

plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "include" and "including" do not exclude things not enumerated which are in the same general class.

*Administrative law judge.* The person appointed pursuant to 5 U.S.C. 3105, designated to preside over any administrative proceedings under this part.

*Applicant.* Any person who has filed an initial application for a permit under the Federal Alcohol Administration Act or the Internal Revenue Code (26 U.S.C.).

*Application.* Any application for a permit under the Federal Alcohol Administration Act or the Internal Revenue Code (26 U.S.C.) for operations not covered by an existing permit.

*Attorney for the Government.* The Attorney in the office of the Chief Counsel (assigned to the National or district office) authorized to represent the district director in the proceeding.

*CFR.* The Code of Federal Regulations.

*Citation.* Includes any notice contemplating the disapproval of an application or any order to show cause why a permit should not be suspended, revoked or annulled.

*Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

*District director.* The principal ATF district official responsible for administering the regulations in this part.

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

*Other term.* Any other term defined in the Federal Alcohol Administration Act (27 U.S.C. 201), the Internal Revenue Code (26 U.S.C.) or the Administrative Procedure Act (5 U.S.C. 1001), where used in this part, shall have the meaning assigned to it therein.

*Permit—(a) Alcohol fuel permit.* The document issued under 26 U.S.C. 5181, authorizing the person named therein to engage in the business described therein.

*(b) Basic permit.* The document authorizing the person named therein to

engage in a designated business or activity under the Federal Alcohol Administration Act.

*(c) Industrial use permit.* The document issued under 26 U.S.C. 5271(a), authorizing the person named therein to withdraw and use distilled spirits free of tax in accordance with part 22 of this chapter, or withdraw and deal in or use specially denatured spirits in accordance with part 20 of this chapter, as described therein.

*(d) Operating permit.* The document issued under 26 U.S.C. 5171, authorizing the person named therein to engage in the business described therein.

*(e) Tobacco permit.* The document issued under 26 U.S.C. 5713(a), authorizing the person named therein to engage in the business described therein.

*Permittee.* Any person holding a basic permit under the Federal Alcohol Administration Act or the Internal Revenue Code (26 U.S.C.).

*Person.* An individual, trust, estate, partnership, association, company, or corporation.

*Recommended decision.* The advisory decision of the administrative law judge in any proceeding on an initial application for a permit.

*Respondent.* Any person holding a permit against which an order has been issued to show cause why such permit should not be suspended, revoked or annulled.

[T.D. ATF-48, 43 FR 13543, Mar. 31, 1978; 44 FR 55845, Sept. 28, 1978, and amended by T.D. ATF-62, 44 FR 71696, Dec. 11, 1979; T.D. ATF-199, 50 FR 9196, Mar. 6, 1985; T.D. ATF-244, 51 FR 45762, Dec. 22, 1986; T.D. ATF-374, 61 FR 29956, June 13, 1996]

## Subpart C—General

### § 200.25 Communications and pleadings.

All communications to the Government regarding the procedures set forth in this part and all pleadings, such as answers, motions, requests, or other papers or documents required or permitted to be filed under this part, relating to a proceeding pending before an administrative law judge, shall be addressed to the administrative law judge, at his post of duty or to the administrative law judge, in care of the district director of the region in which

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the business of the applicant or respondent is operated or proposed to be operated to be forwarded to the examiner. Communications concerning proceedings not pending before an administrative law judge, should be addressed to the Regional Director (compliance) or Director, as the case may be. All pleadings should be filed in quadruplicate.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 200.26 Service on applicant or respondent.

All orders, notices, citations, motions and other formal documents, except subpoenas, required to be served under the regulations in this part may be served by mailing a signed duplicate original copy thereof to the permittee or applicant by registered mail, with request for return receipt card, at the address stated in his permit or application or at his last known address, or by delivery of such original copy to the permittee or applicant personally, or in the case of a corporation, partnership, or other unincorporated association, by delivering the same to an officer, or manager, or general agent thereof, or to its attorney of record. Such personal service may be made by any employee of the Bureau of Alcohol Tobacco and Firearms or by any employee of the Treasury Department designated by the Secretary. A certificate of mailing and the return receipt card, or certificate of service signed by the person making such service, shall be filed as a part of the record.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55846, Sept. 28, 1979]

§ 200.27 Service on the district director or Director.

Pleadings, motions, notices, and other formal documents, except subpoenas, may be served, by registered mail or personally, on the district director (or upon the attorney for the Government on behalf of the district director, or on the Director, if the pro-

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ceeding is before him for review on appeal.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

TIME

§ 200.28 Computation.

In computing any period of time prescribed or allowed by this part, the day of the act, event or default after which the designated period of time is to run, is not to be included. The last day of the period to be computed is to be included, unless it be a Saturday, Sunday or legal holiday, in which event the period runs until the next day which is neither a Saturday, Sunday or legal holiday. Pleading, requests, or other papers or documents required or permitted to be filed under this part must be received for filing at the appropriate office within the time limits, if any, for such filing.

§ 200.29 Continuances and extensions.

For good cause shown, the administrative law judge, Director, District Director, or the administrative law judge, as the case may be, may grant continuances and as to all matters pending before him extend any time limit prescribed by the regulations in this part (except where the time limit is statutory).

(26 U.S.C. 7805 (68A Stat. 917), 27 U.S.C. 205 (49 Stat. 981 as amended), 18 U.S.C. 926 (82 Stat. 959), and Sec. 38, Arms Export Control Act (22 U.S.C. 2778, 90 Stat. 744))

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 43 FR 13531, Mar. 31, 1978; T.D. ATF-374, 61 FR 29957, June 13, 1996]

REPRESENTATION AT HEARINGS

§ 200.30 Personal representation.

Any individual or member of a partnership may after adequate identification, appear for himself, or such partnership, and a corporation or association may be represented by a bona fide officer of such corporation or association, upon showing of adequate authorization.

**§ 200.31 Attorneys and other representatives.**

A respondent or applicant may be represented by an attorney, certified public accountant, or other person enrolled to practice before the Bureau of Alcohol, Tobacco and Firearms under 31 CFR part 8—Practice Before the Bureau of Alcohol, Tobacco and Firearms. The representative shall file in the proceeding a duly executed power of attorney to represent the applicant or respondent. See 26 CFR 601.501 through 601.527 (conference and practice requirements). The district director shall be represented in proceedings under this part by the attorney for the Government who is authorized to execute and file motions, briefs, and other papers in the proceeding, on behalf of the district director, in his own name as “Attorney for the Government”.

(5 U.S.C. 552(a) (80 Stat. 383, as amended))

[T.D. ATF-48, 44 FR 55846, Sept. 28, 1979, as amended by T.D. ATF-92, 46 FR 46918, Sept. 23, 1981; T.D. ATF-374, 61 FR 29957, June 13, 1996]

### Subpart D—Compliance and Settlement

**§ 200.35 Opportunity for compliance.**

Except in proceedings involving willfulness or those in which the public interest requires otherwise, and the district director so alleges in his citation, stating his reasons therefor, no permit shall be suspended, revoked or annulled, unless, prior to the institution of proceedings, facts or conduct warranting such action shall have been called to the attention of the permittee by the district director, in writing, and the permittee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements, as set forth in section 9(b) of the Administrative Procedure Act. If the permittee fails to meet the requirements of the law and regulations within such reasonable time as may be specified by the district director, proceedings for suspension, revocation or

annulment of the permit shall be initiated.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9196, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

#### INFORMAL SETTLEMENT

**§ 200.36 General.**

In all proceedings in which a permittee is cited to show cause why the permit should not be suspended, revoked or annulled, the permittee shall be afforded opportunity for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment, where time, the nature of the proceeding, and the public interest permit. Such submissions should be made to the district director, but may be made through the attorney for the Government. Where necessary, the date of the hearing may be postponed, pending consideration of such proposals, when they are made in good faith and not for the purpose of delay. If proposals of settlement are submitted, and they are considered unsatisfactory, the district director may reject the proposals and may, either directly or through the attorney for the Government, inform the permittee of any conditions on which the alleged violations may be settled. If the proposals of settlement are considered satisfactory to the district director, the permittee shall be notified thereof and the proceeding shall be dismissed, unless such proposals of settlement include a monetary offer in compromise considered satisfactory to the district director, in which event the proceeding shall be held in abeyance pending final action on such monetary offer in compromise.

[T.D. ATF-244, 51 FR 45762, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

**§ 200.37 Notice of contemplated action.**

Where the district director believes that the matter may be settled informally, i.e., without formal administrative proceedings, he shall, in accordance with section 5 (b) of the Administrative Procedure Act, prior to the