

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 71.5

### ACTION BY DIRECTOR OF INDUSTRY OPERATIONS

- 71.107 Application proceedings.
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- 71.129 Availability.

AUTHORITY: 26 U.S.C. 5271, 5181, 5713, 7805, 27 U.S.C. 204.

SOURCE: 21 FR 1441, Mar. 6, 1956, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. ATF-463, 66 FR 42734, Aug. 15, 2001.

EDITORIAL NOTE: Nomenclature changes to part 71 appear by T.D. ATF-414, 64 FR 49084, Sept. 10, 1999 and T.D. ATF-463, 66 FR 42734, 42735, Aug. 15, 2001.

### Subpart A—Scope and Construction of Regulations

#### § 71.1 Scope of part.

The regulations in this part govern the procedure and practice in connection with the disapproval of applications for basic permits, and for the suspension, revocation and annulment of such permits under sections 3 and 4 of the Federal Alcohol Administration Act (27 U.S.C. 201 *et seq.*) and disapproval, suspension, and revocation of permits under title 26 of the U.S. Code. The regulations in this part shall also govern, insofar as applicable, any adversary proceeding involving adjudication required by statute to be determined on the record after opportunity for hearing, under laws administered

by the Bureau of Alcohol, Tobacco and Firearms.

[21 FR 1441, Mar. 6, 1956, as amended by T.D. 6389, 24 FR 4790, June 12, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 71.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

#### § 71.2 Liberal construction.

The regulations in this part shall be liberally construed to secure just, expeditious, and efficient determination of the issues presented. The Rules of Civil Procedure for the U.S. District Courts (28 U.S.C. appendix), where applicable, shall be a guide in any situation not provided for or controlled by this part but shall be liberally construed or relaxed when necessary.

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

[T.D. ATF-92, 46 FR 46917, Sept. 23, 1981]

#### § 71.3 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

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

[T.D. ATF-92, 46 FR 46918, Sept. 23, 1981, as amended by T.D. ATF-372, 61 FR 20725, May 8, 1996]

### Subpart B—Definitions

#### § 71.5 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this subpart. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "include" and

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“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