

The New TTB: It's Not Just a Name Change



By Sara Schorske
and Alex Heckathorn

WE ASKED for it, and we got it. The Bureau of Alcohol Tobacco and Firearms (ATF) is now out of our

lives, and there's a new, unfamiliar face on the other side of the regulatory table. It's time to get to know the Alcohol and Tobacco Tax and Trade Bureau (TTB for short), the federal agency that has been overseeing the wine industry since the beginning of the year when the ATF became part of the US Department of Justice.

When the Homeland Security Initiative was being considered last year, wine industry lobbyists jumped at the chance to help fashion a smaller agency dedicated strictly to alcohol and tobacco issues, which they believed would be more responsive to the needs of wineries than the ATF had been. ATF had always had a split personality. It was predominately a law enforcement agency, with much of its attention devoted to guns, explosives, arson, and smuggling. The regulation of alcohol and tobacco often took a backseat to ATF's law enforcement functions, and the agency's priorities changed with each national emergency.

Those days are over. We now have an agency whose sole mandate is alcohol and tobacco regulation. Will we be happy with the fulfillment of our wish?

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Or will we, like King Midas, find that the manifestation doesn't match the promise?

Over the last several months, we have fielded many queries from industry members about the new agency, and we have asked TTB many questions about the transition. In this column we'll fill you in on what we've learned, and offer our views of how the change will affect the industry—now and in the longer term.

The old ATF area offices have all been taken over by the new Justice Department firearms and explosives bureau. What is the TTB's plan for replacing those locations?

True, all of the local offices you're used to calling are now on the law enforcement side of the family—as are many of the ATF personnel who used to help you. In the agency split, all of ATF's regional and area offices were taken over by the new Justice Department bureau.

Only a few of those offices will be replaced. The number of offices and field staff earmarked for TTB will be significantly less than ATF previously maintained. TTB plans to have five regional offices to cover the entire country, but no area offices.

TTB will get by with such a small number, because it does not plan to centralize its field staff in these offices. "We expect our auditors and investigators to be in the field, doing audits and investigations. We'll bring them into regional offices occasionally, but we'll be applying a 'hoteling' principle, [where employees check in and use an office on an as-needed basis]" said the new TTB Administrator, Art Libertucci. Most investigators will be based out of home offices, using cell phones and post office boxes for day-to-day communications.

It seems like many of the ATF in-

spectors I always talked to are no longer with the TTB. Has the agency lost a lot of its experienced employees? And, who do I call now if I need help?

Many experienced ATF staffers in the regional and area offices were lost in the transition. At the end of 2002, ATF had over five thousand employees. The new TTB currently employs only about four hundred of them.

When the split first occurred, TTB announced openings for very few supervisory positions in field operations,

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so many longstanding employees who held higher job classifications chose to take positions with the Justice Department rather than suffer a cut in pay and responsibility, or face relocation. As a result, virtually all the area supervisors, and many of the inspectors with whom winemakers had spoken almost daily no longer work for TTB. Many local offices seem to have just a single TTB "survivor."

Currently, the TTB roster is mostly ex-ATF staffers, but over the next year, the new agency plans to hire an additional two hundred people. At that point, according to Libertucci, TTB will have approximately the same personnel resources dedicated to alcohol and tobacco regulation as ATF did. Even then, however, expertise will be at least temporarily reduced, since half of the new hires will be auditors recruited from accounting and auditing backgrounds, who will be new to the industry and will need to be trained.

TTB's inspection division will contain forty trade investigators devoted primarily to alcohol regulation. That shockingly small number raises the concern that, with only forty investigators to handle inspections in fifty

states, the new agency will be spread too thin. TTB replies it will be able to do more with less, since it has no other priorities. "Our field personnel are going to be much more specialized than the ATF inspector. They are not going to have to worry about gun work or explosives work," Libertucci assured us. The investigators can not only ignore guns and explosives, they are also free from the task of winery auditing, which will be handled by a group of one hundred auditors, nationwide, whose job it will be to conduct financial audits and ensure that excise taxes are being paid properly.

By the way, TTB vows to keep a strong presence in California and appropriate staffing to serve the region's wine industry. TTB is scheduled to open its new Western Regional office in Sacramento in July. ATF alcohol veteran David Royalty will supervise this new office, which will be staffed with eleven or twelve trade investigators and up to twenty auditors.

ATF centralized its permit processing at the National Revenue Center in Cincinnati a few years

ago. Is that Center still open and how is it being staffed?

Fortunately, the entire National Revenue Center (NRC) in Cincinnati became part of TTB. For several years, the NRC has been the centralized location for processing applications, issuing permits, and processing tax returns. It will now assume an even greater role as the primary point of contact between the agency and the industry.

Making the centralized NRC the primary interface with the industry makes sense in many ways; however, it may be difficult for the specialists at NRC, who already seem to have heavy workloads, to replace the services that ATF's field personnel provided. While staffing at NRC has not been reduced by the changeover, TTB officials admit there is an existing backlog of applications at NRC and processing times have grown unacceptably large. TTB has pledged to hire additional specialists to reduce the backlog and processing times.

Adding to the challenge, many supervisory positions in Cincinnati are currently vacant, since recently a number of the former ATF supervisors have been promoted to higher-level positions within the new agency. Some units are literally getting along with a series of acting "supervisors of the day" rotating into the supervisory responsibility. Questions requiring special expertise all fall on NRC's single "technical advisor" for wine.

Under these circumstances, we can expect NRC to have some difficulties delivering the expertise and assistance needed by the industry—at least for a while. In our experience, the staff in ATF's area offices responded to industry requests much more quickly and decisively, especially on technical matters and those requiring immediate action, such as accidents where wine is lost.

I heard that TTB is hiring auditors and will be doing more producer audits. What should I be expecting in the way of audits?

TTB plans to step up audits of producers, especially the 5% who pay 95% of the excise taxes. "In the past, we've tried to visit the major taxpayers roughly on a three-year cycle. It didn't always work out. Often, a few months into the year, there'd be a new firearms legislation, so we'd have to drop everything in alcohol and tobacco to take care of the new demand in the firearms area," said TTB spokesman Jim Crandall.



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To maintain a more consistent auditing presence, ATF had been planning the creation of a tax audit division for two years; TTB will bring the plan to fruition by establishing new regional offices and hiring auditors at an accelerated pace.

Most of the auditors will be new to TTB and the industry, but will have backgrounds in accounting and auditing. How quickly they "catch on" remains to be seen. Translating what happens in the cellar into numbers in computers and on forms is not as straightforward as counting coins, so, auditors may need to acquire additional know-how. Hopefully the new auditors will adopt their new boss' presumption that "the vast majority of the taxpayers pay every penny they owe, and don't do anything intentionally wrong."

There has been a lot of interest in new viticultural areas recently. This is one aspect of ATF work that often suffered when other priorities came up. What can we expect from TTB?

Signs are good that petitions will be handled in a timely way. Fortunately, the experienced regulatory specialists who handle petitions to establish American Viticultural Areas on the west coast transitioned to TTB. Also, most of the staff of Alcohol and Tobacco Directorate at ATF's Washington DC headquarters has joined TTB. Bill Foster will remain as the chief of the regulation and procedures division, which is responsible for reviewing and approving new viticultural areas and crafting other changes in regulation.

How will this change affect the process of getting federal label approval?

According to most reports, the labeling section has not been impacted by the transition. Susan Stewart, who formerly headed the labeling section, has been tapped to be the Assistant Administrator of TTB and Karen Freelove, a veteran of the labeling section, was recently named as the new chief of the labeling section.

Label approvals will still be handled at TTB's Washington DC headquarters—wherever that may ultimately be. It is our understanding that TTB plans to move out of its current quarters to a new location in the near future. However, wherever it ends up, the same labeling specialists who handled label approval with ATF are still on board. Until further notice, they can be reached at the same address and phone numbers as before.

TTB has implemented the e-filing system for Certificates of Label Approval, and it is now operational. This system will allow wineries to submit their applications for label approval over the Internet, speeding up the approval process—and making it more "fool-proof." The system will include a "validation" process to catch incomplete filings, which currently accounts for nearly twenty percent of the rejections. To obtain a user name and password to use the system, it is still necessary to submit a paper form to TTB.

Change Is a Bumpy Road

Changes, even changes for the better, invariably cause some problems—at least temporarily. Without a doubt, the break-up of ATF will be no exception.

At first, the sheer energy needed to create a new agency distracted the bureau from its day-to-day operations. To staff the new organization, many people were promoted or changed positions, making it more difficult for industry members to get answers and problems resolved. And virtually every member of the TTB workforce was given administrative assignments re-

lated to the creation of new procedures and infrastructure. Much of that effort is complete now, but the extra burden undoubtedly created backlogs that will remain a burden on the fledgling agency.

The loss of experience, expertise, and local offices will have an unavoidable impact. Whether NRC can fill the gap adequately is yet to be seen. As we noted, NRC already had problems keeping up with the work it had before the change. Even if more employees are hired immediately, it will take time to train and integrate the new staff.

TTB officials have set a bold vision for the new agency. The manifestation of that vision will depend on how well it is implemented. Undoubtedly there will be a period of adjustment that will be challenging, but an agency which collects \$8.1 billion in taxes can afford to invest what it takes to provide its taxpaying clients the best service possible. ❁

[Editor's note: *ATF/TTB Wine Industry Specialist Perky Ramroth will address agency transition issues next March at Wineries Unlimited.*]

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