

## § 71.25

## 27 CFR Ch. I (4–1–05 Edition)

“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 appropriate office of Chief Counsel authorized to represent the Director of Industry Operations 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.

*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.

*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; T.D. ATF-414, 64 FR 49084, Sept. 10, 1999]

### Subpart C—General

#### § 71.25 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 director of industry operations of the region in which 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 Director of Industry Operations (DIO) 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]

**§ 71.26 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]

**§ 71.27 Service on the director of industry operations or Director.**

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

**§ 71.28 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.

**§ 71.29 Continuances and extensions.**

For good cause shown, the administrative law judge, Director, director of industry operations, 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

**§ 71.30 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.

**§ 71.31 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