophenol.  
Dinitrophenolates.  
Dinitrophenyl hydrazine.  
Dinitroresorcinol.  
Dinitrotoluene-sodium nitrate explosive mixtures.  
DIPAM.  
Dipicryl sulfone.  
Dipicrylamine.  
Display fireworks.  
DNPD [dinitropentano nitrile].  
DNPA [2,2-dinitropropyl acrylate].  
Dynamite.

## **E**

EDDN [ethylene diamine dinitrate].  
EDNA.  
Ednatol.  
EDNP [ethyl 4,4-dinitropentanoate].  
Erythritol tetranitrate explosives.  
Esters of nitro-substituted alcohols.  
EGDN [ethylene glycol dinitrate].  
Ethyl-tetryl.  
Explosive conitrates.  
Explosive gelatins.  
Explosive mixtures containing oxygen-releasing inorganic salts and hydrocarbons.  
Explosive mixtures containing oxygen-releasing inorganic salts and nitro bodies.  
Explosive mixtures containing oxygen-releasing inorganic salts and water insoluble fuels.  
Explosive mixtures containing oxygen-releasing inorganic salts and water soluble fuels.  
Explosive mixtures containing sensitized nitromethane.  
Explosive mixtures containing tetranitromethane (nitroform).  
Explosive nitro compounds of aromatic hydrocarbons.  
Explosive organic nitrate mixtures.  
Explosive liquids.  
Explosive powders.

## **F**

Flash powder.  
Fulminate of mercury.  
Fulminate of silver.  
Fulminating gold.  
Fulminating mercury.

Fulminating platinum.  
Fulminating silver.

## **G**

Gelatinized nitrocellulose.  
Gem-dinitro aliphatic explosive mixtures.  
Guanyl nitrosamino guanyl tetrazene.  
Guanyl nitrosamino guanylidene hydrazine.  
Guncotton.

## **H**

Heavy metal azides.  
Hexanite.  
Hexanitrodiphenylamine.  
Hexanitrostilbene.  
Hexogen (RDX).  
Hexogene or octogene and a nitrated N-methylaniline.  
Hexolites.  
HMX [cyclo-1,3,5,7-tetramethylene 2,4,6,8- tetranitramine; Octogen].  
Hydrazinium nitrate/hydrazine/ aluminum explosive system.  
Hydrazoic acid.

## **I**

Igniter cord.  
Igniters.  
Initiating tube systems.

## **K**

KDNBF [potassium dinitrobenzo-furoxane].

## **L**

Lead azide.  
Lead mannite.  
Lead mononitroresorcinate.  
Lead picrate.  
Lead salts, explosive.  
Lead styphnate [styphnate of lead, lead trinitroresorcinate].  
Liquid nitrated polyol and trimethylolethane.  
Liquid oxygen explosives.

## M

Magnesium ophorite explosives.  
Mannitol hexanitrate.  
MDNP [methyl 4,4-dinitropentanoate].  
MEAN [monoethanolamine nitrate].  
Mercuric fulminate.  
Mercury oxalate.  
Mercury tartrate.  
Metriol trinitrate.  
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].  
MMAN [monomethylamine nitrate]; methylamine nitrate.  
Mononitrotoluene-nitroglycerin mixture.  
Monopropellants.

## N

NIBTN [nitroisobutametrial trinitrate].  
Nitrate sensitized with gelled nitroparaffin.  
Nitrated carbohydrate explosive.  
Nitrated glucoside explosive.  
Nitrated polyhydric alcohol explosives.  
Nitrates of soda explosive mixtures.  
Nitric acid and a nitro aromatic compound explosive.  
Nitric acid and carboxylic fuel explosive.  
Nitric acid explosive mixtures.  
Nitro aromatic explosive mixtures.  
Nitro compounds of furane explosive mixtures.  
Nitrocellulose explosive.  
Nitroderivative of urea explosive mixture.  
Nitrogelatin explosive.  
Nitrogen trichloride.  
Nitrogen tri-iodide.  
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].  
Nitroglycide.  
Nitroglycol (ethylene glycol dinitrate, EGDN).  
Nitroguanidine explosives.  
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.  
Nitronium perchlorate propellant mixtures.  
Nitrostarch.  
Nitro-substituted carboxylic acids.  
Nitrourea.

## O

Octogen [HMX].

Octol [75 percent HMX, 25 percent TNT].  
Organic amine nitrates.  
Organic nitramines.

## **P**

PBX [RDX and plasticizer].  
Pellet powder.  
Penthrinite composition.  
Pentolite.  
Perchlorate explosive mixtures.  
Peroxide based explosive mixtures.  
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].  
Picramic acid and its salts.  
Picramide.  
Picrate of potassium explosive mixtures.  
Picratol.  
Picric acid (manufactured as an explosive).  
Picryl chloride.  
Picryl fluoride.  
PLX [95% nitromethane, 5% ethylenediamine].  
Polynitro aliphatic compounds.  
Polyolpolynitrate-nitrocellulose explosive gels.  
Potassium chlorate and lead sulfocyanate explosive.  
Potassium nitrate explosive mixtures.  
Potassium nitroaminotetrazole.  
Pyrotechnic compositions.  
PYX [2,6-bis(picrylamino)]-3,5-dinitropyridine.

## **R**

RDX [cyclonite, hexogen, T4, cyclo-1,3,5, -trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5- trinitro-S-triazine].

## **S**

Safety fuse.  
Salutes (bulk).  
Salts of organic amino sulfonic acid explosive mixture.  
Silver acetylde.  
Silver azide.  
Silver fulminate.  
Silver oxalate explosive mixtures.  
Silver styphnate.  
Silver tartrate explosive mixtures.  
Silver tetrazene.

Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel, and sensitizer (cap sensitive).

Smokeless powder.

Sodatol.

Sodium amatol.

Sodium azide explosive mixture.

Sodium dinitro-ortho-cresolate.

Sodium nitrate-potassium nitrate explosive mixture.

Sodium picramate.

Special fireworks.

Squibs.

Styphnic acid explosives.

## **T**

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene].

TATB [triaminotrinitrobenzene].

TEGDN [triethylene glycol dinitrate].

Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].

Tetranitrocarbazole.

Tetryl [2,4,6 tetranitro-N-methylaniline].

Tetrytol.

Thickened inorganic oxidizer salt slurried explosive mixture.

TMETN [trimethylolethane trinitrate].

TNEF [trinitroethyl formal].

TNEOC [trinitroethylorthoformate].

TNEOF [trinitroethylorthoformate].

TNT [trinitrotoluene, trotyl, trilitite, triton].

Torpex.

Tridite.

Trimethylol ethyl methane trinitrate composition.

Trimethylolthane trinitrate-nitrocellulose.

Trimonite.

Trinitroanisole.

Trinitrobenzene.

Trinitrobenzoic acid.

Trinitrocresol.

Trinitro-meta-cresol.

Trinitronaphthalene.

Trinitrophenetol.

Trinitrophenol.

Trinitroresorcinol.

Tritonal.



## U

Urea nitrate.

## W

Water-bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).

Water-in-oil emulsion explosive compositions.

## X

Xanthomonas hydrophilic colloid explosive mixture.

FOR FURTHER INFORMATION CONTACT: Tom Hogue, ATF Specialist, Arson and Explosives Programs Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226 (202-927-7930).

Approved:

**John W. Magaw**

*Director*

### **Announcement 99-13**

#### **Revocations**

Permittees not engaged in the operations authorized by their permit for a period of more than (2) years are subject to revocation. The following permit(s) have been revoked for this reason.

Company/Location

Africam Trading Corp.  
Jersey City, NJ

American Pride, Inc.  
Hackensack, NJ

Crown Capital U.S.A., Inc.  
Watchung, NJ

Damon Biotech, Inc.  
Needham Heights, MA

Company/Location

Philip John Enterprises, Inc.  
Brooklyn, NY

Prestige Wine Corp.  
New York, NY

Renaissance Wines, Inc.  
Paterson, NJ

Rosemat International Imp.  
Paterson, NJ

Jason Brooke Imports, Inc.  
South Kearney, NJ

Oasis Cosmetics Corporation  
Wilmington, MA

Syncap, Inc.  
Cambridge, MA

Ventrex Laboratories, Inc.  
Portland, ME