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TITLE 3—THE PRESIDENT

PROCLAMATION 2897

NATIONAL EMPLOY THE PHYSICALLY HANDICAPPED WEEK, 1950

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the experience of an increasing number of employers has proved that physically handicapped workers, when placed in jobs suited to their abilities, can make a substantial contribution to the economic well-being of our country; and

WHEREAS the present need for maximum production requires the utilization of all our human resources; and

WHEREAS physically handicapped men and women should have an equal opportunity with others to earn a livelihood; and

WHEREAS the Congress, by a joint resolution approved August 11, 1945 (59 Stat. 530), has designated the first week in October of each year as National Employ the Physically Handicapped Week and has requested the President to issue a suitable proclamation each year, with a view to enlisting national interest in the employment of these men and women;

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby call upon the people of the United States to observe the week beginning October 1, 1950, as National Employ the Physically Handicapped Week, and to cooperate with the President's Committee on National Employ the Physically Handicapped Week, and with the corresponding Governors' committees in the several States and Territories, in carrying out the purposes of the joint resolution of Congress. I also request the Governors of States, the mayors of cities, and other public officials, as well as employers and leaders of labor, agricultural, veterans', women's, civic, and religious organizations and all other interested groups representative of our national life, to observe the week by endeavoring to enlist the widest possible public interest in additional employment opportunities for the physically handicapped.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 9th day of August in the year of our Lord nineteen hundred and [SEAL] fifty, and of the Independence of the United States of America the one hundred and seventy-fifth.

HARRY S. TRUMAN

By the President:

DEAN ACHESON,
Secretary of State.

[F. R. Doc. 50-7094; Filed, Aug. 10, 1950; 2:42 p. m.]

EXECUTIVE ORDER 10150

CREATING AN EMERGENCY BOARD TO INVESTIGATE DISPUTES BETWEEN THE ATLANTIC & EAST CAROLINA RAILWAY COMPANY AND OTHER CARRIERS, AND CERTAIN OF THEIR EMPLOYEES

WHEREAS disputes exist between the Atlantic & East Carolina Railway Company and certain other carriers designated in list A attached hereto and made a part hereof, and certain of their employees represented by the sixteen cooperating non-operating labor organizations designated in list B attached hereto and made a part hereof; and

WHEREAS these disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS these disputes, in the judgment of the National Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U. S. C. 160), I hereby create a board of three members, to be appointed by me, to investigate the said disputes.

Each of the carriers involved shall be given independent consideration in such

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FEDERAL REGISTER

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investigation, and the said labor organizations shall be permitted to function as a unit in proceedings before the board.

No member of the said board shall be pecuniarily or otherwise interested in any organization of railway employees or any carrier.

The board shall report its findings to the President with respect to the said disputes within thirty days from the date of this order. The board may, to the extent it deems necessary or desirable, make separate and independent findings with respect to each of the carriers involved.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by any of the carriers involved or their employees in the conditions out of which the said disputes arose.

HARRY S. TRUMAN

THE WHITE HOUSE,
August 11, 1950.

LIST "A"

Atlantic & East Carolina Railway Company
Barre & Chelsea Railroad Company
Belfast & Moosehead Lake Railroad Company
Chicago, Aurora and Elgin Railway Company
Chicago, South Shore & South Bend Railroad
Columbus & Greenville Railway Company
Copper Range Railroad
Denver Union Stockyards Company
Des Moines & Central Iowa Railway Company
El Paso Union Passenger Depot Company
Escanaba & Lake Superior Railroad Company
Galveston Wharves
Huntington & Broad Top Mountain Railroad and Coal Company
Lancaster & Chester Railway Company
Meridian & Bigbee River Railway Company
New Orleans & Lower Coast R. R. Company
Ogden Union Stockyards Company
Old Point Comfort Joint Agency
Rio Grande Southern Railroad
St. Johnsbury & LaMoille County Railroad
Salt Lake Union Stockyards Company
Sioux City Terminal Railway Company
Stockyards District Agency of Chicago
Tennessee Railroad Company
Texas Pacific, Missouri Pacific Terminal Company of New Orleans
Winona Railroad Company

LIST "B"

International Association of Machinists
International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America
International Brotherhood of Blacksmiths, Drop Forgers and Helpers
Sheet Metal Workers' International Association
International Brotherhood of Electrical Workers
Brotherhood of Railway Carmen of America
International Brotherhood of Firemen, Oilers, Roundhouse and Railway Shop Laborers.
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes
Brotherhood of Maintenance of Way Employes
The Order of Railroad Telegraphers
Brotherhood of Railroad Signalmen of America
National Organization of Master, Mates & Pilots of America
National Marine Engineers' Beneficial Association
International Longshoremen's Association
Hotel and Restaurant Employes' International Alliance and Bartenders' Int. League of America
Railroad Yardmasters of America

[F. R. Doc. 50-7132; Filed, Aug. 11, 1950; 11:54 a. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

FEDERAL SECURITY AGENCY

Under authority of § 6.1 (a) of Executive Order 9830, and at the request of the Federal Security Agency, § 6.123 (c) is amended by the addition of subparagraph (2) as set out below. This amendment shall be effective upon publication in the FEDERAL REGISTER.

§ 6.123 *Federal Security Agency.* * * *

(c) *Children's Bureau.* * * *

(2) NC/PD. Five positions which are part of a joint project undertaken with an agency of a State or subdivision thereof or with a private organization provided that the agreement basic to the joint project specifies that the agency or organization is to participate in the establishment of recruitment standards and compensation rates for such positions and provided that at least one-half of the aggregate cost of such project (including salaries and the furnishing of quarters, materials equipment, and other facilities and services) will be borne by such agency or organization.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 9830, Feb. 24, 1947, 12 F. R. 1259; 3 CFR, 1947 Supp. E. O. 9973, June 28, 1948, 13 F. R. 3600; 3 CFR, 1948 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] HARRY B. MITCHELL,
Chairman.

[F. R. Doc. 50-7038; Filed, Aug. 11, 1950; 8:45 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter B—Farm Ownership Loans

PART 311—BASIC REGULATIONS

SUBPART B—LOAN LIMITATIONS

AVERAGE VALUES OF FARMS AND INVESTMENT LIMITS; KANSAS

For the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units and investment limits for the counties identified below are determined to be as herein set forth. The average values and investment limits heretofore established for said counties, which appear in the tabulations of average values and investment limits under § 311.30, Chapter III, Title 6 of the Code of Federal Regulations (13 F. R. 9381), are hereby superseded by the average values and investment limits set forth below for said counties.

KANSAS

County	Average value	Investment limit
Allen	$15,000	$12,000
Chautauqua	15,000	12,000
Cloud	16,000	12,000
Coffey	15,000	12,000
Elk	15,000	12,000
Geary	16,000	12,000
Labette	15,000	12,000
Marshall	16,000	12,000
Montgomery	15,000	12,000
Nemaha	16,000	12,000
Neosho	15,000	12,000
Pottawatomie	16,000	12,000
Republic	16,000	12,000
Riley	16,000	12,000
Washington	16,000	12,000
Wilson	15,000	12,000

(Sec. 41, 60 Stat. 1066; 7 U. S. C. 1015. Interprets or applies secs. 3, 44, 60 Stat. 1074, 1069; 7 U. S. C. 1003, 1018.)

Issued this 8th day of August 1950.

[SEAL] C. J. MCCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 50-7043; Filed, Aug. 11, 1950; 8:46 a. m.]

PART 311—BASIC REGULATIONS

SUBPART B—LOAN LIMITATIONS

AVERAGE VALUES OF FARMS AND INVESTMENT LIMITS; NEW YORK

For the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, the average value of efficient family-type farm-management units and the investment limit for the county identified below are determined to be as herein set forth; and § 311.30, Chapter III, Title 6 of the Code of Federal Regulations (13 F. R. 9381), is amended by adding said county, average value, and investment limit to the tabulations appearing in said section under the State of New York.

NEW YORK

County	Average value	Investment limit
Putnam	$30,000	$12,000

(Sec. 41, 60 Stat. 1066; 7 U. S. C. 1015. Interprets or applies secs. 3, 44, 60 Stat. 1074, 1069; 7 U. S. C. 1003, 1018)

Issued this 8th day of August 1950.

[SEAL] C. J. MCCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 50-7044; Filed, Aug. 11, 1950; 8:46 a. m.]

PART 311—BASIC REGULATIONS

SUBPART B—LOAN LIMITATIONS

AVERAGE VALUES OF FARMS AND INVESTMENT LIMITS; WEST VIRGINIA

For the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units and investment limits for the counties identified below are determined to be as herein set forth. The average values and investment limits heretofore established for said counties, which appear in the tabulations of average values and investment limits under § 311.30, Chapter III, Title 6 of the Code of Federal Regulations (13 F. R. 9381), are hereby superseded by the average values and investment limits set forth below for said counties.

WEST VIRGINIA

County	Average value	Investment limit
Braxton	$8,500	$8,500
Cabell	9,000	9,000
Calhoun	8,500	8,500
Clay	8,500	8,500
Doddridge	8,500	8,500
Gilmar	8,500	8,500
Grant	8,500	8,500
Greenbrier	12,000	12,000
Hampshire	8,500	8,500
Hardy	8,500	8,500
Harrison	10,000	10,000
Jackson	10,000	10,000
Kanawha	9,000	9,000
Lewis	9,000	9,000
Lincoln	7,500	7,500
Marion	8,000	8,000
Marshall	10,000	10,000
Mason	10,000	10,000
Mercer	7,500	7,500
Mineral	8,500	8,500
Monroe	11,000	11,000
Morgan	7,500	7,500
Pendleton	8,500	8,500
Pleasants	8,500	8,500
Pocahontas	9,000	9,000
Preston	9,000	9,000
Putnam	9,000	9,000
Randolph	10,000	10,000
Ritchie	9,000	9,000
Roane	9,000	9,000
Summers	7,500	7,500
Taylor	8,500	8,500
Tyler	8,500	8,500
Upshur	8,500	8,500
Wayne	9,000	9,000
Wetzel	7,500	7,500
Wirt	7,500	7,500
Wood	9,000	9,000

(Sec. 41, 60 Stat. 1066; 7 U. S. C. 1015. Interprets or applies secs. 3, 44, 60 Stat. 1074, 1069; 7 U. S. C. 1003, 1018)

Issued this 8th day of August 1950.

[SEAL] C. J. MCCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 50-7045; Filed, Aug. 11, 1950; 8:46 a. m.]

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Export and Diversion Programs

[Amdt. 2 to Subpart A]

PART 524—HONEY

SUBPART A—HONEY DIVERSION PROGRAM (MARKETING SEASON 1950)

MINIMUM GRADE AND INSPECTION

1. Paragraph 2 of § 524.107 is hereby amended to read as follows:

§ 524.107 *Minimum grade and inspection.* U. S. D. A. may, in its discretion, waive compliance on the part of the applicant with regard to the place of inspection specified above. To be effective such waiver must be in writing and signed by the Director.

Effective date. This amendment shall be effective at 12:01 a. m., e. s. t., July 14, 1950.

(Sec. 32, 49 Stat. 774, as amended; 7 U. S. C. 612c)

Dated this 9th day of August 1950.

[SEAL] S. R. SMITH,
Authorized Representative of the Secretary of Agriculture.

[F. R. Doc. 50-7066; Filed, Aug. 11, 1950; 8:50 a. m.]

[Amdt. 2 to Subpart B]

PART 524—HONEY

SUBPART B—HONEY EXPORT PROGRAM (MARKETING SEASON 1950)

RATE OF PAYMENT AND MINIMUM GRADE AND INSPECTION

1. Section 524.136 is hereby amended to read as follows:

§ 524.136 *Rate of payment.* The rate of payment applicable to U. S. Grade B honey exported in accordance with the terms and conditions contained herein shall be the lowest of the following: (a) 4.5 cents per pound, (b) 50 percent of the sales price (computed before deduction of such payment) as determined by the Director, basis free alongside ship United States ports of exportation except that if shipment from the nearest U. S. port from which honey is customarily shipped would result in a lower rate payable under this program, the honey shall be deemed to have been shipped from such nearest port, or (c) 50 percent of the domestic market price of the honey at the time of sale and place of delivery in the United States, as determined by the Director.

If the moisture content of the honey is in excess of 18.6 percent but not in excess of 20.0 percent, the specified rate of payment shall be reduced by one-hundredth (0.01) cent per pound for each one-tenth (0.10) of one percent by which the moisture content is in excess of 18.6 percent but not in excess of 20.0 percent.

2. Paragraph 2 of § 524.138 is hereby amended to read as follows:

§ 524.138 *Minimum grade and inspection.* United States Department of Agriculture may, in its discretion, waive compliance on the part of the applicant with regard to the place of inspection specified above. To be effective such waiver must be in writing and signed by the Director.

Effective date. This amendment shall be effective at 12:01 a. m., e. s. t., on the date of issuance as shown below, except that the amendment to paragraph 2 of § 524.138 shall be effective at 12:01 a. m., e. s. t., July 14, 1950.

(Sec. 32, 49 Stat. 774, as amended; 7 U. S. C. 612c)

Dated this 9th day of August 1950.

[SEAL] S. R. SMITH,
Authorized Representative of the Secretary of Agriculture.

[F. R. Doc. 50-7065; Filed, Aug. 11, 1950; 8:50 a. m.]

Subchapter C—Loans, Purchases, and Other Operations

PART 669—VEGETABLES, FRESH

SUBPART—GENERAL VEGETABLE PURCHASE PROGRAM (FISCAL YEAR 1951)

TOPPED BEETS

§ 669.5 *Topped beets (fiscal year 1951).* In order to encourage the domestic consumption of topped beets by diverting them from the normal channels of trade and commerce in accordance with section 32, Public Law 320, 74th Congress, approved August 24, 1935, as amended, topped beets will be purchased during the fiscal year ending June 30, 1951, in instances where surpluses exist or appear to be developing, and subject to limitations imposed by the capacity of available outlets to utilize supplies without waste and by the amount of funds available for such purchases. Generally, purchases will be made only in areas where acreage has not been unduly expanded without regard to available facilities and outlets. Grades and other specifications, and purchase prices will be contained in purchase announcements which will be issued to cover particular purchase operations. Information as to such purchase operations may be obtained by writing to the Fruit and Vegetable Branch, Production and Marketing Administration, Department of Agriculture, Washington 25, D. C.

(Sec. 32, 49 Stat. 774, as amended, 7 U. S. C. 612c)

Done at Washington, D. C., this 9th day of August 1950.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Branch.

[F. R. Doc. 50-7068; Filed, Aug. 11, 1950; 8:50 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Lemon Reg. 343]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.450 *Lemon Regulation 343*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 14 F. R. 3612), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601

et seq.), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended order; the recommendation and supporting information for regulation during the period specified in this section was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on August 9, 1950; such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., Aug. 13, 1950, and ending at 12: 01 a. m., P. s. t., Aug. 20, 1950, is hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 250 carloads;

(iii) District 3: Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," "District 2" and "District 3," shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Done at Washington, D. C., this 10th day of August 1950.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

DISTRICT NO. 2

Storage Date: August 6, 1950

[12:01 a. m. Aug. 13, 1950, to 12:01 a. m. Aug. 27, 1950]

Handler	Prorate base (percent)
Total	100.000
American Fruit Growers, Inc., Corona	0.199
American Fruit Growers, Inc., Fullerton	.379
American Fruit Growers, Inc., Upland	.076
Hazeltine Packing Co.	1.411
Ventura Coastal Lemon Co.	1.982
Ventura Pacific Co.	2.332
Glendora Lemon Growers Association	2.167
La Verne Lemon Association	.851
La Habra Citrus Association	1.198
Yorba Linda Citrus Association	1.072
Escondido Lemon Association	1.781
Alta Loma Heights Citrus Association	.526
Etiwanda Citrus Fruit Association	.313
Mountain View Fruit Association	.302
Old Baldy Citrus Association	.701
San Dimas Lemon Association	1.680
Upland Lemon Growers Association	6.208
Central Lemon Association	.758
Irvine Citrus Association	.389
Placentia Mutual Orange Association	.419
Corona Citrus Association	.389
Corona Foothill Lemon Co.	2.088
Jameson Co.	.781
Arlington Heights Citrus Co.	.554
College Heights Orange & Lemon Association	4.190
Chula Vista Citrus Association	1.019
El Cajon Valley Citrus Association	.018
Escondido Cooperative Citrus Association	.145
Fallbrook Citrus Association	1.176
Lemon Grove Citrus Association	.396
Carpinteria Lemon Association	2.862
Carpinteria Mutual Citrus Association	3.080
Goleta Lemon Association	4.388
Johnston Fruit Co.	5.631
North Whittier Heights Citrus Association	.913
San Fernando Heights Lemon Association	1.868
Sierra Madre-Lamanda Citrus Association	1.632
Briggs Lemon Association	2.351
Culbertson Lemon Association	1.552
Fillmore Lemon Association	1.140
Oxnard Citrus Association	5.887
Rancho Sespe	.660
Santa Clara Lemon Association	3.847
Santa Paula Citrus Fruit Association	3.536
Saticoy Lemon Association	3.541
Seaboard Lemon Association	3.580
Somis Lemon Association	3.075
Ventura Citrus Association	1.302
Limoneira Co.	2.610
Teague-McKevett Association	.920
East Whittier Citrus Association	.644
Leffingwell Rancho Lemon Association	.726
Murphy Ranch Co.	1.400
Whittier Citrus Association	0.364
Chula Vista Mutual Lemon Association	.566
Index Mutual Association	.396
La Verne Cooperative Citrus Association	2.566
Orange Belt Fruit Distributors	.997
Ventura County Orange & Lemon Association	2.316
Whittier Mutual Orange & Lemon Association	.188
Evans Bros. Packing Co.	.000
Lorbeer, Carroll W. C.	.000
San Antonio Orchard Co.	.002
Sweet, L. G.	.000

[F. R. Doc. 50-7111; Filed, Aug. 11, 1950; 9:38 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 3-3]

PART 3—AIRPLANE AIRWORTHINESS: NORMAL, UTILITY, ACROBATIC, AND RESTRICTED-PURPOSE CATEGORIES

RESTRICTED PURPOSE CATEGORY AIRPLANES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 7th day of August 1950.

Currently effective Part 3 establishes a restricted purpose category and authorizes the issuance of type and airworthiness certificates in such category for aircraft shown to comply with the airworthiness requirements of the normal, utility, or acrobatic categories of Part 3 which are not rendered inapplicable by the nature of the special purpose involved, and if the aircraft are operated in accordance with limitations which provide a level of safety equivalent to that contemplated for aircraft of the normal, utility, or acrobatic categories.

In view of the provisions of Part 8, adopted concurrently with this amendment,[1] which establish the standards with which compliance shall be demonstrated for the issuance of type and airworthiness certificates for aircraft intended to be operated for agricultural, industrial, or other special purposes and delineate operating limitations applicable to such aircraft, the Board considers it necessary to delete from Part 3 all reference to restricted purpose airplane certification. Thus, the type and airworthiness certification of airplanes intended to be used for special purposes shall be accomplished in accordance with the provisions of Part 8.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 3 as follows, effective October 11, 1950:

1. By deleting § 3.6 (a) (4).

2. By amending § 3.11 to read as follows:

[1] See F. R. Doc. 50-7069, *infra*.

§ 3.11 *Airworthiness certificates.* (a) In order to become eligible for an airworthiness certificate, an airplane must be shown to comply with the requirements contained in this part for at least one category.

(b) An airplane manufactured in accordance with a type certificate (see §§ 3.15 through 3.19) and conforming with the type design will become eligible for an airworthiness certificate when, upon inspection of the airplane, the Administrator determines that it so conforms and that the airplane is in a condition for safe operation. For each newly manufactured airplane this determination shall include a flight check by the applicant.

3. By adding a new § 3.12 to read as follows:

§ 3.12 *Experimental certificates.* An airplane shall become eligible for an experimental certificate when the applicant presents satisfactory evidence that the airplane is to be flown for experimental purposes and the Administrator finds it may, with appropriate restrictions, be operated for that purpose in a manner which does not endanger the general public. Airplanes used in racing and exhibition flying may be issued experimental certificates under the terms of this section. The applicant shall submit sufficient data, such as photographs, to identify the airplane satisfactorily and, upon inspection of the airplane, any pertinent information found necessary by the Administrator to safeguard the general public.

4. By amending the title of § 3.16 to read as follows: "§ 3.16 *Data required for type certification.*"

5. By amending the title of § 3.17 to read as follows: "§ 3.17 *Inspection and tests for type certification.*"

(Sec. 205, 52 Stat. 984, 49 U. S. C. 425. Interpret or apply secs. 601, 603, 52 Stat. 1007, 1009; 62 Stat. 1216, 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 50-7071; Filed, Aug. 11, 1950; 8:50 a. m.]

[Civil Air Regs., Amdt. 6-1]

PART 6—ROTORCRAFT AIRWORTHINESS

RESTRICTED PURPOSE CATEGORY ROTORCRAFT

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 7th day of August 1950.

Currently effective Part 6 establishes standards for the type and airworthiness certification of rotorcraft in the restricted category. In view of the provisions of Part 8, Aircraft airworthiness; restricted category, adopted concurrently with this amendment,[1] which establish standards for the type and airworthiness certification of aircraft intended to be operated for agricultural, industrial, or other special purposes and which delineate the operating limitations applicable to such aircraft, the Board considers it necessary to delete from Part 6 all reference to certification in the restricted category. Thus, the type and airworthiness certification of rotorcraft intended to be used for a special purpose shall be accomplished in accordance with the provisions of Part 8.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 6 effective October 11, 1950:

1. By amending the titles of §§ 6.2 (a) and 6.2 (b) to read as follows:

§ 6.2 *Type certificate.* * * *

(a) *Data required for type certification.* * * *

(b) *Inspection and tests for type certification.* * * *

2. By amending § 6.3 to read as follows:

§ 6.3 *Airworthiness certificates.* (a) A rotorcraft manufactured in accordance with a type certificate (see § 6.2) and conforming to the type design shall become eligible for an airworthiness certificate when, upon inspection of the rotorcraft, the Administrator finds that it so conforms and that it is in a condition for safe operation. For each newly manufactured rotorcraft this finding shall include a flight check by the applicant.

(b) A rotorcraft shall become eligible for an experimental certificate when the applicant presents satisfactory evidence that the rotorcraft is to be flown for experimental purposes and the Administrator finds that it may, with appropriate restrictions, be operated for that purpose in a manner which does not endanger the general public. Rotorcraft used in racing and exhibition flying may be issued experimental certificates under the terms of this section. The applicant shall submit sufficient data, such as photographs, to identify the rotorcraft satisfactorily and, upon inspection of the rotorcraft, any pertinent information found necessary by the Administrator to safeguard the general public.

(Sec. 205, 52 Stat. 984, 49 U. S. C. 425. Interpret or apply secs. 601, 603, 52 Stat. 1007, 1009, 62 Stat. 1216, 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 50-7070; Filed, Aug. 11, 1950; 8:50 a. m.]

PART 8—AIRCRAFT AIRWORTHINESS; RESTRICTED CATEGORY

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 7th day of August 1950.

Currently effective airworthiness parts and Part 43 of the Civil Air Regulations provide for the type and airworthiness certification of aircraft built or modified for special purposes, such as crop dusting, seeding, spraying, and other special purposes. In accordance with current requirements the Administrator may waive such of the basic airworthiness requirements as are rendered inappropriate by the special purposes involved, but he is required to prescribe operating limitations to insure that the operation will have "an equivalent level of safety" to that of an aircraft operating under an airworthiness certificate for an aircraft category other than restricted. The procedure by which compliance is shown with the restricted category is essentially the same as that required for certification in other airworthiness categories.

We have been advised that the existing requirements, which were designed primarily to establish an appropriate level of safety for passenger-carrying aircraft, have imposed an unnecessary economic burden and are unduly restrictive for the manufacture and operation of aircraft intended for use in rural, sparsely settled areas outside the usual lanes of air transportation and in which no passengers are to be carried for hire. For such restricted operations where public safety is not endangered it appears unreasonable to require the same level of safety as that required for passenger-carrying aircraft. Therefore, a basic change in Part 8 from current practice has been the elimination of the "equivalent level of safety" provision from the requirements for restricted category aircraft.

In addition, the part establishes new standards for the issuance of type certificates for the restricted category, for modifications of existing type certificates, and for issuance of airworthiness certificates for aircraft intended to be operated for special purposes and for operating limitations to be applicable to such aircraft. It also simplifies the procedure of showing compliance with the restricted category requirements and provides for the tailoring of the operating limitations to the particular purpose for which certification is sought. This part authorizes the Administrator to waive or modify any of the airworthiness requirements of the Civil Air Regulations, either for initial or continued airworthiness, for the standard (passenger-carrying) aircraft categories which he finds inappropriate for the special purpose for which the aircraft is to be used, including individual design requirements, requirements for flight testing, and submittal of engineering data and drawings. In the case of aircraft built for type certification in the restricted category, engineering data, reports and flight tests will be required but in a greatly simplified manner as compared to the requirements for the passenger-carrying categories. However, it should be noted that nothing in this part is intended to contravene the statutory requirement that the Administrator find that the aircraft is "of proper design, material, specification, construction, and performance for safe operation" before issuing a type certificate. (Sec. 603, 52 Stat. 1009, 49 U. S. C. 553)

A civil aircraft which has previously been type certificated and subsequently modified for a special purpose may be issued a modified type certificate, and a military aircraft which has been manufactured according to the requirements of, and accepted for use by, a military

[1] See F. R. Doc. 50-7069, *infra*.

service of the United States and subsequently modified for a special purpose may be issued a type certificate, when upon inspection the Administrator finds that the modification has been made in accordance with good aeronautical practice and that no feature or characteristic of the aircraft would render it unsafe when operated in accordance with the prescribed limitations. Engineering data, reports, or flight tests would not be required by the provisions of this part, except in cases where the inspection discloses a possible unsafe feature or characteristic.

Provision is further made whereby an aircraft may be issued an airworthiness certificate in the restricted category and in any one or more of the airworthiness categories prescribed by the Civil Air Regulations, if the applicant shows compliance with the requirements for each category when in the configuration for that category and if the aircraft can be converted from one category to another by the addition or removal of equipment by simple mechanical means. Under such circumstances the Administrator will specify appropriate operating limitations for each category and will specify the approved changes necessary to convert and reconvert the aircraft from one category to another.

This part is intended to provide the greatest possible flexibility of administration and to place the minimum possible burden consistent with public safety on the applicant for a certificate in the restricted category. While it is anticipated that it will be necessary to supplement this part with administrative policies and manual material, it is intended that such material be directly related to existing airworthiness standards and not take the form of independent administrative rules to be applied in lieu of the basic regulations.

It will be noted that the Board is currently considering a revision of Parts 1 and 2, and it is contemplated that some of the material contained in this part will be included in that revision.

Concurrently with the adoption of this part all reference to requirements for certification in the restricted category and to the operating limitations for aircraft so certificated, presently contained in Parts 3, 6, and 43 of the Civil Air Regulations, are being deleted from those parts.[1]

Interested persons have been afforded an opportunity to participate in the making of this new part, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby makes and promulgates a new Part 8 of the Civil Air Regulations to read as follows, effective October 11, 1950:

Sec.
8.0 Applicability of this part.
8.1 Definitions.
8.10 Eligibility for type certificate.
8.20 Eligibility for airworthiness certificate.
8.21 Multiple airworthiness certification.
8.30 Operating limitations; Administrator's authority to prescribe.
8.31 Area operating limitations.
8.32 Economic operating limitations.
8.33 Passengers prohibited during special purpose operations.
8.34 Separate operating limitations for multiple airworthiness certification.

AUTHORITY: §§ 8.0 to 8.34 issued under sec. 205, 52 Stat. 984, 49 U. S. C. 425. Interpret or apply secs. 601, 603, 52 Stat. 1007, 1009, 62 Stat. 1216, 49 U. S. C. 551, 553.

§ 8.0 *Applicability of this part.* This part establishes standards for the issuance of type and airworthiness certificates for aircraft in the restricted category which are intended to be operated for agricultural, industrial, or other special purposes. This part also establishes operating limitations applicable to such aircraft.

§ 8.1 *Definitions.* (a) As used in this part, terms shall be defined as follows:

(1) *Administrator.* The Administrator is the Administrator of Civil Aeronautics.

(2) *Applicant.* An applicant is a person or persons applying for approval of an aircraft or any part thereof.

(3) *Approved.* Approved, when used alone or as modifying terms such as means, devices, specifications, etc., shall mean approved by the Administrator.

(4) *Authorized representative of the Administartor.* An authorized representative of the Administrator shall mean any employee of the Civil Aeronautics Administration or any private person, authorized by the Administrator to perform any of the duties imposed upon him by the provisions of this part.

§ 8.10 *Eligibility for type certificate.* (a) Any aircraft of the following classifications shall be issued a type certificate in the restricted category, if the Administrator finds that no feature or characteristic of the aircraft renders it unsafe when operated in accordance with the limitations prescribed for its intended use:

(1) An aircraft type which has not previously been type certificated but which is shown by the applicant to comply with all of the airworthiness requirements of any other aircraft category prescribed by the Civil Air Regulations, except those requirements which the Administrator finds inappropriate for the special purpose for which the aircraft is to be used; or

(2) An aircraft type which has been manufactured in accordance with the requirements of, and accepted for use by, a United States military service and subsequently modified for a special purpose, whether or not such aircraft has been issued a type certificate under the provisions of Part 9 of the Civil Air Regulations.

(b) A modification of a type certificate may be issued to an applicant for an aircraft which has been previously type certificated in another category and then modified for a special purpose when, upon inspection, the Administrator finds that the modifications conform to a good aeronautical practice and that no feature or characteristic of the aircraft renders it unsafe when operated in accordance with the limitations prescribed for its intended use.

§ 8.20 *Eligibility for airworthiness certificate.* An aircraft shall be issued an airworthiness certificate in the restricted category if it complies with all of the following provisions:

(a) The aircraft is type certificated under the provisions of § 8.10 (a), or modified under the provisions of § 8.10 (b);

(b) The aircraft has been inspected by the Administrator and found by him to be in a good state of preservation and repair and in a condition for safe operation; and

(c) The Administrator has prescribed operating limitations for the aircraft in accordance with § 8.30.

§ 8.21 *Multiple airworthiness certification.* (a) An aircraft shall be issued an airworthiness certificate in the restricted category and in any one or more of the other airworthiness categories prescribed by the Civil Air Regulations, if the applicant shows compliance with the requirements for each category when the aircraft is in the configuration for that category and if the aircraft can be converted from one category to another by removal or addition of equipment by simple mechanical means.

(b) Any aircraft certificated in the restricted and any other category shall be inspected and approved by an authorized representative of the Administrator, or by a certificated mechanic with an appropriate airframe rating, to determine airworthiness each time the aircraft is converted from the restricted category to another category for the carriage of passengers for compensation or hire, unless the Administrator finds this unnecessary for safety in a particular case.

§ 8.30 *Operating limitations; Administrator's authority to prescribe.* In addition to the operating limitations set forth in §§ 8.31 through 8.34, the Administrator shall prescribe such operating limitations and restrictions as he finds necessary for safe operation of the aircraft and for the protection of the public.[1]

§ 8.31 *Area operating limitations.* Special purpose operations in restricted category aircraft shall not be conducted over densely populated areas, in congested air lanes, or in the vicinity of busy airports where passenger transport operations are being conducted, unless the Administrator finds it in the public interest to allow operations in such areas, in which case he shall prescribe specific operating limitations to provide the highest degree of public safety compatible with the type of operation involved.

§ 8.32 *Economic operating limitations.* Persons and cargo shall not be carried for compensation or hire in restricted category aircraft. For purposes of this section crop dusting, seeding, and other similar specialized operations, including the carriage of materials necessary for such operations, shall not be considered

[1] See F. R. Docs. 50-7071, 50-7070, *supra*, and 50-7073, *infra*.

[1] Where the special purpose operations require deviation from the Air Traffic Rules, a waiver of such rules must be obtained from the Administrator in accordance with the provisions of Part 60 of the Civil Air Regulations.

as the carriage of persons or cargo for compensation or hire.

§ 8.33 *Passengers prohibited during special purpose operations.* Persons, other than the minimum crew necessary for the purpose involved, shall not be carried during special purpose operations in restricted category aircraft.

§ 8.34 *Separate operating limitations for multiple airworthiness certification.* In case of multiple airworthiness certification under the provisions of § 8.21, the Administrator shall establish separate operating limitations for each category and shall specify the approved changes necessary to convert and reconvert the aircraft from one category to another.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 50-7069; Filed, Aug. 11, 1950; 8:50 a. m.]

[Civil Air Regs., Amdt. 43-3]

PART 43—GENERAL OPERATION RULES

PRIVATE PILOT PRIVILEGES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 7th day of August 1950.

Section 43.60 of the Civil Air Regulations currently states that a "private pilot shall not pilot aircraft for hire" and the explanatory note thereto states that the rule "permits sharing the expenses of a flight or piloting aircraft in furtherance of a business when the flight is made solely for the personal transportation of the pilot." We have been advised that this rule has been difficult to interpret, and in many instances it has unduly restricted the operations of private pilots.

This amendment, together with the illustrative interpretations discussed below, is considered to be appropriate to broaden the privileges of a private pilot.

The following interpretations are illustrative of the application of the amendment:

1. A private pilot may share the actual operating expenses incurred during a flight. The fact that one or more passengers contribute to the actual operating expenses of a flight is not considered the carriage of persons for compensation or hire.

2. A private pilot salesman may pilot an aircraft in the course of his employment. This would not be a violation of the regulation because the flight would be merely incidental to the pilot's business of selling. He may also carry samples of merchandise in the aircraft.

3. An airline official in New York, having a private pilot rating, wishes to use a company aircraft placed at his disposal to fly to Washingtoin in order to check the operations of the Washington office. He may do so, and also carry with him friends or other employees of the airline, provided no charge is made. Such a flight is considered merely incidental to the pilot's employment and does not involve the carriage of persons for compensation or hire.

4. The owner of a plantation or farm, holding a private pilot rating, may crop dust or seed his own land. This type of operation is incidental to the pilot's principal business of farming. He may also crop dust or seed the land of another, provided he does not do so for compensation or hire.

5. Private pilots may ferry aircraft, provided the flight is not for compensation or hire.

6. The holder of a private pilot rating engaged in selling real estate may pilot an aircraft carrying a prospective purchaser for the purpose of showing such purchaser land which is offered for sale. The flight in this instance is merely incidental to the pilot's business as a real estate operator.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 43 of the Civil Air Regulations effective September 11, 1950:

By amending § 43.60 to read as follows:

§ 43.60 *Private pilot.* A private pilot shall not pilot aircraft for compensation or hire; except that he may pilot aircraft in connection with any business or employment, if the flight is merely incidental thereto and does not involve the carriage of persons or property for compensation or hire, and an aircraft salesman holding a private pilot rating may demonstrate aircraft in flight to a prospective purchaser if he has at least 200 hours of flight time credited in accordance with the provisions of Part 43.

(Sec. 205, 52 Stat. 984, 49 U. S. C. 425. Interpret or apply secs. 601, 602, 52 Stat. 1007, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 50-7072; Filed, Aug. 11, 1950; 8:50 a. m.]

[Civil Air Regs., Amdt. 43-4]

PART 43—GENERAL OPERATION RULES

AIRCRAFT IDENTIFICATION MARKS AND AIRCRAFT AIRWORTHINESS; RESTRICTED CATEGORY

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 7th day of August 1950.

Currently effective Part 43 requires that aircraft registered for the first time after December 31, 1948, and all aircraft operated after December 31, 1950, shall display identification marks consisting of the Roman capital letter "N" denoting U. S. registration followed by the registration number. Thus, the Roman capital letter denoting the airworthiness classification, which presently may follow the Roman capital letter "N" on aircraft originally registered on or before December 31, 1948, must be removed after December 31, 1950.

The Board has recently been advised by several individual aircraft owners and industry associations that a considerable number of aircraft which currently display an identification mark containing an airworthiness symbol will not require recovering or refinishing prior to December 31, 1950, and these groups have requested that the established deadline date be postponed until it is necessary to recover or refinish such aircraft to the extent that the identification mark must be reapplied.

It will be noted that the adoption of the current requirement was necessitated by the fact that the increasing number of aircraft being registered required the assignment of identification marks employing at least six digits, and that sufficient space on the aircraft was not available if the letter denoting the airworthiness classification was also used as part of the number. Thus, it can be seen that the basic purpose of this amendment was to effect better administration of the registration of aircraft particularly with respect to newly registered aircraft. Therefore, we see no cogent reason why the deadline date for older aircraft may not be postponed until such aircraft are recovered or refinished to an extent requiring reapplication of the identification mark.

However, in view of the fact that aircraft operated in foreign or overseas air commerce with identification marks which do not comply with the current requirements would, after December 31, 1950, be in violation of the provisions of Annex 7 to the Convention on International Civil Aviation (Aircraft Nationality and Registration Marks), this amendment postpones the effective date of the current requirements only with respect to aircraft operated within the continental limits of the United States.

In addition, this amendment deletes from Part 43 current provisions establishing airworthiness requirements and operating limitations for restricted category aircraft. This action is necessary in view of the provisions of Part 8, Aircraft Airworthiness Restricted Category, which is being promulgated concurrently with this amendment,[1] and which establish the standards for the type and airworthiness certification for aircraft used for special purposes and delineate appropriate operating limitations for such aircraft.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 43 effective October 11, 1950:

By amending §§ 43.10 (c) (2) and 43.10 (c) (6) to read as follows:

§ 43.10 *Certificates and identification marks.* * * *

(c) *Identification marks.* * * *

(2) *NR.* Roman capital letters NR followed by the registration number shall be displayed on restricted category aircraft. The word "restricted" shall be prominently displayed near each entrance to the cockpit or cabin of a restricted category aircraft. * * *

* * * * *

[1] See F. R. Doc. 50-7069, *supra.*

(6) *Alternate identification marks.* (i) Aircraft registered for the first time after December 31, 1948, shall display identification marks consisting of the Roman capital letter "N", denoting United States registration, followed by the registration number. Other aircraft which display identification marks containing an airworthiness symbol "O", "R", "X", or "L" and which are operated solely within the continental limits of the United States may display such identification marks until the first time such aircraft are recovered or refinished to an extent necessitating the reapplication of the identification mark. Thereafter, such aircraft, and after December 31, 1950, all aircraft of United States registry operated outside of the continental limits of the United States, shall display identification marks consisting of the Roman capital letter "N", denoting United States registration, followed by the registration number.

(ii) When an identification mark including only the Roman capital letter "N" and the registration number is utilized, those aircraft having other than a standard airworthiness certificate shall display the appropriate airworthiness classification as prescribed in Parts 3, 4a, 4b, 6, 8, and 9 on the aircraft in a manner and form prescribed by the Administrator. Those aircraft having a standard airworthiness certificate need not display the airworthiness classification designation.

(Sec. 205, 52 Stat. 984, 49 U. S. C. 425. Interpret or apply secs. 601, 603, 52 Stat. 1007, 1095, 62 Stat. 1216, 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 50-7073; Filed, Aug. 11, 1950; 8:50 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

PART 25—DRESSINGS FOR FOODS

MAYONNAISE, FRENCH DRESSING, AND SALAD DRESSING; DEFINITIONS AND STANDARDS OF IDENTITY

In the matter of fixing and establishing definitions and standards of identity for mayonnaise, french dressing, and related salad dressings:

By virtue of the authority vested in the Federal Security Administrator by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055; 21 U. S. C. 341, 371), and upon the basis of substantial evidence received at the hearing duly held pursuant to the notice published in the FEDERAL REGISTER on October 15, 1947 (12 F. R. 6767), and upon consideration of the exceptions filed to the tentative order issued by the Federal Security Administrator on November 5, 1949 (14 F. R. 6720), which exceptions are allowed in part and rejected in part, as appears from notations on the exceptions which are on file with the Hearing Clerk, Federal Security Agency, Room 5109, Federal Security Building, Fourth Street and Independence Avenue, S. W., Washington, D. C., and as is apparent from the detailed findings below, the following order is promulgated:

Findings of fact.[1] 1. Dressings for salads constitute a class of foods the members of which characteristically contain a fat ingredient, an acidifying ingredient, and seasoning ingredients. Three members of this class of foods, commonly known as mayonnaise, french dressing, and salad dressing, are distributed commercially in large quantities as ready-prepared dressings. In cookbooks it is the conventional practice for the term "salad dressing" to be used as a generic designation for an entire class of foods which are to be made as dressings for salads, but in the commercial distribution of ready-prepared dressings it is the common and usual practice for the term "salad dressing" to be used as the specific name of the emulsified semisolid dressing similar to mayonnaise but differentiated therefrom by its content of other ingredients, particularly a cooked or partly cooked starchy paste. (R. 12–17, 26–27, 30, 38–39, 56, 59–60, 70–71, 73, 94, 111, 126–128, 133, 144–147, 158–159, 244, 366–371, 375, 425, 446–450, 550, 682, 735–737, 1304, 1863–1864, 1896–1897)

2. The fat in mayonnaise, french dressing, and salad dressing is one or a blend of two or more edible vegetable oils, such as the refined oils prepared from the seeds of cotton, corn, soya beans, peanuts, sesame, and sunflowers. In addition to the foregoing refined oils prepared from seeds, olive oil, which is not a refined oil, has been used in preparing dressings for salads in the home. Since it is not refined, olive oil is unsuitable for use in dressings the keeping quality of which is of importance, and its use in commercial dressings is relatively insignificant. The record does not show a need for any special requirements regulating its use. (R. 14, 17, 18, 34, 67, 110–111, 137, 140, 148–149, 426–430, 454, 478, 653, 666–667, 687–688, 695–696, 714–715, 725, 726, 1317–1318)

3. It was proposed that the definitions and standards of identity for mayonnaise, french dressing, and salad dressing should designate ascorbic acid as an optional ingredient because of its properties as a reducing agent. The evidence does not establish that ascorbic acid is effective to retard deterioration in the quality of the edible vegetable oils used in mayonnaise, french dressing, and salad dressing. (R. 457, 475–476, 683, 1381; Ex. 6)

4. There was testimony that the oils used in mayonnaise, french dressing, and salad dressing, particularly cottonseed oil, cause some consumers to suffer allergic reactions from the food, and that the interest of consumers would be promoted by having the definitions and standards of identity for these foods require label declaration of the oils used. In opposition to this, other allergists testified that allergic reactions to cottonseed oil and the other oils used in mayonnaise, french dressing, and salad dressing are extremely rare. Representatives of manufacturers testified that considerable difficulty would be encountered in complying with a requirement that the oils used be named on labels because the frequent changes in the oils used would necessitate frequent changes of labels and the use of separate storage tanks, feed lines, pumps, etc., to avoid unintentional blending. The evidence does not justify at this time a requirement for label declaration of the oils used. (R. 58–59, 66–67, 137–138, 150, 165–221, 247–312, 327–331, 429, 606–610, 675, 695, 699, 726–729, 979–1031, 1044–1141, 1146–1162, 1164–1211, 1212–1232, 1267–1301, 1313–1315, 1361–1362, 1402–1405; Ex. 17, 36, 37, 59)

5. Mineral oil is not a suitable ingredient for use in mayonnaise, french dressing, or salad dressing. (R. 45–47, 125–126, 133, 150, 159, 461)

6. The acidifying agents most widely used in dressings for salads are the various vinegars such as distilled vinegar, wine vinegar, cider vinegar, sugar vinegar, and malt vinegar. Blends of such vinegars are also used. The evidence does not establish a need for the definitions and standards of identity for mayonnaise, french dressing, and salad dressing to require acidyfying ingredients to be named on labels. The manufacturers of these dressings, in order to reduce their tartness, often dilute the vinegar or blend of vinegars with water. The evidence indicates that in the case of mayonnaise there is no necessity for diluting the vinegar or blend of vinegars to an acid content, calculated as ascetic acid, below 2½ percent by weight. The proportion of the aqueous phase in french dressing and salad dressing is, generally speaking, considerably greater than the proportion of the aqueous phase in mayonnaise, and for this reason a requirement that the dilution of the vinegar or blend be restricted to not less than 2½ percent as acetic acid by weight would in some cases result in objectionably tart french dressing or salad dressing. (R. 19–20, 35, 36, 40, 69, 84–85, 94, 119–124, 140–141, 175–177, 190, 254, 335–337, 396–398, 424, 426, 430–431, 434, 436–437, 440–443, 444–445, 450, 452, 457–459, 496, 549, 581–582, 658–661, 669–670, 675–676, 1037, 1305–1306, 1315–1316, 1320, 1322, 1325, 1327A, 1330–1331, 1334, 1344–1345, 1351, 1353–1354, 1433; Ex. 2, 3, 4)

7. Lemon juice has been used as an acidifying ingredient in dressings for salads. In commercial practice lemon juice is most often used together with a vinegar or a blend of vinegars. In addition to the fresh juice from lemons, frozen juice or such juice in canned, concentrated, or dried form is also satisfactory. In order that the tartness may be reduced, water is frequently used. In the case of mayonnaise there is no necessity for the dilution with water to exceed that which is permitted for vinegar or blends of vinegar used in mayonnaise (see finding 6). Lime juice may be used interchangeably with lemon juice. (R. 19–20, 69, 84–85, 94, 142–144, 176–177, 190, 435, 440–443, 661–662, 670, 673, 678–679, 750, 1305, 1306, 1316, 1340, 1363–1364, 1569, 1573; Ex. 38, 41)

8. Besides the vinegar or diluted vinegar which manufacturers use in the com-

[1] The citations following each finding of fact refer to the pages of the transcript of testimony and the exhibits received in evidence at the hearing.

mercial production of mayonnaise, french dressing, and salad dressing, some manufacturers use citric acid as an additional acidifying ingredient. Citric acid is not suitable for replacing all the vinegar. It is reasonable to specify in the definitions and standards of identity for mayonnaise, french dressing, and salad dressing that when citric acid is used it shall not exceed 25 percent by weight of the acids of the vinegar or diluted vinegar calculated as acetic acid. (R. 235, 435–437, 480–487, 683–685, 701–702, 717–718, 1348, 1376–1377, 1569, 1603)

9. Citric acid as such is rarely if ever used in the home in preparing dressings. In order for consumers to be informed of the presence in mayonnaise, french dressing, and salad dressing of this unexpected optional acidifying ingredient, the labels for such dressings should reveal that citric acid was added. A suitable and informative label statement for this purpose is "citric acid added" or "with added citric acid." (R. 235, 400, 436–437)

10. Other acidifying agents that were mentioned as having been used by some manufacturers are tartaric acid and lactic acid. These acids are not used in mayonnaise, french dressing, or salad dressing as prepared in the home. Tartaric acid is not digested. The evidence does not establish that tartaric acid and lactic acid should be designated as optional acidifying ingredients for mayonnaise, french dressing, and salad dressing. (R. 235–238, 398–402, 412–413, 435–437, 480–482, 485–487, 683–685, 701–702, 713, 717–718, 1348, 1376, 1377, 1569, 1603)

11. Optional ingredients commonly used in dressings for salads include salt, sweetening agents, spices, and other taste-imparting ingredients. Sweetening agents used are sugar, dextrose, corn sirup, invert sugar sirup, nondiastatic maltose sirup, glucose sirup, and honey. These ingredients are suitable for use in mayonnaise, french dressing, or salad dressing, either in sirup form or in dried form. Other ingredients used in dressings for salads to impart their characteristic tastes to the dressings are onions, garlic, horseradish, and celery. These tastes can be conveniently imparted to mayonnaise, french dressing, and salad dressing by using onions, garlic, horseradish, or celery in powdered form or in the form of expressed juice. Experimental use of monosodium glutamate demonstrated it to be a suitable taste-imparting ingredient. Worcestershire sauce and soy sauce are sometimes used as seasoning ingredients in mayonnaise, french dressing, and salad dressing. The record does not disclose the composition of these products. Other sauces of unknown composition are also used. (R. 16–17, 30, 31, 67, 69, 74, 77–80, 88–89, 124–125, 128, 131, 146, 201–202, 224, 226, 313–314, 389, 396–397, 449, 454–455, 459, 467, 519, 600–602, 609, 612, 644–645, 662–663, 673–674, 689–690, 710–711, 857–866, 1307, 1321, 1329, 1339, 1346, 1352–1353, 1358; Ex. 15, 16)

12. The large number of flavoring and seasoning substances suitable for use in mayonnaise, french dressing, and salad dressing makes it impracticable to list them by name as optional ingredients. Any suitable, harmless food seasoning or flavoring (other than imitations) is a reasonable class designation to describe seasoning and flavoring ingredients in addition to spices. (R. 31, 128, 146, 1321, 1359)

13. The spices mustard, paprika, and pepper are commonly used as seasoning ingredients in mayonnaise, french dressing, and salad dressing, and other spices and spice oils and spice extracts are also sometimes used. Formulas for mayonnaise and salad dressing call for the use of egg-yolk-containing ingredients (see finding 15) which impart their characteristic egg-yolk color to the dressing. In these dressings the use of turmeric or saffron is apt to deceive consumers because the yellow color imparted by these spices causes the dressing to appear to contain more egg yolk than it actually contains. For this reason no turmeric, saffron, or any spice oil or spice extract or other seasoning or flavoring ingredient which imparts to the dressing a color simulating the color imparted by egg yolk should be included in the optional ingredients for mayonnaise or salad dressing. (R. 16–17, 25–26, 31, 45, 107–108, 112, 128, 131, 146, 156, 230–233, 317–319, 371, 410, 437–439, 457, 471, 489, 567–572, 581, 585, 590, 663–664, 691–693, 702–705, 744, 1308, 1330)

14. To reduce the amount of oxygen in contact with dressings for salads, some manufacturers have performed the mixing and packing operations in an atmosphere in which a part or all of the air has been replaced by carbon dioxide or nitrogen. Carbon dioxide and nitrogen are relatively inert gases, and no harmful effect occurs from the mixing and packing of mayonnaise, french dressing, and salad dressing in an atmosphere in which air is replaced in whole or in part by these gases. (R. 426, 1383, 1457)

15. Mayonnaise is an emulsified, semisolid food. The only emulsifying agent used in producing the emulsion is an egg-yolk-containing ingredient. Egg-yolk-containing ingredients which are suitable are liquid egg yolks, frozen egg yolks, liquid whole eggs, frozen whole eggs, or any one or more of these with liquid egg white or frozen egg white. Egg yolks frozen with added salt or sugar or both are also suitable for use in mayonnaise, but it is unnecessary to specify these an optional egg-yolk-containing ingredients because salt and sugar are recognized optional seasoning ingredients for mayonnaise, and the identity of the finished food is the same, whether the salt or sugar is added directly in making the mayonnaise or indirectly as a constituent of the egg-yolk-containing ingredient used. There was testimony that the dried egg-yolk-containing products now available are not generally suitable, from the point of view of flavor, odor, and other characteristics, for use in mayonnaise. Although there was an expression of hope that more suitable dried forms of egg-yolk products may be developed in the future, the record does not furnish a basis for describing dried egg-yolk-containing products suitable for use in mayonnaise. (R. 16–19, 25–27, 73, 94, 108–109, 111, 112, 156–157, 369, 420–422, 425–426, 431–433, 443–444, 468–470, 479–480, 527, 579, 665, 680–681, 729–731, 742–749, 1309–1312, 1332; Ex. 2, 10)

16. Specifying in the definition and standard of identity for mayonnaise that the dressing is emulsified and that an egg-yolk-containing ingredient is the sole emulsifying agent used makes it unnecessary to specify a numerical minimum level for egg yolk. (R. 21–22, 112–116, 147, 233, 321–326, 414, 431–434, 468–469, 475, 493, 673, 694, 731, 739–742, 1310–1311; Ex. 2)

17. Mayonnaise is generally recognized by consumers as a salad dressing containing a relatively high proportion of vegetable oil, and it is reasonable to require that mayonnaise contain not less than 65 percent by weight of edible vegetable oil. (R. 21–25, 60–61, 109–111, 126–127, 321–324, 422, 430–431, 671, 718, 1309; Ex. 2, 10)

18. Commercially prepared mayonnaise is usually distributed with labels bearing the name "mayonnaise," but sometimes it has been distributed with labels bearing the name "mayonnaise dressing" and to a lesser extent with labels bearing the name "mayonnaise salad dressing." The commercially prepared dressing which looks like mayonnaise but which contains a starchy paste (see findings 1 and 27) is distributed with labels bearing the name "salad dressing." The distribution of mayonnaise labeled "mayonnaise salad dressing" would tend to cause purchasers to confuse the dressing containing starchy paste with mayonnaise. Consequently, in specifying the name of the food in the definition and standard of identity for mayonnaise it will promote fair dealing to specify only the names "mayonnaise" and "mayonnaise dressing," and not the name "mayonnaise salad dressing." (R. 13–16, 26–27, 38, 56, 59–60, 70–73, 125, 144–146, 158, 372, 443, 446–450, 550, 1304–1305)

19. French dressing as prepared in the home has usually been in liquid form which, upon standing, separates into an oil layer and an aqueous layer. Commercial french dressing is prepared in two forms, a separable liquid form similar to home-made french dressing and a viscous fluid form in which the vegetable oil is so dispersed in the acidifying ingredient by the use of an emulsifying agent that the dressing does not separate into layers. (R. 29, 31, 128–130, 241–242, 346, 394, 457–459, 514, 608)

20. A number of emulsifying ingredients are suitable for use in french dressing and also in salad dressing. Among these ingredients are gum acacia, carob bean gum, guar gum, gum karaya, and gum tragacanth. Alternative names for gum acacia and carob bean gum are gum arabic and locust bean gum, respectively. The name "vegetable gum" is also applicable to gum acacia, carob bean gum, guar gum, gum karaya, and gum tragacanth. Ingredients other than these vegetable gums which are suitable for use in french dressing and salad dressing are extract of Irish moss, pectin, propylene glycol ester of alginic acid, and sodium carboxymethylcellulose. There

was testimony that in acid foods such as salad dressing algin (sodium alginate) does not give results as good as are given by propylene glycol ester of alginic acid. Sometimes mixtures of emulsifying ingredients are used. The quantity of emulsifying ingredient used in french dressing varies somewhat among different manufacturers, but in general the emulsifying ingredient constitutes from one-fourth of 1 percent to three-fourths of 1 percent of the weight of the french dressing. Proper emulsification of french dressing can be readily achieved when the emulsifying ingredients do not constitute more than 0.75 percent of the weight of the finished french dressing. (R. 31, 41, 130, 133–135, 136–137, 157, 316, 386, 387, 453, 457–459, 514, 675, 769–770, 792, 795–796, 805–811, 819–822, 826–830, 835–848, 854, 940–951; Ex. 7, 8, 9, 13)

21. To a limited extent, egg-yolk-containing ingredients (see finding 15) have been used for their emulsifying properties in french dressing. The proportion of the egg-yolk-containing ingredient has been so restricted that the finished french dressing is fluid and does not simulate mayonnaise in consistency. In order to avoid the consumer confusion that would result from french dressing emulsified with so much egg-yolk-containing ingredient that it would be liable to be mistaken for mayonnaise, such ingredient is restricted, so that the weight of its egg-yolk solids is not more than 0.75 percent of the weight of the finished french dressing. (R. 31, 83–84, 131, 133–135, 345, 385, 459, 514, 675, 1323; Ex. 4)

22. There was testimony recommending that, in addition to specifying the emulsifying ingredients named in finding 20, the definitions and standards of identity for french dressing and salad dressing should specify two classes of emulsifiers to be described as "partial esters of fat-forming fatty acids and mono- and dianhydrides of the hexitols, mannitol and sorbitol, and polyoxyethylene derivatives thereof" and "partial esters of fat-forming fatty acids and polyoxypropylene mannitol." It is not possible from the evidence of record to establish the bounds of the classes so described. No physical constants were suggested as proper limiting specifications. The record lists a score of trade-name articles cited as examples of products encompassed by the recommended class descriptions. Although chemical terms are associated with these trade names in the record, the chemical terms used are in a number of instances not specific designations but instead are designations which in turn are capable of encompassing a number of chemical entities. In addition to the trade-name products enumerated in the record, the recommended class descriptions would incorporate an incalculable number of inadequately investigated and even undiscovered chemicals to be included in the definitions and standards of identity for french dressing and salad dressing as optional emulsifying ingredients. Toxicological studies have been undertaken on some of the products encompassed by the recommended class descriptions. The scientists who presented the results of their toxicological investigations testified that they had not completed their two-year chronic-toxicity studies. Preliminary work in the manufacturer's laboratory indicated that members of the classes encompassed by the general descriptions had value in stabilizing emulsion-type french dressing and salad dressing. Samples were given to a manufacturer of salad dressing to work with in the laboratory. There was testimony that the work was insufficient to yield conclusive results, but was promising. The record does not show which particular members of the general classes were evaluated in either of these laboratories. It would not be in the interest of consumers for the definitions and standards of identity for french dressing and salad dressing to specify optional emulsifying ingredients by such general descriptions as to include broad classes of chemicals that have neither been used in the home nor used to any substantial extent in the commercial production of french dressing or salad dressing, and of which classes only a limited number of members have been investigated for their toxicological properties. The evidence does not furnish a basis for specifically designating which among the products encompassed by the recommended general descriptions are suitable emulsifying ingredients for french dressing and salad dressing. (R. 877–940, 1323–1324, 1332, 1348, 1356, 1622–1727, 1728–1761, 1761–1770, 1771–1778, 1785–1787; Ex. 18–35, 42–58)

23. Except for egg-yolk-containing ingredients, emulsifiers are not customarily used in making french dressing or salad dressing in the home. In order for consumers to be informed when such unexpected ingredients are contained in ready-prepared dressings which they purchase, the lebels of such dressings should declare the presence of the emulsifying ingredient. A statement on the label which is reasonably informative to purchasers is "_____ added" or "with added _____," the blank being filled in with the common name of the emulsifying ingredient or mixture used; or, alternatively, with the words "algin derivative," if propylene glycol ester of alginic acid is used; or with the words "vegetable gum" if any one of the vegetable gums gum acacia, carob bean gum, guar gum, gum karaya, or gum tragacanth is used; or with the words "vegetable gums" if two or more such vegetable gums are used. If french dressing or salad dressing contains citric acid and an emulsifying ingredient as specified in finding 20, the consumer's interest in learning that these ingredients are contained in the dressing will be satisfactorily served if the label statements are combined, as for example, "with added citric acid and sodium carboxymethylcellulose." (R. 131, 133–137, 346, 385–386, 1342–1344)

24. Testimony was given to support recognition of the use in mayonnaise, french dressing, and salad dressing of a class of optional ingredients called "harmless suitable antioxidants," on the ground that such substances are needed to retard the development of rancidity in the oil ingredient. The number of substances, most of which are chemicals, that may be classified as antioxidants is very large. It is well known that many antioxidants are toxic. Evidence was not submitted to show which, if any, of the substances that are regarded as suitable for use have been demonstrated by adequate testing to be harmless. While a determination of the suitability of such substances from the standpoint of their effect in delaying rancidity and their lack of adverse effect on color, odor, and flavor is not unusually difficult and might properly be left to individual manufacturers of these dressings, a determination that any such substance is harmless involves highly complex, difficult, and time-consuming investigations, the adequacy of which requires evaluation by experts in pharmacology, medicine, and related sciences who are trained and experienced in making such investigations. An error in deciding that a substance is harmless is so likely to result in impairment of public health that the procedure whereby such decisions are reached should be surrounded by careful safeguards. It would not promote honesty and fair dealing in the interest of consumers to provide for the use of antioxidants as optional ingredients in mayonnaise, french dressing, and salad dressing in such general terms as "harmless suitable antioxidants." Before such use of any such substance is recognized, evidence should be included in the record showing that such substance has been adequately tested by experts qualified by scientific training and experience to evaluate the toxicity of the substance, and that such tests demonstrate that such substance is neither poisonous nor deleterious. (R. 435–436, 483, 487, 685, 696–699, 1361, 1377, 1381–1386, 1387–1391, 1431–1432, 1445–1466, 1477–1478, 1526–1533, 1540–1545, 1548–1553, 1557–1564)

25. Historically, french dressing was approximately half oil and half acidifying ingredient. Commercial french dressing has had a tendency to contain less than 50 percent vegetable oil, and the emulsified form has frequently been made to contain less vegetable oil than the separable form. Purchasers are unable to estimate by inspection the proportion of oil in emulsified french dressing. In order to prevent the reduction of the proportion of oil in commercial french dressing to unreasonably low levels it is necessary to establish a minimum limit for the percentage of oil in french dressing. A reasonable minimum limit for oil in french dressing is 35 percent. (R. 30, 32–35, 41–44, 128–130, 132–133, 241–244, 386, 458, 512, 608, 640–642, 674, 700–701, 1322, 1427–1472; Ex. 3, 10, 40)

26. In addition to the optional ingredients set forth in findings 11, 12, and 13, tomato paste, tomato puree, catsup, and sherry wine are sometimes used in the preparation of french dressing, and each of these is suitable for such use. (R. 31, 128, 131, 315–316, 457–459, 609, 674)

27. Salad dressing is an emulsified semisolid food which contains a cooked or partly cooked starchy paste in addi-

tion to edible vegetable oil, acidifying ingredient, and egg-yolk-containing ingredient. In preparing salad dressing, the starchy paste is made up separately by heating a food starch, such as properly prepared cornstarch, arrowroot starch, or potato starch, or a flour, such as wheat flour, rye flour, or tapico flour, with water or diluted vinegar. Sometimes mixtures of the starchy ingredients are used and sometimes other ingredients of the salad dressing being prepared, such as the acidifying ingredient, salt, and sweetening agents, are added to the starchy paste. (R. 38–41, 56, 69–71, 73, 82, 86, 101, 144–147, 158, 239–240, 366, 372, 376–379, 383, 405–409, 444–445, 450–452, 496–497, 512, 520–521, 544, 549; 564–567, 594, 676, 716, 1243–1261, 1262, 1327A, 1913; Ex. 10)

28. In the preparation of salad dressing an egg-yolk-containing ingredient (see finding 15) is used. One or any mixture of the emulsifying ingredients designated in finding 20 may be used to aid in stabilizing the emulsion. When such an ingredient or mixture is used for this purpose the quantity need not exceed 0.75 percent by weight of the finished dressing. (R. 38, 41, 56, 134, 154–158, 376, 381, 395–396, 450–453, 490–491, 494–497, 743, 820–822, 846, 949–951, 1332; Ex. 4, 5, 7, 8, 9, 13)

29. Egg-yolk-containing ingredients are not the sole emulsifying ingredients that may be used in salad dressing, and in order to guarantee that salad dressing contains sufficient egg-yolk-containing material to meet with consumer expectations, it is necessary to establish a minimum limit for the egg-yolk-containing ingredient. A minimum quantity of 4 percent by weight of liquid egg yolks or a quantity of other egg-yolk-containing ingredient equivalent in its egg-yolk-solids content to 4 percent by weight of liquid egg yolks is a reasonable minimum limit for the egg-yolk-containing ingredient of salad dressing. (R. 41–44, 113, 115–116, 154–157, 381–382, 414, 432, 455–456, 490–492, 557, 583, 591–597, 645, 1332; Ex. 4, 10)

30. Salad dressing as made by different manufacturers, and different brands of salad dressing as made by a single manufacturer, vary in the percentage of vegetable oil which they contain from about 50 percent down to as low as 20 percent, and in some instances even lower. Low-oil salad dressing is often differentiated in the trade by such terms as "cheap" or "second grade" or "competitive grade." As the percentage of vegetable oil in salad dressings is lowered, the characteristics of the starchy-paste ingredient in the dressing become more apparent. The line of demarcation between reasonably satisfactory salad dressing and salad dressing which is objectionable because of predominating starchy characteristics is not clearly fixed, but when salad dressing has less than about 30 percent vegetable oil it has a starchy flavor which is not characteristic of salad dressing. It is reasonable to fix the minimum level for vegetable oil in salad dressing at 30 percent by weight of the finished dressing. (R. 41–45, 54, 150–157, 243–244, 366–367, 372, 382, 393, 454–455, 505–508, 544–549, 560–561, 609, 644–645, 676, 705–711, 717–720, 731–735, 742, 1331, 1912; Ex. 4, 10)

31. In addition tc mayonnaise, french dressing, and salad dressing, a number of other related dressings for salads are referred to in the record. There was testimony concerning a kind of sauce for use on sea food, meats, and similar dishes which has been labeled "Old Style Sauce." The evidence concerning this product indicates that it resembles salad dressing but is more fluid, and contains more mustard and horseradish than are generally used in salad dressing. There was testimony concerning foods made by mixing substantial portions of chili sauce or other tomato products, or chopped vegetables, or chopped pickles with a base consisting of mayonnaise or salad dressing. These mixtures are clearly distinguishable from mayonnaise or salad dressing both in appearance and taste, and have been labeled with names such as russian dressing, Thousand Island dressing, sandwich spread, and tartar sauce. The evidence in the record is not sufficient to establish definitions and standards of identity for any of these related dressings other than mayonnaise, french dressing, and salad dressing. (R. 73–74, 146, 152–154, 158–159, 377–384, 387–392, 459–460, 512, 563, 605, 610–614, 637–640, 646–652, 1346, 1827–1914; Ex. 11, 12, 40, 41)

32. There was no satisfactory evidence showing that it would promote honesty and fair dealing in the interest of consumers to permit milk, milk solids, nonfat dry milk solids, or cream as optional ingredients in salad dressing. These dairy ingredients are used frequently in the home preparation of the broad class of foods described by the generic term "salad dressing," but they are very unusual ingredients in the commercially prepared food commonly known as "salad dressing." Only one firm has added these ingredients to commercial "salad dressing." The additions are said to improve the flavor, physical appearance or texture, and nutritive value of salad dressing. No substantial evidence was presented to prove the 4 percent to 5 percent of table cream and the 1 percent of nonfat dry milk solids now in use by the firm have a noticeable effect on the flavor of the salad dressing. Evidence that a commercially prepared food of that kind, the composition of which has varied from time to time, has been successfully marketed does not prove that flavor is improved. On the contrary, cream and milk are mild and bland in flavor while some of the constituents of salad dressing, particularly vinegar and the condiments, are characterized by much stronger flavors. In the presence of the stronger flavored ingredients, small amounts of cream and milk will not affect the flavor of the salad dressing to any significant extent. The only evidence of record from taste panel testing reveals that cream in much greater amounts than used by the proponent of its optional use in salad dressing, even when used to the extent of 40 percent of the food, is not noticeable in the finished salad dressing. There was no substantial evidence that the small amounts of nonfat dry milk solids and table cream proposed would improve the texture and physical characteristics of the salad dressing, nor was there evidence as to what special precautions would have to be taken to prevent spoilage of the dairy ingredients during the normal shelf life of the food. It is claimed that the substitution of milk and cream for water in salad dressing would improve its nutritive properties. But the fact that milk and cream are more nutritious than water does not solve the problem. The small amounts of extra fat, protein, amino acids, minerals, and other nutrients that would be added to the daily diet through the use of 4 percent to 5 percent of cream and 1 percent of nonfat dry milk solids in replacement of like amounts of water in salad dressing are insignificant. The proponents of the use of these optional ingredients did not attempt to show that any significant nutritive improvement of the diet would be made through the optional use of nonfat dry milk solids and table cream in salad dressing in the amounts proposed. Adding milk and cream to salad dressing would provide a basis for labeling and advertising claims as to the virtues of these ingredients in the abstract. A truthful statement on a label that cream, milk, or nonfat dry milk solids had been added as an ingredient of salad dressing would be misleading when applied to salad dressing containing only 4 percent to 5 percent of table cream diluted by 1 percent of nonfat dry milk solids because it would not furnish the pertinent information that the small amounts added were insufficient to affect the taste and insignificant from a nutritional standpoint. Thus, to permit the dairy ingredients as optional for use in salad dressing would promote misleading labeling claims with no accompany consumer benefits in terms of product improvement. (R. 81–82, 152–154, 387–388, 575–579, 1567–1568, 1570, 1573, 1574–1581, 1584, 1592, 1601, 1604–1610, 1612, 1617, 1827, 1831–1844, 1863–1865, 1880–1888, 1892, 1896, 1899, 1901, 1903, 1905, 1908–1909, 1912)

33. The commercial salad dressing with table cream and nonfat dry milk solids added is sold as "Cream Wipt Salad Dressing." Only one such product is on the market. When cream is used in a salad dressing prepared in the home the food customarily is called cream salad dressing. Consumers have a right to expect a food designated as cream salad dressing to contain a very substantial amount of cream. Only rarely do cream salad dressings contain vegetable oil as well as cream. Cookbooks describe and give directions for preparing cream salad dressings, and the directions call for cream, or milk and cream, in such quantities that milk fat contributes at least 50 percent of the total fat in the cream salad dressing. No recipes were found or offered in evidence in which as little as 4 percent to 5 percent of table

cream was used in home preparation of cream salad dressing. Each of the recipes referred to in the evidence requires a substantially greater amount of cream. This high milk fat content is one of the essential identity characteristics. Cream salad dressing is not now prepared commercially, the evidence does not show that it would have keeping qualities to make the preparation and sale commercially feasible, and there is no need for a standard of identity for it. (R. 387, 575, 1576, 1579, 1580–1581, 1584, 1587, 1599, 1608, 1617, 1831–1842, 1844, 1846, 1878, 1880–1884, 1903, 1905; Ex. 38–41)

Conclusion. Upon consideration of the entire record and the foregoing findings of fact it is concluded that the promulgation of the following definitions and standards of identity for mayonnaise, french dressing, and salad dressing will promote honesty and fair dealing in the interest of consumers.

Chapter I is amended by adding the following new part:

PART 25—DRESSINGS FOR FOODS

Sec.

25.1 Mayonnaise, mayonnaise dressing; identity; label statement of optional ingredients.

25.2 French dressing; identity; label statement of optional ingredients.

25.3 Salad dressing; identity; label statement of optional ingredients.

AUTHORITY: §§ 25.1 to 25.3 issued under sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 401, 52 Stat. 1046; 21 U. S. C. 341.

§ 25.1 *Mayonnaise, mayonnaise dressing; identity; label statement of optional ingredients.* (a) Mayonnaise, mayonnaise dressing, is the emulsified semisolid food prepared from edible vegetable oil, one or both of the acidifying ingredients specified in paragraph (b) of this section, and one or more of the egg-yolk-containing ingredients specified in paragraph (c) of this section. It may be seasoned or flavored with one or more of the following ingredients:

(1) Salt.

(2) Sugar, dextrose, corn sirup, invert sugar sirup, nondiastatic maltose sirup, glucose sirup, honey. The foregoing sweetening ingredients may be used in sirup or dried form.

(3) Mustard, paprika, other spice, or any spice oil or spice extract, except that no turmeric or saffron is used and no spice oil or spice extract is used which imparts to the mayonnaise a color simulating the color imparted by egg yolk.

(4) Monosodium glutamate.

(5) Any suitable, harmless food seasoning or flavoring (other than imitations), provided it does not impart to the mayonnaise a color simulating the color imparted by egg yolk.

Mayonnaise may be mixed and packed in an atmosphere in which air is replaced in whole or in part by carbon dioxide or nitrogen. Mayonnaise contains not less than 65 percent by weight of vegetable oil.

(b) The acidifying ingredients referred to in paragraph (a) of this section are:

(1) Any vinegar or any vinegar diluted with water to an acidity, calculated as acetic acid, of not less than 2½ percent by weight, or any such vinegar or diluted vinegar mixed with the additional optional acidifying ingredient citric acid, but in any such mixture the weight of citric acid is not greater than 25 percent of the weight of the acids of the vinegar or diluted vinegar calculated as acetic acid. For the purpose of this paragraph, any blend of two or more vinegars is considered to be a vinegar.

(2) Lemon juice or lime juice or both or any such juice in frozen, canned, concentrated, or dried form, or any one or more of these diluted with water to an acidity, calculated as citric acid, of not less than 2½ percent by weight.

(c) The egg-yolk-containing ingredients referred to in paragraph (a) of this section are: liquid egg yolks, frozen egg yolks, liquid whole eggs, frozen whole eggs, or any one or more of the foregoing with liquid egg white or frozen egg white.

(d) (1) When the additional optional acidifying ingredient as provided in paragraph (b) (1) of this section is used, the label shall bear the statement "Citric acid added" or "With added citric acid."

(2) Wherever the name "Mayonnaise" or "Mayonnaise Dressing" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements herein specified, showing the optional ingredients present, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 25.2 *French dressing; identity; label statement of optional ingredients.* (a) French dressing is the separable liquid food or the emulsified viscous fluid food prepared from edible vegetable oil and one or both of the acidifying ingredients specified in paragraph (b) of this section. It may be seasoned or flavored with one or more of the following ingredients:

(1) Salt.

(2) Sugar, dextrose, corn sirup, invert sugar sirup, nondiastatic maltose sirup, glucose sirup, honey. The foregoing sweetening ingredients may be used in sirup or dried form.

(3) Mustard, paprika, other spice, or spice oil or spice extract.

(4) Monosodium glutamate.

(5) Any suitable, harmless food seasoning or flavoring (other than imitations).

(6) Tomato paste, tomato puree, catsup, sherry wine.

French dressing may be emulsified. Subject to the conditions hereinafter prescribed, one or both of the optional emulsifying ingredients specified in paragraph (c) (1) and (2) of this section may be added. French dressing may be mixed and packed in an atmosphere in which air is replaced in whole or in part by carbon dioxide or nitrogen. French dressing contains not less than 35 percent by weight of vegetable oil.

(b) The acidifying ingredients referred to in paragraph (a) of this section are:

(1) Any vinegar or any vinegar diluted with water, or any such vinegar or diluted vinegar mixed with the additional optional acidifying ingredient citric acid, but in any such mixture the weight of citric acid is not greater than 25 percent of the weight of the acids of the vinegar or diluted vinegar calculated as acetic acid. For the purpose of this paragraph, any blend of two or more vinegars is considered to be a vinegar.

(2) Lemon juice or lime juice or both or any such juice in frozen, canned, concentrated, or dried form, or any one or more of these diluted with water.

(c) The optional emulsifying ingredients referred to in paragraph (a) of this section are:

(1) Gum acacia (also called gum arabic), carob bean gum (also called locust bean gum), guar gum, gum karaya, gum tragacanth, extract of Irish moss, pectin, propylene glycol ester of alginic acid, sodium carboxymethylcellulose, or any mixture of two or more of these.

(2) Liquid egg yolks, frozen egg yolks, liquid whole eggs, frozen whole eggs, or any one or more of these with liquid egg white or frozen egg white. For the purpose of this paragraph, the quantity of egg-yolk-containing ingredient is calculated as the weight of the egg-yolk solids contained therein.

The quantity of any such emulsifying ingredient or mixture used amounts to not more than 0.75 percent by weight of the finished french dressing.

(d) (1) When the additional optional acidifying ingredient as provided in paragraph (b) (1) of this section is used, the label shall bear the statement "Citric acid added" or "With added citric acid." When an optional emulsifying ingredient as provided in paragraph (c) (1) of this section is used, the label shall bear the statement "_____ added" or "With added _____," the blank being filled in with the common name or names of the emulsifying ingredient or mixture of emulsifying ingredients used, as specified in paragraph (c) (1) of this section; or, alternatively, with the words "algin derivative," if propylene glycol ester of alginic acid is used; or with the words "vegetable gum" if any one of the vegetable gums, gum acacia, carob bean gum, guar gum, gum karaya, or gum tragacanth, is used; or with the words "vegetable gums" if two or more such vegetable gums are used. Label statements specified in this paragraph for declaring the presence of optional ingredients may be combined, as for example, "With added citric acid and sodium carboxymethylcellulose."

(2) Wherever the name "French Dressing" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements herein specified, showing the optional ingredients present, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 25.3 *Salad dressing; identity; label statement of optional ingredients.* (a) Salad dressing is the emulsified semisolid food prepared from edible vegetable oil, one or both of the acidifying ingredients specified in paragraph (b) of this section, one or more of the egg-yolk-containing ingredients specified in paragraph (c) of this section, and a cooked or partly cooked starchy paste prepared with a food starch, tapioca flour, wheat flour, rye flour, or any two or more of these. In the preparation of such starchy paste water may be added. Salad dressing may be seasoned or flavored with one or more of the following ingredients:

(1) Salt.

(2) Sugar, dextrose, corn sirup, invert sugar sirup, nondiastatic maltose sirup, glucose sirup, honey. The foregoing sweetening ingredients may be used in sirup or dried form.

(3) Mustard, paprika, other spice, or any spice oil or spice extract, except that no turmeric or saffron is used and no spice oil or spice extract is used which imparts to the salad dressing a color simulating the color imparted by egg yolk.

(4) Monosodium glutamate.

(5) Any suitable, harmless food seasoning or flavoring (other than imitations), provided it does not impart to the salad dressing a color simulating the color imparted by egg yolk.

Subject to the conditions hereinafter prescribed, one or more of the optional emulsifying ingredients specified in paragraph (d) of this section may be added. Salad dressing may be mixed and packed in an atmosphere in which air is replaced in whole or in part by carbon dioxide or nitrogen. Salad dressing contains not less than 30 percent by weight of vegetable oil and not less egg-yolk-containing ingredient than is equivalent in egg-yolk solids content to 4 percent by weight of liquid egg yolks.

(b) The acidifying ingredients referred to in paragraph (a) of this section are:

(1) Any vinegar or any vinegar diluted with water, or any such vinegar or diluted vinegar mixed with the additional optional acidifying ingredient citric acid, but in any such mixture the weight of citric acid is not greater than 25 percent of the weight of the acids of the vinegar or diluted vinegar calculated as acetic acid. For the purpose of this paragraph, any blend of two or more vinegars is considered to be a vinegar.

(2) Lemon juice or lime juice or both or any such juice in frozen, canned, concentrated, or dried form, or any one or more of these diluted with water.

(c) The egg-yolk-containing ingredients referred to in paragraph (a) of this section are: liquid egg yolks, frozen egg yolks, liquid whole eggs, frozen whole eggs, or any one or more of the foregoing with liquid egg white or frozen egg white.

(d) The optional emulsifying ingredients referred to in paragraph (a) of this section are: gum acacia (also called gum arabic), carob bean gum (also called locust bean gum), guar gum, gum karaya, gum tragacanth, extract of Irish moss, pectin, propylene glycol ester of alginic acid, sodium carboxymethylcellulose, or any mixture of two or more of these. The quantity used of any such emulsifying ingredient or mixture amounts to not more than 0.75 percent by weight of the finished salad dressing.

(e) (1) When the additional optional acidifying ingredient as provided in paragraph (b) (1) of this section is used, the label shall bear the statement "Citric acid added" or "With added citric acid." When an optional emulsifying ingredient as provided in paragraph (d) of this section is used, the label shall bear the statement "_____ added" or "With added _____," the blank being filled in with the common name or names of the emulsifying ingredient or mixture of emulsifying ingredients used, as specified in paragraph (d) of this section; or, alternatively, with the words "algin derivative," if propylene glycol ester of alginic acid is used; or with the words "vegetable gum" if any one of the vegetable gums, gum acacia, carob bean gum, guar gum, gum karaya, or gum tragacanth, is used; or with the words "vegetable gums," if two or more such vegetable gums are used. Label statements specified in this paragraph for declaring the presence of optional ingredients may be combined, as for example, "with added citric acid and sodium carboxymethylcellulose."

(2) Wherever the name "Salad Dressing" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements herein specified, showing the optional ingredients present, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

Effective date. The regulations hereby promulgated shall become effective on the ninetieth day following the date of publication of this order in the FEDERAL REGISTER.

Dated: August 8, 1950.

[SEAL] OSCAR R. EWING,
Administrator.

[F. R. Doc. 50-7049; Filed, Aug. 11, 1950; 8:47 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter C—Management of Wildlife Conservation Areas

PART 34—SOUTHEASTERN REGION

SUBPART—BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE, GEORGIA

FISHING

Basis and purpose. On the basis of observation and reports of field representatives of the Fish and Wildlife Service, it has been determined that public fishing and the use of boats in certain waters of the Blackbeard Island National Wildlife Refuge, can be permitted in certain seasons without interfering with the primary purpose of the Refuge.

Inasmuch as the following regulations are relaxations of the present prohibition against fishing and the use of boats on the Refuge, the notice and public rule-making procedure required by the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1001 et seq.) are hereby found to be impracticable, and the effective date requirement of the Administrative Procedure Act does not apply.

Effective immediately upon publication in the FEDERAL REGISTER, §§ 34.17 to 34.20, inclusive, are added.

FISHING

Sec.
34.17 Fishing permitted.
34.18 State fishing laws.
34.19 Use of boats.
34.20 Special fishing restrictions.

AUTHORITY: §§ 34.17 to 34.20 issued under sec. 10, 45 Stat. 1224; 16 U. S. C. 715i.

§ 34.17 *Fishing permitted.* Non-commercial fishing is permitted during the daylight hours in all the waters of the Blackbeard Island National Wildlife Refuge, Georgia, during the period from April 1 to October 15, inclusive, of each year, in accordance with the provisions of the regulations in Parts 18 and 21 of this chapter, and subject to the conditions, restrictions, and requirements of §§ 34.18 to 34.20, inclusive.

§ 34.18 *State fishing laws.* All persons must comply with all of the State fishing laws and regulations, and must have on their person and exhibit at the request of any authorized Federal or State officer whatever license is required by such laws and regulations, which license shall serve as a Federal permit for non-commercial or sport fishing in the waters of the Refuge that are open to fishing.

§ 34.19 *Use of boats.* Persons may use boats (except motor boats), canoes, or floating devices for fishing only on the waters of the Refuge, and must place such boats, canoes, or floating devices on the waters only at such point or points as may be designated by posting by the officer in charge. The use of motor boats, either inboard or outboard, is prohibited on all waters of the Refuge except for official purposes.

§ 34.20 *Special fishing restrictions.* Fishing from dikes, dams, and water control structures, and the building of fires on such dikes or dams are prohibited. Fishing must be by hook, line, rod and reel only. The use of set lines, nets, seines, traps, or similar devices is prohibited. The use of live minnows for bait is prohibited.

Dated: August 8, 1950.

CLARENCE COTTAM,
Acting Director.

[F. R. Doc. 50-7037; Filed, Aug. 11, 1950; 8:45 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter C—Miscellaneous Excise Taxes

[Regulations 10]

PART 185—WAREHOUSING OF DISTILLED SPIRITS

Preamble. 1. These regulations, Regulations 10, "Warehousing of Distilled Spirits" (26 CFR, Part 185), shall, on and after September 1, 1950, supersede Regulations 6, 1940 Edition (26 CFR, Part 188; 5 F. R. 3793), and Regulations 10, 1940 Edition (26 CFR, Part 185; 5 F. R. 1953), and Treasury Decisions 5006 (5 F. R. 3702); 5044 (6 F. R. 2276); 5072 (6 F. R. 5060); 5143 (7 F. R. 3302); 5275 (8 F. R. 8800); 5317 (9 F. R. 252); 5372 (9 F. R. 5367); 5464 (10 F. R. 8735); 5472 (10 F. R. 10277); 5527 (11 F. R. 8715); 5528 (11 F. R. 8716); 5581 (12 F. R. 7828); 5585 (12 F. R. 7860); 5603 (13 F. R. 595); 5624 (13 F. R. 3604); 5630 (13 F. R. 3604); 5636 (13 F. R. 3731); 5656 (13 F. R. 5570); 5668 (13 F. R. 6842); 5669 (13 F. R. 6840); 5702 (14 F. R. 3050); 5705 (14 F. R. 3374); 5713 (14 F. R. 3786); 5718 (14 F. R. 4901); 5729 (14 F. R. 4921); 5737 (14 F. R. 5524); 5768 (15 F. R. 59); 5782 (15 F. R. 1839); 5786 (15 F. R. 2415); and 5787 (15 F. R. 2410).

2. These regulations shall not affect or limit any act done or any liability incurred under any regulations superseded hereby, or any suit, action, or proceeding had or commenced in any civil, administrative, or criminal cause and proceeding prior to the effective date of these regulations, nor shall these regulations release, acquit, affect, or limit any offense committed in violation of previously existing regulations, or any penalty, liability or forfeiture incurred prior to such date.

LAWS OF MORE COMMON APPLICATION PERTAINING TO THE WAREHOUSING OF DISTILLED SPIRITS

Sec.	
5 U. S. C. 22	Departmental Regulations.
26 U. S. C. 1650	War Tax Rates of Certain Miscellaneous Taxes.
26 U. S. C. 2800	Tax.
26 U. S. C. 2801	Rectified Spirits.
26 U. S. C. 2802	Stamps for Distilled Spirits.
26 U. S. C. 2804	Detention of Casks or Packages on Suspicion.
26 U. S. C. 2806	Penalties and Forfeitures.
26 U. S. C. 2808	Instruments to Prevent and Detect Fraud.
26 U. S. C. 2810	Registry of Stills.
26 U. S. C. 2829	Installation of Meters, Tanks, and Other Apparatus.
26 U. S. C. 2857	Books of Rectifiers and Wholesale Dealers.
26 U. S. C. 2866	Effacement of Stamps and Brands on Emptied Packages.
26 U. S. C. 2870	Prohibited Hours for Removal of Spirits.
26 U. S. C. 2871	Regulation of Traffic in Containers of Distilled Spirits.
26 U. S. C. 2872	Establishment and Control.
26 U. S. C. 2873	Regulations for Establishment, Maintenance, and Supervision.
26 U. S. C. 2874	Discontinuance of Warehouse and Transfer of Merchandise.
26 U. S. C. 2875	Exemption from Provisions of Law Distinguishing Between Classes of Warehouses.
26 U. S. C. 2876	Failure to Comply with Warehousing and Removal Requirements.
26 U. S. C. 2878	Drawing, Gauging, and Marking of Distilled Spirits.
26 U. S. C. 2879	Deposits of Spirits in Warehouse.
26 U. S. C. 2880	Withdrawal from Warehouse and Collection of Tax on Spirits Subject to Excessive Leakage.
26 U. S. C. 2881	Withdrawal of Spirits from Warehouse on Original Gauge.
26 U. S. C. 2882	Entry for Withdrawal from Warehouse.
26 U. S. C. 2883	Transfer of Spirits at Registered Distilleries.
26 U. S. C. 2884	Gauging, Stamping, and Branding Spirits Removed from Warehouse.
26 U. S. C. 2885	Exportation of Spirits Withdrawn from Warehouses.
26 U. S. C. 2886	Transportation Bond on Withdrawal of Spirits for Export.
26 U. S. C. 2888	Transfer of Spirits into Tank Cars for Export.
26 U. S. C. 2891	Withdrawal of Distilled Spirits to Manufacturing Bonded Warehouse.
26 U. S. C. 2900	Date of Withdrawal.
26 U. S. C. 2901	Loss Allowances.
26 U. S. C. 2903	Bottling of Distilled Spirits in Bond.
26 U. S. C. 2904	Regulations Governing Bottling in Bond.
26 U. S. C. 2905	Exportation of Spirits Bottled in Bond.
26 U. S. C. 2908	Reuse of Stamps or Bottles, Tampering, and Unlawful Removal.
26 U. S. C. 2909	Punishment for Counterfeiting Stamps.
26 U. S. C. 2910	Bottling Gin in Bond for Export.
26 U. S. C. 2912	Forfeiture of Spirits Unlawfully Removed from Distillery or Warehouse.
26 U. S. C. 2913	Penalty for Unlawful Removal or Concealment of Spirits.
26 U. S. C. 2914	Penalty on Officer in Charge of Warehouse for Unlawful Removal of Spirits.
26 U. S. C. 2915	Storekeeper-gauger's Warehouse Book.
26 U. S. C. 3031	Tax on Brandy or Spirits Used in Fortification.
26 U. S. C. 3033	Withdrawal of Wine Spirits.
26 U. S. C. 3170	Transfer and Delegation of Powers.
26 U. S. C. 3171	Records, Statements, and Returns.
26 U. S. C. 3172	Discretionary Method for Collecting Tax.
26 U. S. C. 3173	Penalties and Forfeitures.
26 U. S. C. 3175	Other Laws Applicable.
26 U. S. C. 3176	Rules and Regulations.
26 U. S. C. 3250	Tax.
26 U. S. C. 3254	Definitions.
26 U. S. C. 3300	Establishment and Alteration.
26 U. S. C. 3301	Attachment and Cancellation.
26 U. S. C. 3351	Shipments from the United States.
26 U. S. C. 3361	Shipments from the United States.
26 U. S. C. 3601	Entry of Premises for Examination of Taxable Objects.
26 U. S. C. 3640	Assessment Authority.
26 U. S. C. 3809	Verification of Returns; Penalties of Perjury.
26 U. S. C. 4041	Issue of Instructions, Regulations, and Forms.
19 U. S. C. 1309	Supplies for Certain Vessels and Aircraft (309 (a), Tariff Act of 1930, as amended (46 Stat. 690 as amended)).
19 U. S. C. 1311	Bonded Manufacturing Warehouses (Withdrawal Free of Tax) (311, Tariff Act of 1930, as amended (46 Stat. 691 as amended)).

REGULATIONS GOVERNING THE WAREHOUSING OF DISTILLED SPIRITS

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185.964 Approval of requisition.
185.965 Purchase of stamps.
185.966 Remittance.
185.967 Shipment of stamps.
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185.970 Cutting of stamps.
185.971 Delivery of stamps to storekeeper-gauger.
185.972 Exchange and redemption of stamps.
185.973 Record, Form 96.
185.974 Proprietor's application, Form 1515.
185.975 Stamps issued in serial order.
185.976 Storekeeper-gauger's responsibility.
185.977 Manner of affixing stamps.
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RECORD AND REPORT OF STRIP STAMPS

185.982 Record, Form 1606.
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185.992 Action on application.
185.993 New strip stamps required.
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185.1023 Files and records covering withdrawals.
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185.1026 Filing of withdrawal forms and applications.

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185.1030 Storekeeper-gauger's daily report.
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SUBPART WW—RECORDS AND REPORTS OF PROPRIETOR

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185.1041 Record of sales at taxpaid premises, Form 52-E.
185.1042 Record of warehouse receipts to be kept by warehouseman.
185.1043 Place where Form 52-F shall be kept.
185.1044 Time of making entries.
185.1045 Separate record of serial numbers of cases.
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185.1047 Payment of tax, bottling charge, etc., by third party.
185.1048 Order by third party to ship or deliver distilled spirits.
185.1049 Forms to be provided by users.
185.1050 Record and report of transactions at off-premises export storage room.

SUBPART XX—DISTRICT SUPERVISOR'S ANNUAL REPORT OF SPIRITS IN WAREHOUSE

185.1055 Form 332.

SUBPART YY—CONCERNING LOCKS AND SEALS

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185.1061 Seal locks.
185.1062 Plain locks.
185.1063 Custody of locks.
185.1064 Cap seals.
185.1065 Breaking of sealed connections prohibited.
185.1066 Removal of cap seals.

SUBPART ZZ—SAFEGUARDING GOVERNMENT PROPERTY

185.1070 Storage in Government room, vault or cabinet.

AUTHORITY: §§ 185.1 to 185.1070, except §§ 185.151 and 185.1010, issued under 53 Stat. 375; 26 U. S. C. 3176. Citations of more specific authority and citations of statutory provisions interpreted or applied are included in parentheses at the end of particular sections.

LAWS OF MORE COMMON APPLICATION PERTAINING TO THE WAREHOUSING AND BOTTLING OF DISTILLED SPIRITS IN BOND [1]

5. U. S. C. 22 DEPARTMENTAL REGULATIONS. The head of each department is authorized to prescribe regulations, not inconsistent with law, for the government of his department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of the records, papers, and property appertaining to it.

26 U. S. C. 1650 WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES. In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of Title III of the Revenue Act of 1943 shall be the rates set forth under the heading "War Tax Rate":

Section	Description of tax	Old rate	War tax rate
*	* * *	*	*
2800 (a) (1)	Distilled spirits.....	$6 per gallon.	$9 per gallon.
*	*	*	*

26 U. S. C. 2800 TAX—(a) *Rate*—(1) *Distilled spirits generally.* There shall be levied and collected on all distilled spirits in bond or produced in or imported into the United States an internal revenue tax at the rate of $6.00 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid by the distiller or importer when withdrawn from bond.

(A) *Payment of tax as to domestic spirits.* The tax on distilled spirits produced in the United States, to be paid upon withdrawal from bond, and the tax on rectified spirits produced in the United States, shall be paid by stamp, under such rules and regulations, permits, bonds, records, and returns, and with the use of such tax-stamp machines or other devices and apparatus, including but not limited to storage, gauging, and bottling tanks and pipe lines, as the Commissioner with the approval of the Secretary shall prescribe.

(B) *Penalties.* Whoever manufactures, procures, possesses, uses, or tampers with a tax-stamp machine which may be required under this section with intent to evade the internal-revenue tax imposed upon distilled spirits and rectified spirits, and whoever, with intent to defraud, makes, alters, simulates, or counterfeits any stamp of the character imprinted by such stamp machines, or who procures, possesses, uses, or sells any forged, altered, counterfeited, or simulated tax stamp, or any plate, die, or device intended for use in forging, altering, counterfeiting, or simulating any such stamps, or who otherwise violates the provisions of this section, or the regulations issued pursuant thereto, shall pay a penalty of $5,000 and shall be fined not more than $10,000 or be imprisoned not more than 5 years, or both, and any machine, device, equipment, or materials used in violation of this section shall be forfeited to the United States and after condemnation shall be destroyed. But this provision shall not exclude any other penalty or forfeiture provided by law.

* * * * *

26 U. S. C. 2801. RECTIFIED SPIRITS. * * *

(e) *Rectifying.* * * *

(5) *Blending of beverage brandies.* Fruit brandies distilled from the same kind of fruit at not more than one hundred and seventy degrees proof may, for the sole purpose of perfecting such brandies according to commercial standards, be mixed or blended with each other, or with any such mixture or blend, by the distiller thereof in any internal revenue bonded warehouse operated by him exclusively for the storage of brandy or wine spirits, and the provisions of this section and of sections 2800 (a) (5) and 3254 (g) relating to rectification or other internal revenue laws of the United States shall not be held to apply to or prohibit such mixing or blending, and brandies so mixed or blended may be packaged, stored, transported, transferred in bond, withdrawn from bond tax-paid or tax-free, or be otherwise disposed of, in the same manner as such brandies not so mixed or blended: *Provided*, That, in addition to the tax imposed by this chapter on the production of distilled spirits, there shall be paid a tax of 30 cents as to each proof gallon (and a proportionate tax at a like rate on all fractional parts of such proof gallon) of brandy so mixed or blended (except when withdrawn tax-free and accounted for or when lost and allowance is made therefor), such tax to be paid by rectified spirits stamps affixed to the packages at the time of withdrawal. The Commissioner, under rules and regulations to be by him prescribed with the approval of the Secretary, upon the presentation of proof to his satisfaction of the loss by leakage, evaporation, theft, or otherwise of fruit brandies so blended or mixed, not occurring as the result of any negligence, connivance, collusion, or fraud on the part of the warehouseman or his agents, is hereby authorized to remit or refund the taxes assessed or paid upon such lost brandies: *Provided, however*, That such remission or refund shall be allowed only to the extent that the warehouseman is not indemnified or recompensed for such tax, and that losses of fruit brandies occurring prior to any such mixing or blending shall be allowable in accordance with section 2901. The term "distiller" as used herein shall include any one or more distillers associated as members of any farm cooperative, or any one or more distillers affiliated within the meaning of section 17 (a) (5) of the Federal Alcohol Administration Act, as amended, or any fruit distiller for whose account, recorded with the district supervisor at the time of production, the brandy to be blended was produced. The Commissioner may, with the approval of the Secretary, make such rules or regulations as he may deem necessary to carry these provisions into effect.

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26 U. S. C. 2802 STAMPS FOR DISTILLED SPIRITS. * * *

(b) *Accountability*—(1) *Other stamps.* All stamps relating to distilled spirits, other than the tax-paid stamps, shall be charged to collectors; and the books containing such stamps may be intrusted by any collector to the storekeeper-gauger of the district, who shall make a daily report to the collector of all such stamps used by him and for whom used; and when all the stamps contained in any such book have been issued, the storekeeper-gauger of the district shall return the book to the collector, with all the marginal stubs therein. Except as provided in section 2878 (b), all export stamps issued to collectors shall be charged to them as representing the value of 10 cents for each stamp and they shall collect the amount due for such stamps at the rate of 10 cents for each stamp issued in such manner and at such time as the Commissioner may prescribe, and the Commissioner may, in his discretion, make assessment therefor.

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26 U. S. C. 2804 DETENTION OF CASKS OR PACKAGES ON SUSPENSION—(a) *Power of Revenue Officer.* It shall be lawful for any internal revenue officer to detain any cask or package containing, or supposed to contain, distilled spirits, when he has reason to believe that the tax imposed by law upon the same has not been paid, or that the same is being removed in violation of law; and every such cask or package may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than forty-eight hours without process of law or intervention of the officer to whom such detention is to be reported.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2806 PENALTIES AND FORFEITURES—(a) *Creation of fictitious proof*—(1) *Penalty.* Every person who adds or causes to be added any ingredient or substance to any distilled spirits before the tax is paid thereon, for the purpose of creating a fictitious proof, shall be fined not less than $100 nor more than $1,000 for each cask or package so adulterated, and imprisoned not less than three months nor more than two years; and

(2) *Forfeiture.* Every such cask or package, with its contents, shall be forfeited to the United States.

(b) *Unlawful affixing, canceling, or issue of stamps by officer*—(1) *Penalty.* Whenever any revenue officer affixes or cancels, or causes or permits to be affixed or canceled, any stamp relating to distilled spirits provided for by law, in any other manner or in any other place, or issues the same to any other person than as provided by law, or by regulation made in pursuance thereof, or knowingly affixes, or permits to be affixed, any such stamp to any cask or package of spirits of which the whole or any part has been distilled, rectified, compounded, removed, or sold, in violation of law, or which has in any manner escaped payment of tax due thereon, he shall, for every such offense, be fined not less than $500 nor more than $3,000, and be imprisoned for not less than six months nor more than three years.

(2) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

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(d) *Forfeiture of distilled spirits in unstamped casks or packages.* All distilled spirits found in any cask or package containing five gallons or more, without having thereon each mark and stamp required therefor by law, shall be forfeited to the United States.

(e) *Evasion of tax, penalty.*—Whenever any person evades, or attempts to evade, the payment of the tax on any distilled spirits, in any manner whatever, he shall forfeit and pay double the amount of the tax so evaded or attempted to be evaded.

26 U. S. C. 2808 INSTRUMENTS TO PREVENT AND DETECT FRAUD—(a) *Power of the Commissioner.* For the prevention and detection of frauds by distillers of spirits, the Commissioner may prescribe for use such hydrometers, saccharometers, weighing and gauging instruments, or other means for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used, or to be used, in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2810 REGISTRY OF STILLS—(a) *Requirement.* Every person having in his

[1] The sections of the United States Code are numbered identically with corresponding sections of the Internal Revenue Code.

possession or custody, or under his control, any still or distilling apparatus set up, shall register the same with the collector of the district in which it is, by subscribing and filing with him duplicate statements, in writing, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its cubic contents, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used; one of which statements shall be retained and preserved by the collector, and the other transmitted by him to the Commissioner. Stills and distilling apparatus shall be registered immediately upon their being set up.

Every still or distilling apparatus not so registered, together with all personal property in the possession or custody, or under the control of such person, and found in the building, or in any yard or inclosure connected with the building in which the same may be set up, shall be forfeited.

And every person having in his possession or custody, or under his control, any still or distilling apparatus set up which is not so registered, shall pay a penalty of $500, and shall be fined not less than $100, nor more than $1,000, and imprisoned for not less than one month, nor more than two years.

* * * * *

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2829 INSTALLATION OF METERS, TANKS, AND OTHER APPARATUS—(a) *Power of the Commissioner.* The Commissioner, with the approval of the Secretary, is authorized to require at distilleries, breweries, rectifying houses, and wherever else in his judgment such action may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person on whose premises the installation is required. Any such person refusing or neglecting to install such apparatus when so required by the Commissioner shall not be permitted to conduct business on such premises.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2857 BOOKS OF RECTIFIERS AND WHOLESALE DEALERS—(a) *Requirements.* Every rectifier and every wholesale liquor dealer who sells, or offers for sale, distilled spirits in quantities of five wine-gallons or more to the same person at the same time shall keep daily, at his place of business covered by his special tax stamp, a record of distilled spirits received and disposed of by him, and shall render under oath correct transcripts and summaries of such records: *Provided*, That the Commissioner may in his discretion require such record to be kept at the place where the spirits are actually received and sent out. The records shall be kept and the transcripts shall be rendered in such form, and under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

The records required to be kept under the provisions of this section and regulations issued pusuant thereto, shall be preserved for a period of four years, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer.

Every rectifier and wholesale liquor dealer who refuses or neglects to keep such records in the form prescribed by the Commissioner, with the approval of the Secretary, or to make entries therein, or cancels, alters, or obliterates any entry therein (except for the purpose of correcting errors) or destroys any part of such records, or any entry therein, or makes any false entry therein, or hinders or obstructs any internal revenue officer from inspecting such records or taking any abstracts therefrom, or neglects or refuses to preserve or produce such records as required by this chapter or by regulations issued pursuant thereto, shall pay a penalty of $100 and, on conviction, shall be fined not less than $100 nor more than $5,000, and be imprisoned not less than three months nor more than three years.

Every rectifier and wholesale liquor dealer who refuses or neglects to render transcripts or summaries in the form required by the Commissioner, with the approval of the Secretary, shall, upon conviction, be fined not more than $100 for each such neglect or refusal.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2866 EFFACEMENT OF STAMPS AND BRANDS ON EMPTIED PACKAGES. Every person who empties or draws off, or causes to be emptied or drawn off, any distilled spirits from a cask or package, bearing any mark, brand, or stamp, required by law, shall at the time of emptying such cask or package, efface and obliterate said mark, stamp, or brand. Every such cask or package from which said mark, brand, or stamp is not effaced and obliterated as herein required, shall be forfeited to the United States, and may be seized by any officer of internal revenue, wherever found. And every railroad company or other transportation company, or person who receives or transports, or has in possession with intent to transport, or with intent to cause or procure to be transported, any such empty cask or package, or any part thereof, having thereon any brand, mark, or stamp, required by law to be placed on any cask or package containing distilled spirits, shall forfeit $300 for each such cask or package, or any part thereof, so received or transported, or had in possession with the intent aforesaid; and every boat, railroad car, cart, dray, wagon, or other vehicle, and all horses and other animals used in carrying or transporting the same, shall be forfeited to the United States. Every person who fails to efface and obliterate said mark, stamp, or brand, at the time of emptying such cask or package, or who receives any such cask or package, or any part thereof, with the intent aforesaid, or who transports the same, or knowingly aids or assists therein, or who removes any stamp provided by law from any cask or package containing, or which had contained, distilled spirits, without defacing and destroying the same at the time of such removal, or who aids or assists therein, or who has in his possession any such stamp so removed as aforesaid, or has in his possession any canceled stamp, or any stamp which has been used, or which purports to have been used, upon any cask or package of distilled spirits, shall be deemed guilty of a felony, and shall be fined not less than $500 nor more than $10,000, and imprisoned not less than one year nor more than five years.

26 U. S. C. 2870 PROHIBITED HOURS FOR REMOVAL OF SPIRITS. No person shall remove any distilled spirits at any other time than after sun-rising and before sun-setting in any cask or package containing more than ten gallons from any premises or building in which the same may have been distilled, redistilled, rectified, compounded, manufactured, or stored; and every person who violates this provision shall be liable to a penalty of $100 for each cask, barrel, or package of spirits so removed; and said spirits, together with any vessel containing the same, and any horse, cart, boat, or other conveyance used in the removal thereof, shall be forfeited to the United States.

26 U. S. C. 2871 REGULATION OF TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS. Whenever in his judgment such action is necessary to protect the revenue, the Secretary is authorized, by the regulations prescribed by him, and permits issued thereunder if required by him (1) to regulate the size, branding, marking, sale, resale, possession, use, and re-use of containers (of a capacity of less than five wine-gallons) designed or intended for use for the sale at retail of distilled spirits (within the meaning of such term as it is used in section 2803) for other than industrial use, and (2) to require, of persons manufacturing, dealing in, or using any such containers, the submission to such inspection, the keeping of such records, and the filing of such reports as may be deemed by him reasonably necessary in connection therewith. Whoever willfully violates the provisions of any regulation prescribed, or the terms or conditions of any permit issued, pursuant to the authorization contained in this section, and any officer, director, or agent of any corporation who knowingly participates in such violation, shall, upon conviction, be fined not more than $1,000 or be imprisoned for not more than two years, or both; and, notwithstanding any criminal conviction, the containers involved in such violation shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for forfeitures, seizures, and condemnations for violations of the internal-revenue laws, and any such containers so seized and condemned shall be destroyed and not sold. Any requirements imposed under this section shall be in addition to any other requirements imposed by, or pursuant to, law, and shall apply as well to persons not liable for tax under the internal-revenue laws as to persons so liable.

26 U. S. C. 2872 ESTABLISHMENT AND CONTROL. The Commissioner is authorized, in his discretion, and upon the execution of such bonds as he may prescribe, to establish warehouses, to be known and designated as internal revenue bonded warehouses, to be used exclusively for the storage of spirits distilled at a registered distillery, each of which warehouses shall be in charge of a storekeeper-gauger. Every such warehouse shall be under the control of the District Supervisor of the Alcohol Tax Unit district in which such warehouse is located, and shall be in the joint custody of the storekeeper-gauger and proprietor thereof, and kept securely locked, and shall at no time be unlocked or opened or remain open except in the presence of such storekeeper-gauger or other person who may be designated to act for him. No dwelling house shall be used for such a warehouse, and no door, window, or other opening shall be made or permitted in the walls of such warehouse leading into a distillery. Such warehouses shall be under such further regulations as the Commissioner, with the approval of the Secretary, may prescribe.

26 U. S. C. 2873 REGULATIONS FOR ESTABLISHMENT, MAINTENANCE, AND SUPERVISION. The establishment, construction, maintenance, and supervision of internal revenue bonded warehouses shall be under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

26 U. S. C. 2874 DISCONTINUANCE OF WAREHOUSE AND TRANSFER OF MERCHANDISE—(a) *Authorization.* Whenever, in the opinion of the Commissioner, any internal revenue bonded warehouse is unsafe or unfit for use, of the merchandise therein is liable to loss or great wastage, he may in either such case discontinue such warehouse and require the merchandise therein to be transferred to such other warehouse as he may designate, and within such time as he may prescribe. Such transfer shall be made under the supervision of the collector, or of such other officer as may be designated by the Commissioner, and the expense thereof shall be paid by the owner of the merchandise. Whenever the owner of such merchandise fails to make such transfer within the time prescribed, or to pay the just and proper expense of such transfer, as ascertained and determined by

the Commissioner, such merchandise may be seized and sold by the collector in the same manner as goods are sold upon distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expenses of such sale and removal, and the balance paid over to the owner of such merchandise.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2875 EXEMPTION FROM PROVISIONS OF LAW DISTINGUISHING BETWEEN CLASSES OF WAREHOUSES. Internal revenue bonded warehouses established under authority of law shall be exempt from the provisions of those sections of law which, prior to June 26, 1936, have made distinctions between distillery bonded warehouses, general bonded warehouses, and special bonded warehouses, as to (1) kind of spirits to be stored therein; (2) ownership or production of distilled spirits to be stored therein; (3) ownership or proprietorship of such warehouses; (4) location and construction of such bonded warehouses; (5) entry of distilled spirits therein; (6) withdrawal of distilled spirits therefrom; (7) transfers of distilled spirits to or from one or more of such classes of bonded warehouses; or (8) any other matter; it being hereby declared to be the purpose to establish the internal revenue bonded warehouse as the sole type and kind of bonded warehouse under the internal revenue laws for the storage of spirits distilled at a registered distillery on which the tax has not been paid.

26 U. S. C. 2876. FAILURE TO COMPLY WITH WAREHOUSING AND REMOVAL REQUIREMENTS. In case any distilled spirits removed from an internal revenue bonded warehouse for deposit in another internal revenue bonded warehouse shall fail to be so deposited or if any distilled spirits deposited in any internal revenue bonded warehouse shall be taken therefrom, for export or otherwise, without full compliance with the provisions of this part, and with the requirements of any regulations made thereunder, and with the terms of any bond given on such removal, or if any distilled spirits which have been deposited in an internal revenue bonded warehouse shall be found elsewhere, not having been removed therefrom according to law, any person who shall be guilty of such failure, or any person who shall in any manner violate any provision of this part shall be subject, on conviction, to a fine of not less than $100 nor more than $5,000, or to imprisonment for not less than three months nor more than three years for every such failure or violation; and the spirits as to which such failure or violation, or unlawful removal shall take place shall be forfeited to the United States.

26 U. S. C. 2878. DRAWINGS, GAUGING, AND MARKING OF DISTILLED SPIRITS—(a) *General rule.* Except as provided in section 2883, all distilled spirits shall be drawn from receiving cisterns into casks or packages and thereupon shall be gauged, proved, and marked by a storekeeper-gauger, and immediately removed into an internal revenue bonded warehouse. The Commissioner, with the approval of the Secretary, is hereby empowered to prescribe all necessary regulations relating to the drawing off, gauging, and packaging of distilled spirits; the marking, branding, numbering, and stamping of such packages; and the transfer and transportation to, and the storage of such spirits in, internal revenue bonded warehouses.

(b) *In wooden packages containing metallic cans for export.* Under the application of the distiller and under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, distilled spirits may be drawn into wooden packages, each containing two or more metallic cans, which cans shall each have a capacity of not less than five gallons, wine measure. Such packages shall be filled and used only for exportation from the United States. And there shall be charged for each of said packages or cases for the expense of providing and affixing stamps, 5 cents.

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(e) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2879 DEPOSITS OF SPIRITS IN WAREHOUSES—(a) *Entry for deposit.* The distillers of all spirits removed to an internal revenue bonded warehouse shall enter the same for deposit in such warehouse, under such regulations as the Commissioner may prescribe. Said entry shall be in such form as the Commissioner shall prescribe.

(b) *Time for payment of the tax.* The tax on all distilled spirits hereafter entered for deposit in internal revenue bonded warehouses shall be due and payable before and at the time the same are withdrawn therefrom and within eight years from the date of the original entry for deposit therein; and warehousing bonds hereafter taken under the provisions of the internal revenue laws shall be conditioned for the payment of the tax on the spirits as specified in the entry before withdrawal from the internal revenue bonded warehouse, and within eight years from the date of said entry.

(c) *Bond required.* The Commissioner shall prescribe the form and penal sums of bonds covering distilled spirits in internal revenue bonded warehouses and in transit to and between such warehouses: *Provided*, That the penal sums of such bonds covering distilled spirits shall not exceed in the aggregate $200,000 for each such warehouse.

(d) *Renewal of bond.* A new bond shall be required in case of the death, insolvency, or removal of the surety or sureties, and may be required in any other contingency affecting its validity or impairing its efficiency, at the discretion of the Commissioner. And in case the warehouseman fails or refuses to give the bond required, or to renew the same, or neglects to immediately withdraw the spirits and pay the tax thereon, or if he neglects to withdraw any bonded spirits and pay the tax thereon before the expiration of the time limited in the bond, the collector shall proceed to collect the tax by distraint, issuing his warrant of distraint for the amount of tax found to be due, as ascertained by him from the report of the storekeeper-gauger if no bond was given, or from the terms of the bond if a bond was given. But this provision shall not exclude any other remedy or proceeding provided by law.

(e) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2880 WITHDRAWAL FROM WAREHOUSE AND COLLECTION OF TAX ON SPIRITS SUBJECT TO EXCESSIVE LEAKAGE—(a) *Power of the Commissioner.* If it shall appear at any time that there has been a loss of distilled spirits from any cask or other package deposited in an internal revenue bonded warehouse, other than the loss provided for in section 2901 (b), which, in the opinion of the Commissioner, is excessive, he may instruct the district supervisor of the district in which the loss has occurred to require the withdrawal from warehouse of such distilled spirits, and direct the collector to collect the tax accrued upon the original quantity of distilled spirits entered into the warehouse in such cask or package, notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered into warehouse in such cask or package has not expired. If the said tax is not paid on demand, the collector shall report the amount due upon his next monthly list, and it shall be assessed and collected as other taxes are assessed and collected.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2881 WITHDRAWAL OF SPIRITS FROM WAREHOUSE ON ORIGINAL GAUGE—(a) *Regulations.* Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, packages of distilled spirits drawn from receiving cisterns and deposited in internal revenue bonded warehouses may be withdrawn therefrom on the original gauge where the same have remained in such warehouse for a period not exceeding thirty days from the date of deposit.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2882 ENTRY FOR WITHDRAWAL FROM WAREHOUSE—(a) *Authorization.* Any distilled spirits may, on payment of the tax thereon, be withdrawn from warehouse on application to the collector of the district in charge of such warehouse, on making a withdrawal entry in duplicate and in the following form:

ENTRY FOR WITHDRAWAL OF DISTILLED SPIRITS FROM WAREHOUSE TAX PAID

Entry of distilled spirits to be withdrawn, on payment of the tax, from internal revenue bonded warehouse number _____, situated in the _____ district of _____, by _____, deposited on the ____ day of _____, anno Domini _____, by _____, in said warehouse.

And the entry shall specify the whole number of casks or packages, with the marks and serial numbers thereon, the number of proof gallons and taxable gallons, and the amount of the tax on the distilled spirits contained in them at the time they were deposited in the internal revenue bonded warehouse; and said entry shall also specify the number of proof gallons, and taxable gallons contained in said casks or packages at the time application shall be made for the withdrawal thereof; and on payment of the tax the collector shall issue his order to the storekeeper-gauger in charge of the warehouse for the delivery. One of said entries shall be filed in the office of the collector, and the other transmitted by him to the Commissioner.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2883 TRANSFER OF SPIRITS AT REGISTERED DISTILLERIES—(a) *Requirements.* Subject to the provisions of existing law, spirits of one hundred and sixty degrees of proof or more produced at registered distilleries, including registered fruit distilleries (such registered distilleries and registered fruit distilleries being referred to hereafter as "distillery" or "distilleries"), may be transferred by means of pipe lines from receiving cisterns in the distillery direct to storage tanks in the internal revenue bonded warehouse located on the bonded premises where produced or located contiguous thereto, and be warehoused in such storage tanks, or they may be withdrawn from the receiving cisterns, without, or after reduction in proof, into approved containers and transferred to any internal revenue bonded warehouse for storage therein, or they may be tax-paid in such approved containers in the cistern rooms of distilleries without being entered into an internal revenue bonded warehouse. Such spirits may be drawn into approved containers from storage tanks in an internal revenue bonded warehouse. Spirits of one hundred and sixty degrees of proof, or more, may be transferred in bond in tank cars from cistern rooms of distilleries or from storage tanks in an internal revenue bonded warehouse and be deposited in storage tanks in any internal revenue bonded warehouse. Such spirits in tanks in internal revenue bonded warehouses distilled at or above one hundred and ninety degrees of proof may be reduced to not less than one hundred and eleven degrees prior to being drawn into packages. Such spirits, upon tax payment,

may be withdrawn in approved containers, including pipe lines to contiguous premises, for use for beverage purposes only. Except as provided in subsection (c) hereof and section 2916, such spirits may not be withdrawn for denaturation.

(b) *Transfer of fortifying spirits.* Fortifying spirits of one hundred and sixty degrees of proof or more may be transferred by pipe line from registered fruit distilleries and receiving cisterns in such distilleries to the fortification rooms of contiguous wineries or to storage tanks in the internal revenue bonded warehouse located on the distillery premises where the spirits were produced, or from such storage tanks to the fortification rooms of contiguous wineries.

(c) *Transfer of rum for denaturation.* Rum of not less than one hundred and fifty degrees of proof may be transferred by pipe line for denaturation from receiving cisterns in the cistern room of any distillery to a denaturing bonded warehouse on the distillery premises or to storage tanks situated in the internal revenue bonded warehouse located on the distillery premises, or from such storage tanks to a denaturing bonded warehouse on the distillery premises.

(d) *Transfer of gin.* Gin of any proof may be transferred in bond by means of pipe lines from receiving cisterns in distilleries direct to storage tanks in the internal revenue bonded warehouse located on the bonded premises where produced, or located contiguous thereto, and be warehoused in such storage tanks. Such gin may, upon tax payment, be transferred by pipe line to a contiguous tax-paid bottling house or rectifying plant.

(e) *Redistillation of spirits.* Distilled spirits of any proof may be transferred from a distillery or an internal revenue bonded warehouse to any distillery for redistillation upon a showing of the need therefor: *Provided*, That only spirits of one hundred and sixty degrees of proof or more may be transferred by pipe line to a distillery for redistillation from storage tanks in an internal revenue bonded warehouse located on such distillery premises or located contiguous thereto: *Provided further*, That spirits of any proof may be transferred by pipe line for redistillation from receiving tanks in a distillery to a contiguous distillery. Upon removal of distilled spirits to any distillery for redistillation, the consignee distiller shall assume the liability for the payment of the tax on the spirits from the time they leave the internal revenue bonded warehouse or distillery, and the tax liability on the producing distiller or the internal revenue bonded warehouseman, and the liens on the premises of the producing distiller shall cease, and the tax and liens shall become the liability of the consignee distiller: *Provided further*, That upon redistillation the redistilled spirits shall be treated the same as if the spirits had been originally produced by the redistiller and all prior obligations as to taxes and liens shall be superseded. Sections 2800 (a) (5) and 3250 (f) (1) shall not apply to the redistillation of spirits removed under the provisions of this section.

(f) *Regulations.* The Commissioner, with the approval of the Secretary, is hereby empowered to prescribe all necessary regulations relating to the drawing off, transferring, gaging, storing, redistillation, and transportation of the spirits; the records to be kept and returns to be made; the size and kind of containers to be used; the marking, branding, numbering, and stamping of such containers; and the kind of bond and the penal sum thereof.

(g) *Effect on other laws.* Nothing contained in this section shall be construed as restricting or limiting the provisions of other sections of the internal-revenue laws relating to internal revenue bonded warehouses, distilleries, and bonded wineries.

(h) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2884 GAUGING, STAMPING, AND BRANDING SPIRITS REMOVED FROM WAREHOUSE—(a) *Requirement.* Except as may otherwise be required under section 2800 (a) (1) (A), whenever an application is received for the removal from any internal revenue bonded warehouse of any cask or package of distilled spirits on which the tax has been paid, the storekeeper-gauger shall gauge and inspect the same, and shall, before such cask or package has left the warehouse, place upon such package such marks, brands, and stamps as the Commissioner, with the approval of the Secretary, shall by regulations prescribe, which marks, brands, and stamps shall be erased when such cask or package is emptied.

The Commissioner, with the approval of the Secretary, may, by regulations, from time to time, require any distiller, at his expense and under the immediate personal supervision of a storekeeper-gauger, to do such marking and branding and such mechanical labor pertaining to gauging required under this section as the Commissioner deems proper and determines may be done without danger to the revenue.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2885 EXPORTATION OF SPIRITS WITHDRAWN FROM WAREHOUSES—(a) *Entries, bonds, and bills of lading.* Distilled spirits may be withdrawn from internal revenue bonded warehouses, at the instance of the owner of the spirits, for exportation in the original casks or packages, without the payment of tax, under such regulations, and after making such entries and executing and filing with the collector of the district from which the removal is to be made such bonds and bills of lading, and giving such other additional security as may be prescribed by the Commissioner, with the approval of the Secretary, and bonds given under this section shall be canceled under such regulations as the Secretary shall prescribe. The bonds required to be given for the exportation of distilled spirits shall be canceled upon the presentation of satisfactory proof and certificates that said distilled spirits have been landed at the port of destination named in the bill of lading, or upon satisfactory proof that after shipment the same were lost at sea without fault or neglect of the owner or shipper hereof.

(b) *Marks, stamps, and permits.* All distilled spirits intended for export, as aforesaid, before being removed from the internal revenue bonded warehouse, shall be marked as the Commissioner may prescribe, and shall have affixed to each cask an engraved stamp indicative of such intention, to be provided and furnished by the several collectors as in the case of other stamps, and to be charged to them and accounted for in the same manner, and for the expense attending the providing and affixing such stamps 10 cents for each package so stamped shall be paid to the collector on making the entry for such transportation. When the owner of the spirits shall have made the proper entries, filed the bonds, and otherwise complied with all the requirements of the law and regulations as herein provided, the collector shall issue to him a permit for the removal and transportation of said spirits to the collector of the port from which the same are to be exported, accurately describing the spirits to be shipped, the amount of tax thereon, the State and district from which the same is to be shipped, the name of the distiller by whom distilled, the port to which the same are to be transported, the name of the collector of the port to whom the spirits are to be consigned, and the routes over which they are to be sent to the port of shipment. Such shipments shall be made over bonded routes whenever practicable. The collector of the port shall receive such spirits, and permit the exportation thereof, under the same rules and regulations as are prescribed for the exportation of spirits upon which the tax has been paid.

(c) *Metallic cans in wooden packages.* For authority of distiller to draw distilled spirits into wooden packages, each containing two or more metallic cans, for exportation only, see section 2878 (b).

(d) *Penalties and forfeitures*—(1) *Fraudulent claim for drawback.* And every person who fraudulently claims, or seeks, or obtains an allowance of drawback on any distilled spirits, or fraudulently claims any greater allowance or drawback than the tax actually paid thereon, shall forfeit and pay to the Government of the United States triple the amount wrongfully and fraudulently sought to be obtained, and shall be imprisoned not more than ten years; and every owner, agent or master of any vessel or other person who knowingly aids or abets in the fraudulent collection or fraudulent attempts to collect any drawback upon, or knowingly aids or permits any fraudulent change in the spirits so shipped, shall be fined not exceeding $5,000 and imprisoned not more than one year, and the ship or vessel on board of which such shipment was made, or pretended to be made shall be forfeited to the United States, whether a conviction of the master or owner be had or otherwise, and proceedings may be had in admiralty by libel for such forfeiture.

(2) *Unlawful relanding.* Every person who intentionally relands within the jurisdiction of the United States any distilled spirits which have been shipped for exportation under the provisions of this chapter, or who receives such relanded distilled spirits, and every person who aids or abets in such relanding or receiving of such spirits, shall be fined not exceeding $5,000 and imprisoned not more than three years; and all distilled spirits so relanded, together with the vessel from which the same were relanded within the jurisdiction of the United States, and all boats, vehicles, horses, or other animals used in relanding and removing such distilled spirits, shall be forfeited to the United States.

(e) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2886 TRANSPORTATION BOND ON WITHDRAWAL OF SPIRITS FOR EXPORT.—(a) *Requirements.* Whenever the owner or owners of distilled spirits shall desire to withdraw the same from any internal revenue bonded warehouse for exportation, such owner or owners may at their option, in lieu of executing an export bond as provided by law, give a transportation bond with sureties satisfactory to the collector of internal revenue and under such rules and regulations as the Secretary may prescribe, conditioned for the due delivery thereof on board ship at a port of exportation to be named therein, and for the due performance on the part of the exporter or owner at the port of export of all the requirements in regard to notice of export, entry, and the giving of bond hereinafter specified; and in such case, on arrival of the spirits at the port of export, the exporter or owner at that port shall immediately notify the collector of the port of the fact, setting forth his intention to export the same, and the name of the vessel upon which the same are to be laden, and the port to which they are intended to be exported. He shall, after the quantity of spirits has been determined by the gauger and inspector, file with the collector of the port an export-entry verified by his oath or affirmation. He shall also give bond to the United States, with at least two sureties, satisfactory to the collector of customs, conditioned that the principal named in said bond will export the spirits as specified in said entry port designated in said

entry, or to some other port without the jurisdiction of the United States.

And upon the lading of such spirits, the collector of the port, after proper bonds for the exportation of the same have been completed by the exporter or owner at the port of shipment thereof, shall transmit to the collector of internal revenue of the district from which the said spirits were withdrawn for exportation, a clearance certificate and a detailed report of the gauger, which report shall show the capacity of each cask in wine gallons, and the contents thereof in proof gallons, and taxable gallons. Upon receipt of the certificate and report, and upon payment of tax on deficiency, if any, the collector of internal revenue shall cancel the transportation bond. The bond required to be given for the landing at a foreign port of distilled spirits shall be canceled upon the presentation of satisfactory proof and certificates that said distilled spirits have been landed at the port of destination named in the bill of lading or any other port without the jurisdiction of the United States or upon satisfactory proof that after shipment the same were lost at sea without fault or neglect of the owner or shipper thereof. And whenever a distiller of spririts in bond shall desire to change the packages in which the same is contained, in order to export them, the Commissioner shall be authorized, under regulations to be prescribed by him, and upon the execution of proper bonds with sufficient sureties, to permit the withdrawal of so much spirits from bond and in new packages as the distiller shall desire to export as aforesaid.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2888 TRANSFER OF SPIRITS INTO TANK CARS FOR EXPORT—(a) *Requirement.* Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, alcohol or other distilled spirits of a proof strength of not less than one hundred and eighty degrees intended for export free of tax may be drawn from receiving cisterns at any distillery, or from storage tanks in any internal revenue bonded warehouse, for transfer to tanks or tank cars for export from the United States, and all provisions of law relating to the exportation of distilled spirits not inconsistent herewith shall apply to spirits removed for export under the provisions of this section.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2891 WITHDRAWAL OF DISTILLED SPIRITS TO MANUFACTURING BONDED WAREHOUSE.—(a) *Authorization.* Under such regulations and requirements as to stamps, bonds, and other security as shall be prescribed by the Commissioner, any manufacturer of medicines, preparations, compositions, perfumeries, cosmetics, cordials, and other liquors, for export, manufacturing the same in a duly constituted manufacturing warehouse, shall be authorized to withdraw, in original packages, from any internal revenue bonded warehouse, so much distilled spirits as he may require for the said purpose, without the payment of the internal revenue tax thereon.

* * * * *

(c) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2900 DATE OF WITHDRAWAL—(a) *General rule.* All distilled spirits entered prior to July 26, 1936, for deposit in a distillery, general, or special bonded warehouse, or after such date entered for deposit in an internal revenue bonded warehouse, shall be withdrawn therefrom within eight years from the date of original entry therein, except as provided in subsection (b) of this section.

(b) *Exception.* Distilled spirits which on July 26, 1936, are eight years of age, or older, and which are in bonded warehouses, may remain therein after such date; but no allowance for loss by leakage or evaporation shall be made in the case of such spirits with respect to any period after such date: *Provided*, That loss allowances for such spirits for the period prior to July 26, 1936, shall be made pursuant to the provisions of the Act of February 6, 1925, c. 143, 43 Stat. 808.

26 U. S. C. 2901 Loss ALLOWANCES—(a) *Extent.* No tax shall be collected in respect of distilled spirits lost or destroyed while in bond, except that such tax shall be collected—

(1) *Theft.* In the case of loss by theft unless the Commissioner shall find that the theft occurred without connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them; and

(2) *Voluntary destruction.* In the case of voluntary destruction unless the distilled spirits were unfit for use for beverage purposes and the distiller, warehouseman, or other person responsible for the tax, obtained the written permission of the Commissioner for such destruction in each case.

(b) *Proof of loss.* In any case in which spirits are lost or destroyed, whether by theft or otherwise, the Commissioner may require the distiller or warehouseman or other person responsible for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be upon the distiller or warehouseman or other person responsible for the tax to establish to the satisfaction of the Commissioner that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them.

(c) *Refund of tax.* When, in any case where the tax would not be collectible by virtue of subsection (a), but such tax has been paid, the Commissioner shall refund such tax. Nothing in section 2901 as hereby amended, or as heretofore amended, shall be construed to authorize refund of the tax where the loss occurred after the tax was paid.

(d) *Insurance coverage.* The abatement or refund of taxes provided for by subsections (a) and (c) in the case of loss of distilled spirits by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed for such loss.

(e) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2903 BOTTLING OF DISTILLED SPIRITS IN BOND—(a) *Requirements.* Whenever any distilled spirits deposited in the internal revenue bonded warehouse have been duly entered for withdrawal for bottling in bond before tax payment or for export in bond, such spirits shall be dumped, gaged, bottled, packed, and cased in the manner which the Commissioner, with the approval of the Secretary, shall by regulations prescribe. The bottling of distilled spirits in bond shall be conducted in a separate portion of such warehouse which shall be set apart and used exclusively for that purpose. For convenience in such process any number of packages of spirits of the same kind, differing only in proof, but produced at the same distillery by the same distiller, may be mingled together in a cistern provided for that purpose, but nothing herein shall authorize or permit any mingling of different products, or of the same products of different distilling seasons, or the addition or subtraction of any substance or material or the application of any method or process to alter or change in any way the original condition or character of the product except as herein authorized. The tax on the distilled spirits bottled in bond shall be paid upon the actual quantity of spirits withdrawn from bond except as otherwise provided in section 2901 of the Internal Revenue Code.

(b) *Stamps for bottles.* Every bottle when filled shall have affixed thereto and passing over the mouth of the same a stamp denoting the quantity of distilled spirits contained therein and evidencing the bottling in bond of such spirits under the provisions of this section and sections 2904 to 2909, inclusive, and of regulations prescribed hereunder.

(c) *Stamp regulations.* The Commissioner, with the approval of the Secretary, shall prescribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and destroying stamps required by this section, the form and denominations of such stamps, applications for purchase of the stamps, proof that applicants are entitled to such stamps, and the method of accounting for receipts from the sale of such stamps, and (b) such other regulations as the Commissioner shall deem necessary for the enforcement of this section and sections 2904 to 2909, inclusive.

(d) *Stamp supply.* Such stamps shall be issued by the Commissioner to each collector, upon his requisition in such numbers as may be necessary in his district, and, upon compliance with the provisions of this section and sections 2904 to 2909, inclusive, and regulations issued hereunder shall be sold by collectors to persons entitled thereto, at a price of 1 cent for each stamp, except that in the case of stamps for containers of less than one-half pint, the price shall be one-quarter of 1 cent for each stamp.

(e) *Unused stamps; exchange, refund, etc.* The Commissioner of Internal Revenue, under regulations prescribed by him and approved by the Secretary of the Treasury, may redeem or make allowance for any unused case stamp, with all coupon strip stamps attached thereto, issued under section 1 of the Act entitled "An Act to allow the bottling of distilled spirits in bond", approved March 3, 1897 (29 Stat. 626), or under said section 1, as variously amended, and may redeem or make allowance for unused strip stamps issued for bottles of distilled spirits bottled in bond under said section 1, as amended by the Act of July 9, 1937 (50 Stat. 487), or under subsection (d) of this section, by exchanging them for strip stamps for bottled-in-bond spirits, or by refunding moneys received therefor: *Provided*, That stamps may be exchanged or the value thereof refunded only in quantities of the value of $5 or more: *And provided further*, That no claim under this subsection for redemption or allowance in respect of case or strip stamps shall be allowed unless presented within two years after the date on which such case or strip stamps were lawfully issued. There are hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out this provision.

(f) *Marks, brands, and stamps for cases.* And there shall be plainly burned, embossed, or printed on the side of each case, to be known as the Government side, such marks, brands, and stamps to denote the bottling in bond of the whisky packed therein as the Commissioner may by regulations prescribe.

(g) *Trade-marks.* And no trade-marks shall be put upon any bottle unless the real name of the actual bona fide distiller, or the name of the individual, firm, partnership, corporation, or association in whose name the spirits were produced and warehoused, shall also be placed conspicuously on said bottle.

(h) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2904 REGULATIONS GOVERNING BOTTLING IN BOND—(a) *Requirements.* The Commissioner, with the approval of the Secretary, may, by regulations, prescribe the mode of separating and securing the additional warehouse, or portion of the warehouse required in section 2903 to be set apart, the manner in which the business of bottling spirits in bond shall be carried on, the notices, bonds, and returns to be given and accounts and records to be kept by the persons conducting such business, the mode and time of inspection of such spirits, the accounts and records to be kept and returns made by the Government officers, and all such other matters and things, as in his discretion, he may deem requisite for a secure and orderly supervision of said business; and he may also, with the approval of the Secretary, prescribe and issue the stamps required.

The distiller may, in the presence of the storekeeper-gauger, remove by straining through cloth, felt, or other like material any charcoal, sediment, or other like substance found therein, and may whenever necessary reduce such spirits as are withdrawn for bottling purposes by the addition of pure water only to 100 per centum proof for spirits for domestic use, or to not less than 80 per centum proof for spirits for export purposes, under such rules and regulations as may be prescribed by the Commissioner with the approval of the Secretary; but no spirits (except gin for export) shall be bottled in bond until they have remained in bond in wooden containers for at least four years from the date of original gauge as to fruit brandy, or original entry as to all other spirits: *Provided*, That nothing in this subchapter shall authorize the labeling of spirits in bottles contrary to the provisions of regulations issued pursuant to the Federal Alcohol Administration Act, 49 Stat. 977 (U. S. C., Title 27, c. 8), or any amendment thereof.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2905 EXPORTATION OF SPIRITS BOTTLED IN BOND. All distilled spirits intended for export under the provisions of sections 2903 to 2909, inclusive, shall be inspected, bottled, cased, weighed, marked, labeled, stamped, or sealed in such manner and at such time as the Commissioner may prescribe; and the said Commissioner, with the approval of the Secretary, may provide such regulations for the transportation, entry, reinspection, and lading of such spirits for export as may from time to time be deemed necessary; and all provisions of law relating to the exportation of distilled spirits in bond, so far as applicable, and all penalties therein imposed, are extended and made applicable to distilled spirits bottled for export under the provisions of said sections, but no drawback shall be allowed or paid upon any spirits bottled under the provisions of said sections.

26 U. S. C. 2908 REUSE OF STAMPS OR BOTTLES, TAMPERING, AND UNLAWFUL REMOVAL. Any person who shall reuse any stamp provided under sections 2903 to 2909, inclusive, after the same shall have been once affixed to a bottle as provided therein, or who shall reuse a bottle for the purpose of containing distilled spirits which has once been filled and stamped under the provisions of said sections without removing and destroying the stamp so previously affixed to such bottle, or who shall, contrary to the provisions of said sections or of the regulations issued thereunder remove or cause to be removed from any bonded warehouse any distilled spirits inspected or bottled under the provisions of said sections or who shall bottle or case any such spirits in violation of said sections or of any regulation issued thereunder, or who shall, during the transportation and before the exportation of any such spirits, open or cause to be opened any case or bottle containing such spirits, or who shall willfully remove, change, or deface any stamp, brand, label, or seal affixed to any such case or to any bottle contained therein, shall for each such offense be fined not less than $100 nor more than $1,000, and be imprisoned not more than two years, in the discretion of the court, and such spirits shall be forfeited to the United States.

26 U. S. C. 2909 PUNISHMENT FOR COUNTERFEITING STAMPS. Every person who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under any provision of sections 2903 to 2909, inclusive, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or who shall make, use, sell, or have in his possession any paper in imitation of the paper used in the manufacture of any stamp required by said sections, shall on conviction be punished by a fine not exceeding $1,000 and by imprisonment at hard labor not exceeding five years.

26 U. S. C. 2910 BOTTLING GIN IN BOND FOR EXPORT—(a) *Requirement.* Distilled spirits known commercially as gin of not less than 80 per centum proof may at any time within eight years after entry in bond at any distillery be bottled in bond at such distillery for export without the payment of tax, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2912 FORFEITURE OF SPIRITS UNLAWFULLY REMOVED FROM DISTILLERY OR WAREHOUSE. All distilled spirits found elsewhere than in a distillery or internal revenue bonded warehouse, not having been removed therefrom according to law, shall be forfeited to the United States.

26 U. S. C. 2913 PENALTY FOR UNLAWFUL REMOVAL OR CONCEALMENT OF SPIRITS. Whenever any person removes, or aids or abets in the removal of, any distilled spirits on which the tax has not been paid, to a place other than the internal revenue bonded warehouse provided by law, or conceals or aids in the concealment of any spirits so removed, or removes, or aids or abets in the removal of, any distilled spirits from any such warehouse authorized by law, in any manner other than is provided by law, or conceals or aids in the concealment of any spirits so removed, he shall be liable to a penalty of double the tax imposed on such distilled spirits so removed or concealed, and shall be fined not less than $200 nor more than $5,000, and imprisoned not less than three months nor more than three years.

26 U. S. C. 2914 PENALTY ON OFFICER IN CHARGE OF WAREHOUSE FOR UNLAWFUL REMOVAL OF SPIRITS—(a) *Offense.* Whenever any storekeeper-gauger or other person in the employment of the United States, having charge of a bonded warehouse, removes or allows to be removed therefrom any cask or other package, or removes or allows to be removed any part of the contents of any cask or package deposited therein, otherwise than as provided by law, he shall be immediately dismissed from office or employment, and be fined not less than $500 nor more than $2,000, and imprisoned not less than three months nor more than two years.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2915 STOREKEEPER-GAUGER'S WAREHOUSE BOOK—(a) *Requirements.* Every storekeeper-gauger shall keep a warehouse book, which shall at all times be opened to the examination of any revenue officer, and shall enter therein an account of all articles deposited in the warehouse to which he is assigned, indicating in each case the date of deposit, by whom manufactured or produced, the number and description of the packages and contents, the quantities therein, the marks and serial numbers thereon, and by whom gauged, inspected, or weighed, and if distilled spirits, the number of proof gallons, and of taxable gallons; and before delivering any article from the warehouse he shall enter in said book the date of the permit or order of the collector for the delivery of such articles, the number and description of the packages, the marks and serial numbers thereon, the date of delivery, to whom delivered, and for what purpose, which purpose shall be specified in the permit or order for delivery; and in case of delivery of any distilled spirits the number of proof gallons, and of taxable gallons, shall also be stated; and such further particulars shall be entered in the warehouse books as may be prescribed or found necessary for the identification of the packages, to insure the correct delivery thereof and proper accountability therefor.

And every storekeeper-gauger shall furnish daily to the collector of the district a return of all articles received in and delivered from the warehouse during the day preceding that on which the return is made, and mail at the same time a copy thereof to the Commissioner, and shall, on the first Monday of every month, make a report in duplicate of the number of packages of all articles, with the respective descriptions thereof, as above provided, which remained in the warehouse at the date of his last report, of all articles received therein and delivered therefrom during the preceding month, and of articles remaining therein at the end of said month. He shall deliver one of these reports to the collector having control of the warehouse, to be recorded and filed in his office, and transmit one to the Commissioner, to be recorded and filed in his office.

(b) TRANSFER OF DUTIES. For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 3031 TAX ON BRANDY OR SPIRITS USED IN FORTIFICATION—(a) *Withdrawal of spirits for fortification.* Under such regulations and official supervision and upon the giving of such notices and entries as the Commissioner, with the approval of the Secretary, may prescribe, any producer of wines defined under the provisions of this subchapter may withdraw from any fruit distillery or internal revenue bonded warehouse grape brandy (hereafter in this section included in the term "brandy"), or wine spirits, for the fortification of such wines on the premises where actually made, and any producer of citrus-fruit wines, peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, pawpaw wines, papaya wines, pineapple wines, cantaloup wines, or apple wines (hereafter in this section included in the term "wines") may similarly withdraw citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, pawpaw brandy, papaya brandy, pineapple brandy, cantaloup brandy, or apple brandy (hereafter in this section included in the term "brandy") for the fortification of wines as set forth in section 3032, Internal Revenue Code, on the premises where actually made.

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26 U. S. C. 3033 WITHDRAWAL OF WINE SPIRITS—(a) *Regulations.* Under such regulations and official supervision, and upon the execution of such entries and the giving of such bonds, bills of lading, and other security as the Commissioner, with the approval of the Secretary, shall prescribe, any producer of pure sweet wines as defined by section 3036 (a) may withdraw wine spirits from any internal revenue bonded warehouse in original packages * * *.

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26 U. S. C. 3170 TRANSFER AND DELEGATION OF POWERS. The Secretary is authorized to confer and impose upon the Commis-

sioner and any of his assistants, agents, or employees, and upon any other officer, employee, or agent of the Treasury Department, any of the rights, privileges, powers, duties, and protection conferred or imposed upon the Secretary, or any officer or employee of the Treasury Department, by any law now or hereafter in force relating to the taxation, exportation, transportation, manufacture, possession, or use of, or traffic in, distilled spirits, wine, fermented liquors, or denatured alcohol.

26 U. S. C. 3171 RECORDS, STATEMENTS, AND RETURNS—(a) *Requirements.* Every person liable to any tax imposed by this chapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 3172 DISCRETIONARY METHOD FOR COLLECTING TAX—(a) *Power of Commissioner.* Whether or not the method of collecting any tax imposed by this chapter is specifically provided herein, any such tax may, under regulations prescribed by the Commissioner with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of subchapters A, B, and C of chapter 11, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be collected in such manner.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 3173 PENALTIES AND FORFEITURES—(a) *Removal or transportation of liquors or wines under improper brands.* Whenever any person ships, transports, or removes any spiritous or fermented liquors or wines, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such act to be done, he shall forfeit said liquors or wines, and casks or packages, and be subject to pay a fine of $500.

(b) *Other violations.* (1) Any person required to pay, or to collect, account for and pay over any tax on distilled spirits, wines, or fermented malt liquors, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return or supply any such information at the time or times required by law or regulation shall in addition to other penalties provided by law be subject to a penalty of not more than $1,000.

(2) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax, make such return or supply such information at the time or times required by law or regulation, or who willfully attempts in any manner to evade such tax shall be guilty of a misdemeanor and in addition to other penalties provided by law shall be fined not more than $10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

(3) Any person who willfully refuses to pay, collect, or truly account for any pay over any such tax shall in addition to other penalties provided by law be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected: *Provided, however,* That no penalty shall be assessed under this paragraph for any offense for which a penalty may be assessed under authority of section 3612, or of section 2801 (*f*) or 3043, or for any offense for which a penalty has been recovered under section 2806 (e).

(4) The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

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26 U. S. C. 3175 OTHER LAWS APPLICABLE. All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

26 U. S. C. 3176 RULES AND REGULATIONS—(a) *Power of Commissioner.* The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 3250 TAX—(a) *Wholesale dealers in liquors*—(1) *In general.* Wholesale dealers in liquors shall pay a special tax of $110.

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(4) *Distillers selling at wholesale.* No distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the tax-paid stamps are affixed, shall be required to pay the special tax of a wholesale dealer in liquors on account of such sales.

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26 U. S. C. 3254 DEFINITIONS. * * *

(b) *Wholesale dealer in liquors.* Except as otherwise provided, every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors in quantities of five wine-gallons or more to the same person at the same time, shall be regarded as a wholesale dealer in liquors: *Provided,* That the Commissioner may, by regulations, with the approval of the Secretary, provide for the issuance of a stamp denoting payment of such special tax as a "wholesale dealer in wines" or a "wholesale dealer in wines and malt liquors" if, as the case may be, wines only, or wines and malt liquors only, are sold by a wholesale dealer in liquors.

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26 U. S. C. 3300 ESTABLISHMENT AND ALTERATION—(a) *Authorization.* The Commissioner, with the approval of the Secretary, may establish and, from time to time, alter or change the form, style, character, material, and device of any stamp, mark, or label used under any provision of the laws relating to internal revenue.

(b) *Application of penalty and forfeiture provisions.* All pains, penalties, fines, and forfeitures provided by law relating to internal revenue stamps shall apply to and have full force and effect in relation to any and all stamps so established by the Commissioner.

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26 U. S. C. 3301 ATTACHMENT AND CANCELLATION—(a) *General authority to prescribe methods and instruments.* The stamps referred to in the preceding section shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as the Commissioner, with the approval of the Secretary, may prescribe; and he is authorized and empowered to make, with the approval of the Secretary, all needed regulations relating thereto.

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26 U. S. C. 3351 SHIPMENTS FROM THE UNITED STATES—(c) *Tax imposed in Virgin Islands.* There shall be levied, collected, and paid in the Virgin Islands upon articles imported from the United States, a tax equal to the internal revenue tax imposed in such islands upon like articles there manufactured.

(b) *Exemption from tax imposed in the United States.* Such articles going into such islands from the United States shall be exempt from payment of any tax imposed by the internal revenue laws of the United States.

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26 U. S. C. 3361 SHIPMENTS FROM THE UNITED STATES—(a) *Tax imposed in Puerto Rico.* All articles of merchandise of United States manufacture coming into Puerto Rico shall be entered at the port of entry upon payment of a tax equal in rate and amount to the internal revenue tax imposed in Puerto Rico upon the like articles of Puerto Rican manufacture.

(b) *Exemption from tax imposed in the United States.* Articles, goods, wares, or merchandise going into Puerto Rico, Guam, and American Samoa from the United States shall be exempted from the payment of any tax imposed by the internal revenue laws of the United States.

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26 U. S. C. 3601 ENTRY OF PREMISES FOR EXAMINATION OF TAXABLE OBJECTS—(a) *Authority*—(1) *Entry during day.* Any collector, deputy collector, internal revenue agent, or inspector may enter, in the daytime, any building or place where any articles or objects subject to tax are made, produced, or kept, within his district, so far as it may be necessary for the purpose of examining said articles or objects.

(2) *Entry at night.* When such premises are open at night, such officers may enter them while so open, in the performance of their official duties.

(b) *Penalty for refusal to permit entry or examination.* Any owner of such building or place, or person having the agency or superintendence of the same, who refuses to admit such officer, or to suffer him to examine such article or articles, shall for every such refusal, forfeit $500.

(c) *Other penalties.* If any person shall—

(1) *Forcible obstruction or hindrance to officers.* Forcibly obstruct or hinder any collector, deputy collector, internal revenue agent, or inspector, in the execution of any power and authority vested in him by law, or

(2) *Forcible rescue of seized property.* Forcibly rescue or cause to be rescued any property, articles, or objects after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending, excepting in cases otherwise provided for, shall, for every such offense, forfeit and pay the sum of $500, or double the value of the property so rescued, or be imprisoned for a term not exceeding two years, at the discretion of the court.

26 U. S. C. 3640 ASSESSMENT AUTHORITY. The Commissioner is authorized and required to make the inquiries, determinations, and assessments of all taxes and penalties imposed by this title, or accruing under any former internal revenue law, where such taxes have not been duly paid by stamp at the time and in the manner provided by law.

26 U. S. C. 3809 VERIFICATION OF RETURNS; PENALTIES OF PERJURY—(a) *Penalties.* Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than $2,000 or imprisoned not more than five years, or both.

(b) *Signature presumed correct.* The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

(c) *Verification in lieu of oath.* The Commissioner, under regulations prescribed by him with the approval of the Secretary, may require that any return, statement, or other document required to be filed under any provision of the internal revenue laws shall contain or be verified by a written declaration that it is made under the penalties of perjury, and such declaration shall be in lieu of any oath otherwise required.

26 U. S. C. 4041 ISSUE OF INSTRUCTIONS, REGULATIONS, AND FORMS—(a) *In general.* The Secretary shall prescribe forms of entries, oaths, bonds, and other papers, and rules and regulations, not inconsistent with law, to be used under and in the execution and enforcement of the various provisions of the internal revenue laws; and he shall give such directions to collectors and prescribe such rules and forms to be observed by them as may be necessary for the proper execution of the law.

(b) *Receipt of United States securities.* For authority of the Secretary to issue instructions and regulations governing the receipt by collectors and others of United States securities, see R. S. 251 (U. S. C., title 31, sec. 427).

19 U. S. C. 1309; 46 Stat. 690 as amended. SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT (WITHDRAWAL FREE OF TAX) (Sec. 309 (a), Tariff Act of 1930, as amended). *Exemption from customs duties and internal-revenue tax.* Articles of foreign or domestic manufacture or production may, under such regulations as the Secretary of the Treasury may prescribe, be withdrawn from bonded warehouses, bonded manufacturing warehouses, or continuous customs custody elsewhere than in a bonded warehouse free of duty or internal-revenue tax, or from any internal revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, free of internal revenue tax for supplies (not including equipment) of vessels of war, in ports of the United States, of any nation which may reciprocate such privilege toward the vessels of war of the United States in its ports, or for supplies (not including equipment) of vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or for supplies (not including equipment) of aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or for supplies (including equipment), maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted. (As amended by Sec. 3, Act of July 22, 1941 (Public Law 187, 77th Congress).)

* * * * *

(d) *Reciprocal privileges.* The privileges granted by this section and section 1317 of this title in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 1317 shall not apply thereafter in respect of aircraft registered in that foreign country. (June 17, 1930, sec. 309, 46 Stat. 690; June 25, 1938, sec. 5 (a), 52 Stat. 1080)

19 U. S. C. 1311; 46 Stat. 691 as amended BONDED MANUFACTURING WAREHOUSES (WITHDRAWAL FREE OF TAX) (Sec. 311, Tariff Act of 1930, as amended. All articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six: *Provided*, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such regulations as shall be prescribed by the Secretary of the Treasury: *Provided further*, That the manufacture of distilled spirits from grain, starch, molasses, or sugar, including all dilutions or mixture of them or either of them, shall not be permitted in such manufacturing warehouses.

* * * * *

Any materials used in the manufacture of such goods, and any packages, coverings, vessels, brands, and labels used in putting up the same may, under the regulations of the Secretary of the Treasury, be conveyed without the payment of revenue tax or duty into any bonded manufacturing warehouse, and imported goods may, under the aforesaid regulations, be transferred without the exaction of duty from any bonded warehouse into any bonded manufacturing warehouse; but this privilege shall not be held to apply to implements, machinery, or apparatus to be used in the construction or repair of any bonded manufacturing warehouse or for the prosecution of the business carried on therein.

* * * * *

Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section, and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses: *Provided further*, That no internal-revenue tax shall be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of this section, and that no person rectifying distilled spirits or wines in such warehouses shall be subject by reason of such rectification to the payment of special tax as a rectifier.

SUBPART A—SCOPE OF REGULATIONS

§ 185.1 *Warehousing and withdrawal of spirits.* These regulations, "Regulations 10, Warehousing of Distilled Spirits" (26 CFR Part 185), contain the procedural and substantive requirements relative to the warehousing of distilled spirits (other than alcohol), and the bottling in bond, tax payment and withdrawal thereof from internal revenue bonded warehouses. The regulations cover the location, construction, equipment, qualifying documents; requirements governing changes in name, proprietorship, premises and equipment, and in the title to the warehouse property; action by the district supervisor and Commissioner; control, custody, and supervision of the warehouse; deposit of spirits in warehouse; losses of spirits in warehouse or in transit thereto; withdrawal of distilled spirits from warehouse for taxpaid or tax-free purposes; bottling of spirits in bond; alternate operations of bottling-in-bond department as taxpaid bottling house; transfers in bond between internal revenue bonded warehouses; exportation and shipment of distilled spirits; and records and reports of distilled spirits deposited, stored, bottled in bond, and withdrawn from internal revenue bonded warehouses.

SUBPART B—DEFINITIONS

§ 185.5 *Meaning of terms.* As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

§ 185.6 *Alcohol.* "Alcohol" shall mean spirits produced at industrial alcohol plants established and operated under sections 3100 to 3124 of the Internal Revenue Code (26 U. S. C.).

§ 185.7 *Approved containers.* "Approved containers" shall mean casks, barrels, or similar wooden packages, or drums or similar metal packages, having a capacity of not less than 10 gallons each: *Provided*, That for the withdrawal of samples for laboratory analysis, "approved containers" shall mean any container of less than 10 gallons capacity. The term "approved containers" shall also mean railroad tank cars, tank trucks and pipe lines when specifically stated in this part.

§ 185.8 *Bonded warehouse or warehouse.* "Bonded warehouse" or "warehouse" shall mean an internal revenue bonded warehouse as defined in this subpart.

§ 185.9 *Bottling-in-bond department.* "Bottling-in-bond department" shall mean that portion of an internal revenue bonded warehouse set aside for the purpose of bottling distilled spirits (other than alcohol) in bond in accordance with the provisions of this part, and may consist of one or more bottling rooms.

§ 185.10 *Brandy.* "Brandy," as used in the provisons of this part relating to the withdrawal of spirits for the fortification of wine, shall mean brandies, neutral brandies, neutral spirits—fruit, and spirits—fruit, eligible for such use.

§ 185.11 *Carrier.* "Carrier" shall mean any person, company, corporation, or organization, including a distiller, warehouseman, owner, consignor, consignee, or bailee, who transports distilled spirits in any manner for himself or others.

§ 185.12 *Collector.* "Collector" shall mean collector of internal revenue.

§ 185.13 *Commissioner.* "Commissioner" shall mean the Commissioner of Internal Revenue.

§ 185.14 *Distilled spirits.* "Distilled spirits" shall mean that substance produced by the distillation of fermented grain, molasses, fruit, or other materials, commonly known as spirits, whisky, brandy, rum, gin, etc., but shall not include alcohol.

§ 185.15 *Distiller.* "Distiller" shall mean the proprietor of a registered distillery or fruit distillery.

§ 185.16 *Distilling season and bottling season.* "Distilling season" and "bottling season" shall mean and be designated as spring or fall, and the spring season shall include the months from January to June, inclusive, and the fall season the months from July to December, inclusive.

§ 185.17 *District supervisor or supervisor.* "District supervisor" or "supervisor" shall mean the person having charge of a supervisory district of the Alcohol Tax Unit of the Bureau of Internal Revenue.

§ 185.18 *Domestic strip stamps.* "Domestic strip stamps" shall mean the bottle stamps prescribed under authority of section 2903, I. R. C., for spirits bottled in bond.

§ 185.19 *Export strip stamps.* "Export strip stamps" shall mean the bottle stamps prescribed under authority of section 2905, I. R. C., for spirits bottled in bond for export.

§ 185.20 *Fruit distillery.* "Fruit distillery" shall mean a distillery established and operated under the provisions of Regulations 5 (26 CFR Part 184).

§ 185.21 *Gallon.* "Gallon" or "wine gallon" shall mean a United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

§ 185.22 *In bond.* "In bond," as applied to distilled spirits shall mean untaxpaid distilled spirits possessed under bond on the premises of an internal revenue bonded warehouse, or in transit to such premises from another internal revenue bonded warehouse or from a registered distillery or fruit distillery, or while in transit in other circumstances prior to delivery of the spirits to an authorized consignee.

§ 185.23 *Including.* The word "including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

§ 185.24 *Inclusive language.* Words in the plural shall include the singular, and *vice versa*, and words in the masculine gender shall include females, associations, copartnerships, and corporations.

§ 185.25 *Internal revenue bonded warehouse.* "Internal revenue bonded warehouse" shall mean a bonded warehouse established or operated under the provisions of this part for the storage of distilled spirits (other than alcohol) on which the tax has not been paid.

§ 185.26 *I. R. C.* "I. R. C." shall mean the Internal Revenue Code.

§ 185.27 *Laboratory analysis.* "Laboratory analysis" shall mean the determination of the composition of distilled spirits by chemical, physical, or organoleptic examination.

§ 185.28 *Person, proprietor, or warehouseman.* "Person," "proprietor" or "warehouseman" shall include natural persons, associations, copartnerships, and corporations.

§ 185.29 *Proof.* "Proof" shall mean the ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the per cent of ethyl alcohol by volume.

§ 185.30 *Proof gallon.* "Proof gallon" shall mean the alcoholic equivalent of a United States gallon at 60 degrees Fahrenheit, containng 50 per cent of ethyl alcohol by volume.

§ 185.31 *Proof spirits.* "Proof spirits" shall mean that alcoholic liquor which contains 50 per cent of ethyl alcohol by volume at 60 degrees Fahrenheit and which has a specific gravity of 0.93418 in air at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity.

(53 Stat. 307; 26 U. S. C. 2809)

§ 185.32 *Proprietor.* "Proprietor" shall mean the operator of the internal revenue bonded warehouse, unless otherwise indicated.

§ 185.33 *Registered distillery.* "Registered distillery" shall mean a distillery established and operated under the provisions of Regulations 4 (26 CFR Part 183).

§ 185.34 *Secretary.* "Secretary" shall mean the Secretary of the Treasury.

§ 185.35 *Spirits.* "Spirits" shall mean distilled spirits as defined in this subpart.

§ 185.36 *Tank car.* "Tank car" shall mean a railroad tank car conforming to the requirements of this part.

§ 185.37 *Tank truck.* "Tank truck" shall mean a tank truck conforming to the requirements of this part.

§ 185.38 *Tax gallon.* "Tax gallon" is the unit of distilled spirits upon which the rate of tax prescribed by law is imposed. When spirits are 100 degrees or more of proof, the tax rate is imposed on the proof gallon. When spirits are less than 100 degrees of proof, it is imposed on the wine gallon.

§ 185.39 *U. S. C.* "U. S. C." shall mean the United States Code.

SUBPART C—LOCATION AND CONSTRUCTION

§ 185.50 *Location restrictions.* Internal revenue bonded warehouses may not be located in any dwelling house, and if under the same roof or in the same building in which is located a rectifying plant or taxpaid bottling house, the two premises must not have means of communication with each other within the building: *Provided*, That where an internal revenue bonded warehouse has heretofore been established in the same building with a rectifying plant or a taxpaid bottling house with interior communication between the two premises, it may continue to operate in such location if the revenue will not be jeopardized thereby: *Provided further*, That when the bottling-in-bond department is operated temporarily as a taxpaid bottling house, communication between the two premises within the building may continue. Internal revenue bonded warehouses other than those situated upon or contiguous to the premises of a distillery shall be located in important cities or at important shipping points or other places where need for the establishment of the warehouse is clearly shown, as provided in § 185.155. The location must be such that adequate transportation facilities will be available.

(53 Stat. 331, 332; 26 U. S. C. 2872, 2873)

§ 185.51 *Warehouse buildings.* The buildings or rooms constituting an internal revenue bonded warehouse must be securely constructed of brick, stone, wood, concrete, or other substantial material, and must be completely separated from contiguous buildings or rooms by solid, unbroken walls or partitions of substantial construction: *Provided*, That necessary openings may be permitted in such walls or partitions for the passage of approved pipe lines and conduits, as provided in § 185.71, and where a bottling-in-bond department is provided and adjoins the storage portion of the warehouse not more than two doors may be permitted in the wall or partition separating such bottling department from the storage portion of the warehouse, subject to the provisions of § 185.72, or where the warehouse is located on the premises of a fruit distillery and is contiguous to the distilling building or room and operated by the proprietor of the distillery, a door may be permitted in the wall or partition separating the warehouse from such building or room, as provided in the regulations governing the production of brandy (26 CFR Part 184). No door, window, or similar opening shall be made or permitted in the walls of a bonded warehouse leading into a distillery or into any other room or building, except as provided in this section. Where warehouse buildings are located on the premises of a registered distillery, the walls or partitions separating such warehouse buildings from contiguous buildings not located on the distillery premises must extend from the ground to the roof in a direct vertical line. The foundations, floors, walls, and roofs, and the doors, windows, and other openings of warehouse buildings shall be constructed and such doors, windows, and other openings shall be protected and secured as hereinafter provided. The design and construction of the warehouse must be such as to insure economical supervision by Government officers.

(53 Stat. 316 as amended, 331, 332; 26 U. S. C. 2825, 2872, 2873)

§ 185.52 *Capacity of warehouse.* Internal revenue bonded warehouses, other than those situated on or contiguous to distillery premises and operated by the distiller (not including lessee distillers), must have a capacity commensurate with the prospective needs of the area or locality in which they are situated and sufficient for not less than 5,000 barrels, including any equivalent thereof in tank or case storage capacity, or any combination of barrel, tank or case storage facilities. Where the distiller has a

warehouse on or contiguous to the distillery premises, and desires to establish a second warehouse, the capacity of such second warehouse must likewise be not less than 5,000 barrels or the equivalent thereof in tank or case storage capacity, except that where the second warehouse is to be established on premises contiguous to, or near, the first warehouse and the necessity for the establishment thereof is due to lack of storage space in the first warehouse and it is impracticable to expand the same, such minimum storage requirements shall not be applicable: *Provided*, That where a second warehouse is to be established by a distiller on premises which are neither contiguous to nor near the first warehouse and it is impracticable to have a warehouse of 5,000 barrels or more capacity in the locality, and the necessity for the establishment thereof is shown, the Commissioner may authorize the establishment of such warehouse.

(53 Stat. 331, 332; 26 U. S. C. 2872, 2873)

§ 185.53 *Means of ingress and egress.* The doors of an internal revenue bonded warehouse must lead into a public street or into the yard connected with the warehouse, or into the distillery yard if the warehouse is located on or contiguous to a distillery premises: *Provided*, That where the warehouse consists of a room or floor of a building, the door thereof may open into an elevator shaft or common passageway partitioned off from other businesses and leading either directly or through another elevator shaft or similar passageway to the street or yard: *Provided further*, That where the warehouse is located on the premises of a fruit distillery and is contiguous to the distilling building or room and is operated by the proprietor of the distillery, a door may be permitted in the wall separating the warehouse from the distillery, as provided in Regulations 5 (26 CFR Part 184). Where the door of the warehouse opens into a common passageway, as provided in this section, the partitions forming the common passageway shall be substantially constructed of solid materials or expanded metal or woven wire of not less than 9 gauge nor more than 2-inch mesh, and shall extend from the floor to the ceiling or roof, but doors may be provided therein if they do not permit interior communication with a rectifying plant or taxpaid bottling house in the same building. Common passageways must be used exclusively as means of communication.

(53 Stat. 316 as amended, 331, 332; 26 U. S. C. 2825, 2872, 2873)

§ 185.54 *Foundations.* The foundations of warehouse buildings must be constructed of stone, brick, or concrete or other equally substantial material, extending into the ground. These provisions respecting the foundations shall not, however, be applicable where the warehouse consists of a room or rooms situated above the first floor of the building.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.55 *Floors.* The warehouse buildings must have suitable ground floors constructed of wood, concrete, brick, or other equally substantial material. If the warehouse consists of a room or floor situated above the ground or first floor of the building, the first warehouse floor must be so constructed.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.56 *Walls.* The walls of warehouse buildings or rooms must be securely and substantially constructed. If wood, corrugated iron, or tin is used, the same must be applied over solid sheathing for the first 12 feet of height. Where substantial sheet metal is used, and the sheets are welded together in such a manner as to constitute a solid wall, sheathing, if used, may be applied in any manner desired.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.57 *Roofs.* The roofs of warehouse buildings must be securely and substantially constructed. Where corrugated iron or tin is used, the same must be applied over sheathing spaced not greater than 12 inches from board to board. Where substantial sheet metal is used, and the sheets are welded together in such manner as to constitute a solid roof, sheathing, if used, may be applied in any manner desired.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.58 *Doors.* The warehouse must have no more doors than are necessary for the proper and convenient conduct of the business. The outside doors and any inside doors on which Government locks are required must be securely constructed of heavy timber or iron or other equally substantial material. The hinges of the doors must be secured by roundheaded or carriage bolts, nutted and riveted or battered on the inside. Hinges that cannot be thus secured must be inaccessible from the outside and so attached that they cannot be removed when the door is closed. The outside doors, and inside doors on which Government locks are required, must be equipped with hasp and staple securely fastened on the inside so that they may be secured with Government locks. The entrance door must be secured on the outside with a Government seal lock. The entrance door to the bottling-in-bond department must also be secured on the outside with a Government seal lock. All other doors required to be locked must be secured on the inside with a Government lock and a cross bar in the middle of the door. Where there are double doors, one of them at least must be provided with substantial bolts at both the top and the bottom. These bolts must be so arranged as to plunge into substantial fastenings or holes in the middle of the upper and lower ends of the frame when the door is closed. Folding doors of wood or metal, vertical or horizontal sliding doors of wood or metal, and metal doors of the roller blind type, must be provided with substantial cross bars, or bolts that plunge into the upper and lower ends or the sides of the door frame, so placed as to make the door rigid and secure, unless the doors operate in grooves or tracks that make them secure.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.59 *Windows.* The windows of the buildings or rooms constituting the warehouse must be constructed and secured as outlined in §§ 185.60 to 185.67.

§ 185.60 *Windows within 12 feet of ground, etc.* All windows located within 12 feet of the ground, or within 12 feet (a) above a fire escape (except as provided in § 185.61), (b) above a roof, set back, or balcony within 12 feet of the ground, (c) above a roof or balcony of an adjoining building, or (d) of a roof, window, or other opening of an opposite building, must conform to the following requirements:

(1) *Wood sash.* Windows consisting of plain or wire glass panes set in wood sash must be protected by iron bars and solid shutters;

(2) *Steel sash.* Windows consisting of wire glass panes not larger than 6 by 10 inches, set in metal sash must be protected by iron bars;

(3) *Detention type.* Windows may be of the detention type, consisting of solid steel frame, sash, and grille (over the ventilating portion), combined in one unit and erected in one piece, equipped with wire glass panes not larger than 6 by 10 inches.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.61 *Opening onto fire escape.* Windows opening onto a fire escape shall be protected by solid metal shutters, securely hinged and equipped with facilities for locking on the inside with a Government lock. Iron bars will not be required on such windows.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.62 *Extension of requirements.* The Commissioner or district supervisor may require any other windows to be protected by iron bars or shutters, or both, when deemed necessary to safeguard the spirits.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.63 *Windows more than 12 feet from ground.* All windows more than 12 feet from the ground and not subject to the provisions of §§ 185.60 and 185.61 must be securely constructed and so arranged and equipped that they may be securely fastened on the inside.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.64 *Set in casement.* All windows must be securely set into the window casement in such a manner as to prevent removal.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.65 *Sash locks.* All window sashes must be provided with sash locks or other suitable fasteners.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.66 *Shutters.* The shutters must be solid and substantially constructed of metal or wood, and must be fastened inside of the room or building and so secured that they cannot be opened from the outside.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.67 *Iron bars.* The iron bars must be not less than three-fourths of an inch in diameter, placed perpendicularly in the windows or walls, not more than 5 inches apart from center to cen-

ter, and reinforced by iron cross bars not more than 36 inches apart. All bars and cross bars must be securely fastened to the window frames or embedded in the walls in such a manner as to prevent their removal and to afford proper security.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.68 *Skylights, monitors, penthouses, etc.* Skylights, monitors, penthouses, and similar openings will be regarded as windows and treated as such, except that shutters will not be required.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.69 *Ventilators.* Small openings in outside walls of warehouse buildings and in the ground floors and the roofs thereof for ventilation or heating purposes will be permitted, provided they are protected by substantial metal gratings not lighter than No. 6 gauge and having openings not larger than one-half inch, securely attached to or embedded in the floor, wall, or roof. Where such openings are larger than 6 by 6 inches they shall be further protected by iron bars. Such openings will not be permitted in the walls or floors which separate the storage portion of the warehouse from contiguous rooms or buildings.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.70 *Drains.* Openings in floors (except floors separating the warehouse from other premises) will be permitted for drainage or sewage, provided they are permanently connected to the sewer system and protected in the same manner as ventilators.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.71 *Other openings.* Necessary openings may be permitted in the walls, partitions, ceilings, or floors of warehouse buildings or rooms for the passage of approved steam, water, electric, sewer, or similar lines and spirits lines.

(53 Stat. 298 as amended, 332; 26 U. S. C. 2800, 2873)

§ 185.72 *Bottling-in-bond department.* Where the proprietor of an internal revenue bonded warehouse desires to bottle distilled spirits in bond he must set apart a portion of the warehouse for such purpose. Such portion of the warehouse shall be known as the bottling-in-bond department and shall be used exclusively for the purpose of bottling distilled spirits (other than alcohol) in bond for domestic use or for exportation in accordance with this part. The building or room comprising the department must be so constructed and equipped as to be suitable for the bottling of distilled spirits in bond and to insure efficient and economical supervision by Government officers. No door, window, or other opening into another room or building will be permitted: *Provided*, That necessary openings may be permitted in the walls, floors, ceiling, or partitions separating the bottling-in-bond department from the storage portion of the warehouse for the passage of approved steam, water, electric, sewer, or similar lines and for the passage of approved pipe lines for the conveyance of spirits from gauging tanks located in the warehouse: *And provided further*, That not more than two doors may be permitted in the wall or partition separating the bottling-in-bond department from the storage portion of the warehouse, to be used exclusively for the purpose of transferring spirits to the bottling-in-bond department and return of the bottled product for storage. Communicating doors must be equipped for locking with Government locks on the storage side of the warehouse and must be kept locked except while actually being used for the transfer of spirits. If the bottling-in-bond department is temporarily eliminated from the premises, the communicating doors will be closed and kept locked on the storage side of the warehouse. If the bottling-in-bond department is permanently eliminated from the premises in order that it may be operated as a tax-paid bottling house, or for any other purpose, the doors in the wall separating such rooms or building from the warehouse must be eliminated and the openings permanently boarded or bricked up in such manner as to provide a solid unbroken wall.

(53 Stat. 332, 342 as amended, 343; 26 U. S. C. 2873, 2903, 2904)

§ 185.73 *Bottling-in-bond department having more than one bottling room.* Two or more contiguous bottling rooms with separate bottling equipment for each room may be provided, and each such bottling room may, in accordance with the limitations set out in § 185.904, be operated simultaneously with, and independent of, the other bottling rooms. A bottling-in-bond department having more than one bottling room, as herein provided, will be regarded as a single bottling-in-bond department. A "bottling room" shall consist of a complete set of bottling equipment separated from another such set by a partition constructed of expanded metal or woven wire of not less than 9 gauge nor more than 2-inch mesh, and which shall extend from the floor to the ceiling or roof or to a height of not less than 12 feet. A door or other necessary opening will be permitted in such partitions at such point as will permit adequate supervision of the spirits being bottled in the different rooms. Such rooms shall be designated alphabetically, such as "Bottling Room A," "Bottling Room B," etc.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

§ 185.74 *Quick-aging room.* Where spirits are to be quick-aged in an internal revenue bonded warehouse by the introduction of a steam pipe or other heating device into the package, a separate room or building to be used exclusively for such purpose should be provided, with separate means of ingress and egress conforming to § 185.53. If a separate building is provided, the construction thereof must conform to the requirements of §§ 185.51 to 185.71. Where spirits are to be quick-aged by the general application of heat within the warehouse, the proprietor must provide a suitable, separate room which shall not be exposed or subjected to excessive heat for the use of Government officers in performing their duties in connection with the receipt and withdrawal of spirits. A sign must be placed over the entrance door of the quick-aging room bearing the words "Quick-Aging Room."

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.75 *Gauging room.* A separate building, room, or section of the warehouse must be provided for gauging spirits, the construction of which must conform to the requirements of §§ 185.51–185.71. Each gauging room must be of sufficient dimensions to permit the work of gauging and related operations to be accomplished efficiently and expeditiously, and shall be provided with necessary office facilities for use of the Government officer in preparing gauge reports; scales for weighing individual packages; and facilities for marking, branding and stamping individual packages. Gauging rooms must be well heated, ventilated, and equipped with permanently installed lighting facilities, properly spaced throughout the room or building, and of sufficient intensity for the efficient performance of gauging duties and supervision of all activities in the gauging room without the aid of auxiliary or outside lights. A sign must be placed over the entrance door of the room or building bearing the words "Gauging Room." Where gauging tanks are provided the construction and installation thereof must conform to the requirements of § 185.112, and the number and capacity of such tanks shall be commensurate with the type and volume of operations conducted.

(53 Stat. 298 as amended, 332; 26 U. S. C. 2800, 2873)

§ 185.76 *Brandy-blending department*—(a) *Construction.* Where brandies are to be mixed or blended in an internal revenue bonded warehouse, under the provisions of section 2801 (e) (5), I. R. C., for the sole purpose of perfecting such brandies according to commercial standards, a separate room or building, constituting a part of the internal revenue bonded warehouse, must be provided for that purpose. Such room or building shall be known as the brandy-blending department and must be constructed in accordance with the provisions of §§ 185.51 to 185.71. The brandy-blending department must be completely separated from contiguous rooms or buildings by solid unbroken partitions and floors of substantial construction. Such partitions shall extend from the ground to the roof or from the floor to the ceiling, if a room is used, and if the brandy-blending department is under the same roof, or in the same building in which is located a rectifying plant, or taxpaid bottling house, the two premises must not have any means of communication with each other within the building. No door, window, or other opening into another room or building of the warehouse will be permitted: *Provided*, That not more than two doors may be permitted in the wall or partition separating the brandy-blending department from the storage portion of the warehouse to be used exclusively for the purpose of transferring brandy between the brandy-blending department and the storage portion of the warehouse. The commu-

nicating doors must be equipped for locking with Government locks on the storage side of the warehouse and must be kept locked except while brandy is being transferred between the brandy-blending department and the storage portion of the warehouse.

(b) *Equipment.* The brandy-blending department must be equipped with a requisite number of suitable tanks in which to blend brandies, scales for weighing packages, facilities for dumping packages, facilities for filling, marking and branding packages, and a desk and cabinet for use of the Government officer. The room or building must be well lighted, heated, and of sufficient dimensions to permit the work of dumping, filling, gauging, marking, and branding packages efficiently and expeditiously.

(c) *Lighting facilities.* Lighting facilities must be permanently installed and spaced throughout the room or building to permit supervision of the entire premises and must be of sufficient power to permit efficient performance of gauging duties without the aid of auxiliary lights or outside light.

(d) *Sign.* A sign, bearing the words "Brandy-Blending Department," shall be placed over the entrance door of the room or building.

(e) *Other uses of department.* Where brandy-blending operations have been discontinued and all brandies have been removed from the brandy-blending department the locks on the doors connecting the brandy-blending department with the storage portion of the warehouse may be removed and the brandy-blending department used for any other authorized warehouse purpose as provided in § 185.459.

(53 Stat. 300 as amended, 332; 26 U. S. C. 2801, 2873)

§ 185.77 *Other rooms.* Where a bottling-in-bond department is established, separate rooms may be provided therein for the dumping, reducing, and bottling of distilled spirits. Such rooms shall be appropriately designated, such as "Dumping Room," "Reducing Room," "Bottling Room," etc.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

§ 185.78 *Empty package storeroom.* If empty packages (barrels) are to be stored on the warehouse premises, a separate room or building must be provided for such purpose. If a separate room is provided within the warehouse and such room has interior doors communicating with the storage portion of the warehouse, such doors must be equipped for locking with Government locks on the warehouse side and be kept locked at all times except when in actual use and the construction of the walls must meet requirements of § 185.56. If the room has an outside entrance door, such door must be equipped for locking with a Government lock. The room or building provided for the storage of empty packages may be used for general cooperage purposes. A sign bearing the words "Empty Package Storeroom" must be placed over the entrance door of the empty package storeroom.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.79 *Empty container storeroom.* If empty cases, bottles, and other bottling supplies are kept or stored on the warehouse premises, a separate room or building may be provided for such purpose. Such room or building shall not have any means of interior communication with any other room or building comprising the storage portion of the bonded warehouse. If a separate room or building is not provided for the storage of such supplies, they must be stored in the bottling-in-bond department and kept completely segregated and so stored as not to interfere with proper supervision of the bottling-in-bond department.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

§ 185.80 *Government office.* The proprietor shall provide and maintain on the warehouse premises for the exclusive use of Government officers, a securely constructed, well-lighted, heated, and ventilated office of suitable dimensions: *Provided*, That where the proprietor operates a distillery on the same or contiguous premises or a bonded winery on contiguous premises, and a Government office conforming to the requirements specified herein is provided on the distillery or winery premises, and such office is so located as to be suitable for the use of Government officers assigned to the warehouse, a separate Government office need not be provided on the warehouse premises. The Government office shall be equipped with toilet and lavatory facilities, unless such facilities, suitably located, are provided elsewhere on the premises, and with desks, chairs, file cases, and such other furniture as may be necessary for the keeping of Government records and the preparation of reports. The door of the Government office shall be equipped with a cylinder type lock and a sufficient number of keys therefor shall be furnished the district supervisor for the use of Government officers. Where deemed necessary to afford adequate security to Government property, the district supervisor may require the windows of the Government office to be protected by shutters or iron bars and the door to be so equipped that it may be securely fastened with a Government lock. A sign must be placed over the entrance door bearing the words "Government Office." Unless the Government office is located immediately adjacent to the bottling-in-bond department, the proprietor must provide either a separate office or desks, chairs, file cases, and such other furniture as may be necessary for the keeping of Government records and the preparation of reports in a suitable and well-lighted space in the bottling-in-bond department. If the bottling-in-bond department is not properly heated during inclement weather, such office facilities must be located in a well-lighted, heated, and ventilated room. Such facilities shall be subject to approval by the district supervisor.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

§ 185.81 *Government room, vault or cabinet.* There shall be provided in the Government office a metal cabinet of adequate strength and size, or a securely constructed room or vault suitably equipped for locking with a Government seal lock, for use in safeguarding the keys to Government locks, seals, and other Government property and stamps in the custody of Government officers. Each such room, vault or cabinet shall be subject to approval by the district supervisor. Unless the Government office is located immediately adjacent to the bottling-in-bond department, similar facilities must also be provided in such department.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

§ 185.82 *Off-premises export storage room.* If the proprietor of an internal revenue bonded warehouse located at a port of exportation intends to store, pending release for direct exportation or use as supplies on vessels or aircraft, taxpaid distilled spirits or wines bottled or packaged especially for export with benefit of drawback under the provisions of Regulations 11 (26 CFR Part 189), Regulations 15 (26 CFR Part 190) and Regulations 28 (26 CFR Part 176), a separate room for the storage of such products exclusively must be provided off the bonded premises. The room must be contiguous to the bonded premises and be constructed of substantial, solid materials. All windows, doors or other openings must be so constructed that they may be securely locked or fastened from the inside, except the entrance door which must be so constructed that it may be securely locked from the outside of the room with a Government seal lock. A sign must be placed over the entrance door of the room bearing the words "Off-Premises Export Storage Room." The deposit of distilled spirits and wines in such room, and the withdrawal thereof, shall be effected in accordance with provisions of Regulations 28 (26 CFR Part 176).

(53 Stat. 377 as amended; 26 U. S. C. 3179)

Subpart D—Sign

§ 185.100 *Posting of sign.* The proprietor shall place and keep conspicuously on the outside and at the front of the warehouse where it can be plainly seen, a sign exhibiting in plain and legible letters painted in oil colors or gilded, not less than 3 inches in height, and of a proper and proportionate width, the name of the proprietor and the words "Internal Revenue Bonded Warehouse," followed by the registry number of the warehouse. If the warehouse consists of two or more buildings the required sign will be placed over the entrance of each building, and there shall also be shown on such sign the alphabetical designation of the building. If a bottling-in-bond department is maintained, the proprietor shall also place and keep conspicuously on the outside and at the front of the department, or over the front entrance thereto, where it can be plainly seen, a sign exhibiting in plain and legible letters, the words "Bottling-in-Bond Department."

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

Subpart E—Fences or Walls and Gates

§ 185.105 *Construction.* The proprietor may erect around the warehouse premises a fence or wall, but a suitable number of gates or doors therein must

be provided; and if such fence or wall is to be solid and over five feet in height, specific approval for the erection or maintenance thereof must be obtained from the district supervisor.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.106 *Keys to gates.* The proprietor shall furnish the district supervisor as many keys to the gates or doors of the fence or wall around the warehouse as may be required from time to time, in order to render the warehouse readily accessible to Government officers.

(53 Stat. 332; 26 U. S. C. 2873)

SUBPART F—EQUIPMENT

§ 185.110 *Scales.* The proprietor of the warehouse must provide suitable and accurate scales for the weighing of packages of distilled spirits. The beams or dials of such scales must indicate weight in one-half pound graduations. The beams or dials of tank scales must be graduated to enable readings to be made as follows: to nearest one-half pound for scales having a capacity not to exceed 2,000 pounds; to the nearest 1 pound for scales having a capacity of over 2,000 pounds, but not exceeding 6,000 pounds; to the nearest 2 pounds for scales having a capacity over 6,000 pounds, but not exceeding 20,000 pounds; to the nearest 5 pounds for scales having a capacity over 20,000 pounds, but not exceeding 50,000 pounds; and to the nearest 10 pounds for scales having a capacity over 50,000 pounds. Except in the case of scales having a capacity of 2,000 pounds or less, where spirits are to be gauged for taxpayment, not less than twenty percent of the total capacity of the gauging tank-scale may be entered into the tank for gauging for determination of the tax; *Provided*, That lots of spirits weighing 1,000 pounds or less must be weighed on scales having one-half pound graduations.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.111 *General requirements for tanks.* All tanks used as receptacles for spirits shall be constructed of metal or other suitable material, shall be stationary, and shall be equipped with a suitable measuring device whereby the actual contents will be correctly indicated, and will have plainly and legibly painted thereon an appropriate designation indicating the use thereof, followed by its serial number and capacity in gallons. Where such tanks are of irregular dimensions the warehouseman shall furnish to the district supervisor a table, in duplicate, showing the capacity of the tank for each inch of depth. The district supervisor will retain one copy of the table and forward the other to the storekeeper-gauger who will retain the same in the Government office. All tanks must be so constructed as to permit proper examination thereof, and so arranged as to leave an open space of not less than three feet between the top and the roof or floor above. Manheads, inlets, and outlets of the tanks and all openings whereby access may be had to the spirits must be provided with facilities for locking with Government locks or otherwise securely fastened and sealed. Where tanks are equipped with manholes or valves in the top which are required to be locked with Government locks, suitable walks or landings with steps or stairways leading thereto and providing ready access to such manholes or valves must be constructed. Valves must be provided in the pipe connections and be so arranged as to control completely the flow of spirits both into and out of such tanks and so constructed that they may be locked with Government locks. The pipe connections of such valves must be brazed, welded, or otherwise secured in such a manner that they cannot be detached or altered without showing evidence of tampering. Tanks used as receptacles for spirits may be permanently connected with pipe lines for the conveyance thereto of air and water, but the water pipe line must be affixed to the top of the tank and may not extend into the tank. Such air and water pipe lines must be equipped with a control valve which may be locked with a Government lock. Pipes used for the conveyance of air must also be equipped with a check valve located near the point of entry to the tank in order to effectively prevent any abstraction of spirits from the tank. Other pipe lines, except those used for the conveyance of spirits, may not be permanently connected with such tanks. Tanks used for gauging shall be mounted on accurate scales.

(53 Stat. 298 as amended, 318, 332, 335 as amended; 26 U. S. C. 2800, 2829, 2873, 2883)

§ 185.112 *Gauging tank.* The proprietor must provide in a warehouse building one or more gauging tanks, constructed in accordance with the provisions of § 185.111, where distilled spirits are to be received by pipe line or by tank car for deposit in storage tanks in the warehouse, or where distilled spirits deposited in storage tanks are to be withdrawn therefrom for removal by pipe line or in tank cars, or tank trucks where authorized by this part, or where distilled spirits stored in packages are to be dumped for bulk gauging: *Provided*, That no gauging tank need be installed on the warehouse premises for gauging (a) distilled spirits received by pipe line which have been gauged in the distillery cistern room (b) fortifying spirits which are to be transferred by pipe line from storage tanks direct to a gauging tank in the fortifying room of a contiguous winery and gauged therein under the provisions of § 185.864, (c) rum of 150 degrees of proof or more which is to be transferred by pipe line from storage tanks direct to a gauging tank in a denaturing bonded warehouse on the same premises and gauged therein under the provisions of § 185.883, or (d) spirits of 160 degrees of proof or more for redistillation which are to be transferred by pipe line from a storage tank direct to a gauging tank in a distillery on the same or contiguous premises under the provisions of § 185.725. Where a storage tank is mounted on scales, the entire contents of the tank may be removed at one time, and deposits may be made therein on the basis of the scale readings of such tank, without it being necessary to first run such spirits into a gauging tank. A suitable board shall be provided on each gauging tank for the attachment of the gauge report or certificate of taxpayment. If distilled spirits are to be dumped from packages for bulk gauging, the gauging tank must be located in the gauging room.

(53 Stat. 298 as amended, 318, 332, 335 as amended; 26 U. S. C. 2800, 2829, 2873, 2883)

§ 185.113 *Test weights.* The proprietor shall provide a set of ten 50-pound cast-iron test weights, which shall be certified by the National Bureau of Standards or State departments of weights and measures as conforming to class "C" requirements of the National Bureau of Standards. If the proprietor has provided such test weights at another plant operated by him on the same or contiguous premises, he need not provide a separate set of weights for the warehouse. All test weights shall be placed under the control and in the custody of the storekeeper-gauger in charge, who shall keep them under Government lock when not in use.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.114 *Testing gauging and storage tank scales*—(a) *Not over 500 gallons.* Scales used for weighing spirits in lots of not over 500 gallons will be tested from time to time under the supervision of the storekeeper-gauger by means of test weights provided in accordance with § 185.113. Such scales will be tested by placing the prescribed test weights on the scales and checking the weight registered on the beam of the scales. The test weights will then be removed without disturbing the beam and the gauging tank filled with spirits or water to the same weight, whereupon the test weights will again be placed upon the scales, the spirits or water being retained in the tank and the weight registered on the beam checked. This operation will then be continued until the scales have been checked in 500-pound ranges at all weights for which the scales are used.

(b) *Over 500 gallons.* Proprietors will have scales used for weighing spirits in larger lots tested and their accuracy certified by State, county, or city departments of weights and measures or by a responsible scale company at intervals of not more than six months. Officers will see that the proprietors have the scales of gauging tanks, used for weighing distilled spirits in lots of more than 500 gallons, tested and their accuracy certified by State, county, or city departments of weights and measures or by a responsible scale company at intervals of not more than 6 months. Officers will also check, at least once a month, the gallonage represented to be on the scale against the gallonage indicated by a volumetric determination of the contents of the tank. Such volumetric determination will be made by (1) accurately ascertaining the proof and the temperature of the distilled spirits and the depth of the liquid in the tank by means of a steel tape, (2) multiplying the depth in inches by the capacity of the tank for 1 inch of depth, and (3) correcting the volume to 60 degrees Fahrenheit in accordance with table No. 7 of the Gauging Manual (26 CFR Part 186). The corrected gallons thus determined will be compared with

the gallons represented by the reading of the beam of the scale. Unless the volumetric check is within 0.5 percent of the quantity shown to be in the tank, the Government officer will take appropriate steps to have the accuracy of the scales verified. In addition to the volumetric check described, officers will, as frequently as conditions indicate the necessity therefor, test weighing tank scales of large capacity in the manner prescribed for smaller capacity gauging tank scales, except that such tests on large capacity gauging tank scales may be made when they contain considerable quantities of liquid. In this case the beam will be carefully balanced, and test weights will be added to the load, one at a time, until the range of 500 pounds is checked. At any time an officer finds a scale to be inaccurate, he will require the proprietor to have such scale adjusted and its accuracy certified.

(53 Stat. 307, 332; 26 U. S. C. 2808, 2873)

§ 185.115 *Accuracy of scales.* In addition to the volumetric check described, officers will, as frequently as conditions indicate the necessity therefor, test weighing tank scales of large capacity in the manner prescribed for smaller capacity weighing tank scales, except that such tests on large capacity weighing tank scales may be made when they contain considerable quantities of liquid. In this case the beam will be carefully balanced, and test weights will be added to the load, one at a time, until the range of 500 pounds is checked. At any time an officer finds a scale to be inaccurate, he will require the proprietor to have such scale adjusted and its accuracy certified by a State, county, or city department of weights and measures or by a responsible scale company.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.116 *Storage tanks.* A sufficient number of storage tanks constructed in accordance with the requirements of § 185.111 must be provided in the warehouse to permit the expeditious deposit of spirits within the limitations of section 185.372.

(53 Stat. 332, 335 as amended; 26 U. S. C. 2873, 2883)

§ 185.117 *Storage tanks outside warehouse building.* The district supervisor may approve permanent storage tanks not located within a room or building as an addition to an internal revenue bonded warehouse: *Provided*, That such tanks are constructed, equipped, and enclosed as required in this section. The tank, or tanks, shall be of substantial metal construction and shall be erected on a solid concrete base or foundation. Each storage tank shall have plainly and legibly painted thereon, or on a plate securely attached thereto, the words "Storage Tank," followed by its serial number and capacity in gallons. The inlet and outlet pipe connections of each storage tank must be fitted with valves so constructed that they can be secured with Government locks, and any other openings in such tanks must also be so constructed that they can be closed and locked. The tanks shall be completely enclosed by a brick, concrete, or stone wall, at least 12 inches thick and extending not less than 3 feet above, and 3 feet below, the ground. A fence at least 12 feet in height, constructed of not less than No. 6 gauge, nor more than 2-inch mesh, expanded metal or woven wire, with at least three rows of barbed wire superimposed on the top thereof, shall be permanently affixed on the wall. The fence posts shall be substantially constructed of iron or steel and shall be solidly embedded in the wall. A suitable gate in such fence shall be provided, which gate shall be of the same construction as the fence, and shall be equipped with hasp and staple for the reception of a Government seal lock. The storage tanks shall be connected with approved gauging tanks in the internal revenue bonded warehouse building by permanent and continuous pipe lines constructed in accordance with § 185.123, and so arranged as to be exposed to view throughout their entire lengths. All valves, unions, flanges, and other detachable connections in the pipe lines and openings in the tanks must be so secured, by brazing, welding, fastening and sealing, or locking with Government locks, as to effectually prevent disconnection and access to the spirits. The Commissioner or district supervisor may require, in any case in which he deems it necessary, either the installation of electric flood lights for lighting the tank enclosure, or the maintenance of watchman's services, or both, or other protective measures or devices.

(53 Stat. 318, 332, 335 as amended; 26 U. S. C. 2829, 2873, 2883)

§ 185.118 *Brandy-blending tanks.* Brandy-blending tanks shall be constructed, installed and equipped in the manner prescribed in § 185.111 for the construction, installation and equipment of storage tanks. Each such tank shall have plainly and legibly painted thereon, or on a plate securely attached thereto, the words "Brandy-Blending Tank," followed by its serial number and capacity in gallons.

(53 Stat. 300 as amended, 318, 332; 26 U. S. C. 2801, 2829, 2873)

§ 185.119 *Tanks in bottling-in-bond department.* Where a bottling-in-bond department is established, the proprietor must provide one or more bottling tanks. Spirits may be dumped and reduced in bottling tanks, or the proprietor may provide dumping tanks, reducing tanks, or combination dumping and reducing tanks. All tanks must be constructed, equipped and designated in accordance with the requirements of § 185.111. Each bottling, reducing, or dumping tank must also be equipped with a suitable board for the attachment of Form 1515. Such tanks may be mounted on scales.

(53 Stat. 318, 343; 26 U. S. C. 2829, 2904)

§ 185.120 *Gravity tanks.* The proprietor may, if necessary, install a small gravity tank between the bottling tanks and bottling machine, for the purpose of maintaining a constant head pressure or to afford a gravity flow to the bottling machine. Such tank must be so arranged that it can be filled only through the bottling tanks by a continuous, permanent, pipe line, and shall be permanently connected with the bottling machine by a permanent pipe line, equipped with a valve for locking with a Government lock: *Provided*, That where the bottling tanks are mounted on scales or the construction of the bottling machine is such that the connections therewith must be flexible, the respective pipe lines may be connected with the outlets of the bottling tanks, or with the bottling machine, as the case may be, by short, detachable hose connections. Where the pipe line is connected with the outlets of the bottling tanks or the bottling machine by such detachable hose connections, the ends of such pipe lines on which the hose connections are made must be equipped with valves for locking with Government locks, or secured and sealed in such a manner that the hose connections may not be detached without showing evidence of having been detached or tampered with. The capacity of the gravity tank shall be no larger than necessary, and the manhead shall be equipped for locking with a Government lock. Gravity tanks must be equipped with a suitable measuring device whereby the contents will be correctly indicated, and each such tank shall have plainly and legibly marked thereon the words "Gravity Tank," followed by its serial number and capacity in gallons.

(53 Stat. 318, 342 as amended, 343; 26 U. S. C. 2829, 2903, 2904)

§ 185.121 *Accumulation tanks.* Where the proprietor removes distilled spirits from the bottling line in the bottling-in-bond department which contain sediment or foreign matter, or which otherwise require refiltering or rebottling, he may install suitable accumulation tanks in the bottling-in-bond department for the accumulation of such spirits. Each such tank shall have plainly and legibly painted thereon the words "Accumulation tank," followed by its serial number and capacity in gallons. The distilled spirits so accumulated must be returned to the bottling system for refiltering and bottling with the same batch of spirits except as provided in § 185.917. The return of the spirits to the bottling system must be under the supervision of the storekeeper-gauger.

§ 185.122 *Distilled water tanks.* If the proprietor produces distilled water on the warehouse premises, or receives the same by pipe line from a distillery on the same or contiguous premises, distilled water tanks shall be provided and so located that their contents may be readily inspected by Government officers. Each such tank shall be equipped with a suitable measuring device whereby the actual contents will be indicated, and shall have plainly and legibly marked thereon the words "Distilled Water Tank," followed by its serial number and capacity in gallons.

(53 Stat. 318, 343; 26 U. S. C. 2829, 2904)

§ 185.123 *Water stills.* Water stills may be provided, and if so, there must be a clear space of not less than 1 foot around them. Every such still must have plainly and legibly painted thereon the words "Water Still," followed by its serial

number and capacity in gallons. Water stills shall be connected with distilled water tanks by continuous, permanent pipe lines.

(53 Stat. 318, 342 as amended, 343; 26 U. S. C. 2829, 2903, 2904)

§ 185.124 *Pipe lines.* Pipe lines for the conveyance of spirits in the warehouse, or to and from tank car loading areas, or other establishments on the same or contiguous premises, shall be of a fixed and permanent character, constructed of metal or other suitable material affording necessary protection, and so arranged as to be exposed to view in their entirety. All valves, unions, flanges, and other detachable connections in such pipe lines must be so secured by brazing, welding, fastening, and sealing, or locking with Government locks, as to effectually prevent disconnection and access to the spirits. The connections of such pipe lines with tanks, or dump troughs shall be secured in like manner: *Provided*, That pipe lines may be connected with tanks mounted on scales by means of flexible metal hose with the ends brazed or welded to the inlet or outlet of the tank and to the pipe line, or by means of short, detachable hose connections if the end of the pipe line is fitted with a valve so constructed that it may be secured with a Government lock. The pipe line may likewise be connected with tank cars by short detachable hose connections. Except as provided in § 185.579, a separate pipe line must be installed to each plant to which transfer of distilled spirits by pipe line is authorized, or for the loading or unloading of tank cars: *Provided*, That the Commissioner may approve a single pipe line where proper manifold connections, affording adequate control of the transfer of spirits to each establishment, are provided in the pipe line. Such pipe lines may be connected only to the tanks to or from which transfer of spirits is authorized except, where two or more tanks are used for the same purpose, manifold connections may be used. Manifold connections must be equipped with valves which may be secured with Government locks and so arranged as to permit complete control of spirits into or out of each tank. There shall be painted on each pipe line extending to and from a manifold a legend showing the kind and serial number of the tank or the type and registry number of the contiguous establishment with which the pipe line is connected. Where there are separate pipe lines leading directly from a tank to a tank car loading zone or an establishment on the same or contiguous premises, a legend indicating the use of such pipe line or the type and registry number of the contiguous establishment shall be painted thereon. Facilities for loading tank trucks with tax-paid distilled spirits must conform to the requirements of this section concerning facilities for loading tank cars. Pipe lines must be so arranged as to permit complete drainage or emptying thereof after each transfer of spirits. Pipe lines used for conveying the following substances shall be kept painted in the colors indicated, and other pipe lines may not be painted in these colors:

Distilled spirits	Black.
Water	White.
Steam	Aluminum.
Air	Orange.
Refrigerants	Purple.

(53 Stat. 298 as amended, 300 as amended, 318, 335 as amended; 26 U. S. C. 2800, 2801, 2829, 2883)

§ 185.125 *Preparation for sealing.* Where flanges, unions, valves and other detachable connections in the pipe lines are not secured by welding or brazing, and are not to be secured by Government locks, they must be prepared by the proprietor for sealing with "cap" seals. Flanges, unions, and valves will be prepared for sealing, in accordance with the following instructions:

(a) *Sealing flanges.* Flanges may be prepared for sealing by one of the following methods:

(1) By applying a "castle" nut with a hole drilled through the bolt, so the sealing wire may be passed through like a cotter pin, two such nuts being applied to each flange, opposite each other, unless the flange is secured with an uneven number of bolts, in which case three such nuts will be applied at approximately equal distances apart;

(2) By drilling a small hole through both nut and bolt, two such bolts and nuts being drilled for each flange, opposite each other, unless the flange is secured with an uneven number of bolts, in which case three such bolts and nuts applied at approximately equal distances apart must be drilled for sealing; or

(3) By drilling a hole through the corner of the head of the bolt and one through the corner of the nut so that the two will be sealed together, two such bolts and nuts being drilled for each flange, opposite each other, unless the flange is secured with an uneven number of bolts, in which case three such nuts will be applied at approximately equal distances apart.

(b) *Sealing unions.* Unions will be prepared for sealing by inclosing the same in a metal box with holes for the sealing wire.

(c) *Sealing valves.* Small gate and globe valves may be prepared for sealing by inclosing the packing nut and hood with a metal band or strap drawn tightly around the flange and fitted for reception of the sealing wire, or by drilling a hole in the packing nut so that sealing wire may be passed through and drawn around the pipe and sealed. Where valves have large flanges, such flanges may be sealed in the same manner as other flanges.

(53 Stat. 316; 26 U. S. C. 2823)

§ 185.126 *Securing pipe lines.* Pipe lines shall be so secured at points of entering or passing from the warehouse as to prevent any communication with the warehouse at such points, except by transit through the pipe line when the valve is open. The storage tank connections in the pipe line from the distillery shall be fitted at the inlet of each such tank with a valve which can be secured with a Government lock, and such connections must be so arranged as to control completely the flow of spirits separately into each tank. Each pipeline not directly connected with a storage tank shall be fitted at the end inside the warehouse with a valve so constructed that it may be locked. No pipeline may be used until it has been inspected and the district supervisor has approved the same.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.127 *Hydrometers.* Proprietors of internal revenue bonded warehouses will obtain hydrometer sets for their own use in determining the proof of spirits.

(53 Stat. 307; 26 U. S. C. 2808)

§ 185.128 *Details of construction and equipment.* Where details of construction and equipment are not covered by the provisions in this part, such construction and equipment must afford the same degree of security and protection to the spirits in the warehouse as is intended by the construction and equipment specifications prescribed in this part. The Commissioner may approve details of construction and equipment in lieu of those specified in this part where it is shown that it is impracticable to conform to the prescribed specifications, and the proposed construction and equipment will afford as much security and protection as the construction and equipment prescribed. Where it is proposed to substitute construction and equipment for that for which specifications are prescribed, or where any doubt prevails in regard to the security and protection which will be afforded by construction and equipment not covered by the provisions in this part, approval of the Commissioner should be first obtained.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.129 *Warehouses heretofore established.* Internal revenue bonded warehouses heretofore established may continue to operate if the present construction and equipment afford adequate security and protection to the revenue. The Commissioner or district supervisor may at any time require the proprietor to make changes in construction and equipment conforming to the provisions in this part, if deemed necessary to safeguard the revenue or to permit more economical and efficient supervision by Government officers. All warehouses hereafter established and changes in existing warehouses must be in conformance with the provisions in this part.

(53 Stat. 332; 26 U. S. C. 2873)

Subpart G—Qualifying Documents

§ 185.150 *Application, Form 27–D.* Every person desiring to establish an internal revenue bonded warehouse shall file application therefor on Form 27–D, in triplicate, with the district supervisor. Except as provided in § 185.156, in the case of amended and supplemental applications, all information indicated by the lines on the form and the instructions printed thereon, or issued in respect thereto, and in this part shall be furnished. Applications on Form 27–D must be signed in accordance with the instructions printed on the form and sworn to before an officer authorized to administer oaths: *Provided*, That if the form officially prescribed for such application contains therein a provision for verifica-

tion by a written declaration that such application is made under the penalties of perjury, such application shall be verified by the execution of such declaration, and such declaration shall be in lieu of any oath required herein for verification. Such applications must be numbered serially, commencing with number 1 and continuing in regular sequence for all applications thereafter filed, whether amended or supplemental. All data, written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904, 3809)

§ 185.151 *Permit required.* Under the Federal Alcohol Administration Act and the regulations issued pursuant thereto (27 CFR Part 1), any person, except an agency of a State or political subdivision thereto, or any officer or employee of any such agency, intending to engage in the business of bottling distilled spirits, is required to procure a permit therefor.

(Sec. 3, 49 Stat. 978, 27 U. S. C. 203)

§ 185.152 *Title to premises.* The applicant's title to, or interest in, the warehouse premises shall be shown on Form 27–D. If the applicant is the owner of the premises, the amounts of all mortgages or other encumbrances thereon, and the names of the holders thereof, shall be stated. If the warehouse is occupied under a lease, the name of the owner, the name of the lessor, the length of the term and the date of its expiration, shall be stated.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.153 *Description of premises.* The application shall contain a complete description of the building or room constituting the warehouse, including the height, width, and length, the materials of which constructed, the means of ingress and egress, and the manner of securing windows and doors and other openings. If the warehouse consists of an entire building, the number of stories and the height of each story shall be given. If the warehouse consists of a room or floor of a building, an exact description of the building in which the room or floor is situated and its precise location therein shall be given. If the warehouse consists of separate buildings, the same shall be designated alphabetically, as "Building A," "Building B," etc., and each shall be described separately and the capacity, in barrels, cases, or tanks of each given. Each floor of each building shall be described separately, unless the dimensions and construction of all floors are identical and are used for the same purpose. If a bottling-in-bond room or a brandy-blending department is provided, it will be separately described as to location, construction and security. The designated serial number and capacity of each tank and other apparatus, and the daily bottling capacity in gallons shall also be stated. A separate description of each quick-aging room or gauging room shall be given. The Government office shall be separately described in the application, the location, construction and equipment thereof being shown. Pipe lines for transfer of distilled spirits to or from other establishments on the same or contiguous premises shall be described and names of proprietors and registry numbers of contiguous establishments to or from which transfers of spirits will be made shall be given.

(53 Stat. 300 as amended, 332, 343; 26 U. S. C. 2801, 2873, 2904)

§ 185.154 *Capacity.* The total capacity in barrels, exclusive of storage tanks, of all buildings or units constituting the warehouse shall be stated on Form 27–D. The capacity of the warehouse must conform to the applicable requirements specified in § 185.52.

(53 Stat. 331, 332; 26 U. S. C. 2872, 2873)

§ 185.155 *Necessity for establishment.* A statement in detail respecting the necessity for the establishment of the warehouse must be furnished in the application, unless the warehouse is to be operated by the distiller (not including lessee distillers) on or contiguous to his distillery premises. This statement must show the approximate quantity of spirits that will be received, stored, and withdrawn annually, the probable number of depositors of spirits, the approximate number of dealers to be served with spirits withdrawn from the warehouse, whether spirits will be bottled, either in bond or commercially, together with any other data indicating the prospective volume of business at the warehouse. The applicant in such case shall submit with the application sworn statements from distillers respecting their intention to deposit spirits in the warehouse, and showing the initial deposit and the estimated quantity and frequency of subsequent deposits. Certified copies of contracts for the storage of spirits in the warehouse, in the event of its establishment, will be submitted in support of the application in such case. The transportation facilities available shall be completely described in the application, except where the warehouse is an original warehouse to be operated by the distiller on or contiguous to the distillery premises. If the warehouse is a second warehouse which the distiller desires to have established contiguous to, or near, such original warehouse on account of lack of storage space in the original warehouse and inability to expand the same, such fact must be established, but data respecting the number of depositors, dealers to be served, and transportation facilities, and statements and contracts of other depositing distillers, need not be submitted.

(53 Stat. 331, 332; 26 U. S. C. 2872, 2873)

§ 185.156 *Amended and supplemental application.* Amended and supplemental applications on Form 27–D may be executed in skeleton form, except as to the items amended or supplemented. All other items which are correctly set forth in prior applications, and in which there has been no change since the last preceding application, may be incorporated in the amended or supplemental application by reference to the respective application previously filed in which the item is fully and correctly set forth. Such incorporation by reference shall be made by entering for each such item in the space provided therefor the statement "No change since filing Form 27–D, Serial No. _____" (the number being inserted), followed by the date of the form. The Commissioner or the district supervisor, at any time in his discretion, may require the filing of a complete application on Form 27–D. Every proprietor of an internal revenue bonded warehouse located at a port of exportation and desiring to establish an off-premises export storage room, as authorized by § 185.82, shall file a supplemental application therefor on Form 27–D, giving the location and description of the room.

(53 Stat. 377 as amended; 26 U. S. C. 3179)

§ 185.157 *Corporate documents.* There must be submitted with, and made a part of, the original or initial application on Form 27–D, by a corporation desiring the establishment of an internal revenue bonded warehouse, properly certified copies, in triplicate, of the following documents:

(a) Articles of incorporation and any amended articles of incorporation.

(b) Certificate of incorporation.

(c) Certificate authorizing the corporation to operate in State where warehouse is located, if other than that in which incorporated.

(d) Extracts of minutes of meetings of stockholders, showing election of directors.

(e) By-laws.

(f) Extracts of the minutes of meetings of the Board of Directors, showing the election of officers.

(g) Extracts of the minutes of meetings of the Board of Directors, authorizing certain officers or other persons to sign for the corporation.

(h) List of the names and addresses of the officers and directors.

(i) List of stockholders, as provided in § 185.158.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.158 *List of stockholders.* In the case of corporations and similar legal entities, there must be submitted with Form 27–D at the commencement of business, and annually thereafter on May 1, a list of the names and addresses of all stockholders and other persons interested in the corporation or other legal entity, and the amount and nature of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him: *Provided,* That where more than 100 persons are interested in the corporation or other legal entity as stockholders or otherwise, there need be furnished only the names and addresses and the amounts and nature of the stockholding or other interest of the 100 persons having the largest ownership or other interest of each of the respective classes of stock or other interest, except where more complete information shall be specifically required by the Commissioner or the district supervisor: *Provided further,* That where there has been no change in the list of stockholders and other persons interested in the corporation or other legal entity, the proprietor may furnish, in

lieu of the annual list, a certified statement, in triplicate, to that effect. Where a corporation operates two or more internal revenue bonded warehouses or other plants situated in the same supervisory district, or wholly owns one or more subsidiaries operating such warehouses or other plants so situated, and in connection with qualifying for the operation of one of such warehouses or plants, files a list of stockholders and other persons interested as prescribed in this section, the filing of an additional list for each warehouse will not be required, provided that in lieu of such additional list there is submitted a certificate, in triplicate, definitely identifying the corporation and plant with whose application or notice the list of stockholders and other persons interested is filed, and giving the date of filing thereof.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.159 *Affidavit.* In the case of a corporation there must be submitted with each list of stockholders an affidavit, in triplicate, executed by an officer of the corporation authorized so to do, showing the number of shares in each class of stock or other evidence of ownership, such as voting trust certificates authorized and outstanding, the par value thereof and the voting rights of the respective owners or holders, and certifying to the correctness of the list of stockholders, or the statement authorized to be furnished with the application in lieu of such list. In the case of an individual owner or copartnership, there must be submitted with Form 27–D at the commencement of business, and annually thereafter on May 1, an affidavit, in triplicate, giving the name of every person interested or to be interested in the warehouse, whether such interest appears in the name of the interested party or in the name of another for him.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.160 *Articles of copartnership or association.* In the case of a copartnership or association, a certified copy, in triplicate, of the articles of copartnership or association, if any, shall be submitted with, and constitute a part of, the application, Form 27–D.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.161 *Trade name certificate.* Where the applicant is to do business under a firm or trade name, there must be submitted with and made a part of the application, Form 27–D, certified copies, in triplicate, of the certificate or other document filed with or issued by State officials under the laws of the State to cover the transaction of business under such firm or trade name. If no such certificate or other document is required by the laws of the State to be filed with or issued by State officials to cover the transaction of business under a firm or trade name, the applicant shall furnish a statement, in triplicate, to that effect.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.162 *Power of attorney, Form 1534.* If the application or other qualifying documents are signed by an attorney in fact for an individual, copartnership, association, or corporation, or by one of the members for a copartnership or association, or in the case of a corporation, by an officer or other person not authorized to sign by the corporate documents described in § 185.157, such application or other qualifying documents must be supported by a duly authenticated copy of the power of attorney conferring authority upon the person signing the document to execute the same. Such powers of attorney will be executed on Form 1534, in triplicate, and submitted to the district supervisor.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.163 *Execution of power of attorney.* Where the principal giving the power of attorney is an individual, it must be executed by him in person, and not by an agent. In the case of a copartnership or association, powers of attorney authorizing one or more of the members, or another person, to execute documents on behalf of the copartnership or association must be executed by all of the members constituting the copartnership or association. However, if one or more members less than the whole number constituting the copartnership or association have been delegated the authority to appoint agents or attorneys in fact, the power of attorney may be executed by such member or members, provided it is supported by a duly authenticated copy, in triplicate, of the document conferring authority upon the member or members to execute the same. Where, in the case of a corporation, powers of attorney are executed by an officer thereof, such documents must be supported by triplicate copies of the authorization of such officer so to do, certified by the secretary or assistant secretary of the corporation, under the corporate seal, if any, to be true copies.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.164 *Duration of power of attorney.* Powers of attorney authorizing the execution of documents on behalf of a person engaged, or intending to engage, in the business of an internal revenue bonded warehouseman shall continue in effect until written notice, in triplicate, of the revocation of such authority is received by the district supervisor, unless terminated by operation of law.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.165 *Transportation and warehousing bond, Form 1571.* Every person desiring to establish an internal revenue bonded warehouse shall, upon filing his application, Form 27–D, execute bond on Form 1571, in triplicate in conformity with the provisions of Subpart H of this part, and file the same with the district supervisor. The penal sum of such bond shall be not less than the amount of internal revenue tax at the rate prescribed by law on the quantity of distilled spirits that will be stored in such warehouse and in transit thereto at any one time, including distilled spirits bottled for export, plus the amount of additional tax at the rate of 30 cents a proof gallon attaching to brandy blended under the provisions of section 2801 (e) (5), I. R. C., that will be on hand or in transit to the warehouse at any one time: *Provided*, That the maximum penal sum of such bond shall not exceed $200,000 for each such warehouse. Proprietors of internal revenue bonded warehouses desiring to blend brandies under the provisions of section 2801 (e) (5), I. R. C., and having on file Form 1571, revised December 1941 or revised prior to such time, shall file consent of surety on Form 1533 to cover the blending of brandies and the additional tax liability.

(53 Stat. 300 as amended, 331, 333; 26 U. S. C. 2801, 2872, 2879)

§ 185.166 *Plat and plans.* Every person desiring to establish an internal revenue bonded warehouse must submit to the district supervisor with his application, Form 27–D, an accurate plat of the warehouse premises and accurate plans of the buildings, apparatus and equipment, in triplicate, conforming to the requirements of Subpart I of this part.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.167 *Additional information.* The Commissioner or the district supervisor may at any time, in his discretion, require the proprietor to furnish such additional information as he may deem necessary.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.168 *Instruments and papers.* The terms, conditions, and instructions contained in instruments and papers required to be furnished by law or regulations are hereby made a part of the provisions in this part as fully and to the same extent as if incorporated in this part.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.169 *Registry of stills, Form 26.* If a water still is set up in the bottling-in-bond department, the proprietor must register it with the district supervisor for the district in which the still is located, on Form 26, immediately it is set up. The Form 26 shall be executed, in triplicate, in accordance with the columns, lines, and instructions on the form.

(53 Stat. 308 as amended, 373 as amended; 26 U. S. C. 2810, 3170)

Subpart H—Bonds and Consents of Surety

§ 185.190 *General requirements.* Every person required to file a bond or consent of surety under the provisions in this part shall prepare and execute it on the prescribed form, in triplicate, in accordance with the provisions in this part and the instructions printed on the form, and shall submit it to the district supervisor. The bonds required by the provisions in this part shall be given with surety or collateral security.

(53 Stat. 331, 333, 336, 337, 340, 343, 373 as amended, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3170, 3331; 28 Stat. 279, 6 U. S. C. 6; 44 Stat. 122; 49 Stat. 22, 6 U. S. C. 15)

§ 185.191 *Corporate surety.* Bonds may be given with corporate surety authorized by the Secretary of the Treasury to become surety on Federal bonds, subject to the limitations prescribed by the

Secretary in Treasury Department Form 356, Commissioner of Accounts and Deposits, Section of Surety Bonds, which is issued semiannually, and subject to such amendatory circulars as may be issued from time to time.

(53 Stat. 331, 333, 336, 337, 340, 343, 373 as amended, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3170, 3331; 28 Stat. 279, 6 U. S. C. 6; 36 Stat. 241, 6 U. S. C. 8)

§ 185.192 *Two or more corporate sureties.* A bond executed by two or more corporate sureties shall be the joint and several liability of the principal and the sureties: *Provided*, That each corporate surety may limit its liability in terms upon the face of the bond in a definite, specified amount, which amount shall not exceed the limitations prescribed for such corporate surety by the Secretary, as set forth in Treasury Department Form 356. When the sureties so limit their liability, the aggregate of such limited liabilities must equal the required penal sum of the bond.

(53 Stat. 331, 333, 336, 337, 340, 343, 373 as amended, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3170, 3331; 28 Stat. 279, 6 U. S. C. 6; 36 Stat. 241, 6 U. S. C. 8)

§ 185.193 *Powers of attorney.* Powers of attorney and other evidence of appointment of agents and officers executing bonds on behalf of corporate sureties are required to be filed with, and passed upon by, the Commissioner of Accounts and Deposits, Section of Surety Bonds, Treasury Department. Such powers and other evidence of appointment need not be filed with, or submitted to, district supervisors.

(53 Stat. 331, 333, 336, 337, 340, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

§ 185.194 *Individual sureties.* Bonds may be given with individual sureties, of which there must be not less than two, each of whom must qualify by executing Form 33, in triplicate. Individual sureties must be citizens of the United States and reside in the State in which the business of the principal is to be conducted. No person will be accepted as an individual surety in a State in which he is not authorized to become a surety.

(53 State. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2891, 2904, 3331)

§ 185.195 *Ownership of real property.* Each individual surety must own unencumbered real property, in fee simple, the appraised value of which, over and above any exemptions from execution allowed by the laws of the State, is equal to the penal sum of the bond. Such real property must be located within the State where the business of the principal is to be conducted.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

§ 185.196 *Description of real property.* The real property must be described in the surety's affidavit, Form 33, with all of the formalities required in conveyances of real estate by the laws of the State in which it is situated.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

§ 185.197 *Execution of Form 33.* The surety's affidavit on Form 33 shall contain all of the information required by this part and the instructions printed on the form. The form shall be subscribed and sworn to before an officer duly authorized to administer oaths, and one copy thereof shall be attached to each copy of the bond to which it relates.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

§ 185.198 *Certificate of title.* There must be submitted with the surety's affidavit, Form 33, a certificate of title, in triplicate, showing that the surety has good title, free of encumbrances, to the realty described in the form.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

§ 185.199 *Appraisal.* There will also be submitted with Form 33 an appraisal, in triplicate, by two or more competent persons designated by the district supervisor for the purpose, showing separately the value of the land and buildings, and a full and clear statement of the method employed by them in determining their valuation. The appraisal shall be at the expense of the principal on the bond, unless it is made by Government officers.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

§ 185.200 *Investigation.* The district supervisor will cause an investigation to be made of all the facts stated in the surety's affidavit on Form 33 and supporting documents, and shall forward one copy of the report of such investigation to the Commissioner with the bond and accompanying Form 33.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 373 as amended, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3170, 3331)

§ 185.201 *Requalification.* The Commissioner or district supervisor may at any time, in his discretion, require the requalification of individual sureties on Form 33.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

§ 185.202 *Interest in business.* The surety, whether individual or corporate, must have no interest whatever in the business covered by the bond.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

§ 185.203 *Deposit of collateral.* Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of individual or corporate sureties. District supervisors on receiving such bonds or notes, or other obligations, pledged and deposited by principals as collateral security in lieu of surety, shall deposit such securities in accordance with the requirements of Department Circular No. 154, revised (31 CFR Part 225).

(44 Stat. 1148 as amended, 49 Stat. 22; 6 U. S. C. 15)

§ 185.204 *Consents of surety.* Consents of surety to a change in the terms of a bond must be executed on Form 1533, in as many copies as are required of the bond which they affect, by the principal and all sureties with the same formality and proof of authority to execute as are required for the execution of bonds. Form 1533 will be used by obligors on collateral bonds as well as those on surety bonds. The Form 1533 must properly identify the bond affected thereby and state specifically and precisely what is covered by the extended terms thereof. If the surety is a corporation, the consent may be executed by an agent or attorney in fact duly authorized so to do by power of attorney filed by the surety with the appropriate district supervisor, or the consent may be executed by the home office officials of such corporate surety; except that, in cases where the saving of time is an element, the consent may be executed by an agent or attorney in fact where the home office officials, by specific direction, order its execution. A copy of such specific direction should be attached to each copy of such consent.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

§ 185.205 *Approval required.* No individual, firm, partnership, corporation, or association intending to commence business as the proprietor of an internal revenue bonded warehouse shall commence such business until the required transportation and warehousing bond, Form 1571, has been approved.

(53 Stat. 331; 26 U. S. C. 2872)

§ 185.206 *Authority to approve.* District supervisors are authorized to approve all bonds and consents of surety required by this part.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3170, 3331)

§ 185.207 *Additional or strengthening bonds.* In all cases where the penal sum of the bond on file and in effect is not sufficient, computed as prescribed by law and this part, the principal may give an additional or strengthening bond in a sufficient penal sum, provided the surety thereon is the same as on the bond already on file and in effect; otherwise a new bond covering the entire liability will be required. As such additional or strengthening bonds are filed to increase the bond liability of the principal and the surety, they are in no sense substitute bonds, and the district supervisor will refuse to approve any additional or strengthening bond where any notation is made thereon intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full penal sum. Additional or strengthening bonds must show the current date of execution and the effective date in the blank spaces provided therefor. Such bonds must have marked thereon, by the obligors at the time of execution, "Additional Bond," or "Strengthening Bond."

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

§ 185.208 *New bond.* A new bond may be required at any time in the discretion of the Commissioner or district supervisor. A new bond shall be required immediately in the case of the death or insolvency of an individual surety, or the insolvency of a corporate surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, must execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, in the opinion of the Commissioner or the district supervisor, the interests of the Government demand it, or in any case where the security of the bond becomes impaired in whole or in part for any reason whatever, the principal will be required to give a new bond. Where a bond is found to be not acceptable, the principal shall be required to file immediately a new and satisfactory bond, or discontinue business forthwith.

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 373 as amended, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3170, 3331)

§ 185.209 *Superseding bond.* Where a new bond is submitted by the principal to supersede a bond or bonds then in effect, and such superseding bond has been approved, notice of termination of the superseded bond may be issued as provided in Subpart Q of this part. Superseding bonds must show the current date of execution and the date they are to be effective, and each such bond shall have marked thereon, by the obligors at the time of execution, "Superseding Bond."

(53 Stat. 331, 333, 336, 337, 340 as amended, 343, 403; 26 U. S. C. 2872, 2879, 2885, 2886, 2891, 2904, 3331)

SUBPART I—PLATS AND PLANS

§ 185.220 *Plat and plans required.* Every person intending to engage in business as the proprietor of an internal revenue bonded warehouse must, as provided in § 185.166, file an accurate plat and accurate plans of the warehouse premises, apparatus, and equipment, in triplicate, with the district supervisor.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.221 *Preparation.* Every plat and plan shall be drawn to scale, and each sheet thereof shall bear a distinctive title and the complete name and address of the proprietor, enabling ready identification. The cardinal points of the compass must appear on each sheet, except those of elevational plans. The minimum scale of any plat will not be less than $\frac{1}{50}$ inch per foot. Each sheet of the original plat and plans shall be numbered, the first sheet being designated number 1, and the other sheets numbered in consecutive order. Plats and plans shall be submitted on sheets of tracing cloth, opaque cloth, or sensitized linen. The dimensions of plats and plans shall be 15 by 20 inches, outside measurement, with a clear margin of at least 1 inch on each side of the drawing, lettering, and writing. Plats and plans may be original drawings, or reproductions made by the "ditto process," or by blue or brown line lithoprint, if such reproductions are clear and distinct.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.222 *Depiction of warehouse premises.* Plats must show the outer boundaries of the warehouse premises by courses and distances, in feet and inches, in a color contrasting with those used for other drawings on the plat, and the point of beginning with respect to its distance and bearings from some near and well-known landmark must be shown. The plat must also contain an accurate depiction of the building, or buildings, comprising the premises, and any driveways, public highway, or railroad right-of-way adjacent thereto, or connecting therewith. The depiction of the premises on the plat should agree with the description thereof in the application, Form 27-D. If the premises are separated by a public highway or railroad right-of-way, and the tracts of land comprising the premises, or parts thereof, abut on such highway or right-of-way opposite each other, the different tracts will be depicted separately by courses and distances, in feet and inches, and outlined in a color contrasting with those used for other drawings on the plat. If two or more buildings are to be used, they must be shown in their relative positions and the alphabetical designation of each indicated. If the warehouse consists of a room or floor of a building, an outline of the building, the precise location, and the dimensions of the room or floor, and the means of ingress from and egress to a public street or yard, shall be shown. All first floor exterior doors of each building will be shown on the plat. Except as provided in § 185.228, all pipelines leading to or from the premises, the purpose for which used, and the points of origin and termination, will be indicated on the plat.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.223 *Contiguous premises.* Where a distillery, or rectifying plant, or tax-paid bottling house, or other premises on which liquors are manufactured, stored, or sold, is contiguous to the warehouse premises the plat must show the relative location of the warehouse and such contiguous premises, and all pipelines, if any, and other connections between them. The outlines of such contiguous premises and the warehouse premises must be shown in contrasting colors.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.224 *Floor plans.* The plans shall include a floor plan of each floor of each building, or, where the warehouse consists of less than the entire building, each floor comprising the warehouse, showing the general dimensions of the rooms and floors, and the location of all doors, windows, and other openings, and how such openings are protected. If the construction of all floors in a single building is identical, a typical floor plan may be filed in lieu of a separate plan for each floor. All storage tanks, gauging tanks, and other tanks used in connection with the receipt, storage, gauging, withdrawal, or bottling of distilled spirits, must be shown in their exact location on the floor plans, and their designated use, serial numbers and capacity indicated. Other equipment of a permanent nature and all areas occupied by racks intended for storage of packages shall be shown. Pipe lines may also be shown, if desired.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

§ 185.225 *Elevational flow diagrams.* Elevational flow diagrams (plans) shall be submitted covering the flow of spirits from the time of receipt on the premises, the deposit in storage tanks or gauging tanks, and the removal therefrom. Such diagrams shall clearly depict all equipment in its relative operating sequence, and elevation by floors, with all connecting pipe lines, valves, flanges, measuring devices, and attachments for Government locks. The elevation by floors on the diagrams may be indicated by horizontal lines representing floor levels. All major equipment, such as storage tanks and gauging tanks, must be identified on these plans as to number and use. The elevational flow diagram must be so drawn that all fixed pipe lines, except those indicated by § 185.228, may be readily traced from beginning to end: *Provided*, That pipe lines leading to and from other buildings on the same or contiguous premises may be designated as to point of origin or termination. The direction of the flow of the spirits through the pipe lines must be indicated on the flow diagram by arrows. Where another business is to be conducted within the same buildings, the district supervisor may require elevational plans of such buildings.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

§ 185.226 *Colors for pipe lines.* Pipe lines must be shown on the plans in the colors in which they are required to be painted, as follows:

Black	Distilled spirits.
White	Water.
Aluminum	Steam.
Orange	Air.
Purple	Refrigerants.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

§ 185.227 *Location of valves, flanges, locks, etc.* All valves, flanges, and other connections in pipe lines must be properly indicated on the plans: *Provided*, That where flanges, unions, or other connections in pipe lines are brazed, welded, or otherwise permanently secured in such a manner as to constitute a continuous, single pipe line, the location of such flanges, unions, or other connections, and the manner of securing the same, need not be shown on the plans. The location of all Government locks required to secure the apparatus and equipment, and the doors of rooms and buildings, must be indicated on the plans by the symbol "GL" at the points where the locks are to be attached.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.228 *Pipelines exempted.* Approved public or private utility service lines, such as sewers, electric or gas conduits or pipes, and approved sprinkler, refrigeration, or heating systems which have no connection with equipment used for spirits, need not be shown on the

plans: *Provided*, That the point of entry to the bonded premises shall be indicated on the plans.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.229 *Certificate of accuracy.* The plat and plans shall bear a certificate of accuracy in the lower right hand corner of each sheet, signed by the proprietor, the draftsman, and the district supervisor, substantially in the following form:

(Name of warehouseman)

(Address)

Approved ---
(Date)

(District supervisor)

Accuracy certified by:

(Name and capacity—for the proprietor)

(Draftsman)

--- 19---- Sheet No.----

IRBW No. ---

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.230 *Revised plats and plans.* The sheets of revised plats and plans shall bear the same number as the sheets superseded, but will be given a new date. Any additional plats and plans shall be given a new number in consecutive order, or will be otherwise numbered and lettered in such manner as will permit the filing of the plats and plans in proper sequence.

(53 Stat. 332; 26 U. S. C. 2873)

SUBPART J — REQUIREMENTS GOVERNING CHANGES IN NAME, PROPRIETORSHIP, CONTROL, LOCATION, PREMISES AND EQUIPMENT, AND IN THE TITLE TO THE WAREHOUSE PROPERTY

§ 185.240 *Change in name.* Where there is a change in the individual, firm, or corporate name of the proprietor of an internal revenue bonded warehouse, he must comply with the following requirements:

(a) *Amended application, Form 27–D.* Submit to the district supervisor an amended application on Form 27–D, in triplicate, covering the new name, which application must be approved before operations may be commenced under the new name.

(b) *Amended permit.* If engaged in the business of warehousing and bottling distilled spirits, and if other than an agency of a State or political subdivision thereof, or an officer or employee of any such agency, procure from the district supervisor an amended basic permit under the Federal Alcohol Administration Act authorizing the warehousing and bottling of distilled spirits under the new name.

(c) *Amended articles of incorporation, etc.* In the case of a corporation, submit to the district supervisor certified copies, in triplicate, of the amended articles of incorporation and the amended certificate of incorporation issued under the laws of the State in which incorporated covering the change in the corporate name. If the operations are conducted in a State other than the State in which incorporated, there must also be submitted to the district supervisor certified copies, in triplicate, of the amended certificate issued under the laws of the State in which the operations are conducted, authorizing the corporation to operate under its new name in such State. If other documents than those specified are required under the laws of the State to effect a change in the name of the corporation, certified copies, in triplicate, of such documents must be submitted with the application, Form 27–D, in lieu of those specified.

(d) *Amended articles of copartnership or association.* If the proprietor of the warehouse is a copartnership or association, submit to the district supervisor certified copies, in triplicate, of the amended articles of copartnership or of association, if any.

(e) *Trade name certificate.* In the case of a change in the firm or trade name, submit to the district supervisor certified copies, in triplicate, of the certificate or other document filed with or issued by State officials under the laws of the State to cover the transaction of business under such firm or trade name. If no such certificate or other document is required by the laws of the State to be filed with or issued by any State official to cover the transaction of business under a firm or trade name, the proprietor shall furnish a statement, in triplicate, to that effect.

(f) *Sign.* Change the warehouse sign to conform to the provisions of § 185.100.

(g) *Records.* Upon approval of the documents covering the change in name, note on the records for the current month the change in name.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

CHANGE IN PROPRIETORSHIP

§ 185.241 *Discontinuance.* Where there is to be a change in the proprietorship of an internal revenue bonded warehouse the outgoing proprietor must comply with the requirements outlined in §§ 185.242 to 185.245.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.242 *Application, Form 27–D.* The outgoing proprietor of an internal revenue bonded warehouse must submit to the district supervisor Form 27–D, in triplicate, stating thereon the purpose to be "Transfer of business to ---," (Successor) and giving the date of the proposed transfer.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.243 *Transfer of spirits.* Upon qualification of the successor, the outgoing proprietor of an internal revenue bonded warehouse must transfer the spirits in the warehouse to him pursuant to application of the successor on Form 236.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.244 *Records.* Upon transfer of the business to the successor, the outgoing proprietor of an internal revenue bonded warehouse must complete Form 52C and file with the district supervisor a final report on such form in accordance with Subpart WW of this part. A notation of the transfer of the business to the successor will be made on such final report.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.245 *Disposition of stamps.* The outgoing proprietor may not transfer any domestic or export strip stamps to his successor. The stamps must be disposed of as provided in § 185.287.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.246 *Qualification of successor.* Where there is to be a change in the proprietorship of an internal revenue bonded warehouse, the successor must comply with the requirements outlined in §§ 185.247 to 185.253.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.247 *Nonfiduciary successor.* If the change in proprietorship is brought about otherwise than by operation of law, as by the appointment of an administrator, executor, receiver, trustee, assignee, or other fiduciary, the successor must qualify in the same manner as the proprietor of a new warehouse, except that he may adopt the plat and plans of his predecessor, as provided in § 185.250.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.248 *Fiduciary.* If the successor is an administrator, executor, receiver, trustee, assignee, or other fiduciary, and intends to receive spirits, or to possess or dispose of spirits on hand in the warehouse, he must comply with the provisions of Subpart G of this part to the extent that such provisions are applicable, except that in lieu of filing new transportation and warehousing bonds, and new plat and plans, the fiduciary may furnish consents of surety extending the terms of his predecessor's bonds and adopt the plat and plans of such predecessor. The fiduciary must also furnish certified copies, in triplicate, of the order of the court, or other pertinent documents, showing his qualification as such fiduciary. The effective date of the qualifying documents filed by a fiduciary should be the same as the date of the court order, or the date specified therein for him to assume control.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.249 *Consent of surety.* The consents of surety extending the terms of the predecessor's bonds to cover operation of the warehouse by a fiduciary, must conform to the requirements of § 185.204 and be executed by both the fiduciary and the surety.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.250 *Adoption of plat and plans.* The plat and plans of the warehouse may be adopted by a successor where they correctly describe and depict the warehouse premises and the buildings, apparatus and equipment thereon, to be taken over by the successor. The adoption by a successor of the plat and plans of his predecessor shall be in the form of a certificate, in triplicate, in which shall

be set forth the name of the predecessor, the address and registry number of the warehouse, a description of the warehouse premises or in lieu thereof reference to the successor's Form 27–D describing such premises, the number of each sheet comprising each plat and plan covered by such certificate, and a statement that the warehouse premises and the buildings, apparatus, and equipment thereon are clearly described and depicted on such plat and plans.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.251 *Sign.* The successor, if other than a fiduciary temporarily operating the warehouse, must change the warehouse sign to conform to the requirements of § 185.100.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.252 *Transfer application, Form 236.* The successor must submit to the district supervisor application on Form 236, in quadruplicate, for the transfer to him of the spirits in the warehouse on the effective date of the change in proprietorship.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.253 *Commencement of operations.* The successor may not commence operations until the required qualifying documents have been approved.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.254 *Completion of bottling-in-bond operations required.* When a succession or actual change takes place in the proprietorship of an internal revenue bonded warehouse in which a bottling-in-bond department is being operated, other than a change brought about by operation of law, as by the appointment of an administrator, executor, assignee, receiver, trustee, debtor in possession in bankruptcy proceedings, or other fiduciary, the bottling of spirits must, except as hereinafter provided, be completely finished by the person or persons who have been carrying on the business, and all spirits removed from the bottling-in-bond department before the business shall be undertaken or begun by the succeeding proprietor. Where a change of proprietorship has been brought about by operation of law, the administrator, executor, assignee, receiver, trustee, debtor in possession in bankruptcy proceedings, or other fiduciary, may not commence or complete operations until the required qualifying documents have been filed and approved.

(53 Stat. 343; 26 U. S. C. 2904)

§ 185.255 *Completion of operations by fiduciary.* If an administrator, executor, assignee, receiver, trustee, debtor in possession in bankruptcy proceedings, or other fiduciary, succeeds to the business while spirits are in the process of bottling, and he qualifies to conduct the business as required by this part, he shall make appropriate notation of his succession on each Form 1515, and upon completion of the bottling, he shall complete the execution of the forms and otherwise proceed as specified in this part. The storekeeper-gauger will make similar notation of such succession on Form 1513 and Form 1606.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.256 *Changes in partnership.* The withdrawal of one or more members of a partnership, or the taking in of a new partner, whether active or silent, shall constitute a change in proprietorship. Likewise, the bankruptcy or adjudicated insolvency of one or more of the copartners results in a dissolution of the copartnership and consequently a change in proprietorship. Where such a change in proprietorship of the warehouse occurs, the successor must qualify in the same manner as the proprietor of a new warehouse, except that the successor may adopt the plat and plans of his predecessor, in the manner prescribed by § 185.250.

(53 Stat. 332, 333; 26 U. S. C. 2873, 2879)

§ 185.257 *Changes in stockholders, officers, and directors of corporation.* The sale or transfer of the capital stock of a corporation operating an internal revenue bonded warehouse does not constitute a change in proprietorship of the warehouse. However, where the sale or transfer of capital stock results in a change in the control or management of the business, or where there is any change in the officers or directors, the proprietor must give notice thereof, in triplicate, to the district supervisor within 24 hours of such change. Mere changes in stockholders of the corporation not constituting a change in control need not be so reported. The district supervisor must, in the case of changes in officers or directors, be furnished extracts, in triplicate, of the minutes of the meetings showing such changes.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.258 *Reincorporation.* Where a corporation operating an internal revenue bonded warehouse is reorganized and a new charter or certificate of incorporation is secured, the new corporation must qualify in the same manner as the proprietor of the new warehouse, except that the new corporation may adopt the plat and plans of the predecessor, in the manner prescribed by § 185.250.

(53 Stat. 332, 333; 26 U. S. C. 2873, 2879)

§ 185.259 *Change in location.* Where there is to be a change in the location of the warehouse premises, the proprietor must comply with all applicable provisions of this part, except that in lieu of the filing of a new transportation and warehousing bond, Form 1571, the proprietor may furnish consent of surety, Form 1533, in accordance with § 185.204, extending the terms of such bond given for the former location to cover operation of the warehouse at the new location.

(53 Stat. 332, 333; 26 U. S. C. 2873, 2879)

§ 185.260 *Changes in premises.* Where the premises are to be extended or curtailed, the proprietor must file with the district supervisor an amended application, Form 27–D, and an amended plat of the premises as extended or curtailed, except as herein specifically authorized in the case of alternate operations of the bottling department. If the plans are affected by the extension or curtailment, they must also be amended. The additional premises covered by an extension may not be used for bonded warehouse purposes, and the portion of the warehouse premises to be excluded by curtailment may not be used for other than warehouse purposes prior to approval of the application, Form 27–D, plat, and plans, if required, filed in connection therewith. Where an internal revenue bonded warehouse contains a bottling-in-bond department, and the documents required by this part governing the alternate operation of a bottling house as a bottling-in-bond department and a tax-paid bottling house, are filed, and no change in proprietorship is involved, the filing of additional applications, Form 27–D, covering changes in the temporary status thereof from time to time, will not be required. Where a warehouse building on distillery premises, on which a lien for taxes has attached under section 2800 (e), I. R. C., is demolished or altered, the provisions of Regulations 4 and 5 (26 CFR Parts 183 and 184), relative to the filing of indemnity bonds, will be followed.

(53 Stat. 332, 343; 26 U. S. C. 2873, 2904)

§ 185.261 *Changes in construction and use.* Where a change is to be made in the construction of a room or building not involving an extension or curtailment of the warehouse premises, or where a change is to be made in the use of any portion of such premises, the proprietor shall first secure approval thereof by the district supervisor pursuant to application, in triplicate, setting forth specifically the proposed changes. Upon approval of the application, the changes will be made under the supervision of a Government officer. The completed changes will be reflected in the next amended application, Form 27–D, and amended plans filed by the warehouseman, unless the district supervisor requires the immediate filing of an amended application and amended plans.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.262 *Changes in equipment.* Where changes are to be made in the apparatus and equipment of the warehouse, the proprietor shall first secure approval thereof by the district supervisor pursuant to application, in triplicate, setting forth specifically the proposed changes: *Provided*, That emergency repairs may be made under the supervision of the Government officer without prior approval of the district supervisor. Where such emergency repairs are made the proprietor shall file immediately a report thereof, in triplicate, with the district supervisor. Changes covered by an approved application will also be made under the supervision of a Government officer. Upon completion of any changes made under his supervision, the Government officer will submit a report, in triplicate, of the changes to the district supervisor. Where changes in equipment are made in internal revenue bonded warehouses located on distillery premises and a lien for taxes has attached to such equipment

under section 2800 (e), I. R. C., the provisions of Regulations 4 and 5 (26 CFR Parts 183 and 184) relative to the filing of indemnity bonds will be followed.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.263 *Amended application and plans covering changes in equipment.* Upon completion of changes in equipment which materially affect the accuracy of the Form 27–D or plans, the proprietor must file an amended application and amended plans. Where an amended application and amended plans are not filed immediately upon completion of minor changes in equipment (such as general repairs, changes in pipe lines, or the addition or removal of a tank), the proprietor must include such changes in the next amended application and plans filed by him: *Provided*, That the Commissioner or the district supervisor may, at any time in his discretion, require the immediate filing of an amended application and plans covering any change in equipment.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.264 *Change of title.* Whenever there is a change in the proprietor's title to, or interest in, the warehouse premises, or in the terms of his occupancy of such premises, he must file amended application, Form 27–D, covering such change.

(53 Stat. 332; 26 U. S. C. 2873)

SUBPART K—REQUIREMENTS GOVERNING ALTERNATE OPERATIONS OF BOTTLING-IN-BOND DEPARTMENT AS TAXPAID BOTTLING HOUSE

§ 185.270 *Basic qualifications required.* The bottling-in-bond department of an internal revenue bonded warehouse may be operated alternately for bottling distilled spirits in bond, and bottling distilled spirits after removal from bond in accordance with Regulations 11 (26 CFR Part 189): *Provided*, That such operation as a taxpaid bottling house does not involve the storage or retention of taxpaid spirits on distillery or warehouse premises. The basic qualifications for the establishment of a taxpaid bottling house shall be in accordance with Part 189 of this chapter, and where the bonded warehouse is located on the premises of a registered distillery or fruit distillery, it is also necessary to follow provisions of Regulations 4 (26 CFR Part 183) or Regulations 5 (26 CFR Part 184), respectively, relative to the filing of amended notice on Form 27–A or 27½, plat and other documents. Where it is proposed to operate an established bottling-in-bond department temporarily as a taxpaid bottling house, it will be necessary to file (a) qualifying documents curtailing the bonded premises to exclude the bottling department, (b) qualifying documents establishing the taxpaid bottling house, and (c) a blanket consent of surety, Form 1533, by the principal and surety, extending the terms of bond, Form 1571, to cover the alternate use of the bottling-in-bond department as a taxpaid bottling house. Such blanket consent may be executed in the following form:

To continue in effect the said bond, notwithstanding the exclusion of the bottling-in-bond department from time to time for use temporarily as a taxpaid bottling house, in accordance with Notice, Form 404, filed by the principal.

The basic qualifying documents having once been filed by the proprietor and approved by the district supervisor, the operating status of the bottling department, that is, for bottling in bond or temporarily for taxpaid bottling, shall be approved by the district supervisor on Form 404, in accordance with § 185.272.

(53 Stat. 306, 331, 343, 373, 495; 26 U. S. C. 2806, 2871, 2904, 3170, 4041)

§ 185.271 *Approval required before resumption.* When it is desired to resume operations of the bottling-in-bond department following the suspension of operations as a taxpaid bottling house, authority therefor must be obtained from the district supervisor on Form 404 before actual resumption of operations.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.272 *Suspension procedure.* Where the proprietor of an internal revenue bonded warehouse desires to suspend operations of his bottling-in-bond department in order that it may be operated temporarily as a taxpaid bottling house, he must complete the bottling of all spirits, and remove such bottled spirits from the bottling-in-bond department, and upon suspension of the bottling-in-bond department, comply with the following requirements:

(a) *Notice, Form 404.* File with the district supervisor, Form 404, in triplicate, for authority to suspend bottling-in-bond operations and to use the premises temporarily as a taxpaid bottling house. The form shall be executed in accordance with the instructions printed thereon, and disposed of in accordance with § 185.520.

(b) *Communicating doors to be closed.* Close and lock, and keep locked, the communicating doors (if any) between the bottling-in-bond department and the storage portion of the warehouse, in accordance with § 185.72.

(c) *Locking of outside doors.* During the period the bottling house is operated as a taxpaid bottling house, the outside doors of the bottling house shall be locked at night with a Government lock.

(53 Stat. 331, 343, 373 as amended, 495; 26 U. S. C. 2871, 2904, 3170, 4041)

§ 185.273 *Resumption procedure.* Where the premises have been operated temporarily as a taxpaid bottling house and the proprietor desires to resume operations thereof as a bottling-in-bond department of the internal revenue bonded warehouse, he must comply with the following requirements:

(a) *Notice, Form 404.* File with the district supervisor, Form 404, in triplicate, for authority to suspend taxpaid bottling house operations and resume bottling-in-bond operations. The form shall be executed in accordance with instructions printed thereon, and disposed of in accordance with § 185.317.

(b) *Completion of bottling.* Complete all bottling of spirits, and remove such spirits from the taxpaid bottling house prior to suspension of operations.

(53 Stat. 331, 343, 373 as amended, 495; 26 U. S. C. 2871, 2904, 3170, 4041)

SUBPART L—REQUIREMENTS GOVERNING THE BOTTLING OF DISTILLED SPIRITS UNDER A TRADE NAME

§ 185.280 *General.* The proprietor must bottle distilled spirits in bond under his real name or the trade name in which the warehouse is operated: *Provided*, That if the proprietor is also a distiller and has produced and warehoused spirits under a trade name, he may, under such trade name, bottle such spirits, and spirits produced by other distillers, upon compliance with the following requirements:

(a) *Application, Form 27–D.* Submit to the district supervisor an amended application on Form 27–D, in triplicate, reciting therein the trade name or names, which application must be approved before the spirits may be bottled under such trade name or names.

(b) *Permit.* The bottler must file an application for amendment of the Federal Alcohol Administration Act basic permit to authorize the bottling and labeling of distilled spirits under the trade name.

(c) *Notice, Form 404.* Upon approval of the application on Form 27–D, submit Form 404, in triplicate, to the district supervisor, as provided in § 185.936.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

SUBPART M—DISCONTINUANCE OF BOTTLING-IN-BOND DEPARTMENT

§ 185.285 *Disposition of spirits.* Upon permanent discontinuance of a bottling-in-bond department, and prior to the filing of notice thereof on Form 27–D, as prescribed in § 185.288, and Form 404, all spirits on hand must be lawfully removed from the department.

(53 Stat. 343; 26 U. S. C. 2904)

§ 185.286 *Disposition of indicia bottles.* If there are any indicia bottles on hand, the same will be inventoried by the storekeeper-gauger or other officer designated for the purpose by the district supervisor. The disposition of such bottles will be in accordance with the procedure prescribed in Regulations 13 (26 CFR, Part 175).

(53 Stat. 331, 343; 26 U. S. C. 2871, 2904)

§ 185.287 *Disposition of bottled in bond stamps.* All unused bottled in bond stamps, if any, belonging to the proprietor at the time of permanent discontinuance of business will be inventoried by denomination, serial number, and quantity, by the storekeeper-gauger or other officer designated by the district supervisor to perform such duty. The officer will deliver such stamps to the proprietor and take his receipt therefor, in duplicate. When delivering the stamps the officer will advise the proprietor that the value of the stamps, if in quantities of the value of $5 or more, may be refunded: *Provided*, That a claim for such refund on Form 843, establishing the lawful issuance and ownership of the stamps, is filed with the collector of internal revenue who issued the stamps within two years after the date on which such stamps were lawfully issued or that such unused stamps may be destroyed in the presence of a Government officer, and the proprietor thereby relieved from

further accountability for the stamps. If the stamps are not surrendered to the collector for refund of their value or are not destroyed, the proprietor must account for the stamps each month by rendering Form 96, properly modified, to the district supervisor. The officer shall make a notation on the receipt as to the disposition made or to be made of the stamps. One copy of the receipt will be delivered to the proprietor and the original will be delivered to the district supervisor. The storekeeper-gauger will make appropriate notation on Form 1606 of the disposition made of the bottled in bond stamps (if any) on hand at the time of permanent discontinuance of business by the proprietor.

(53 Stat. 342, as amended; 26 U. S. C. 2903)

§ 185.288 *Notice, Form 27–D.* When all spirits, indicia bottles, and strip stamps have been lawfully disposed of, the proprietor shall file Form 27–D, in triplicate, with the district supervisor, stating the purpose of the filing thereof to be "Permanent discontinuance of bottling-in-bond department." The district supervisor will forward the original of Form 27–D to the Commissioner, with a copy of the report of the Government officer, reflecting compliance with the provisions of this part.

(53 Stat. 343; 26 U. S. C. 2904)

§ 185.289 *Notice, Form 404.* The proprietor must submit with the Form 27–D required by § 185.288, notice on Form 404, in triplicate, stating the purpose of the filing thereof to be "Permanent discontinuance of bottling-in-bond department."

(53 Stat. 343; 26 U. S. C. 2904)

SUBPART N—DISCONTINUANCE OF WAREHOUSE

§ 185.295 *Discontinuance by Commissioner.* Whenever, in the opinion of the Commissioner, any internal revenue bonded warehouse is unsafe or unfit for use, or the spirits therein are liable to loss or great wastage, he may discontinue such warehouse and require the spirits therein to be transferred to such other warehouse as he may designate, and within such time as he may prescribe. Such transfer shall be made under the supervision of the district supervisor, or of such other officer as may be designated by the Commissioner, and the expense thereof shall be paid by the owner of the spirits. Whenever the owner of the spirits fails to make such transfer within the time prescribed, or pay the just and proper expense of such transfer, as ascertained and determined by the Commissioner, such spirits may be seized and sold by the collector in the same manner as goods are sold upon distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expense of such sale and removal, and the balance paid over to the owner of the spirits.

(53 Stat. 332; 26 U. S. C. 2874)

§ 185.296 *Discontinuance by proprietor.* If the proprietor of an internal revenue bonded warehouse desires to discontinue the warehouse after all spirits deposited therein have been lawfully removed therefrom, he will file Form 27–D, in triplicate, with the district supervisor, stating therein the purpose of the form to be "Discontinuance of warehouse," and giving the date the discontinuance is to be effective. The proprietor will furnish in connection with such form a statement as to whether there are any spirits in transit to the warehouse and whether there are any outstanding approved applications, Form 236, for the transfer to the warehouse of spirits which have not yet been released from the distillery or bonded warehouse from which they were to be withdrawn, and will secure the return of all such applications to the district supervisor for cancellation.

SUBPART O—ACTION BY DISTRICT SUPERVISOR

ORIGINAL ESTABLISHMENT

§ 185.300 *Examination of qualifying documents.* Upon receipt of application, plat, plans, transportation and warehousing bond, and other documents required by this part of persons desiring to establish an internal revenue bonded warehouse, the district supervisor will examine the same to determine whether they have been properly executed and whether they reflect compliance with the requirements of the law and this part. Where any required document has not been filed, or where errors or discrepancies are found in those filed, or where the documents filed do not reflect compliance with this part, action thereon will be held in abeyance until the omission, or error or discrepancy, has been rectified, and there has been full compliance with all requirements.

§ 185.301 *Inspection of premises.* Where the required documents have been filed in proper form, the district supervisor will assign an inspector to examine the premises, buildings, apparatus, and equipment, to determine whether they conform to the description thereof in the application, plat, and plans, and whether the construction and measures of protection afforded meet the requirements of the law and regulations in this part. The inspector will observe particularly the manner in which the buildings or rooms constituting the warehouse are separated from each other and from other premises, means of communication, ingress and egress, adequacy of protection afforded windows, doors, and other openings, construction of apparatus and equipment, and the suitability of the gauging facilities and of the Government office. Where the inspection discloses minor irregularities in the qualifying documents or in the construction, the inspector will at the time of the discovery of such irregularities direct the attention of the proprietor to the same in order that the proprietor may correct the defects before completion of the inspection. Upon completion of the inspection, a report thereof will be submitted to the district supervisor.

§ 185.302 *Examination of tanks.* The district supervisor will, in every case, require an officer to examine carefully each tank to see that it is constructed in strict compliance with this part. The officer will test the accuracy of the scales or measuring devices required to be provided for the tanks, and if it is found that the same are not strictly accurate, or if any portion of the equipment does not conform to the requirements of this part, he will not recommend approval of the tanks until the proper changes are made.

§ 185.303 *Test of scales and measuring devices.* The test of the accuracy of the scales or measuring devices of storage tanks mounted on scales and of bottling tanks and gauging tanks must be an actual one. Where tanks are mounted on scales, the accuracy of the scales shall be determined in the manner provided by § 185.114. Where tanks are not mounted on scales the tests may be made by filling the tanks with water and drawing off several precise quantities, observing after each withdrawal that the quantity remaining is correctly indicated by the measuring devices and that the quantity withdrawn agrees with that indicated by the measuring devices. An accurate water meter, where available, may likewise be used to check the calibration of the tanks.

§ 185.304 *Approval of tanks.* When the officer who is required to examine the tanks is satisfied that the same and the attachments thereto are properly constructed, and that the scales or measuring devices are accurate, he will so report to the district supervisor, in writing, and will securely attach to each bottling tank a certificate on Form 244. No tank or attachment thereto shall be used until the same has been approved and, in the case of a bottling tank, a certificate has been attached.

§ 185.305 *Report of inspection.* The report of inspection shall describe separately all irregularities and discrepancies found during the course of inspection, and shall include a complete statement describing all unusual or special conditions. The construction of the ground or first floor of the warehouse, including the materials used, shall be described, and particularly whether the construction is such as would permit removal and replacement of portions of the floor without detection. Where irregularities are corrected during the inspection, the report will indicate the corrections so made. The report need not set out in detail each description as set forth in the application, plat and plans. The description of buildings and equipment in the report should be general and brief. However, construction, equipment, signs, etc., which are not in conformity with law and the regulations in this part will be completely described. If there are any pipe lines or other connections or openings between the warehouse premises and other premises, the same shall be described in detail. There shall also be included in the report information as to whether the methods of storage to be employed are such as will permit ready inspection and examination of packages and other containers of spirits, and where the warehouse is not situated on or contiguous to distillery premises, all pertinent facts respecting suitability of

location and adequacy of the capacity and transportation facilities will be set forth.

§ 185.306 *Inaccurate documents.* Where the district supervisor's examination, or the inspector's report, discloses discrepancies in the qualifying documents, the inaccurate or incomplete documents will be returned to the proprietor for correction. A record will be kept of all bonds so returned.

§ 185.307 *Defective construction.* Where it is found that the construction of the warehouse or its equipment does not conform to the requirements of the law and this part, the district supervisor will inform the proprietor concerning the defects, and further action will be held in abeyance pending correction thereof.

§ 185.308 *Law violation record.* Before approving any application for the establishment of an internal revenue bonded warehouse, the district supervisor will make such inquiry or investigation as may be deemed necessary to ascertain whether the individual, firm, partnership, corporation, or association submitting the same, or any person owning, controlling, or actively participating in the management of the business, has been convicted in a court of competent jurisdiction of (a) any fraudulent noncompliance with any provision of any law of the United States if such provision related to internal-revenue or customs taxation of distilled spirits, wines, or fermented malt liquors, or if such an offense shall have been compromised with the individual, firm, partnership, corporation, or association upon payment of penalties or otherwise, or (b) any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, fermented malt liquors or other intoxicating liquor. Where record is found of the conviction or compromise of such offense, the district supervisor may disapprove the application upon the basis of his findings: *Provided*, That if an application is disapproved the applicant may appeal to the Commissioner.

(53 Stat. 331; 26 U. S. C. 2872)

§ 185.309 *Other causes for disapproval.* The district supervisor will not approve any application for the establishment of an internal revenue bonded warehouse unless (a) the capacity of the warehouse is commensurate with the prospective needs of the area or locality in which it is situated and in any event not less than 5,000 barrels, less any equivalent thereof in tank or case storage, (b) the location is suitable, (c) the transportation facilities are adequate, (d) the design and construction of the warehouse are such as to insure economical supervision by Government officers, and (e) the prospective volume of spirits that will be received, stored, withdrawn, and bottled at the warehouse is sufficient to warrant the establishment of the warehouse and the expense of Government supervision: *Provided*, That these provisions shall not be applicable where the warehouse is an original warehouse to be operated by the distiller (not including lessee distillers) on or contiguous to the distillery premises, or is a second warehouse which the distiller desires to operate on premises contiguous to or near such original warehouse on account of lack of storage space in the original warehouse and the impracticability of expanding such warehouse. In any case where the warehouse has a bottling-in-bond department and the applicant is not entitled to a permit under the Federal Alcohol Administration Act, the district supervisor will, upon disapproval of the permit application, return all copies of the qualifying documents to the applicant without action thereon or reference to the Commissioner.

(53 Stat. 331; 26 U. S. C. 2872)

§ 185.310 *Approval of qualifying documents.* The district supervisor is authorized to approve all applications (except by the United States or governmental agency thereof), bonds, consents of surety, and other qualifying documents required by this part. If the district supervisor finds, upon examination of the inspection report and the qualifying documents, that the person seeking to establish an internal revenue bonded warehouse has complied in all respects with the requirements of the law and this part, and that the application and other qualifying documents may properly be approved under §§ 185.308 and 185.309, he will assign a registry number in accordance with § 185.311, note his approval on all copies of the application, the transportation and warehousing bond, and on all copies of the plat and plans, and shall dispose of the qualifying documents and inspectors' reports in accordance with § 185.313. If the warehouse has a bottling-in-bond department, the issuance of a permit under the Federal Alcohol Administration Act should be withheld pending approval of the application, bond, and other qualifying documents required by the internal revenue laws and this part.

§ 185.311 *Registry numbers.* Internal revenue bonded warehouses will be numbered serially in the order of their establishment. A separate series will be used for each State. Registry numbers heretofore assigned will be retained and new warehouses will be assigned numbers in sequence thereto. Registry numbers previously assigned to discontinued warehouses will not be reassigned to other warehouses. The same registry number will be continued whenever there is a change of proprietorship.

(53 Stat. 332; 26 U. S. C. 2873)

§ 185.312 *Disapproval of qualifying documents.* If the district supervisor finds that the applicant has not complied in all respects with the requirements of the law and this part, or that the application should be disapproved pursuant to § 185.308 or § 185.309, he will note his disapproval on the application, and will dispose of all qualifying documents in accordance with § 185.313.

§ 185.313 *Disposition of qualifying documents.* When the district supervisor approves the qualifying documents, he will forward to the applicant one copy of the documents with the original of the basic permit issued under the Federal Alcohol Administration Act, forward to the Commissioner the originals of the qualifying documents and a copy of the basic permit issued under the Federal Alcohol Administration Act, together with copies of inspection reports, and retain one copy of the qualifying documents for the file of the applicant. If the qualifying documents are disapproved, the district supervisor shall return to the applicant by registered mail one copy of the disapproved application, together with all copies of the qualifying documents, and all copies of the bond without action thereon. The district supervisor shall forward one copy of the disapproved application to the Commissioner and will advise him fully respecting the disapproval thereof. He shall retain the remaining papers in his file. If the applicant is not entitled to a basic permit, the district supervisor will, upon disapproval of the application therefor, return all copies of the qualifying documents to the applicant without action thereon.

(53 Stat. 373 as amended; 26 U. S. C. 3170)

§ 185.314 *Notice of penal sum of bond.* The district supervisor will inform the storekeeper-gauger in charge of each internal revenue bonded warehouse in his district of the penal sum of the approved transportation and warehousing bond. The district supervisor will advise the storekeeper-gauger currently of any change in the penal sum of such bond.

CHANGES SUBSEQUENT TO ORIGINAL ESTABLISHMENT

§ 185.315 *Procedure applicable.* The provisions of §§ 185.300 to 185.314 respecting the action required of district supervisors in connection with the original establishment of internal revenue bonded warehouses will be followed, to the extent applicable, where there is a change in the name of the proprietor, or in the proprietorship, location, premises, construction, apparatus, and equipment of the warehouse, or in the title to the warehouse property, or where consents of surety or superseding or additional bonds are submitted: *Provided*, That where the premises are extended or curtailed to provide for alternate operation of the bottling-in-bond department as a taxpaid bottling house, the procedure prescribed in §§ 185.270 to 185.272 will be followed.

§ 185.316 *Application covering changes.* Where an application covering changes in warehouse buildings or apparatus or equipment is approved by the district supervisor, he will retain one copy of the application and forward one copy to the proprietor and one copy to the Commissioner, and when reports covering changes in apparatus and equipment are received from Government officers in accordance with § 185.262, he will retain one copy and promptly forward one copy to the Commissioner. Similar disposition will be made of reports received from the proprietor covering emergency repairs of apparatus and equipment.

§ 185.317 *Inspection.* Upon receipt of Form 27–D for the discontinuance of an internal revenue bonded warehouse, accompanied by a statement of the proprietor showing that there are no spirits in transit to the warehouse and no outstanding approved applications, Form 236, for the transfer of spirits to the warehouse, the district supervisor will cause an inspection to be made of the warehouse and the storekeeper-gauger's records to determine whether all spirits deposited in the warehouse have been withdrawn and properly accounted for. Likewise, where the warehouse is to be discontinued by the Commissioner, as provided in § 185.295, and all spirits in transit to the warehouse have been received and all spirits deposited therein have been removed, the district supervisor will cause an inspection of the storekeeper-gauger's records to be made to determine whether all spirits deposited in the warehouse have been properly accounted for.

§ 185.318 *Removal of Government property.* When all spirits have been withdrawn from an internal revenue bonded warehouse which is to be discontinued, the district supervisor will cause the removal from the warehouse of all Government locks, keys, seals, gauging instruments, records, and other Government property. The property specified will be forwarded to the office of the district supervisor as surplus property, unless the district supervisor should deem the transfer of the property, or a part thereof, to some other plant under his jurisdiction to be advisable and proper, in which event he will direct such disposition to be made thereof. Entry Forms 1520, 1619, and 1620 covering the deposit of spirits in the warehouse will be so stored that they may be referred to when necessary.

§ 185.319 *Storekeeper-gauger's report.* Upon completion of the inspection of the warehouse and Government records and the removal of Government property, the storekeeper-gauger or other Government officer charged with such duty will submit a report to the district supervisor.

§ 185.320 *District supervisor's report.* If the district supervisor finds, upon receipt of the report from the storekeeper-gauger or other Government officer, that all spirits deposited in the warehouse have been withdrawn and properly accounted for, he will note his approval on all copies of Form 27–D and forward the original, together with a copy of the Government officer's report, to the Commissioner and return a copy to the warehouseman. Where discontinuance of the warehouse was ordered by the Commissioner, the district supervisor will forward to the Commissioner, a complete report of the removal of the spirits from the warehouse, together with a copy of the Government officer's report of the inspection of the warehouseman's and storekeeper-gauger's records and the removal of the Government property from the warehouse.

SUBPART P—ACTION BY COMMISSIONER

§ 185.330 *Review of documents.* The Commissioner will review the action of the district supervisor relating to the original establishment of an internal revenue bonded warehouse, or change in the name of the proprietor, or in the proprietorship, location, premises, construction, apparatus, and equipment of the warehouse. If it is found that the action is not in conformity with the requirements of law and the provisions in this part, the Commissioner will advise the district supervisor as to the necessary action to be taken.

(53 Stat. 331, 332, 333; 26 U. S. C. 2872, 2873, 2879)

§ 185.331 *Discontinuance of warehouse.* The Commissioner will review Form 27–D covering the discontinuance of an internal revenue bonded warehouse, and reports forwarded in connection therewith, to determine whether appropriate action has been taken concerning the discontinuance.

SUBPART Q—TERMINATION OF BONDS

§ 185.335 *Transportation and warehousing bonds.* Transportation and warehousing bonds, Form 1571, may be terminated as to liability (a) for spirits consigned to the internal revenue bonded warehouse after a specified future date, pursuant to application by the surety as provided in § 185.340, (b) for transactions subsequent to the effective date of an approved superseding bond, or (c) for future transactions upon discontinuance of business by the principal after withdrawal of all spirits from the warehouse.

(53 Stat. 331; 26 U. S. C. 2872)

§ 185.336 *Direct export bonds.* Bonds covering a specific lot of distilled spirits withdrawn for direct export, Form 547, will be terminated by the district supervisor by marking the bond "Canceled," followed by the date of cancellation, upon receipt of evidence of the landing of the spirits in a foreign country or satisfactory proof of loss at sea: *Provided*, That where there is a deficiency, the bond will not be canceled by the district supervisor until liability for the deficiency has been terminated. Continuing bonds covering spirits withdrawn from time to time for direct exportation, Form 657, will be similarly terminated by the district supervisor when no further withdrawals are to be made thereunder: *Provided*, That the account kept with the bond in accordance with § 185.793 shows that there are no outstanding charges.

(53 Stat. 336; 26 U. S. C. 2885)

§ 185.337 *Transportation for export bonds.* Bonds covering a specific lot of distilled spirits withdrawn for transportation for export, Form 548, will be terminated by the district supervisor by marking the bond "Canceled," followed by the date of cancellation, upon receipt of Form 206 from the collector of customs showing the clearance of the spirits: *Provided*, That where there is a loss in transit, the bond will not be canceled until the liability for the loss has been terminated. Continuing bonds for distilled spirits withdrawn from time to time for transportation for export, Form 658, will be similarly terminated by the district supervisor where no further withdrawals are to be made thereunder: *Provided*, That the account kept with the bond in accordance with § 185.793 shows that there are no outstanding charges.

(53 Stat. 337, 373 as amended; 26 U. S. C. 2886, 3170)

§ 185.338 *Bonds covering transportation to manufacturing warehouses.* Bonds covering a specific lot of distilled spirits withdrawn for transportation to a customs manufacturing bonded warehouse, Form 643, will be terminated by the district supervisor by marking the bond "Canceled," followed by the date of cancellation, upon receipt from the collector of customs of Form 3923 showing the deposit of the spirits in the customs manufacturing bonded warehouse: *Provided*, That where there is a loss in transit the bond will not be canceled until the liability for the loss has been terminated. Continuing bonds covering spirits withdrawn from time to time for transportation to customs manufacturing bonded warehouses, Form 1618, will be similarly terminated by the district supervisor where no further withdrawals are to be made thereunder: *Provided*, That the account kept with the bond in accordance with § 185.828 shows that there are no outstanding charges.

(53 Stat. 340; 26 U. S. C. 2891)

§ 185.339 *Bonds covering withdrawals for use of United States.* Bonds covering the withdrawal of distilled spirits for the use of the United States, Form 544, may be terminated by the district supervisor upon receipt of a properly executed certificate on Form 545, showing receipt of the spirits by the Government representative to whom the same were delivered: *Provided*, That where there is a deficiency the bond will not be released until the liability for the deficiency has been terminated.

(53 Stat. 403; 26 U. S. C. 3331)

§ 185.340 *Application of the surety for relief from bond.* A surety on any bond required by this part may at any time in writing notify the principal and the district supervisor in whose office the bond is on file that he desires, after a date named, which shall be at least 60 days after the date of notification, to be relieved of liability under said bond. The notice shall be executed in triplicate by the surety, who shall deliver one copy to the principal and the other two to the district supervisor, who will retain one copy and transmit the remaining copy to the Commissioner. This notice may not be given by an agent of the surety unless it is accompanied by a power of attorney duly executed by the surety authorizing him to give such notice or by a verified statement that such power of attorney is on file with the Department. The surety must also file with the district supervisor an acknowledgment or other proof of service of such notice on the principal. If the notice is not thereafter in writing withdrawn the rights of the principal as supported by said bond shall be terminated, except as hereinafter provided, on the date named in the notice, and the surety shall be relieved (a) in the case of a transportation

and warehousing bond, Form 1571, from liability for spirits transferred or consigned to the internal revenue bonded warehouse wholly subsequent to the date named in the notice, or (b) in the case of direct export bonds, Forms 547 and 657, transportation for export bonds, Forms 548 and 658, bonds covering transportation to customs manufacturing bonded warehouses, Forms 643 and 1618, or bonds for the withdrawal of spirits for the use of the United States, Form 544, from liability for distilled spirits withdrawn for direct exportation, transportation for export, transportation to customs manufacturing bonded warehouse, or for the use of the United States, as the case may be, wholly subsequent to the date named in the notice. If the principal files a valid superseding bond on Form 1571, prior to the date named in the surety's notice, the surety shall also be relieved from liability for spirits on hand or in transit to the internal revenue bonded warehouse on the effective date of the superseding bond. If the principal fails to file a superseding bond, the surety, notwithstanding his release from liability as specified in condition (a) above, shall continue to remain liable under the bond for all spirits on hand or in transit to the internal revenue bonded warehouse on said date, until such spirits have been lawfully disposed of or a new bond has been filed by the principal covering the same. Liability under bonds on Forms 544, 547, 548, 643, 657, 658, and 1618 for spirits removed thereunder prior to the date named in the surety's notice shall continue until such spirits are properly accounted for, regardless of whether the principal files a superseding bond. Where the principal fails to file such superseding bond, the district supervisor will, by letter, notify the surety of such fact and of his continued liability under the bond for spirits on hand or in transit to the internal revenue bonded warehouse on said date. The district supervisor will also at such time notify the principal that no more spirits may be transferred or consigned to the internal revenue bonded warehouse, until a valid bond is filed. The district supervisor will forward a copy of each such letter to the Commissioner.

§ 185.341 *Application for notice of termination.* Where the proprietor of an internal revenue bonded warehouse has filed a proper superseding bond in lieu of a previously filed transportation and warehousing bond, Form 1571, or has discontinued the business of warehousing distilled spirits after withdrawal of all spirits from the warehouse, or where, in the case of direct export bonds, transportation for export bonds, bonds covering transportation to customs manufacturing bonded warehouse, or bonds covering withdrawals of distilled spirits for use of the United States, there has been compliance with the provisions of § 185.336, 185.337, 185.338, or 185.339, as the case may be, and the principal or surety desires to secure notice of the termination of the bond for which the principal no longer has any use, application therefor in writing will be made to the district supervisor. The application will be made in duplicate where it is desired to secure the issuance of notices of the termination of transportation and warehousing bonds.

§ 185.342 *Action on application for notice of termination.* When an application for the issuance of notice of the termination of a transportation and warehousing bond, as to liability for future transactions, is filed with the district supervisor in accordance with the provisions of § 185.341, the district supervisor will make a complete examination of the records to determine whether there is any liability outstanding against the bond. He will also ascertain from the collector of internal revenue whether there are any outstanding, unpaid assessments or demands for taxes on spirits warehoused or transported, as the case may be, under the bond. If it is found that spirits warehoused or transported, under the bond have not been accounted for, or that outstanding assessments or demands for payment of taxes chargeable against the bond have not been paid or otherwise settled, the district supervisor will disapprove the application, unless the liability is settled. When an application for notice of the termination of a direct export bond, transportation for export bond, or bond covering the transportation of spirits to a customs manufacturing bonded warehouse, or bond covering withdrawals for use of the United States, is filed with the district supervisor, he will examine his records to determine whether the required evidence of foreign landing or loss at sea, or clearance, or deposit in the manufacturing warehouse, or delivery to the Government representative, as the case may be, of the spirits withdrawn under the bond has been filed, and if there were deficiencies, whether liability for the deficiencies has been terminated. Where a bond was previously marked "Canceled," in accordance with § 185.336, 185.337, or 185.338, no further examination of records will be necessary.

§ 185.343 *Notice of termination.* Upon cancellation of a transportation and warehousing bond, Form 1571, as to liability for future transactions, the district supervisor will execute a notice of termination on Form 1490 where a superseding bond has been approved, or a notice of release on Form 1491 where the principal has discontinued business and removed all the spirits from the warehouse, as the case may be, in quadruplicate (in quintuplicate if there are two sureties), and will forward the original together with one copy of the application to the Commissioner, one copy to each obligor on the bond, and retain one copy on file with the bond to which it relates. Where an application for the issuance of notice of the termination of a direct export bond, transportation for export bond, bond covering transportation to a customs manufacturing warehouse, or bond covering withdrawals for use of the United States, has been filed with the district supervisor, and he has found that there has been compliance with the provisions of § 185.336, 185.337, 185.338, or 185.339, as the case may be, he will issue Form 1491 as provided in this section.

§ 185.344 *Release of collateral.* The release of collateral pledged and deposited with the United States to support bonds required in this part will be in accordance with the provisions of Department Circular 154, revised (31 CFR Part 225), subject to the conditions governing the issuance of notices on Forms 1490 and 1491 of the termination of such bonds. Upon approval of an application for the issuance of notice of the termination of a transportation and warehousing bond supported by collateral security, the district supervisor will fix the date or dates on which a part or all of the security may be released. In fixing such date, which ordinarily will be not less than six months from the date of determination that there is no outstanding liability against the bond, the district supervisor will satisfy himself that the interests of the Government will not be jeopardized. Collateral pledged and deposited to support a transportation and warehousing bond, will not be released by the district supervisor until liability under the bond has been terminated. At any time prior to the release of such collateral security, the district supervisor may, in his discretion, and for proper cause, further extend the date of release of the security for such additional length of time as in his judgment may be appropriate. Collateral pledged and deposited to support a direct export bond, transportation for export bond, bond covering transportation to customs manufacturing warehouse, or bond covering withdrawals for use of the United States, will ordinarily be released by the district supervisor upon issuance of notice of release of the bond, Form 1491.

(44 Stat. 122; 6 U. S. C. 15)

Subpart R—Control, Custody and Supervision

§ 185.350 *Control of warehouse.* The law provides that every internal revenue bonded warehouse shall be under the control of the district supervisor of the Alcohol Tax Unit district in which the warehouse is located.

(53 Stat. 331; 26 U. S. C. 2872)

§ 185.351 *Assignment of storekeeper-gaugers.* When an internal revenue bonded warehouse is established, the district supervisor will assign one or more storekeeper-gaugers to the warehouse. In determining the number of storekeeper-gaugers to be assigned to a bonded warehouse the district supervisor will consider the number and size of the rooms or building comprising the warehouse, the number of packages of spirits to be received and removed daily, whether spirits are to be bottled in bond at such warehouse, whether a taxpaid bottling house is to be operated in connection with the warehouse, and whether the warehouse is located on, or is contiguous or adjacent to, the premises of a distillery.

(53 Stat. 373 as amended, 492; 26 U. S. C. 3170, 4013)

§ 185.352 *Examination of warehouse.* Storekeeper-gaugers will, upon assignment to a bonded warehouse, examine the warehouse and its equipment and will determine that the doors, windows,

and other openings are properly protected and equipped for locking; that the inlets, outlets, and other necessary openings of all tanks for spirits and valves in pipe lines, if any, are properly equipped for locking; and that all pipe line connections conform to this part. The storekeeper-gauger will apply Government locks and seals wherever the same are required.

§ 185.353 *Custody of warehouse.* The law provides that each internal revenue bonded warehouse shall be in the charge of a storekeeper-gauger and that every such warehouse shall be in the joint custody of the storekeeper-gauger and the proprietor thereof, and kept securely locked, and shall at no time be unlocked or opened, or remain open, except in the presence of the storekeeper-gauger or other person who may be designated to act for him. The keys to all Government locks shall remain at all times in the custody of the storekeeper-gauger, except that where no storekeeper-gauger is regularly assigned to the warehouse such keys shall remain in the custody of the storekeeper-gauger at the distillery having charge of the warehouse, or in the custody of the district supervisor or other person designated by him. The storekeeper-gauger having custody of the keys will not at any time permit them to go into the possession of any other person, except the district supervisor or an officer authorized by the district supervisor or the Commissioner to receive them.

(53 Stat. 331, 332; 26 U. S. C. 2872, 2873)

§ 185.354 *Warehouse to be kept locked.* The outside doors of the warehouse shall be locked with Government locks and kept locked at all times except when spirits are being entered into or removed from the warehouse or where it is necessary for the proprietor to have access to the warehouse for the purpose of repairing cooperage or other legitimate purposes. The doors of the bottling-in-bond department shall be locked with Government locks and kept locked at all times except when spirits are being bottled or are being entered into or removed therefrom or where it is necessary for the proprietor to have access to the bottling-in-bond department for other legitimate purposes. The bottling-in-bond department must be locked at night in the usual way, regardless of whether spirits are stored therein. If the bottling-in-bond department is used exclusively for bottling distilled spirits in bond, the doors (if any) in the partition or wall separating the bottling-in-bond department from the storage portion of the warehouse must be kept locked on the storage side of the warehouse except while actually being used for the transfer of spirits as provided in § 185.72. All windows and shutters shall be closed and securely fastened by the proprietor when business is finished for the day. The storekeeper-gauger will open and close the Government locks on doors and on any shutters that may be equipped with Government locks. Neither the warehouse nor the bottling-in-bond department therein shall be open on Sunday or at night or at any time other than regular business hours except in cases of emergency and then only with the approval of the district supervisor: *Provided*, That where the spirits are in imminent danger of loss by fire, flood or other casualty, and it is impracticable to first obtain authorization from the district supervisor for the opening of the warehouse, the storekeeper-gauger may, upon the request of the proprietor, open the warehouse for the purpose of preventing loss of the spirits, but a report thereof must be made immediately, by telephone or telegraph where possible, to the district supervisor: *And provided further*, That where the spirits are in imminent danger of loss by fire, and it is impracticable to first communicate with the district supervisor or the storekeeper-gauger, city, county, and State fire officers may break open the warehouse for the purpose of preventing loss of the spirits, but a similar report thereof must be made immediately to the district supervisor.

(53 Stat. 331, 332; 26 U. S. C. 2872, 2873)

§ 185.355 *Admittance of proprietor.* The proprietor shall upon request at reasonable times have admittance, in the presence of the storekeeper-gauger, to the warehouse and the spirits deposited therein, and may, in conjunction with the storekeeper-gauger, refuse admittance to any person not a revenue officer. The proprietor may have access to the spirits in bond at any reasonable time in the presence of the storekeeper-gauger for the purpose of repairing cooperage, or to take any necessary measures to prevent waste by leakage or for other legitimate purposes.

(53 Stat. 331, 332; 26 U. S. C. 2872, 2873)

§ 185.356 *Operations requiring immediate supervision.* The immediate supervision of the storekeeper-gauger is required whenever (a) spirits are entered into or withdrawn from the warehouse; (b) spirits are transferred from one building to another; (c) spirits are bottled in bond; (d) spirits are drawn from tanks into packages or dumped from packages into gauge tanks; (e) a change of package is made for exportation, or to prevent loss by leakage, or for other authorized purposes; (f) samples of spirits are obtained; (g) spirits in distiller's original packages or in tanks are reduced in proof; (h) brandy-blending operations are being conducted; (i) packages of spirits on deposit in an internal revenue bonded warehouse are gauged preparatory to immediate sealing of the bungs and when the bungs of such packages are sealed; (j) otherwise required in this part; or (k) spirits in the warehouse are by reason of circumstances exposed to loss.

(53 Stat. 298 as amended, 300 as amended, 332; 26 U. S. C. 2800, 2801, 2873)

§ 185.357 *Commercial gauging.* Spirits shall not be gauged except as required for official purposes.

Subpart S—Deposit of Spirits in Warehouse

Deposit in Storage Tanks

§ 185.365 *In warehouse on distillery premises.* Distilled spirits of 160 degrees of proof or more may be received by pipe line or in tank cars from a registered distillery and brandy of any proof may be received by pipe line or in tank cars from a fruit distillery for deposit in storage tanks in the internal revenue bonded warehouse located on distillery premises where produced: *Provided*, That (a) rum of not less than 150 degrees of proof intended for denaturation may be received by pipe line from a registered distillery for deposit in storage tanks; and (b) gin of any proof may be received by pipe line from a registered distillery and deposited in storage tanks.

(53 Stat. 316 as amended, 333, 335 as amended, 339, 355; 26 U. S. C. 2825, 2879, 2883, 2983, 3070)

§ 185.366 *In warehouse contiguous to distillery premises.* Distilled spirits (other than spirits designated for fortification or rum designated for denaturation) of 160 degrees of proof or more may be received by pipe line or in tank cars from a registered distillery or a fruit distillery for deposit in storage tanks in an internal revenue bonded warehouse located contiguous to the distillery premises where produced: *Provided*, That gin of any proof may be received by pipe line from a registered distillery for deposit in storage tanks.

(53 Stat. 316 as amended, 333, 335 as amended, 339, 355; 26 U. S. C. 2825, 2879, 2883, 2888, 3070)

§ 185.367 *In any warehouse.* Distilled spirits of 160 degrees of proof or more received in tank cars from a registered distillery or a fruit distillery, or from storage tanks in an internal revenue bonded warehouse may be deposited in storage tanks in any internal revenue bonded warehouse.

(53 Stat. 316 as amended, 333, 335 as amended, 339, 355; 26 U. S. C. 2825, 2879, 2883, 2888, 3070)

§ 185.368 *Supervision of pipe line transfers.* The transfer of spirits by pipe line from the distillery receiving cisterns to storage tanks in a bonded warehouse will be under the immediate supervision of the storekeeper-gauger in charge of the distillery receiving cisterns and the storekeeper-gauger in charge of the warehouse, if one is assigned to the warehouse. The storekeeper-gauger supervising the deposit will see that the outlet and all other openings, except the inlet, are closed and locked when spirits are being deposited; that the inlet and all other openings, except the outlet, are closed and locked when spirits are being removed from such tanks; and that the valves in the pipe line are so adjusted by the proprietor as to properly control the flow of spirits. When the spirits have been deposited in the tanks in the bonded warehouse, the inlet will be immediately closed by the proprietor and locked by the storekeeper-gauger. The storekeeper-gauger will at such time note the number of the storage tank on the gauge report, Form 1520, covering the deposit of the spirits, and except where such spirits were gauged in the distillery immediately prior to transfer by pipe line, he will make an immediate gauge and prepare a gauge report on Form 1520 covering the deposit of the spirits. The openings of ware-

house tanks containing spirits, and the valves in pipe lines leading to and from such tanks, shall be kept closed and locked at all times, except when it is necessary to open such tanks for inspection or gauging purposes, or for transfer of the spirits. Whenever spirits are transferred into or out of warehouse tanks, the storekeeper-gauger will open and close the locks, but it shall be the duty of the proprietor to manipulate the stopcocks or valves controlling the flow of the spirits.

(53 Stat. 298 as amended, 333, 335 as amended; 26 U. S. C. 2800, 2878, 2883)

§ 185.369 *Tank car transfers for deposit in storage tanks.* Where spirits received by tank car are to be deposited in storage tanks in a bonded warehouse, the storekeeper-gauger will carefully examine the tank car for evidence of loss and immediately upon transfer into the warehouse he will gauge the spirits and enter the details of gauge on the Form 1520 covering the transfer. The serial number of the storage tank and the quantity deposited therein will be entered on the form. If the spirits are deposited in more than one storage tank, a separate Form 1520 will be prepared covering the deposit in each additional tank. Where the gauge discloses a loss or shortage, he will proceed as required by § 185.486. The storekeeper-gauger will see that the openings of the tanks and valves of the pipe lines are controlled and adjusted as provided in § 185.368 relating to pipe line transfers.

(53 Stat. 333, 335 as amended, 492; 26 U. S. C. 2879, 2883, 4017)

§ 185.370 *Custody of keys.* The keys to all Government locks on valves in pipelines used for conveying spirits from the distillery receiving cisterns to warehouse storage tanks shall remain at all times in the custody of the storekeeper-gauger in charge of the distillery receiving cisterns, except that if a storekeeper-gauger is exclusively assigned to the bonded warehouse, such storekeeper-gauger shall have custody of the keys to locks within the warehouse.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.371 *Marking of tanks.* When spirits are deposited in warehouse storage tanks the storekeeper-gauger shall plainly and legibly mark on each tank the kind of spirits deposited therein, the date of the entry for deposit, and the proof at which the spirits were distilled ("Distilled 190 Proof or over," or "Distilled between 160 and 190 Proof," as the case may be). Such marks shall be completely erased by the storekeeper-gauger each time the tank is emptied. Where brandy or fruit spirits for the fortification of wine, or rum of not less than 150 degrees of proof for denaturation, or spirits of not less than 180 degrees of proof intended for exportation in tank cars, are transferred into warehouse storage tanks, the warehouseman shall plainly and legibly stencil upon such tanks the words "For Fortification of Wine," "For Denaturation," or "For Exportation," respectively, in addition to the other markings required by this part.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.372 *Prohibited mingling in storage tanks.* Spirits which were produced from different materials, or by two or more distillers, or at two or more distilleries, or during different distilling seasons and years, or which differ in kind according to the standards of identity established under the Federal Alcohol Administration Act, or which are otherwise heterogeneous, may not be mingled in storage tanks.

(53 Stat. 335 as amended, 391; 26 U. S. C. 2883, 3254; sec. 205, 49 Stat. 981 as amended; 27 U. S. C. 205)

§ 185.373 *Limitation on deposits in same tank.* When the drawing of spirits from a warehouse gauging tank has begun, no further deposit of spirits therein will be permitted until the tank has been completely emptied. It will not be necessary to empty a warehouse storage tank before making additional deposits of spirits therein, provided the spirits so mingled meet the requirements of § 185.372. However, spirits must not be run into and drawn from the same tank simultaneously. If, in order to utilize a large storage tank, a proprietor desires to transfer the spirits remaining therein to a smaller tank, such transfer may be made upon application to the storekeeper-gauger in charge. The transfer from one storage tank to another must be made under the immediate supervision of a storekeeper-gauger who will note the number of the storage tank on the Form 1520 covering the deposit of the spirits in the warehouse.

(53 Stat. 298 as amended, 335 as amended, 391; 26 U. S. C. 2800, 2883, 3254)

SPIRITS RECEIVED IN CASKS OR OTHER APPROVED CONTAINERS

§ 185.374 *From distillery on same or contiguous premises.* Where spirits are received in packages for deposit from a distillery on the same or contiguous premises, the packages will be transferred from the distillery cistern room or fruit distillery, as the case may be, to the warehouse under the supervision of the storekeeper-gauger in charge of the cistern room or fruit distillery and the storekeeper-gauger in charge of the warehouse.

(53 Stat. 333, 335 as amended; 26 U. S. C. 2878, 2883)

§ 185.375 *From distillery not on the same or contiguous premises or from another warehouse.* When spirits are received from a distillery not on the same or contiguous premises or from another internal revenue bonded warehouse for deposit, the storekeeper-gauger will examine and weigh each package and enter the weight on Form 1520 or Form 1619. Where material discrepancies between shipping and receiving weights are found or where containers bear evidence of having sustained loss in transit the storekeeper-gauger will follow the procedure prescribed in § 185.376. The procedure prescribed in § 185.377 will be followed as to spirits received in tank cars.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.376 *Examination of packages.* Where packages of spirits are received bearing evidence of having sustained unusual losses in transit, or where material discrepancies are found by the comparison of shipping weight with the weight ascertained at the receiving warehouse, the storekeeper-gauger will observe the following procedure:

(a) Examine the condition of the cooperage of each such package.

(b) Make a gauge of each such package and enter in the "Receiving gauge" columns of the Form 1520 or 1619, as the case may be, the gross weight and proof of each package and in the loss column enter the difference in weight between the amount shipped and the amount received. The storekeeper-gauger will also note on the reverse of the Forms 1520 or 1619 the condition of the cooperage and whether in his opinion the loss was occasioned by theft, accident or other determinable cause. In the event the loss sustained from any package appears to have been the result of theft, such package will be detained and reported to the district supervisor in accordance with the procedure prescribed in § 185.486.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.377 *Examination of tank car.* The storekeeper-gauger will carefully examine each tank car of spirits upon its arrival at the warehouse for evidence of loss and will determine if the seals applied at the shipping premises are intact. Unless the spirits are to be immediately taxpaid on the filling gauge, the spirits will be gauged in a gauging tank or by volumetric measurement in the tank car and reported on Form 1520 covering the transfer. If the spirits are gauged in a gauging tank, they will be immediately returned to the tank car. After gauging, the car will be sealed pending taxpayment or transfer in bond. Where it is determined that the tank car bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, the tank car will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.378 *Examination and deposit of cases.* Where spirits bottled in bond are received from another bonded warehouse for deposit, the storekeeper-gauger will carefully examine the shipment upon its arrival and, where the cases bear evidence of having sustained losses, he will note the loss on Form 1620. In the event any of the cases in a shipment bear evidence of loss by theft, such cases will be detained and reported to the district supervisor in accordance with the procedure prescribed in § 185.486.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.379 *Disposition of deposit forms.* Where spirits are received from a distillery operated by the proprietor on the same or contiguous premises, the storekeeper-gauger in charge at the receiving warehouse will retain the copy of Form 1520 covering the deposit of the spirits. Upon the deposit of spirits received from a distillery not operated by the proprietor of the warehouse on the same or contiguous premises, or from another bonded warehouse, the storekeeper-

gauger at the receiving warehouse will follow the procedure prescribed by § 185.707 for transfers between warehouses in the same district and § 185.712 for transfers between warehouses in different districts.

SUFFICIENCY OF BOND

§ 185.380 *Storekeeper-gauger to be informed.* Where spirits are received for deposit from a distillery operated by the proprietor of the warehouse on the same or contiguous premises, and the penal sum of the transportation and warehousing bond is less than the maximum of $200,000, as shown by the record furnished by the district supervisor pursuant to § 185.314, the storekeeper-gauger in charge of the warehouse will see that the tax liability on the quantity of spirits deposited in the warehouse, plus the tax liability on the spirits represented by all outstanding approved Forms 236 (§§ 185.694 and 185.709) is within the limits of the penal sum of the bond. Such information shall also be furnished where brandies are blended under the provisions of § 2801 (e) (5), I. R. C. (when the penal sum of the bond is less than the maximum), and the storekeeper-gauger shall see that the penal sum of the bond is sufficient to cover the additional tax of 30 cents a proof gallon on all blended brandy on hand or in transit to the warehouse at any one time as well as the tax under § 2800 (a) (1), I. R. C., on all brandy on hand at any one time.

(53 Stat. 300 as amended, 333; 26 U. S. C. 2801, 2879)

RECORDS AND REPORTS

§ 185.381 *Storekeeper-gauger's copies of deposit forms.* All copies of Forms 236, 1520, 1619 and 1620, covering the deposit of spirits in internal revenue bonded warehouses, and all copies of Forms 1685 and 1520 covering the blending of brandy and the return thereof to the storage portion of the warehouse, shall be filed by the storekeeper-gauger as permanent records, in accordance with the procedure prescribed in Subpart UU of this part.

(53 Stat. 340 as amended, 335 as amended, 346; 26 U. S. C. 2801, 2883, 2915)

§ 185.382 *Forms 1513 and 1621.* The storekeeper-gauger in charge of an internal revenue bonded warehouse shall report all spirits deposited in the warehouse, including blended brandies returned from the brandy-blending department, on his monthly bonded warehouse report, Form 1513, and shall make appropriate entries in his summary of deposits and withdrawals, Form 1621, as provided in § 185.1020.

§ 185.383 *Date of receipt in warehouse to be shown on withdrawal applications or permit.* At the time of submitting to the storekeeper-gauger an application prepared pursuant to the provisions of §§ 185.460, 185.485, 185.486, 185.511, 185.536, 185.600, 185.650, 185.660, 185.670, 185.738, 185.761, 185.773, 185.778, 185.816, 185.826, 185.856, 185.863, 185.868, 185.881 and 185.891, for the gauge, regauge, or withdrawal of distilled spirits, the proprietor of the internal revenue bonded warehouse shall show on the form, in addition to the other information required by the form or by the provisions of this part, the date the spirits were received in the warehouse. When the warehouseman desires to make shipment of distilled spirits in bond and furnishes the storekeeper-gauger a copy of the Form 236 covering such transfer he shall show on the form the date the distilled spirits were received in the warehouse. When the warehouseman submits permit on Form 1508, covering the withdrawal of distilled spirits for the use of the United States, he shall show on the form the date the spirits were received in the warehouse.

(53 Stat. 300 as amended, 335 as amended, 336, 337, 340, 342 as amended, 343, 345, 346, 348 as amended, 351, 353, 355, 373; 26 U. S. C. 2801, 2882, 2883, 2885, 2886, 2891, 2903, 2904, 2910, 2915, 3031, 3033, 3037, 3070, 3171, and section 309 (a) of the Tariff Act of 1930)

SUBPART T—STORAGE OF DISTILLED SPIRITS IN WAREHOUSE

§ 185.390 *Kinds of containers.* Distilled spirits may be stored in an internal revenue bonded warehouse:

(a) In the distiller's original packages in which received, including, in the case of spirits intended for temporary storage pending exportation, wooden packages containing two or more metallic cans having a capacity of not less than 5 wine gallons each;

(b) In cases, where spirits are bottled in bond;

(c) In casks, barrels, or similar wooden packages, or in drums or similar metal packages, having a capacity of not less than 10 wine gallons each, filled from warehouse storage tanks or into which the contents of the distiller's original packages were transferred in accordance with §§ 185.397 to 185.402;

(d) In storage tanks (1) in any warehouse if the spirits are 160 degrees or more of proof; or (2) in a warehouse located on the premises of the distillery where the spirits were produced and such spirits are rum of not less than 150 degrees of proof received by pipeline and are intended for denaturation; or (3) in a warehouse located on the premises of a fruit distillery where the spirits were produced; or (4) in a warehouse located on or contiguous to the premises of the distillery where the spirits were produced and the spirits are gin of any proof received by pipeline;

(e) In tank cars.

(53 Stat. 316 as amended, 333, 342 as amended, 355; 26 U. S. C. 2825, 2878, 2883, 2903, 3070)

METHOD OF STORAGE

§ 185.391 *Containers to be accessible.* Packages of distilled spirits deposited in an internal revenue bonded warehouse must be stored therein in such a manner that they may be readily inspected and examined by Government officers. Aisles of sufficient width to permit passage for the purpose of inspecting and repairing the cooperage must be provided between rows of barrels. The barrels must not be so superimposed upon each other as to prevent inspection and repair of cooperage or to prevent or interfere with their removal from rows or tiers for gauging, repairing cooperage, etc. Cases of spirits must be so stored that they may be readily inventoried. The cases may be stored in stacks or blocks if segregated according to distillers, kinds of spirits, and sizes of bottles, and kept arranged in serial order. Aisles and passageways must be kept open and not be permitted to become blocked by packages or other articles.

(53 Stat. 333; 26 U. S. C. 2878)

§ 185.392 *Storage in tank cars.* Where spirits are received in tank cars for storage in bond, the spirits may be transferred to warehouse storage tanks provided the spirits are 160 degrees of proof or more. If the spirits are less than 160 degrees of proof, such tank cars must be run within the warehouse and remain therein pending tax payment or further transfer in bond.

(53 Stat. 316 as amended, 333, 335 as amended; 26 U. S. C. 2825, 2878, 2883)

§ 185.393 *Failure to properly store spirits.* Where the proprietor so stores packages of spirits that they cannot be readily inspected, or removed with facility from rows or tiers for gauging, repairing of cooperage, or other proper purposes, or that unnecessary loss is likely to occur from superimposing packages upon each other, or from deterioration of the cooperage due to other causes or where spirits are stored in tanks and such tanks are not kept in good condition so as to preclude unnecessary loss of spirits therefrom, the storekeeper-gauger will make report thereof in writing to the district supervisor, who will require the proprietor to make the necessary correction. The proprietor must take whatever steps are necessary to avoid unnecessary loss or wastage of spirits in the warehouse.

(53 Stat. 333, 334, 335 as amended, 340 as amended; 26 U. S. C. 2878, 2880, 2883, 2901)

§ 185.394 *Facilities for examination.* The proprietor shall furnish all assistance, lights, ladders, and other facilities necessary to enable Government officers to examine warehouse premises and equipment and all containers of spirits stored therein.

(53 Stat. 331, 332; 26 U. S. C. 2872, 2873)

§ 185.395 *Facilities for gauging.* The proprietor of the warehouse must provide adequate assistance and facilities to enable the storekeeper-gauger to gauge any packages which, in the officer's opinion, have been tampered with or from which unnecessary loss has occurred.

(53 Stat. 331, 332, 340 as amended; 26 U. S. C. 2872, 2873, 2901)

§ 185.396 *Facilities for recoopering.* The proprietor must provide suitable facilities for the recoopering of spirits stored in the warehouse. Where a considerable amount of recoopering is done, a separate room to be used exclusively for the purpose should be provided. If a separate room is not provided, the facilities to be used for recoopering spirits must be arranged and the work performed in such a manner as to avoid unnecessary loss or wastage of spirits or impairing the safety of other spirits

or rendering the required supervision by the storekeeper-gauger more difficult.

(53 Stat. 332, 333, 335 as amended; 26 U. S. C. 2873, 2878, 2883)

FILLING PACKAGES FROM STORAGE TANKS

§ 185.397 *Gauging.* Distilled spirits may be drawn into packages from storage tanks in accordance with this part. If the distilled spirits in the tank are found to be other than a whole degree of proof, adjustment to a whole degree must be made by the proprietor before withdrawal into packages. Each package must be gauged by the storekeeper-gauger. Before determining the original tare of packages, the storekeeper-gauger will examine them and will not permit the use of any package which contains or has on its exterior or interior any unauthorized substance which will prevent the correct ascertainment of the tare. The tare of the empty package will be determined and will be marked on the package and recorded on Form 1520. Weights shall be determined in pounds and one-half pounds.

(53 Stat. 333, 335 as amended; 26 U. S. C. 2878, 2883)

§ 185.398 *Reduction in proof.* Spirits in warehouse storage tanks which were produced at 190 degrees of proof or more may be reduced in such storage tanks to not less than 111 degrees of proof prior to being drawn into packages. The spirits will be reduced by the proprietor of the bonded warehouse under the immediate supervision of the storekeeper-gauger. Spirits of less than 160 degrees of proof may not be withdrawn from storage tanks into tank cars for transfer in bond.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.399 *Marking and branding packages filled from storage tanks.* The proprietor shall plainly and durably burn, cut, imprint, or stencil on the head of each package filled from a warehouse storage tank, in letters and figures not less than three-fourths inch in height (not less than one-half inch in height for one-half barrels), the name of the distiller or the person in whose name the spirits were produced, the registry number of the distillery, the city or town and State in which the distillery is located, kind of cooperage (as charred, recharred, plain, etc.), serial number of the package, kind of spirits, the date of filling, and in letters and figures not less than one-half inch in height, the proof at which distilled, the original proof gallons, the original proof and tare determined at time of filling, the date of original entry of the spirits for deposit, and the warehouse number and State in which located. This head shall be designated the Government head. The ink used in applying marks and brands shall be of suitable quality to effect durability and legibility and the heads of the packages shall be sufficiently smooth and free from defects to permit the marks and brands to be clearly and distinctly applied. No marks other than those required by this part shall be placed upon the Government head of a package. All marking and branding shall be performed by the proprietor under the immediate supervision of the storekeeper-gauger. The State and registry number may be combined and abbreviated as "Calif–708." The kind of cooperage may be abbreviated "C" for charred, "REC" for recharred, "P" for plain, "PAR" for paraffined, "G" for glued, and "R" for reused (not recharred). In addition to these marks the letters "PS" (pre-soaked) will follow the letters indicating the kind of cooperage if the barrel has been steamed or water soaked prior to filling. Symbols may be used to designate the proof of distillation, e. g., "D190P" for "Distilled 190 proof or over," "D160–190P" for "Distilled between 160 and 190 proof" and "D160P" for "Distilled not over 160 proof," or in the case of spirits derived from fruit, "D170–190P" for "Distilled between 170 and 190 proof" and "D170P" for "Distilled not over 170 proof." The date of original entry of the spirits for deposit and the warehouse number and State in which located may be abbreviated as "Orig. Ent. 5–19–48" and "I. R. B. W.4–N. Y."

(53 Stat. 316 as amended, 333, 335 as amended; 26 U. S. C. 2825, 2878, 2883)

§ 185.400 *Report of gauge, Form 1520.* The storekeeper-gauger will enter the details of the gauge on Form 1520 and will note on each copy of the form the date of the original entry for deposit and the proof of distillation of the spirits. If the spirits are to be stored in the warehouse in which packaged, an original and two copies of Form 1520 will be prepared, one of which will be forwarded to the district supervisor, one to the warehouseman and the remaining copy retained for file. If the spirits are to be immediately transferred to another warehouse, an original and five copies of Form 1520 will be prepared. In case of packages filled for immediate transfer in bond the forms will be distributed as provided in § 185.706 or 185.711.

(53 Stat. 332, 373 as amended, 492; 26 U. S. C. 2875, 3170, 4017)

§ 185.401 *Numbering of packages.* All packages filled from warehouse storage or gauging tanks shall be serially numbered, separately from packages filled at the distillery, beginning with number 1, preceded by the letter "T", as T–1, T–2, etc.

(53 Stat. 316 as amended, 333, 335 as amended; 26 U. S. C. 2825, 2878, 2883)

§ 185.402 *Determining date of original entry.* Where distilled spirits are deposited in a warehouse storage tank on different dates, the date of entry for deposit of the spirits first deposited in such tank shall be considered the date of entry for the deposit of the entire contents of the tank, for the purpose of determining the period of storage in bond.

(53 Stat. 340; 26 U. S. C. 2900)

CHANGE OF PACKAGES

§ 185.403 *To prevent loss by leakage.* When it becomes necessary, in order to prevent loss by leakage or wastage, the contents of a package of spirits stored in a bonded warehouse may be transferred to another package, but such transfer must be made under the supervision of a storekeeper-gauger. The new package must be of the same kind of cooperage, unless the spirits are to be repackaged as provided in § 185.405, and must be given the same serial number, marks and brands (except the tare) as the original package. The storekeeper-gauger will take the tare of the new package and require it to be marked on the package before transfer of the spirits. When such change of package is made the storekeeper-gauger will note the change of package together with the tare of the new package on his copy of Form 1520 or Form 1619 covering deposit of the spirits in the warehouse.

§ 185.404 *For exportation.* For the purpose of exportation, the contents of an original package may be transferred to one or more new packages, or the contents of two or more original packages may be consolidated into one package, while stored in bond, but such changes of packages must be made under the immediate supervision of the storekeeper-gauger and within the limitations and in accordance with the procedure prescribed in Subpart HH of this part.

(53 Stat. 337; 26 U. S. C. 2886)

§ 185.405 *To change kind of cooperage.* Where it is desired to transfer the spirits from one kind of cooperage to another, as, for example, from a plain or reused package to a charred new package, request for such transfer must be made to the district supervisor by the proprietor of the warehouse in which the spirits are stored and if such request is approved the transfer must be made under the immediate supervision of the storekeeper-gauger and in accordance with the procedure prescribed in § 185.407.

§ 185.406 *Request to district supervisor.* The request to the district supervisor for permission to change the kind of cooperage must give the serial number of the package or packages, kind of original cooperage, kind of cooperage desired to be used, name of the distiller, registered number and location (city or town, and State) of the distillery at which the spirits were produced and the reason why the change is desired. If the district supervisor approves the request, he will so notify the proprietor and will direct the transfer to be made under the immediate supervision of the storekeeper-gauger.

§ 185.407 *Marking new packages.* Each new package will be given the same serial number, marks, and brands (except the tare and kind of cooperage) as the original package, and will contain only spirits from one package. The storekeeper-gauger will take the tare of the new package and require it to be marked on the new package before the transfer, and upon completion of the transfer will prepare and sign a label to be affixed by the proprietor to the head of each new package in the manner herein prescribed for the affixing of tax-

paid stamps. The label shall be in the following form:

The spirits contained in this package, serial No. ____, were transferred to new ____ barrel under date of ____ (Kind of cooperage) by authority of letter dated ____. The package from which the spirits herein were transferred was a ____ barrel. (Kind of cooperage)

____ (Storekeeper-gauger)

District No. ____

When such a change of package is made, the storekeeper-gauger will note the tare of the new package on Form 1520 or Form 1619 covering deposit of the spirits and advise the district supervisor that the change has been made. If the new package should be transferred in bond the storekeeper-gauger will make a notation on the transfer Form 1619 showing the date of the change of package and the tare of the new package.

TRADE MARKS AND CAUTION NOTICES

§ 185.408 *Must not resemble revenue stamp.* No person shall affix or cause to be affixed to or upon any cask or package containing or intended to contain distilled spirits any imitation stamp or other engraved, printed, stamped, or photographed label, device, or token, whether the same be designed as a trade mark, caution notice, caution, or otherwise, and which shall be in the similitude or likeness of or shall have the semblance or general appearance of any internal revenue stamp required by law to be affixed to or upon any cask or package containing distilled spirits.

(53 Stat. 330; 26 U. S. C. 2869)

§ 185.409 *Canceling of labels forbidden.* The storekeeper-gauger must not apply, or permit the application of, a canceling plate to any caution notice, trade mark, or similar device which may be attached to casks or packages of distilled spirits.

§ 185.410 *Placing on Government head forbidden.* No marks, brands, caution notices, or other devices whatsoever will be permitted on the Government head of any package, other than the stamps, labels, marks, or brands required or authorized to be affixed by Federal law or this part.

QUICK-AGING OF SPIRITS

§ 185.411 *Approval of apparatus and process required.* Distilled spirits may be quick-aged by heating during storage in an internal revenue bonded warehouse, provided the apparatus and process are approved by the Commissioner and suitable arrangements are made for operation of the process. The proprietor of a bonded warehouse desiring to quick-age spirits therein shall file application in duplicate with the district supervisor for approval of the process, and must set forth in such application a complete description of the apparatus and process and a brief description of the building, room, or space in which the quick-aging is to be conducted. The district supervisor will forward one copy of the application to the Commissioner with his recommendation. The applicant will be informed through the district supervisor of the Commissioner's action on the application.

(53 Stat. 333, 335 as amended; 26 U. S. C. 2878, 2883)

§ 185.412 *Introducing heating device into package.* Where the spirits are to be quick-aged by the introduction of a steam pipe or other heating device into the package, a separate room or building to be used exclusively for the purpose should be provided. If a separate room or building is not provided, the process must be conducted in a separate, designated space in the warehouse suitable for the purpose, and the facilities must be so arranged as to not endanger the safety of other spirits or to require undue supervision by the storekeeper-gauger.

(53 Stat. 333, 335 as amended; 26 U. S. C. 2878, 2883)

§ 185.413 *Heating warehouse.* Where spirits are to be quick-aged by the general application of heat within the warehouse the proprietor must provide a suitable, separate room, which shall not be exposed or subjected to excessive heat, for the convenience of Government officers in performing their duties in connection with the receipt and withdrawal of spirits.

(53 Stat. 333, 335 as amended; 26 U. S. C. 2878, 2883)

PERIOD OF STORAGE IN BOND

§ 185.414 *Eight years from date of original entry.* Distilled spirits may not remain in warehouse more than eight years from the date of original entry for deposit, except that distilled spirits which on July 26, 1936, were 8 years of age, or older, and which are in a bonded warehouse, may remain therein.

(53 Stat. 340, 340 as amended; 26 U. S. C. 2900, 2901)

§ 185.415 *Calculation of storage period.* The period of 1 month is held to run from the date of any month to the day before the same date of the next month, both days inclusive. The 8 years during which spirits may remain in warehouse are held to expire at the close of business on the eighth anniversary of the day next preceding that on which the original entry for deposit was made, or if such day falls on Sunday or a legal holiday, then on the next preceding business day.

(53 Stat. 333, 340; 26 U. S. C. 2879, 2900)

§ 185.416 *When tax is due and payable.* The tax on distilled spirits shall be due and payable before and at the time of withdrawal from the bonded warehouse and within 8 years from the date of original entry for deposit, except that such 8-year limitation shall not be applicable in the case of spirits which on July 26, 1936, were 8 years of age, or older, and which are in bonded warehouses.

(53 Stat. 298 as amended, 333, 340; 26 U. S. C. 2800, 2879, 2900)

§ 185.417 *Failure to give bond.* In case the proprietor of a bonded warehouse fails or refuses to give bond as required by law and provisions of this part or to renew the same, or neglects to withdraw the spirits or to transfer the same to another bonded warehouse immediately in accordance with law and this part, the spirits will be gauged and the tax thereon will be assessed and collected and the spirits removed from the warehouse in accordance with the procedure prescribed in §§ 185.420–185.422.

(53 Stat. 333; 26 U. S. C. 2879)

EXPIRATION OF 8-YEAR PERIOD

§ 185.418 *Examination of records.* During June and December of each year the storekeeper-gauger shall examine Forms 1621 to determine whether the 8-year period of storage in bond on any spirits still in the warehouse will expire during the ensuing 6-month period. Where the examination of Forms 1621 shows that there are such spirits still in the warehouse, the storekeeper-gauger will ascertain the date of the original entry for deposit thereof from Form 1520 or Form 1619 if the spirits are in packages or other bulk containers, or from Form 1620 if the spirits are in cases, and shall determine the date of the expiration of the 8-year bonded period of all such spirits. The storekeeper-gauger shall make a list of all such packages or cases, showing the date of the expiration of the bonded period of storage of each. Where spirits of different dates of production in the same distilling season are mingled at the time of bottling, or brandies of different dates of production are blended under the provisions of section 2801 (e) (5), I. R. C., the bonded period of storage for such spirits or brandies will begin to run from the date of the original entry for deposit of the oldest spirits or brandies so mingled.

§ 185.419 *Notice to proprietor.* Upon completion of his examination of the records, the storekeeper-gauger will furnish the proprietor of the warehouse with a copy of the list of containers of spirits on which the bonded period will expire during the 6 months then beginning, and will call his attention to the necessity of withdrawing the spirits before the expiration of the bonded period. The storekeeper-gauger will also submit a copy of the list to the district supervisor. This provision is intended only to protect the interest of the Government. It shall not in any way release the warehouseman of any obligation imposed upon him by law or this part, or assumed under his bond, to withdraw spirits from bond within the time required by law. Whenever the warehouseman fails to withdraw any spirits before the expiration of the 8-year bonded period of storage, the storekeeper-gauger will gauge such spirits and will make report thereof to the district supervisor, as provided in § 185.420.

FAILURE TO REMOVE SPIRITS WITHIN 8-YEAR PERIOD

§ 185.420 *Gauge.* Where the proprietor fails to file application for the tax-payment or other authorized withdrawal of distilled spirits in packages or tanks prior to expiration of the statutory 8-year period, the storekeeper-gauger will, at the expiration of such period, gauge the spirits, prepare Form 1520, in quintuplicate, and forward four copies

thereof to the district supervisor with a letter of transmittal giving the facts. Likewise, where the proprietor fails to file application on Form 1519 for the tax-payment and withdrawal of distilled spirits in cases prior to expiration of the statutory 8-year period, the storekeeper-gauger will, at the expiration of such period, prepare report on Form 1519, in quintuplicate, and forward four copies thereof to the district supervisor with a letter of transmittal giving the facts. The storekeeper-gauger will furnish the proprietor of the warehouse with one copy each of Form 1520 or 1519 and the letter of transmittal, and will retain one copy of the transmittal letter for his files.

(53 Stat. 333, 340 as amended; 26 U. S. C. 2879, 2901)

§ 185.421 *Assessment and collection of tax.* The district supervisor will forward all copies of Form 1520 or Form 1519 to the collector with a transmittal letter recommending that an assessment be made. The collector will enter the tax for assessment on his current distilled spirits assessment list. If the proprietor upon receipt of notice and demand fails to pay the tax within the time required by law, the collector shall proceed to collect the same by distraint. Upon collection of the tax on spirits in packages the collector will certify the taxpayment on the four copies of Form 1520, issue taxpaid stamps, enter the serial numbers thereof in the appropriate columns on the four copies of Form 1520, retain one copy of the form, forward three copies of the form to the proprietor with the stamps, and advise the district supervisor that the tax has been paid. The collector will then file an office claim on Form 843 for abatement of the assessment remaining outstanding as the result of the transaction. Upon collection of the tax on spirits in cases the collector will certify the taxpayment on the four copies of Form 1519, retain one copy of the form, forward three copies of the form to the proprietor, and advise the district supervisor that the tax has been paid.

(53 Stat. 333; 26 U. S. C. 2879)

§ 185.422 *Removal of spirits.* The proprietor shall deliver the three copies of Form 1520 and accompanying tax paid stamps, or the three copies of Form 1519, to the storekeeper-gauger, whereupon the packages will be duly stamped and marked, or the cases duly marked, as the case may be, and removed from the warehouse. The storekeeper-gauger will note the date of removal on the three copies of Form 1520 or Form 1519, retain one copy of the form, deliver one copy to the proprietor, and forward one copy to the district supervisor.

(53 Stat. 333; 26 U. S. C. 2879)

STAMPING UNDERPROOF SPIRITS SOLD ON DISTRAINT

§ 185.423 *Issuance of taxpaid stamps.* Where distilled spirits offered for sale on distraint for taxes, where the taxes on such spirits have not been paid, will not, by reason of being below proof, bring a price equal to the tax thereon, but will bring a price equal to or greater than the tax on such spirits if computed only upon the proof gallons contained in the packages, then, and in such case, upon sale being so made, taxpaid stamps to the amount required to stamp such spirits as if the tax thereon were only on the proof gallons may be used by the collector making such sale, without making payment for such stamps so used.

(53 Stat. 305; 26 U. S. C. 2805)

§ 185.424 *Affixing stamps.* The collector making sale of the spirits must write across the face of each stamp the true number of wine and proof gallons in the package, the amount of tax paid, and the words "Affixed under provisions of Internal Revenue Code, section 2805 (b)," and must affix, or cause to be affixed, the stamp securely to the package.

(53 Stat. 305; 26 U. S. C. 2805)

§ 185.425 *Voucher.* When underproof spirits are sold pursuant to § 185.423, the collector will prepare an affidavit in duplicate, setting forth fully the facts respecting the sale of the spirits and the issuance and affixation of the stamps, and will forward the original of such affidavit to the Commissioner as a voucher for the allowance of credit for the stamps in his account.

(53 Stat. 305; 26 U. S. C. 2805)

TRANSFER OF SPIRITS BETWEEN BUILDINGS CONSTITUTING SAME WAREHOUSE

§ 185.426 *Procedure.* Where spirits are to be transferred between buildings of the same warehouse, the warehouseman shall notify the storekeeper-gauger of such intention and the spirits shall be transferred under the supervision of the storekeeper-gauger. If it is ascertained that any container has been tampered with, a report will be made to the district supervisor in accordance with the applicable provisions of § 185.486.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

INSTRUMENTS

§ 185.427 *To be removed or locked up when not in use.* All instruments, such as bung starters, thiefs, hose, pails, etc., used in a bonded warehouse in gauging spirits or in effecting a change of package or in the taking of authorized samples, which are susceptible of use for removing bungs or otherwise gaining access to or removing the contents of packages, except instruments and vessels kept in the warehouse for fire prevention purposes, shall be removed from the warehouse when not in use or delivered to the storekeeper-gauger to be locked up by him in some secure place.

SUBPART U—BLENDING OF BRANDIES

§ 185.450 *Limitations.* Fruit brandies distilled from the same kind of fruit at not more than 170 degrees proof may, for the sole purpose of perfecting such brandies according to commercial standards, be mixed or blended with each other, or with any such mixture or blend, by the distiller thereof in any internal revenue bonded warehouse operated by him exclusively for the storage of brandy or wine spirits. The blending must improve (perfect) the brandy according to the approved commercial standard of the blended product. Any blending of brandy of standard quality with brandy of inferior quality for the purpose of stretching or increasing the volume of the standard quality brandy and which results in the manufacture of a product inferior to the standard quality brandy before blending, constitutes rectification and may not be done on internal revenue bonded warehouse premises.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.451 *Distiller.* As used in this subpart, the term "distiller" includes any one or more distillers associated as members of any farm cooperative, or any one or more distillers affiliated within the meaning of section 17 (a) (5) of the Federal Alcohol Administration Act, or any fruit distiller for whose account, recorded with the district supervisor at the time of production, the brandy to be blended was produced.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.452 *Eligibility for blending.* For the purpose of determining eligibility for blending, brandy distilled from the same kind of fruit at not more than 170 degrees proof shall be considered distilled by the distiller operating the internal revenue bonded warehouse (a) where it was actually distilled by him, (b) where it was produced by a distiller associated with him as a member of a farm cooperative, (c) where it was produced by a distiller affiliated with him, that is, one of such distillers has control of the other or the distillers are subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise, or (d) where it was produced for his account, provided such production was recorded with the district supervisor at the time of production as required in § 185.453.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.453 *Copy of agreement to be filed with district supervisor.* When brandy to be blended is produced for the account of the distiller, the distiller at whose warehouse brandies are to be blended shall file with the district supervisor a certified copy of the agreement under which the brandy is to be produced for his account. The agreement shall set forth the name and registry number of the producing distiller, kind, the approximate amount of brandy to be produced, and the approximate time of production, and should clearly show that the producing distiller was engaged to produce brandy for the account of the blending distiller.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.454 *Action by district supervisor.* Upon receipt of the agreement the district supervisor shall examine it closely. To conform to the law brandy to be blended must actually be produced for the account of the blending distiller. If it appears that the agreement is a contract to produce brandy for the account of the blending distiller and is not merely a contract to sell production, the district supervisor shall notify the storekeeper-gauger assigned to the premises of the producing distiller of the names of the distillers involved and the kind and quantity of brandy to be produced for blending. The storekeeper-gauger will

then take action in accordance with the procedure outlined in §§ 185.455 and 185.456.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.455 *Action by storekeeper-gauger.* Upon completion of the entry gauge and execution of the Distiller's Entry for Deposit, the storekeeper-gauger shall examine the packages involved and, where the distiller has affixed to a package a tag stating "Produced for the Account of (name of distiller for whom produced)" and the district supervisor has advised the storekeeper-gauger of the agreement to produce for the account of that blending distiller, he shall make a notation on the reverse side of all copies of the Form 1520 stating in effect "Produced for the Account of (name of distiller for whom produced)." If only a portion of the brandy covered by the Form 1520 was produced for the account of the fruit distiller who intends to blend brandy, the storekeeper-gauger shall show the serial numbers of the packages and aggregate proof gallons of brandy so produced. The statement shall be signed by the storekeeper-gauger. In the absence of tags on the containers denoting for whom the brandy was produced, or in the absence of a statement by the district supervisor relative to the agreement under which the brandy was produced, the storekeeper-gauger shall not assume that the brandies were produced for the account of another and shall make no statement relative thereto.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.456 *Transfers in bond.* Where brandy produced for the account of a fruit distiller is transferred in bond, a transcript of the storekeeper-gauger's statement as required by § 185.455 shall be made on each copy of Form 1619. The transcript shall be shown on the face of the Form 1619 or on the reverse. If shown on the reverse, proper reference thereto should be made in the space to the left of "Date Received in Warehouse."

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.457 *Record to be made by district supervisor.* Upon receipt of a copy of Form 1520 showing brandy produced for the account of a blending distiller, the district supervisor shall note on the agreement, or on a suitable index card, the date of production, the serial numbers of the packages, and the aggregate proof gallons covered by the Form 1520.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.458 *Notice of commencement.* After the brandy-blending department has been duly approved by the district supervisor, the proprietor of the warehouse shall, before beginning blending operations, give notice, in triplicate, to the district supervisor through the storekeeper-gauger in charge of the warehouse, of his intention to blend brandies. Upon approval of the notice by the district supervisor, two copies shall be forwarded to the storekeeper-gauger in charge and the original copy shall be retained in his office. The storekeeper-gauger shall deliver one copy to the proprietor, and retain the other copy in the Government office.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.459 *Notice of discontinuance.* In the event the proprietor desires to discontinue blending operations, either temporarily or permanently, and to use the space and facilities of the blending department for other duly authorized warehouse purposes, he shall give notice, in triplicate, of discontinuance to the district supervisor through the storekeeper-gauger in charge of the warehouse that all brandies have been removed from the brandy-blending department and shall state the purpose or purposes for which he proposes to use the department. The storekeeper-gauger shall inspect the brandy-blending department and if all brandies have been removed therefrom, he shall certify to such fact on each copy of the notice of discontinuance and forward the three copies to the district supervisor. The district supervisor shall examine the notice and if the proposed use stated by the warehouseman is in accordance with law and the provisions of this part he shall endorse his approval on each copy of the notice. Upon approval by the district supervisor, two copies of the notice shall be forwarded to the storekeeper-gauger in charge and the original copy shall be retained in his office. The storekeeper-gauger shall deliver one copy to the proprietor, and the other copy shall be retained by him in the Government office. The storekeeper-gauger shall then remove the locks from the doors to the brandy-blending department. Where brandy-blending tanks are to be used for other purposes, such as the storage of fortifying brandy, the tanks must be temporarily marked to show such use, but the permanent marks on the tanks should not be disturbed. After notice of discontinuance has been approved, and before resuming blending operations, a new notice of commencement must be filed and approved.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

APPLICATION TO BLEND

§ 185.460 *Brandies not previously blended.* When a distiller desires to blend brandies at his warehouse he shall file application on Form 1685, in triplicate, fully describing the brandies to be blended and giving all the information called for by the form. Each form shall be given a serial number beginning with "1" for the 1st day of January of each year and running consecutively thereafter to December 31st, inclusive. The application shall show, as to each kind of brandy not previously blended, the following:

(a) The number of packages;

(b) The serial numbers of the packages;

(c) The kind of brandy as marked on the packages;

(d) The date of original entry for deposit;

(e) Original tax gallons;

(f) Proof of distillation;

(g) The name of the producing distiller, registry number of the distillery and State in which the distillery is located.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.461 *Brandies previously blended.* When previously blended brandies are to be dumped for blending with other brandies, the distiller shall file application on Form 1685, in triplicate, showing (in respect to such previously blended brandies) the following:

(a) The number of packages;

(b) The serial numbers of the packages;

(c) The kind of brandy as marked on the packages;

(d) Date of original entry of oldest brandy in blend;

(e) Date of original entry of youngest brandy in blend;

(f) Proof gallons marked on the packages;

(g) The name of the blending distiller and registry number of the warehouse in which the blending was done and State in which the warehouse is located;

(h) Date and serial number of the Form 1685 covering each prior blend and the name of the blending distiller, registry number of the warehouse in which the blending was done and State in which the warehouse is located, as shown on each such Form 1685. Where a prior blending was effected in a warehouse in another district, a copy of the Form 1685 covering such blending shall be submitted with the application.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.462 *Blending of different types or productions.* Where two or more types of brandy produced from the same kind of fruit (such as grape lees brandy, grape pomace brandy, grape brandy) are to be blended together, the applicant shall state the percentage of each type of brandy to be contained in the resultant blend. Where any brandy to be blended was produced at a distillery operated under a name other than the name of the blending distiller, the application shall show whether such distillery was operated by an associate or by an affiliate, or whether the brandy was produced for the account of the blending distiller. The application shall show the proposed designation of kind for the brandy after blending.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.463 *Evidence of affiliation or association.* Where brandy produced by an associate or an affiliate of the blending distiller is to be blended, the blending distiller must file with the district supervisor documentary evidence establishing such association or affiliation.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.464 *Bond coverage.* The blending distiller must state, as to the brandy produced by each distiller, whether the producer thereof has filed consent of surety on Form 1533 stipulating that his distiller's bond shall continue to be liable for the tax imposed by section 2800 (a) (1), I. R. C., on such brandy after it has been blended with other brandy. The consent of surety may be prepared to cover a specific lot or lots of brandy, or to cover all brandy produced by the distiller which is blended with other brandy.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.465 *Action by district supervisor.* All copies of Form 1685 shall be submitted to the district supervisor for his approval. Upon receipt of the application the district supervisor shall determine whether the proposed designation of kind for the blended brandy conforms to the provisions of section 21, class 4 of Regulations 5, relating to the labeling and advertising of distilled spirits under the provisions of the Federal Alcohol Administration Act and shall otherwise determine that the brandies described on the form are eligible for blending pursuant to the provisions of section 2801 (e) (5), I. R. C. The district supervisor shall determine whether, for each distiller of brandy to be blended, there is on file a consent of surety stipulating that the distiller's bond shall continue to be liable for the tax imposed by section 2800 (a) (1), I. R. C., after brandy produced by such distiller has been blended. The district supervisor shall also determine whether documentary evidence has been submitted to establish (a) that the brandy was produced by a distiller associated with the blending distiller as a member of a bona fide farm cooperative or (b) that the brandy was produced by a distiller affiliated (as defined in § 185.451) with the blending distiller or (c) that the brandy was produced by a distiller for the account of the blending distiller and such production was recorded (as required by § 185.453). Where the applicant has not established that the proposed blending will be in accordance with the provisions of this subpart, the district supervisor shall not approve the application and shall return it with a statement showing the reason therefor. If the district supervisor is doubtful whether the proposed designation of kind is correct, or if he is doubtful for other reasons that the application should be approved, the matter should be submitted to the Commissioner for advice. If the application is approved all copies of the Form 1685 should be forwarded by the district supervisor to the storekeeper-gauger in charge of the internal revenue bonded warehouse.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.466 *Action by the storekeeper-gauger.* Upon receipt of the approved application, Form 1685, the storekeeper-gauger shall inspect and gauge the packages and make detailed report of such gauge on Form 1520, in triplicate. Where brandies covered by the application, Form 1685, were produced by different distillers or at different distilleries, separate report of gauge, Form 1520, shall be prepared for the product of each distiller or distillery. The storekeeper-gauger shall, in every instance, note on Forms 1520 the serial number and date of the application, Form 1685. The provisions of §§ 185.480 to 185.496 will be followed as to any packages bearing evidence of tampering or unaccountable loss of contents.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.467 *Verification of Forms 1520.* Where the quantity of a type or lot of brandy to be blended with another type or lot of brandy is limited to a maximum percentage, the storekeeper-gauger and the distiller should examine the Forms 1520 covering the regauge of the brandy which is limited to a maximum percentage to determine (before the report of the storekeeper-gauger on Form 1685 is executed) that the quantity of such brandy (calculated on a proof gallon basis) is not in excess of the maximum percentage authorized by the approved application. Where the quantity of a type or lot of brandy regauged exceeds the maximum percentage authorized for blending, the storekeeper-gauger may, at the distiller's request, delete the packages containing such quantities (in no case less than a whole package) from the application and line out the entries on the regauge report and permit the return of the packages to the storage portion of the warehouse. The deletion in the application must be verified by the distiller and initialed by him. Where compliance with the statement of maximum percentage cannot be obtained in this manner, the blending operation should be suspended and the matter submitted to the district supervisor for advice.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.468 *Disposition of Forms 1685.* Upon completion of the report as to brandy dumped, blended, and returned to the storage portion of the warehouse, the storekeeper-gauger shall forward one copy of the form and one copy of Form 1520 to the district supervisor, deliver one copy of each form to the proprietor of the warehouse, and file one copy of each form in his office.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.469 *Audit by district supervisor.* At the time of auditing Forms 1520 and 1685 covering the blending of brandies, the district supervisor shall determine whether the quantities blended were in a proportion which would permit the designation of kind given to the resultant blend.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

BLENDING, GAUGING AND MARKING

§ 185.470 *Transfer of brandies to blending tank.* Before brandies are transferred to the brandy-blending tank, the storekeeper-gauger shall lock the outlet to the tank, and after all brandies have been transferred to the brandy-blending tank the storekeeper-gauger shall lock the inlet to the tank. The contents of the tank must be thoroughly agitated, the proof determined, and the contents of the tank gauged. The proof so determined shall be considered the proof of the brandy drawn into packages from the tank.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.471 *Disposition of empty packages.* Immediately upon being emptied, the packages from which brandies were dumped for blending shall be examined by the storekeeper-gauger for the purpose of determining that all brandies were removed therefrom; that all the marks and brands have been obliterated; and that such packages are removed from the warehouse: *Provided*, That in the event such packages are to be used as containers for the blended brandies, so many as are required to contain the blended brandies may be retained in the brandy-blending department for that purpose. Such empty packages shall be segregated from any filled packages in the brandy-blending department.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.472 *Drawing off brandies.* Brandies must be drawn from the brandy-blending tank into packages on or before the third day following the deposit of the same therein. When brandies are to be drawn from the tank the storekeeper-gauger shall see that all valves and openings other than the necessary outlet valve are closed and locked before the brandies are drawn from the tank. The storekeeper-gauger shall open and close the locks, but it shall be the duty of the warehouseman to manipulate the stop-cocks or valves controlling the flow of the spirits. The storekeeper-gauger assigned to the brandy-blending department is required to be present and personally supervise the drawing off of all brandy in the tank, the marking and branding of all packages filled therefrom. He shall also see that all mechanical duties connected with such operations are properly performed as provided in this part.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.473 *Gauging of blended brandy.* All brandies drawn from brandy-blending tanks shall be gauged by the storekeeper-gauger and reported on Form 1520. All information indicated by the headings of the various columns and lines and instructions printed on the form shall be furnished. The storekeeper-gauger shall, in every instance, note on Form 1520 the serial number of the application, Form 1685, under which the brandies were blended and the dates of original entry of (a) the oldest brandy and (b) the youngest brandy contained in the blend.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.474 *Numbering of packages.* All packages filled from brandy-blending tanks shall be serially numbered, separately from packages filled at the distillery or from storage tanks in the bonded warehouse, beginning with number "1," preceded by the letters "BL," as "BL-1, BL-2," etc. The symbol "BL" shall be considered a part of the serial number and must be shown as part of the serial number on all official forms or records.

(53 Stat. 300 as amended, 316 as amended, 333, 335 as amended; 26 U. S. C. 2801, 2825, 2878, 2883)

§ 185.475 *Marking of packages.* Immediately upon filling of the packages, or prior to filling, the blending distiller shall mark upon the head of the package by branding or stenciling the following information:

(a) The kind of brandy as shown on the Form 1685.

(b) The words "Blended By."

(c) The name of the blending distiller.

(d) The registered number of the warehouse, and the State in which the warehouse is located.

(e) The serial number of the package.
(f) The date of filling of the package.
(g) The date of original entry of the oldest brandy in the mixture.
(h) The date of original entry of the youngest brandy in the mixture.
(i) Proof of blended brandy.
(j) Tare of container.
(k) Proof gallon content.

The following is an illustration of the marking of packages:

GRAPE BRANDY
Blended by
JOHN DOE DISTILLING CO.
I. R. B. W. No. 217, Calif.

P. 127	S. N.—BL 10907
T. 101	Filled 7-29-47
P. G. 61.30	Orig. Ent. O. B. 6-19-45
	Orig. Ent. W. B. 6-19-46

[Space reserved for withdrawal marks and stamps]

Such marks and brands shall be placed upon the packages in letters and figures not less than three-fourths inch in height or one-half inch in the case of half-barrels. The head of the package bearing these marks shall be known as the "Government head." No marks other than those required by this part shall be placed upon the Government head of such package.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.476 *Losses of blended brandy.* Where a loss of blended brandy in bond is found, under the provisions of §§ 185.480 to 185.496, to be subject to the tax imposed on distilled spirits by section 2800 (a) (1), I. R. C., the blended brandy is also subject to the rectification tax of 30 cents a proof gallon under the provisions of section 2801 (e) (5), I. R. C.

(53 Stat. 300 as amended, 340 as amended; 26 U. S. C. 2801, 2901)

§ 185.477 *Withdrawal of blended brandies.* Brandies mixed or blended in accordance with the provisions of this Subpart may be stored, transported, transferred in bond, withdrawn from bond taxpaid or tax-free, or be otherwise disposed of, in the same manner as such brandies not so mixed or blended. The foregoing should not be construed as meaning that such blended brandies are eligible for bottling in bond.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

SUBPART V—LOSSES OF DISTILLED SPIRITS WHILE IN BOND

§ 185.480 *Taxable losses.* The law provides that no tax shall be collected in respect of distilled spirits lost or destroyed while in bond, except that such tax shall be collected:

(a) *Theft.* In the case of loss by theft unless the Commissioner shall find that the theft occurred without connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them; and

(b) *Voluntary destruction.* In the case of voluntary destruction unless the distilled spirits were unfit for use for beverage purposes and the warehouseman, or other person responsible for the tax, obtained the written permission of the district supervisor for such destruction in each case.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.481 *Insurance coverage.* The remission, abatement or refund of the tax on distilled spirits lost by theft while in bond may be allowed only to the extent that the claimant is not indemnified against or recompensed for such tax.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.482 *Proof of loss.* In the case of loss by theft a warehouseman or other person responsible for the tax desiring to be relieved of the tax liability must file a claim and establish to the satisfaction of the Commissioner that the theft occurred without connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them. In any case in which spirits are lost or destroyed, the warehouseman or other person responsible for the tax shall, upon receipt of a request from the district supervisor, file a claim for relief from the tax and submit proof as to the cause of loss. In any instance where a claim is required, allowance for tax on the loss may only be made pursuant to such claim.

(53 Stat. 334, 340 as amended, 343 as amended, 373 as amended; 26 U. S. C. 2880, 2901, 3031, 3170)

§ 185.483 *Losses by theft.* Where inspection of any package or container indicates that there may have been theft of distilled spirits therefrom, the storekeeper-gauger or other officer will follow the procedure outlined in § 185.486.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.484 *Unauthorized voluntary destruction.* The tax on distilled spirits voluntarily destroyed without authority may not be remitted or refunded. Where distilled spirits stored in bond are unfit for beverage purposes and the warehouseman desires to be relieved of the tax liability thereon, he should make application for authority to destroy the spirits as provided in § 185.511. Where spirits are lost as a result of negligence or failure to exercise due care and diligence on the part of persons having custody of the spirits, as provided in § 185.393, and it appears that the spirits may be subject to additional unnecessary loss, the district supervisor will forward a copy of the inspection gauge and copies of all reports and correspondence with his recommendation to the Commissioner. The Commissioner may require tax payment and removal of such spirits from the warehouse if there is evidence of such willful negligence on the part of the warehouseman to exercise due care and diligence as will constitute unauthorized voluntary destruction.

(53 Stat. 334, 340 as amended; 26 U. S. C. 2880, 2901)

§ 185.485 *Other losses.* If, upon gauge for removal, the loss of distilled spirits from any package or container is found to be in excess of what in the storekeeper-gauger's opinion is normal storage or transit loss, and there is evidence that such loss resulted from a cause or causes other than theft or unauthorized voluntary destruction, the condition of the container and the apparent cause of the loss shall be noted by the storekeeper-gauger on the gauge report. However, the container need not be detained. Where a damaged package which has sustained an unusual loss from obvious cause other than theft or unauthorized voluntary destruction is found either upon preparation for, or receipt after, transfer in bond the package will be weighed and proofed and the weight, proof, amount of loss, apparent cause and date will be noted on the Form 1619. Where a damaged package or other container which has sustained an unusual loss from obvious cause other than theft or unauthorized voluntary destruction is found upon warehouse inspection, the proprietor will prepare on Form 1698 an application for the examination and gauge of the package. A similar application will be prepared for any package which is to be recoopered. The details of the gauge, the date, and the apparent cause of the loss will be entered on the form by the storekeeper-gauger and a copy of the form will be securely attached to the container. The new gross weight, date, and the serial number of the Form 1698 will be noted by the storekeeper-gauger on the deposit form. Losses from containers such as tank cars, steel drums or warehouse storage tanks may be considered to be normal when such deficiency does not exceed 1 percent of the quantity entered therein and there are no circumstances indicating tampering or abstraction. A determination regarding the nature and extent of losses from storage tanks will be made each time such tanks are emptied. A separate determination regarding losses from storage tanks will be made on the basis of a physical inventory at the close of each month and losses, if any, noted on Form 1621 in accordance with § 185.1021. Normal losses from wood containers will vary depending upon the type and condition of the cooperage and method and period of storage in each particular case.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.486 *Report of losses.* Losses of distilled spirits in bond, other than those which may be attributed to normal storage or transit losses or to obvious defects in the cooperage must be reported to the district supervisor by the warehouseman immediately after the losses are discovered. Where such loss occurs or is ascertained while the storekeeper-gauger is on duty, the warehouseman will report the loss by making an application on Form 1698 for the examination and gauge of the package, and if in the storekeeper-gauger's opinion the loss resulted from theft or unauthorized voluntary destruction, the storekeeper-gauger will immediately make a full report of the loss to the district supervisor in sufficient detail to bring out all known facts and circumstances relating to such loss. The details of the gauge, the date, and the apparent cause of the loss will be entered on the form by the storekeeper-gauger and a copy of the form will be securely attached

to the container. The new gross weight, date, and the serial number of the Form 1698 will be noted by the storekeeper-gauger on the deposit form. The storekeeper-gauger will also place a detainer on the package or container: *Provided*, That where the loss is discovered at the time of a gauge for removal, the warehouseman may elect to admit, on Form 1698, the taxable status of the loss, in which event it is not necessary to file a claim or withhold release of the package if the loss is taxpaid before removal.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.487 *Investigation by district supervisor.* The district supervisor will consider the nature and extent of any loss reported by the warehouseman or Government officer and will immediately make such investigation and require such evidence to be submitted as he may deem necessary. If, in the opinion of the district supervisor, the loss resulted from theft or unauthorized voluntary destruction, he will advise the warehouseman by letter (a) the identity of the container; (b) the amount of the loss; (c) the circumstances indicating loss by theft or unauthorized voluntary destruction; (d) that filing of proof of loss and claim for remission of the tax is required; and (e) that notification to the Commissioner of the facts in the case will be withheld for a period not exceeding 15 days to afford the warehouseman opportunity for examination of the container and to submit such statements as may be deemed necessary.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.488 *Filing of claims.* Claims for the remission of tax on spirits will be filed promptly with the supervisor of the district in which is located the bonded warehouse at which the loss occurred, or in case of loss in transit, the bonded warehouse to which the spirits were transferred. When loss of spirits in bond under other circumstances occurs, claim should be filed with the supervisor of the district where the bond covering exportation or removal for other purpose is filed.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.489 *Form of claims.* Claims for remission of tax on losses of distilled spirits in bond shall be made on letter-size paper, in duplicate, showing the name, address, and capacity of the claimant and setting forth, under oath, the following information:

(a) The name of the distiller who produced the spirits, and the registered number and location of the distillery;

(b) The serial numbers of the packages, cases, or tanks from which the spirits were lost. In the case of tank cars, the car numbers will be stated;

(c) The quantity of spirits lost from each package or other container, and the total quantity of spirits covered by the claim;

(d) The total amount of tax for which the claim is filed;

(e) The date of the loss, or, if such date is not known, the date on which the loss was discovered and the cause and nature thereof, together with all the facts surrounding the loss;

(f) The name of the carrier, if any;

(g) If lost by theft, the facts establishing whether the loss occurred as the result of any negligence, connivance, collusion, or fraud on the part of the distiller, owner, warehouseman, consignor, consignee, bailee, or carrier, or the employees of any of them;

(h) If lost by theft, whether the claimant is indemnified or recompensed for the loss, and, if so, the amount and nature of such indemnity or recompense. The actual value of the spirits, less the tax, must be stated explicitly and, where required, certified copies of all policies of insurance or other documents of indemnity covering the spirits must be furnished.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.490 *Supporting documents.* Claims for remission of tax on spirits lost while being transferred by carrier shall be supported whenever possible, by a copy of the bill of lading and statements of the agents of the carrier having personal knowledge of the loss. Claims covering losses in the bonded warehouse, or while in bond under other circumstances must be supported by affidavits of persons having personal knowledge of the loss.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.491 *Examination of claim.* When a claim for remission of tax is received by the district supervisor he will carefully examine the same to see that all the required information has been furnished and will cause such investigation to be made or require such additional evidence to be submitted as he may deem necessary. Upon completion of his investigation, if any, the district supervisor will forward one copy of the claim and accompanying papers, together with any pertinent reports and documentary evidence to the Commissioner with his recommendation in respect to the allowance or disallowance of the claim.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.492 *Action on claim.* If the Commissioner finds that a loss of distilled spirits from a container resulted from unauthorized voluntary destruction, or from theft and the warehouseman or other person responsible for the tax fails to establish that the loss did not occur as a result of connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them, he may instruct the district supervisor to require the taxpayment and withdrawal of the distilled spirits upon the original quantity entered into the warehouse in such container, notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered into the warehouse in such container has not expired. Upon receipt of notification that a claim has been rejected, and that the distilled spirits must be taxpaid, the warehouseman should file an application on Form 179, or Form 1519 if the distilled spirits are in cases, for the withdrawal of the distilled spirits upon payment of tax. If an application for the taxpayment and withdrawal of the distilled spirits is not made by the warehouseman, the district supervisor will furnish the collector of internal revenue with four copies of Form 1520 covering gauge of the distilled spirits, or Form 1519 if distilled spirits in cases are involved, showing the tax due, with a letter of transmittal requesting that the tax be assessed against the warehouseman. Upon payment of the tax, the procedure prescribed in §§ 185.421 and 185.422 will be followed in respect to the issuance of taxpaid stamps and removal of the spirits from the warehouse.

(53 Stat. 334, 340 as amended; 26 U. S. C. 2380, 2901)

§ 185.493 *Failure to file claim.* Where distilled spirits in bond are reported to have been lost and claim for remission of tax is required in accordance with § 185.487 and the required claim is not filed, the district supervisor will report the matter to the Commissioner.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.494 *Remission of tax.* If the entire contents of a container are lost and a claim for remission of the tax is allowed, the district supervisor will take credit therefor upon receipt of notice from the Commissioner of the allowance. If the tax is remitted on a portion of the contents of a container still in bond, or if the district supervisor determines that no claim is required, he will so advise the storekeeper-gauger who will remove the detainer from the package and note on the deposit records the date of letter of advice from the district supervisor.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.495 *Records.* The proprietor shall furnish the storekeeper-gauger with sufficient file cases for the filing and retention of Forms 1698. The storekeeper-gauger will file all such reports by serial number. The district supervisor will maintain a control account for losses in warehouses and in transit thereto on Form 1691.

(53 Stat. 340 as amended, 346, 373 as amended, 483; 26 U. S. C. 2901, 2915, 3170, 3953)

§ 185.496 *Credit upon withdrawal.* At the time of withdrawal of packages and tank cars upon which a claim for remission of tax on losses ascertained prior to September 1, 1950 has been allowed, the proprietor will note in an unused space on Form 1520 the amount of the loss and the date and symbols appearing on the letter in which the loss was allowed. Where cases of distilled spirits are withdrawn this information will be noted on the Form 1519 covering the withdrawal.

(53 Stat. 340 as amended, 373 as amended; 26 U. S. C. 2901, 3170)

§ 185.497 *Prior losses.* Any claims for remission or refund of the tax on any loss of spirits established prior to September 1, 1950, shall be subject to the provisions of section 2901 of the Internal Revenue Code and this part as they existed prior to that date.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.498 *Losses after taxpayment.* Nothing in section 2901 of the Internal Revenue Code, as amended by section

3 of the act of February 21, 1950, or as theretofore amended, or in this part, shall be construed to authorize refund of the tax where the loss occurred after the tax was paid.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

SUBPART W—VOLUNTARY DESTRUCTION OF SPIRITS

§ 185.510 *General.* Distilled spirits stored in an internal revenue bonded warehouse, which are found to be unfit for use for beverage purposes, may be voluntarily destroyed without payment of tax by the warehouseman in accordance with this subpart.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.511 *Application.* The warehouseman will make written application to the supervisor of the district in which the warehouse is located for permission to destroy such spirits. The application shall specify the kind and approximate quantity, proof, and proof gallons of such distilled spirits; the name, address, and registered distillery number of the distiller who produced the spirits; the date of production; the serial numbers of the barrels, tanks, or cases in which the spirits are stored, and a statement showing the condition of the spirits which renders them unfit for beverage purposes.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.512 *Inspection and analysis.* Upon receipt of such application, the district supervisor will require an inspection to be made of the spirits by the storekeeper-gauger to determine the correctness of the application and to procure a sample for submission to the district chemist for analysis to determine whether the spirits are unfit for beverage purposes. Each sample will consist of one pint, or if deemed advisable, one quart, in the case of barrels and tanks, and one or more bottles representative of each bottling lot. The bottle containing the sample will be labeled in such manner as will readily identify the spirits. The samples will be forwarded to the district chemist at the expense of the warehouseman. The district chemist will analyze the samples and furnish a report of such analysis to the district supervisor. The unused portion of the samples will be retained by the district chemist for further examination, if necessary.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

§ 185.513 *Action by district supervisor*—(a) *Unfit for beverage purposes.* If the district supervisor finds that the spirits are unfit for beverage purposes, he will authorize such spirits to be destroyed by the warehouseman under the supervision of a storekeeper-gauger.

(b) *Fit for beverage purposes.* If the district supervisor finds that the spirits are fit for beverage purposes, he will disapprove the application and notify the warehouseman that the spirits have been determined to be fit for beverage purposes and that they may not be destroyed without payment of tax.

(53 Stat. 340 as amended, 373 as amended; 26 U. S. C. 2901, 3170)

§ 185.514 *Gauge and destruction.* Spirits authorized to be destroyed will be gauged by the storekeeper-gauger and reported for that purpose on Form 1520, in triplicate. Following such gauge the spirits may be destroyed under the immediate supervision of the storekeeper-gauger by running the same into a sewer or by other suitable means to preclude their recovery. The storekeeper-gauger will then certify to such destruction and the manner thereof on the Form 1520, return one copy of the form to the warehouseman, retain one copy for his file, and forward one copy to the district supervisor. The applicable provisions of §§ 185.480 to 185.496 will be followed in connection with any package bearing evidence of loss by theft or otherwise.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

SUBPART X—TRANSFER OF SPIRITS TO BOTTLING-IN-BOND DEPARTMENT

§ 185.520 *Notice of commencement, Form 404.* Where a bottling-in-bond department has been approved, the proprietor of the warehouse will, before engaging in the business of bottling spirits, give notice to the district supervisor through the storekeeper-gauger in charge of the warehouse on Form 404, in triplicate, of his intention to bottle distilled spirits in bond. All information indicated by the lines on the form and the instructions printed thereon or issued in respect thereto, and as required by this part, shall be furnished. Notices on Form 404 must be signed in accordance with the instructions printed on the form and sworn to before an officer authorized to administer oaths: *Provided*, That if the form officially prescribed for such notice contains therein a provision for verification by a written declaration that the notice is made under the penalties of perjury, the notice shall be verified by the execution of such declaration, and the declaration so executed shall be in lieu of the oath required herein for verification. Upon approval of Form 404 by the district supervisor, two copies will be forwarded to the storekeeper-gauger in charge, and the original copy will be retained in his office. The storekeeper-gauger will deliver one copy to the proprietor, and the other copy will be retained by him in the Government office.

§ 185.521 *Restrictions.* No operations pertaining to (a) transferring of spirits from the storage portion of the warehouse to the bottling-in-bond department, (b) gauging and dumping of spirits for bottling, (c) bottling, or (d) removal or shipping from the bottling-in-bond department shall be carried on during other than regular business hours in which the internal revenue bonded warehouse is operated.

§ 185.522 *Procedure.* The transfer of distilled spirits to the bottling-in-bond department and the bottling thereof shall be pursuant to application made to the storekeeper-gauger in charge of the warehouse on Form 1515, in quadruplicate, and in accordance with the procedure prescribed in Subparts NN and RR of this part.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.523 *Mingling in gauging tank of spirits intended for bottling in bond.* Only spirits which are eligible for mingling for bottling in bond under the provisions of § 185.901 may be mingled in a warehouse gauging tank for convenience in transfer to the bottling-in-bond department.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

SUBPART Y—WITHDRAWALS OF SAMPLES OF DISTILLED SPIRITS

SAMPLES OF BRANDY OR FRUIT SPIRITS

§ 185.530 *General.* The proprietor of an internal revenue bonded warehouse may withdraw from containers in the warehouse suitable samples of brandy or fruit spirits, which samples shall be tax-free if for laboratory analysis and taxpaid if for any other use.

(53 Stat. 353; 26 U. S. C. 3037)

TAX-FREE SAMPLES OF BRANDY OR FRUIT SPIRITS FOR LABORATORY ANALYSIS

§ 185.531 *Number and size.* Samples of brandy or fruit spirits for laboratory analysis (including organoleptic examination) must be taken from packages designated as sample packages or from storage tanks. Except upon authority of the district supervisor or the Commissioner, not more than one sample may be removed from any sample package or from the same lot of brandy or fruit spirits in a storage tank in a period of six months. The number of packages that may be designated as sample packages shall be limited, as to each kind of brandy or fruit spirits and each type of cooperage (as designated by the mandatory marks and brands on the packages), to not more than one in each twenty-five packages of any such lot of brandy or fruit spirits of the same entry gauge on storage in the warehouse: *Provided*, That where less than 25 packages of any such lot of brandy or fruit spirits are on storage, one package in the lot may be designated as a sample package. Samples for organoleptic examination only may not exceed one-half pint. Samples for laboratory analysis may not exceed one pint. Such samples may be withdrawn upon approval by the storekeeper-gauger in charge at the warehouse of a written application filed in accordance with the provisions of §§ 185.536 to 185.538. In any instance where a one-pint sample is found to be an insufficient quantity for laboratory analysis, the district supervisor, upon receipt of a statement showing the necessity for an additional quantity, may authorize the withdrawal of an additional sample, not to exceed one pint, from any designated sample package or storage tank. The withdrawal in excess of these limitations of tax-free samples of brandy or fruit spirits shall not be permitted, unless it is shown that such samples are insufficient for the purpose intended, and the Commissioner authorizes the withdrawal of additional samples.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.532 *Disposition of samples.* Tax-free samples must be used solely for laboratory analysis. Such samples may not be furnished to salesmen and dealers for advertising or soliciting purposes. Remnants or residues of tax-free sam-

ples taken from the warehouse, remaining after analysis and which are not desired to be retained as laboratory specimens or for further analysis, should be returned to vessels in the distilling system containing similar spirits where the warehouse is on or contiguous to the distillery premises, unless the condition of the remnants or residues is such as to render them unsuitable for such disposition. If such remnants or residues of samples are not returned to the distilling system, they should be destroyed.

(53 Stat. 353; 26 U. S. C. 3037)

TAXPAID SAMPLES OF BRANDY OR FRUIT SPIRITS FOR OTHER THAN LABORATORY ANALYSIS

§ 185.533 *Number, size, and use.* Samples of brandy or fruit spirits for other than laboratory analysis, subject to payment of tax thereon, must be taken from packages designated as sample packages. Such samples must be used strictly for sample purposes, and the number and size of the samples must be restricted to that necessary for bona fide sample purposes. The number of packages from which such samples are taken must be restricted to the minimum necessary to accomplish the desired purpose. As a rule, it should not be necessary to take samples from more than one or two packages of a given lot of brandy or fruit spirits of the same distillation, kind of cooperage, etc. When the warehouseman desires to procure samples from a given lot of brandy or fruit spirits in warehouse, he will limit the number of packages from which it is desired to take samples to the minimum necessary to procure representative samples of such spirits. Thereafter, if it is desired to procure additional samples from the same lot of spirits, the samples should be taken from the same packages.

(53 Stat. 353; 26 U. S. C. 3037)

SAMPLES OF DISTILLED SPIRITS OTHER THAN BRANDY OR FRUIT SPIRITS

§ 185.534 *Limitation on number, size, and use of samples of distilled spirits other than brandy or fruit spirits.* Samples of distilled spirits other than brandy or fruit spirits may be taken only for organoleptic examination or analytical purposes from packages designated as sample packages and from storage tanks. Except upon authority of the district supervisor or the Commissioner, not more than one sample may be removed from any sample package or from the same lot of spirits in a storage tank in a period of 6 months. The number of packages that may be designated as sample packages shall be limited, as to each kind of spirits and each type of cooperage (as designated by the mandatory marks and brands on the packages), to not more than one in each 25 packages of any lot of spirits of the same day's production on storage in the warehouse: *Provided*, That where less than 25 packages of any such lot of spirits are on storage, one package in the lot may be designated as a sample package. Samples for organoleptic examination may not exceed one-half pint from any package or storage tank. Samples for laboratory analysis may not exceed one pint from any package or storage tank. Such samples may be withdrawn upon approval by the storekeeper-gauger in charge at the warehouse of a written application filed in accordance with the provisions of §§ 185.536 to 185.538. In any instance where a one-pint sample is found to be an insufficient quantity for laboratory analysis, the district supervisor, upon receipt of a statement showing the necessity for an additional quantity, may authorize the withdrawal of an additional sample, not to exceed one pint, from any designated sample package or storage tank. The withdrawal of samples in excess of these limitations shall not be authorized unless it is shown that such samples are insufficient for the purpose intended, and the Commissioner authorizes the withdrawal of additional samples.

§ 185.535 *Disposition of samples.* Samples of distilled spirits other than brandy or fruit spirits must be used solely for chemical analysis or organoleptic examination. They may not be furnished to salesmen and dealers for advertising or soliciting purposes. Where spirits are sold subject to approval as to quality, a sample taken pursuant to the provisions of §§ 185.534 and 185.536 to 185.541 may be furnished the purchaser. Remnants or residues of samples remaining after analysis or examination and which are not desired for retention as laboratory specimens or for further analysis or examination, should be returned to vessels in the distilling system containing similar spirits where the warehouse is on or contiguous to the distillery premises, unless the condition of the remnants or residues is such as to render them unsuitable for such disposition. If such remnants or residues of samples are not returned to the distilling system, they should be destroyed.

GENERAL PROVISIONS

§ 185.536 *Application for samples for organoleptic examination or laboratory analysis, and tax-paid samples of brandy for other purposes.* When the warehouseman desires to procure samples for organoleptic examination, samples not in excess of one pint for laboratory analysis, or tax-paid samples of brandy or fruit spirits for other purposes, he shall make application in triplicate to the storekeeper-gauger in charge at the warehouse. The application shall be given a serial number, beginning with "1" for the first application and running consecutively thereafter. The application shall show (a) the kind of spirits, (b) the name of the distiller, (c) the registered number of the distillery and the State in which located, (d) the serial numbers of the packages or storage tanks from which the samples are to be removed, (e) the dates of entry for deposit, (f) the type of cooperage, (g) if the samples are to be removed from sample packages, the dates the packages were received in the warehouse, (h) whether, in the case of brandy or fruit spirits, the samples are desired for organoleptic examination or laboratory analysis tax free, or for other purposes subject to payment of tax, (i) whether, in the case of spirits other than brandy or fruit spirits, the samples are required for organoleptic examination or for laboratory analysis, (j) the reasons why the samples are desired, and (k) the size of each sample to be taken.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.537 *Application for additional samples for laboratory analysis.* Where the warehouseman has found a pint sample to have been an insufficient quantity for analysis, and desires an additional one-pint sample, he shall make application in triplicate, through the storekeeper-gauger in charge at the warehouse, to the district supervisor. The application shall be given a serial number within the series prescribed in § 185.536 and show the information called for in items (a) through (k) of that section.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.538 *Application for other samples.* Where the warehouseman desires samples in excess of the number or quantities which may be authorized by the storekeeper-gauger or the district supervisor, he shall make application, in quadruplicate, through the storekeeper-gauger in charge at the warehouse, to the Commissioner. The application shall be given a serial number within the series prescribed in § 185.536 and show the information called for in items (a) through (k) of that section.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.539 *Approval of application by the storekeeper-gauger in charge at the warehouse.* Upon receipt of an application for the withdrawal of samples in quantities not to exceed one-half pint for organoleptic examination or in quantities not to exceed one pint for laboratory analysis, or for the withdrawal of tax-paid samples of brandy or fruit spirits from any package or storage tank, the storekeeper-gauger shall determine from his records whether, in the case of packages, the designated packages are eligible for sampling or, in the case of spirits in storage tanks, the lot of spirits contained in a tank is eligible for sampling. If he shall find the number and quantities of samples to be taken do not exceed the number and quantities permitted under §§ 185.531, 185.533, or 195.534, as the case may be, he may authorize the withdrawal of the samples. In the case of samples for laboratory analysis, the storekeeper-gauger should assure himself of the propriety of the request. If he finds upon examination of his records that the number or quantities desired are in excess of the number or quantities permitted, he shall write upon each copy of the application a statement disclosing the reasons why the samples may not be removed. The storekeeper-gauger, upon approval or disapproval of the application, shall return one copy to the warehouseman, forward one copy to the district supervisor, and retain the original copy in his office.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.540 *Approval of application by the district supervisor.* Upon receipt of an application for an additional sample for laboratory analysis, the storekeeper-

gauger shall determine from his records whether an additional sample may be authorized under the limitations of § 185.531 or 185.534, as the case may be. If he finds the additional sample may not be authorized under the limitations, he shall write upon each copy of the application, over his signature, a statement showing the reasons why the sample may not be withdrawn. In such case, he shall return one copy to the proprietor, forward one copy to the district supervisor, and retain the original in his office. If he finds the additional sample may be authorized, he shall note such fact upon the application, over his signature, and shall forward the application to the district supervisor with his recommendation. The district supervisor shall determine from the facts presented whether the additional sample is necessary for the proposed type of laboratory analysis and shall thereupon approve or disapprove the application. He shall retain a copy in his office and return the original and one copy to the storekeeper-gauger at the warehouse, who shall file the original and return the copy to the applicant.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.541 *Approval of application by the Commissioner.* Upon receipt of an application to the Commissioner for authorization to withdraw samples, the storekeeper-gauger shall note upon each copy of the application the number and quantities of samples which have been removed from each package and from each lot represented. The storekeeper-gauger shall thereupon forward all copies of the application to the district supervisor, who shall transmit all copies to the Commissioner with his recommendation. Upon approval or disapproval of the application, three copies shall be returned to the district supervisor, who shall retain a copy and return the original and one copy to the storekeeper-gauger at the warehouse. The storekeeper-gauger shall file the original and return the remaining copy to the applicant.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.542 *Removal under supervision.* All samples must be taken under the immediate supervision of the storekeeper-gauger.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.543 *Label.* At the time of the withdrawal of a sample the proprietor shall prepare a label and a copy thereof. The label and copy shall be prepared on paper having approximate dimensions of 3" x 5". The proprietor shall show on the label and on the copy, in the order listed and upon separate lines, the following information:

(a) The word "Sample;"

(b) The serial number of the approved application covering the withdrawal of the spirits;

(c) The kind of spirits;

(d) The serial number of the container from which removed;

(e) The name of the distiller, followed by the registered number of the distillery and the name of the State in which located;

(f) The purpose for which the sample is intended; and, if for laboratory analysis, the name and address of the laboratory or person making the analysis (unless the analysis is to be made by the warehouseman at the warehouse premises, or premises contiguous thereto);

(g) The size of the sample and, in regard to fruit spirits and brandy, the quantity in proof gallons extended to the 4th decimal place (the proof gallon content need not be shown on samples of other spirits);

(h) The name of the warehouseman, followed by the registered number of the warehouse and the name of the State in which located. Upon completion, the label and the copy shall be presented to the storekeeper-gauger, who shall verify the accuracy of the data thereon, date and sign both copies, and supervise the affixing of the label to the sample container. Where the sample is taken from a container of fruit spirits or brandy, the storekeeper-gauger shall write upon the copy of the label a statement showing whether the sample was procured tax-free or subject to payment of tax. The copy of the label shall be filed by the storekeeper-gauger in accordance with the provisions of § 185.544.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.544 *Office record.* The proprietor shall furnish sufficient file cases for the filing and retention of sample records. The copies of the labels shall be kept by the storekeeper-gauger as a record of samples removed and shall be filed numerically by package or tank serial number under the name and number of the producing distiller. The record shall be maintained as an active file for each sample package and for each storage tank from which samples are withdrawn, during the period such packages or spirits contained in such storage tanks are on storage in the warehouse. At the time of preparing Form 1520 or Form 1619 covering the removal of a sample package, or upon the emptying of a storage tank from which samples had been taken, the copies of labels covering samples removed from such package or storage tank shall be removed from the active file to an inactive file for storage.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.545 *Marking Form 1520 or 1619.* When the first sample is taken from any package the storekeeper-gauger will note the letters "S. P.," indicating sample package, in red on the entry Form 1520 or the transfer Form 1619 opposite the serial number of the package.

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.546 *Marking package.* When the first sample is taken from any package the warehouseman will, under the supervision of the storekeeper-gauger, stencil upon the Government head of such package the letters "S. P."

(53 Stat. 353; 26 U. S. C. 3037)

§ 185.547 *Report of taxable samples.* Each day taxable samples of brandy or fruit spirits are withdrawn the storekeeper-gauger shall enter on Form 1615, in quadruplicate, a record of the taxable samples removed. All information called for by the form shall be furnished. At the end of each month the storekeeper-gauger shall complete the report, retain one copy of the form and deliver the remaining three copies to the warehouseman, who shall forward the three copies to the collector with remittance for the tax due. The collector shall execute his certificate of taxpayment on each copy of the form, retain one copy, and return the remaining two copies to the warehouseman, who will retain one copy and deliver the other copy to the storekeeper-gauger. The storekeeper-gauger shall note the taxpayment on his retained copy and forward the other copy to the district supervisor.

(53 Stat. 353; 26 U. S. C. 3037)

SAMPLES FOR INTERNAL REVENUE BUREAU

§ 185.548 *Record.* Where samples of distilled spirits are taken periodically from packages in internal revenue bonded warehouses for research purposes by the Bureau of Internal Revenue, the storekeeper-gauger will enter the date and quantity withdrawn on the Form 1520 or Form 1619 covering the deposit of such packages in the warehouse. If the packages are to be taxpaid under the provisions of § 185.492 credit will be allowed for the total quantity of all samples taken from any package for such purposes subsequent to the last official gauge.

SUBPART Z—TAX ON DISTILLED SPIRITS

§ 185.555 *Rate of tax.* The law imposes a tax on distilled spirits produced in, or imported into, the United States, at the rate prescribed therein, on each proof gallon, or wine gallon when below 100 degrees of proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid when withdrawn from bond.

(54 Stat. 522 as amended; 53 Stat. 298 as amended; 26 U. S. C. 1650, 2800)

§ 185.556 *Attachment of tax.* Under the law the tax attaches to distilled spirits as soon as such substance comes into existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

(53 Stat. 298 as amended; 26 U. S. C. 2800)

SUBPART AA—WITHDRAWAL OF DISTILLED SPIRITS FROM WAREHOUSE

§ 185.560 *Kinds of withdrawal.* Distilled spirits deposited in an internal revenue bonded warehouse may, as hereinafter provided, be withdrawn: (a) Upon taxpayment; (b) for exportation; (c) for use as supplies on vessels and aircraft; (d) for transfer in bond to another internal revenue bonded warehouse; (e) for transfer in bond to a customs manufacturing bonded warehouse; (f) for transfer to a distillery for redistillation upon a showing of the need therefor; (g) for use of the United States; (h) for denaturation (rum of not less than 150 degrees of proof only); or (i) for use in the fortification of wines (brandy only). Distilled spirits produced at 160

degrees or more of proof under section 2883, I. R. C., may be withdrawn, upon tax payment, for beverage purposes only.

(53 Stat. 332, 335, 335 as amended, 336, 340, 342 as amended, 348 as amended, 351, 355, 403; 26 U. S. C. 2875, 2882, 2883, 2885, 2891, 2903, 3031, 3033, 3070, 3331)

§ 185.561 *Kinds of containers.* Distilled spirits may be withdrawn from internal revenue bonded warehouses (a) in the distiller's original packages; (b) in packages to which the contents of original distiller's packages were transferred; (c) in cases where bottled in bond; (d) in packages having a capacity of not less than 10 gallons each, filled from warehouse tanks; (e) in tank cars filled prior to deposit in the warehouse or filled from the warehouse storage tanks; (f) by pipe line (1) from storage or gauging tanks to a denaturing bonded warehouse (only rum of not less than 150 degrees of proof and provided both warehouses are located on the distillery premises); (2) from storage or gauging tanks in a warehouse located on the distillery premises where the brandy was produced to the fortifying room of a contiguous winery (brandy of any proof); (3) from storage or gauging tanks to a distillery for redistillation (only spirits of 160 degrees of proof or more); or (4) from gauging tanks to a contiguous taxpaid bottling house or rectifying plant (only taxpaid spirits of any proof); or (g) in the case of taxpaid distilled spirits only, by tank car or tank truck to any premises authorized to receive distilled spirits in bulk. Distilled spirits may be withdrawn in tang cars only if the premises of the consignor and consignee are equipped with suitable railroad siding facilities. Where distilled spirits are to be warehoused in tank cars the siding facilities must extend into the receiving warehouse.

(53 Stat. 298 as amended, 316 as amended, 333, 335, 335 as amended, 337, 342 as amended, 348 as amended, 351, 355; 26 U. S. C. 2800, 2825, 2878, 2882, 2883, 2886, 2903, 3031, 3033, 3070)

§ 185.562 *Preparation of withdrawal reports by proprietor.* When distilled spirits are to be withdrawn from an internal revenue bonded warehouse for any of the purposes listed in § 185.560 the warehouseman shall prepare the required withdrawal report on Form 1520, 1619, or 1620, as the case may be, in accordance with the instructions in this part, except as provided in § 185.563. The storekeeper-gauger shall verify such forms.

(53 Stat. 307, 336; 26 U. S. C. 2808, 2884)

§ 185.563 *Preparation of withdrawal reports by storekeeper-gauger.* When spirits are to be withdrawn from a storage tank in an internal revenue bonded warehouse in packages filled therefrom at the time of withdrawal, by pipe line or in tank cars, the storekeeper-gauger will prepare and complete the Form 1520 in accordance with the instructions in this part.

(53 Stat. 307, 336; 26 U. S. C. 2808, 2884)

§ 185.564 *Withdrawal on original gauge.* Distilled spirits may be withdrawn from an internal revenue bonded warehouse on the original gauge where the same have remained in such warehouse for a period not exceeding 30 days from the date of original gauge.

(53 Stat. 334; 26 U. S. C. 2881)

MARKING, BRANDING AND STAMPING PACKAGES

§ 185.565 *Warehouseman to mark and brand packages.* The prescribed marks and brands peculiar to individual packages, whether the same are required to be cut, burned, imprinted, or stenciled, shall be placed upon the package by the warehouseman, under the supervision of the storekeeper-gauger.

(53 Stat. 307, 336; 26 U. S. C. 2808, 2884)

§ 185.566 *Rebranding spirits—grain, spirits—cane, spirits—fruit.* Spirits—grain, spirits—cane, spirits—fruit, etc., which were produced at 190 degrees of proof or more and which were entered into a warehouse prior to September 1, 1950, may, prior to withdrawal for tax payment, be rebranded by the warehouseman "Neutral spirits—grain," "Neutral spirits—cane," etc. The new designation must, in any event, be shown on Form 1520.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.567 *Quick-aging.* Where whisky is quick-aged, by any process, in packages at any time prior to tax payment, the letters "Q. A." will be burned, cut or stenciled upon the head of the package when such quick-aging is completed.

(53 Stat. 333, 335 as amended; 26 U. S. C. 2878, 2883)

§ 185.568 *Mechanical labor.* All mechanical labor pertaining to the gauging of distilled spirits at an internal revenue bonded warehouse shall be performed by the warehouseman.

(53 Stat. 307, 336; 26 U. S. C. 2808, 2884)

§ 185.569 *Use of scales.* The officer will carefully examine the scale to ascertain that the same is in good condition. He shall balance the scales before weighing either empty or filled packages, and will frequently test, by means of test weights provided in accordance with § 185.113, the accuracy of such scales. Where a weighing beam is used the officer will see that during the process of weighing the beam is horizontal, is properly adjusted, and that it balances perfectly with the barrel hooks and counterpoise attached. In case a scale becomes inaccurate for any reason, the storekeeper-gauger will not permit it to be used while it is in such condition.

(53 Stat. 307, 336; 26 U. S. C. 2808, 2884)

§ 185.570 *Weighing packages.* During the process of weighing, the storekeeper-gauger shall personally verify the weight of each package and enter the same in the proper column of the applicable gauge report. Care will be taken at all times to note the correct reading of the scale to the half pound and in case of doubt as to which graduation shall be read, the package will be allowed to preponderate; that is, the graduation denoting the lesser weight will be read.

(53 Stat. 307; 26 U. S. C. 2808)

§ 185.571 *Proofing of spirits.* The storekeeper-gauger shall personally take the proof of all spirits gauged, and enter the same on the applicable gauge report. The storekeeper-gauger will follow strictly the instructions set forth in the Gauging Manual (26 CFR, Part 186) respecting the proofing of spirits, in order that the proof may be accurately determined. Hydrometers for determining the proof of distilled spirits are supplied by the Government for use of storekeeper-gaugers. The use of other than official hydrometers by storekeeper-gaugers is prohibited.

(53 Stat. 307, 336; 26 U. S. C. 2808, 2884)

§ 185.572 *Verification of marks and brands.* The storekeeper-gauger shall verify the marks and brands required to be placed on packages at the time of withdrawal, by comparison with the gauge sheet, and shall satisfy himself as to the accuracy and correctness of the marks and brands, and stamps (if any).

(53 Stat. 307, 336; 26 U. S. C. 2808, 2884)

§ 185.573 *Affixing and cancelling stamps.* When packages of spirits, including blended brandy, are removed taxpaid or for exportation, the taxpaid, export, or wholesale liquor dealer's stamp, and, in the case of taxpaid blended brandy, the Class B rectified spirits stamps required by section 2801 (e) (5), I. R. C., will be affixed and cancelled by the warehouseman, under the supervision of the storekeeper-gauger, in the manner prescribed by § 185.608, prior to removal of any such packages from the warehouse. Certificates of taxpayment covering spirits gauged in bulk in a gauging tank for removal in approved containers including pipelines will be cancelled and disposed of in the manner prescribed by §§ 185.625 and 185.626.

(53 Stat. 298 as amended, 300 as amended, 336; 26 U. S. C. 2800, 2801, 2884, 2885)

§ 185.574 *Stamps, marks, and brands not to be obscured.* The stamps, marks, and brands required by law and the provisions of this part to be placed upon casks and packages of distilled spirits are designed to evidence the legal status of the spirits contained therein, and they must not be obscured in any manner or covered by encasing the package bearing the same in another, but must at all times be in such condition as to admit of ready examination by revenue officers.

(53 Stat. 336; 26 U. S. C. 2884)

DRAWING-OFF SPIRITS FROM GAUGING OR STORAGE TANKS

§ 185.575 *Supervision.* The storekeeper-gauger is required to be present and personally supervise the drawing-off of all spirits from warehouse tanks either into approved containers, including tank cars, or for removal by pipe line. The spirits will be carefully gauged by the storekeeper-gauger and the details entered on report of gauge as hereinafter provided. The outlet of the storage or gauging tank will be immediately closed by the proprietor and locked by the storekeeper-gauger when the desired quantity of spirits has been drawn therefrom. It will be the duty of the storekeeper-gauger to determine that all

operations involved in the drawing-off of spirits from gauging or storage tanks, including the dumping of packages into the gauging tank for bulk gauging are properly performed.

(53 Stat. 298 as amended, 333, 335 as amended, 492; 26 U. S. C. 2800, 2878, 2883, 4017)

§ 185.576 *Adjusting proof.* The proof of distilled spirits in warehouse storage tanks shall be adjusted to a whole degree of proof prior to filling containers such as tank cars, barrels, or drums. Adjusting the proof to tenths of a degree either above or below the whole degree will not be permitted.

(53 Stat. 307; 26 U. S. C. 2808)

§ 185.577 *Use of tank scales.* When spirits are to be gauged in a gauging tank, either for deposit in or removal from the warehouse, the storekeeper-gauger will balance the scales on which the gauging tank is mounted before the spirits are run into such tank for gauging. The storekeeper-gauger will not permit the use of any scales not tested as required by § 185.114 or which upon testing are found to be inaccurate.

(53 Stat. 307, 335 as amended; 26 U. S. C. 2808, 2883)

§ 185.578 *Gauging tanks.* When spirits are to be removed by pipe line they will be run into a properly equipped gauging tank, except that where no gauging tank is provided in the internal revenue bonded warehouse, (a) brandy may be transferred by pipe line from storage tanks direct to a gauging tank in the fortifying room of a contiguous winery (only if warehouse is located on distillery premises where the brandy was produced); (b) rum of 150 degrees of proof or more may be transferred by pipe line from storage tanks direct to a gauging tank in a denaturing bonded warehouse (only if both warehouses are located on the distillery premises); or (c) spirits of 160 degrees of proof or more for redistillation may be transferred by pipe line from storage tanks direct to a gauging tank in a distillery on the same or contiguous premises.

(53 Stat. 298 as amended, 335 as amended, 492; 26 U. S. C.)

§ 185.579 *Pipe line removals.* Pipe lines used for the transfer of spirits to qualified establishments on the same or contiguous premises, or to tank cars or tank trucks for shipment, must conform to the requirements of § 185.124, except that the spirits may be transferred into or from a tank car or into a tank truck by means of a hose connection where the same is in full view of the Government officer throughout its entire length. The valves on such pipe lines shall be kept closed and locked at all times, except when necessary to be open for the transfer of spirits. The keys to all locks on the valves of such pipe lines shall remain at all times in the custody of the storekeeper-gauger. Spirits may be transferred by pipe line only under immediate supervision of the storekeeper-gauger.

(53 Stat. 298 as amended, 331, 335 as amended; 26 U. S. C. 2800, 2870, 2883)

TIME OF REMOVAL OF SPIRITS

§ 185.580 *Immediate removal upon tax payment.* When distilled spirits have been gauged or regauged for tax payment, the same must be promptly tax paid and removed from the warehouse. Likewise, where spirits are gauged or regauged for withdrawal for other purposes, they must be promptly removed from the warehouse upon approval of the withdrawal papers.

§ 185.581 *Restrictions on removal at night.* No person shall remove any distilled spirits from any internal revenue bonded warehouse at any other time than after sunrise and before sunset in any cask or package containing more than 10 gallons.

(53 Stat. 331; 26 U. S. C. 2870)

ADDITION OF BURNT SUGAR OR CARAMEL, OR OAK CHIPS, TO PACKAGES

§ 185.582 *Addition of oak chips.* Where distilled spirits are found to be unmerchantable owing to a deficiency in color, oak chips which have not been treated with any chemical may, under the conditions and limitations prescribed in the regulations governing the production of the distilled spirits, be added to the packages after the spirits have been regauged for tax payment and prior to the purchase and the affixing of the taxpaid stamps. Such packages shall, in addition to all other marks and brands required by this part, be branded with the words "Treated with oak chips."

§ 185.583 *Addition of burnt sugar or caramel.* Where brandy is found to be unmerchantable owing to a deficiency in color, a small quantity of burnt sugar or caramel may, under the conditions and limitations prescribed in the regulations governing the production of brandy, be added to the packages after the brandy has been regauged for tax payment and prior to the purchase and affixing of the taxpaid stamps. Burnt sugar or caramel may not be so added to any spirits other than brandy. Such packages, in addition to all other marks and brands required by this part, shall be branded with the letters "B. S. A."

(53 Stat. 307, 352; 26 U. S. C. 2808, 3036)

DESTRUCTION OF STAMPS, MARKS AND BRANDS

§ 185.584 *Upon emptying container.* When approved containers of distilled spirits, including tank cars and tank trucks are emptied, all stamps, marks and brands required to be placed thereon must be completely effaced and obliterated, except the portions of stamps and certificates of tax payment required to be submitted to the district supervisor. Labels affixed to tank cars of spirits shipped in bond must be destroyed when such cars are emptied. Certificates of tax payment affixed to tank cars and tank trucks of taxpaid spirits, must, when the tank cars or trucks are emptied, be scalped and the scalped portion of the certificate forwarded by the consignee to the district supervisor, as provided in this part. The remainder of such certificates will be destroyed. Certificates of tax payment covering transfers by pipe lines to contiguous establishments will be forwarded to the district supervisor by the consignor storekeeper-gauger in accordance with provisions of § 185.626.

(53 Stat. 330; 26 U. S. C. 2866)

RECORDS AND REPORTS

§185.585 *Proprietor's record and report, Form 52C.* The proprietor of every internal revenue bonded warehouse shall enter all spirits removed from the warehouse on Form 52C, as provided in Subpart WW of this part.

(53 Stat. 328; 26 U. S. C. 2859)

§ 185.586 *Storekeeper-gauger's records.* The storekeeper-gauger at an internal revenue bonded warehouse shall enter the date of withdrawal of all packages or other containers, and cases, of spirits removed from the warehouse in an appropriate column of Form 1520, Form 1619, or Form 1620, as the case may be, covering the deposit of the spirits, as provided in Subpart UU of this part. The storekeeper-gauger shall also report the withdrawal of all spirits from the warehouse in his monthly report, Form 1513, and in his summary of deposits and withdrawals, Form 1621, as provided in subparts UU and VV of this part. The storekeeper-gauger shall also enter on Form 1621 the details of the withdrawal of brandy for blending and the return of the blended brandy to the warehouse.

(53 Stat. 300 as amended, 346; 26 U. S. C. 2801, 2915)

§ 185.587 *Filing of withdrawal papers.* All copies of the withdrawal papers, Forms 179, 206, 236, 257, 573, 1515, 1519, 1520, 1619, and 1620, and of the permit Form 1508, retained by the storekeeper-gauger upon the withdrawal of distilled spirits from the warehouse and the copy of Form 1685 retained by him upon completion of brandy-blending operations shall be filed by him in the manner prescribed in §§ 185.1021 to 185.1026.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

DETERMINATION OF TARE

§ 185.588 *Method of determination.* When packages of spirits are to be individually gauged for withdrawal from the warehouse, the actual tare of the package will be determined: *Provided*, That until the close of business December 31, 1950, the average increase in tare may be determined and used to establish the tare at time of withdrawal. Where the average tare method is used, the proprietor will improvise a column on Form 1520, headed "Entry Tare," and will enter therein the tare on entry gauge of each package to be withdrawn.

§ 185.589 *Actual tare method.* The actual tare of a package to be withdrawn will be determined by weighing the package after the contents thereof have been temporarily removed to a separate container and, in the event the proprietor has elected to rinse the package, after the rinse water has been drained from the package. The storekeeper-gauger will supervise all operations incident to the determination of actual tare, examine each package to see that it is thoroughly drained (of spirits or rinse water) before determining its tare, and see that the spirits are returned to the

proper package. The proprietor will furnish all labor necessary for the determination of actual tare.

§ 185.590 *Average tare method.* This method of determining tare may be used only for lots of spirits of the same kind and cooperage warehoused within a period of ten days of each other at proofs not differing more than 10 percent. The average increase in tare for such a lot of spirits will be established by finding the actual tare, as described in § 185.589, for not less than 20 percent of the packages to be gauged for withdrawal, and determining the actual increase in tare for such packages. Where the average tare method is used, however, no rinsing of packages will be permitted. The words "Average tare taken" will be entered conspicuously on Form 1520 by the proprietor and the number of packages to be used as a basis for the determination will be stated thereon as 20 percent, 25 percent, 33⅓ percent, or 50 percent, of those to be withdrawn. The packages to be used for the determination will be selected at random by the storekeeper-gauger. Where application of the percentage to the number of packages to be withdrawn results in a fraction, the fraction will be counted as an additional package. Not less than two packages may be weighed to determine the average increase in tare of any lot of five packages or less. The actual tare found will be entered by the storekeeper-gauger on Form 1520 for those packages for which it was determined, and an asterisk (*) will be placed to the left of the serial number of such packages. The actual increase in tare of each such package will be noted in the margin or other unused space of Form 1520 by the storekeeper-gauger, who will add these increases together and divide by the number of packages weighed to determine the average increase in tare to be applied to the other packages of the lot to be withdrawn. If the average increase so found contains a fraction of a pound less than twenty-five hundredths (0.25), it will be dropped; if twenty-five hundredths (0.25) or any intermediate fraction to and including seventy-five hundredths (0.75), it will be called one-half pound; if above seventy-five hundredths (0.75), it will be called 1 pound. The average increase in tare thus ascertained will be regarded as the increase of each of the remaining packages enumerated in the application for withdrawal and will be added to the entry tare of each such package to determine the withdrawal tare.

§ 185.591 *Limitations for reused packages.* When determining the increase in tare on reused packages selected for the purpose of ascertaining the average, if it is found that the increase in tare varies more than six pounds as between any two packages weighed, average increase in tare will not be allowed on the packages to be regauged, and actual tare must be taken on all such packages.

SUBPART BB—TAXPAID WITHDRAWALS IN PACKAGES

§ 185.600 *Application, Form 179.* Application for taxpayment and withdrawal of distilled spirits in packages from a bonded warehouse shall be made by the proprietor on Form 179, in quadruplicate. Unless the packages are to be withdrawn on the original gauge, the proprietor will indicate on the form the method of gauge desired, i. e., whether the contents of each package will be determined, or whether all packages of the lot will be dumped in a gauging tank for bulk gauge and subsequent removal by pipeline or in packages under the provisions of §§ 185.620–185.636. If the proprietor elects an individual gauge of each package, he shall also indicate on the Form 179 whether he desires the packages to be rinsed before the spirits are gauged or whether he desires to taxpay without rinsing. If the packages are not rinsed before gauging, recovery of spirits by rinsing of the packages at the time of dumping for bottling or rectification will be precluded. The proprietor's elections as to method of gauge and whether the packages will be rinsed may not be changed once gauging of the spirits has begun. Where the spirits are to be drawn into packages from a storage tank, the proprietor shall state, in addition to other applicable data on the form, the estimated quantity to be withdrawn. Separate applications shall be filed for the withdrawal of spirits from storage tanks. Likewise a separate application shall be filed for each lot of spirits in packages dumped for bulk gauge in a gauging tank in accordance with § 185.620. All copies of the application will be delivered to the storekeeper-gauger at the warehouse.

(53 Stat. 298 as amended, 335, 373 as amended; 26 U. S. C. 2800, 2882, 3170)

§ 185.601 *Preparation of Form 1520.* Except where spirits are to be withdrawn in packages filled from warehouse storage tanks at the time of withdrawal, the proprietor will prepare Form 1520, in quintuplicate, covering the packages shown in the application, Form 179. The proprietor will enter in the heading of the Form 1520 all the information called for and will show as to each package the necessary details of the entry gauge in the columns headed "Serial Nos. of Packages or Tank Cars," "Kind of Spirits," "Original Tax Gallons," "Last Gauge," "Date of Original Entry for Deposit" and if the packages are to be gauged by the average tare method, the entry tare will be shown as provided in § 185.590. If the "Last Gauge" was established by a Form 1698 the serial number of the form will be entered in columns 9 and 10. In the event a regauge is to be made upon withdrawal of packages which have remained in the warehouse for a period not exceeding 30 days from the date of the original gauge the proprietor will note on Form 1520 the reason for requesting a regauge. All copies of the Form 1520 will be delivered to the storekeeper-gauger with the Form 179.

(53 Stat. 335, 373 as amended; 26 U. S. C. 2882, 3170)

§ 185.602 *Gauge and taxpayment in packages.* If the spirits to be withdrawn are in packages, the storekeeper-gauger will examine them and where it is determined that any package bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such package will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. Packages which do not bear evidence of unusual loss, or of tampering, will then be gauged, unless they are to be withdrawn on the original gauge. The storekeeper-gauger will enter on Form 1520 the details of gauge determined by him for each package: *Provided*, That if the proprietor has elected to rinse the packages and to add any or all of the rinse water to the spirits, the gross weight, tare and proof will be determined after the packages, including char or wood chips, have been rinsed and the rinse water thoroughly mixed with the spirits. As each package is dumped the loose char and wood chips, if any, shall be collected and after rinsing shall either be returned to the package or destroyed as provided in § 185.902. Water of any temperature may be used to rinse the packages. The temperature of the water must be marked on each package in accordance with § 185.609. Where the proprietor does not wish to add any or all of the rinse water to the spirits such rinse water must be poured on the ground or into a sewer in the presence of the storekeeper-gauger. The storekeeper-gauger will in all cases note on the Form 1520 "Rinsed" or "Not Rinsed," as the case may be and enter the remainder of the information required by the form prior to taxpayment. The storekeeper-gauger will execute his report on all copies of Form 179 and deliver them with four copies of Form 1520 to the proprietor who will forward all copies of both forms to the collector of internal revenue with proper remittance for the tax. If the spirits to be taxpaid are in storage tanks and it is intended to taxpay the packages immediately upon the filling gauge, the spirits will, upon receipt of Form 179 be drawn into the designated packages and gauged, marked, and branded in accordance with § 185.399 and serially numbered in accordance with § 185.401. The storekeeper-gauger will prepare Form 1520, in quintuplicate, and enter thereon the details of the gauge and proof of distillation. Four copies of Form 1520, accompanied by all copies of Form 179 with the storekeeper-gauger's report thereon duly executed will be delivered by the storekeeper-gauger to the proprietor of the warehouse, who will enter the details of the gauge in the space provided therefor on Form 179 and then forward all copies of both forms to the collector of internal revenue with proper remittance for the tax.

(53 Stat. 334, 335, 335 as amended, 336, 417 as amended; 26 U. S. C. 2881, 2882, 2883, 2884, 3656)

§ 185.603 *Gauge and taxpayment of blended brandy.* If the spirits to be withdrawn are brandies blended in accordance with the provisions of section 2801 (e) (5), I. R. C., the storekeeper-gauger shall compute the additional tax at 30 cents per proof gallon on the quan-

tity of spirits in each package at the time of regauge for withdrawal and shall enter in the appropriate column on Form 179 the total amount of tax due under section 2801 (e) (5), I. R. C., in addition to the amount of tax due on the brandy under section 2800 (a) (1), I. R. C.

(53 Stat. 300 as amended, 335, 336; 26 U. S. C. 2801, 2882, 2884)

§ 185.604 *Determining tare.* The tare of a package to be withdrawn will be determined in accordance with the provisions of §§ 185.588–185.591.

§ 185.605 *Issuance of taxpaid stamps.* The collector will issue the taxpaid stamps. Each taxpaid stamp shall bear the signature of the collector, who shall write or stamp thereon the date of payment of the tax, name of the proprietor (warehouseman), the number of gallons and tenths of gallons of proof spirits, and the serial number of the cask. Facsimile signatures of collectors may be affixed by the use of hand stamps to the taxpaid stamps, care being taken to use only such ink as will neither fade nor blur. The collector will enter the serial numbers of the stamps in the appropriate spaces on all copies of Form 1520, sign the certificate of taxpayment on all copies of Form 179, retain one copy each of Form 179 and Form 1520, and return the remaining three copies of Form 179 and three copies of Form 1520 to the warehouseman with the stamps.

(53 Stat. 298 as amended; 26 U. S. C. 2800)

§ 185.606 *Issuance of rectified spirits stamps.* Where the Form 179 covers blended brandies taxpaid at 30 cents per proof gallon in addition to the tax of $9.00 per proof gallon the collector shall issue a class B rectified spirits stamp, with proper coupons attached, for each package and shall enter the serial number of the stamps in the proper column of Form 1520.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.607 *Removal of spirits.* The warehouseman shall deliver all copies of Form 179 and Form 1520, with the taxpaid stamps, to the storekeeper-gauger who will verify the data thereon with his retained copy of Form 1520 and, if no discrepancies are found, he will note the serial numbers of the stamps on the retained copy of Form 1520, and, after affixing his signature or a facsimile thereof, to the stamps, will return them to the warehouseman. The warehouseman will stamp, mark and brand the packages, as provided in §§ 185.608 and 185.609, after which he will remove the spirits immediately. When the spirits have been removed, the storekeeper-gauger will execute his statement of the date of withdrawal on the three copies of Form 179, retain one copy of each Form 179 and Form 1520, deliver one copy of Form 179 and two copies of Form 1520 to the warehouseman, and forward one copy of each to the district supervisor. The warehouseman will send one copy of Form 1520 to the vendee.

(53 Stat. 306, 336, 373 as amended; 26 U. S. C. 2806, 2884, 3170)

§ 185.608 *Affixing and cancelling stamps.* When packages of distilled spirits are withdrawn from an internal revenue bonded warehouse upon payment of tax (or for exportation) the tax-paid (or export) stamps will be affixed and canceled by the proprietor under the supervision of the storekeeper-gauger before the packages are removed from the warehouse. The stamps must be securely affixed to the Government head of the package with a good adhesive to effectively prevent removal without mutilation. The stamp must be canceled immediately after it has been affixed to the package by imprinting five parallel waved lines across the stamp with a stencil, which will be provided by the proprietor. The stamp will be covered with a protective coating of shellac, lacquer varnish, or glue which is sufficiently transparent to permit legibility of the markings on the stamp, except where the packages are to be transferred to contiguous premises and the coating is not required for protecting the legibility of the stamp. Such stamps must remain upon the packages until the spirits therein are emptied or drawn off.

(53 Stat. 398; 26 U. S. C. 3301)

§ 185.609 *Marking and branding packages of distilled spirits.* Packages of spirits gauged for tax payment must be tax paid and removed from the warehouse promptly. If the spirits are to be removed in packages the stamp must be affixed to the Government head of the packages on the left side and there will be plainly marked in letters and figures of not less than one-half inch in height the serial number of the tax-paid stamp, and the date of tax payment, abbreviated as follows: T. P. S. No. _____; T. P. _____. In addition there will be stenciled on the Government head of each package the information "Rinsed" or "Not Rinsed," as the case may be. Where the package is rinsed, the temperature of the water used for rinsing will be marked on the package, as for example, "Rinsed—115F." The withdrawal markings, except those showing whether the package was rinsed, may be waived by the district supervisor when packages of spirits are to be removed to a tax paid bottling house or rectifying plant in the immediate vicinity of the warehouse for immediate bottling or dumping for rectification.

(53 Stat. 333, 335 as amended, 336; 26 U. S. C. 2878, 2883, 2884)

§ 185.610 *Marks and brands illustrated.* The following cut illustrates the order and manner in which the marks shall be applied to the head of each package upon filling and upon tax payment. When spirits are transferred to customs manufacturing bonded warehouse, withdrawn for export, for the use of United States, for the fortification of wine or other purposes, the required withdrawal information will be shown in lieu of the taxpayment data shown in the cut:



(53 Stat. 333, 335 as amended, 336; 26 U. S. C. 2878, 2883, 2884)

§ 185.611 *Proprietor to furnish required labor and material.* Proprietors of internal revenue bonded warehouses are required to furnish all the help needed to handle the cask or package; to furnish the glue, shellac, or other adhesive, tacks, stenciling material, brushes, stencils, branding or cutting equipment, vessels, and every necessary facility for the preparation of the cask or package to be put upon the market, except the instruments for proofing the spirits. The storekeeper-gauger is authorized to require such materials to be furnished and he will see that the cask or package is in every way complete for marketing when it leaves the warehouse.

(53 Stat. 333, 336; 26 U. S. C. 2878, 2884)

SUBPART CC—TAXPAID WITHDRAWALS BY GAUGE TANK

§ 185.620 *Application, Form 179.* Application for taxpayment of distilled spirits to be dumped from packages or removed from storage tanks or tank cars into a gauging tank for subsequent withdrawal by pipe line to contiguous establishments or in approved containers, including tank cars and tank trucks, shall be made by the proprietor of the warehouse on Form 179, in quadruplicate. Where the spirits to be withdrawn are in packages, the serial numbers and original tax gallons will be stated on Form 179, which will be accompanied by Form 1520, in quintuplicate, prepared by the proprietor in the manner provided in § 185.601. If the spirits are to be removed in a tank car or tank truck, the number thereof, and the name or symbols of the owner, shall also be stated on the Form 179. Where the capacity of a gauging tank is insufficient for the quantity of spirits to be shipped in a tank car or tank truck, the lot of spirits described on Form 179 may be dumped into more than one gauging tank, but a separate Form 1520 must be prepared for each such gauging tank listing the packages to be gauged therein, and the entire quantity to be removed must be taxpaid prior to the transfer of any portion thereof to the tank car or tank truck. If the spirits are to be repackaged after taxpayment and prior to removal from the warehouse, the proprietor will so indicate on

the application. Removals by tank car or tank truck of spirits withdrawn from warehouse storage tanks shall be made in accordance with the provisions of Subpart DD of this part. Where the spirits are to be withdrawn from a warehouse storage tank and removed through a gauging tank by pipe line or in packages, the proprietor shall state, in addition to other applicable data, the maximum quantity to be withdrawn. All copies of the application, for any of the types of removals described above, will be delivered to the storekeeper-gauger at the warehouse. Application on Form 179 should cover only homogeneous spirits such as may be mingled in a gauging tank as provided in § 185.621. Spirits may be withdrawn as provided in this section only where pipe lines, or facilities for drawing off spirits from gauging tanks into packages, tank cars, or tank trucks, have been provided and approved. When a warehouseman desires to transfer spirits to a gauging tank, and the inlet thereof is locked, he will request the Government officer to unlock the inlet to the tank to permit the transfer of the spirits thereto. At the time of unlocking the inlet of the gauging tank the Government officer will lock the outlet thereto, which must remain locked until the spirits and rinse water, if any, have been transferred to the gauging tank, the inlet locked and the spirits gauged and taxpaid in accordance with §§ 185.622–185.625.

(53 Stat. 298 as amended, 335 as amended, 373 as amended; 26 U. S. C. 2800, 2862, 2883, 3170)

§ 185.621 *Mingling in gauging tank of spirits for taxpayment.* Spirits of less than 190 degrees of proof which were produced from different materials, or by two or more distillers, or at two or more distilleries, or which differ in kind according to the standards of identity established under the Federal Alcohol Administration Act, or which are otherwise heterogeneous, may not be mingled in a warehouse gauging tank for taxpayment. Examples of spirits which are otherwise heterogeneous are spirits which have been quick-aged and spirits which have not been quick-aged, and spirits which have been stored in different kinds of cooperage. Spirits of the same composition, produced at approximately the same proof by the same distiller at the same distillery, and differing in age (a) not more than 6 months in the case of spirits more than 2 years of age, (b) not more than 60 days in the case of spirits more than 1 year and not more than 2 years of age, or (c) not more than 30 days in the case of spirits 1 year of age or less, and packaged in the same kind of cooperage will be presumed to be homogeneous, and may be mingled in a warehouse gauging tank for convenience in taxpayment. Where it is desired to mingle for convenience in taxpayment spirits falling within more than one of the age categories specified, the difference in age allowable shall be determined according to the age of the youngest spirits. For example, if spirits not more than 1 year of age are mingled with spirits more than 1 year old, the spirits must not vary in age more than 30 days. Spirits of 190 degrees of proof or more distilled from the same class of materials (such as grain) will be presumed to be homogeneous and may be mingled in a gauging tank for convenience in taxpayment.

(53 Stat. 298 as amended, 335 as amended, 391; 26 U. S. C. 2800, 2883, 3254; sec. 205, 49 Stat. 981 as amended; 27 U. S. C. 205)

§ 185.622 *Gauge and taxpayment.* If the spirits to be withdrawn are in packages, the storekeeper-gauger, upon receipt of the Form 179 and Form 1520, will carefully examine and supervise the weighing of each package and enter the weights on Form 1520. Where it is determined that any package bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such package will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. When the contents of the packages have been dumped into the gauging tank, the empty packages, including the char and wood chips, if any, will be thoroughly rinsed: *Provided*, That if the contents of the packages dumped for bulk gauging are to be drawn from the gauging tank for shipment in as many of the original packages as may be required, the packages to be used as shipping containers need not be rinsed if a declaration to that effect has been made by the proprietor prior to the dumping of the spirits, in which event recovery of spirits by rinsing at the time of dumping for bottling or rectification will be precluded. Water of any temperature may be used to rinse the packages. The rinsings will be added to the spirits dumped from the packages into the gauging tank prior to gauging: *Provided*, That where the proprietor does not wish to add any or all of the rinse water to the spirits in the gauging tank, such rinse water must be poured on the ground or into a sewer in the presence of the storekeeper-gauger. The temperature of water used for rinsing must be marked on the packages used as shipping containers in accordance with § 185.628. Loose char and wood chips, if any, collected from packages, the contents of which have been dumped into bulk gauging tanks after rinsing must be destroyed in accordance with § 185.902 unless added to the packages which are to be used as shipping containers. The tare of any shipping container must include the weight of loose char and wood chips which are placed therein. After the packages have been dumped and rinsed all marks and brands shall be obliterated, except where the packages are to be used for the shipping of spirits dumped therefrom for gauging, in which case only the kind of cooperage, serial number of the package, the word "Filled" and the date of filling need not be obliterated. The spirits in the gauging tank will be adjusted to a whole degree of proof, gauged with an official hydrometer, and the details of the gauge entered by the storekeeper-gauger on Form 1520. The storekeeper-gauger will also enter on the Form 1520 the number of the gauging tank. If the spirits to be withdrawn are contained in a storage tank or tank car, they will be drawn into the gauging tank, gauged and reported in the same manner as packages dumped for bulk gauging. Four copies of Form 179 with the storekeeper-gauger's report thereon, duly executed, and four copies of Form 1520 will be delivered by the storekeeper-gauger to the proprietor of the warehouse. One copy of Form 1520 will be retained by the storekeeper-gauger pending taxpayment of the spirits represented thereby.

(53 Stat. 298 as amended, 335 as amended; 26 U. S. C. 2800, 2882, 2883)

§ 185.623 *Application for certificate of taxpayment, Form 1594.* The proprietor will prepare Form 1594 in duplicate if the consignee is located in the same supervisory district, and in triplicate if located in another supervisory district. The form will be properly modified to show taxpayment of the spirits gauged in bulk, the number or numbers of the gauging tanks specified on Forms 1520 and covered by the Form 179, and the method of removal from the gauging tank, i. e., by pipe line, tank car, tank truck, or in packages. All copies of Forms 179, 1520, and 1594, accompanied by proper remittance for the tax, will be forwarded by the proprietor to the collector of internal revenue.

(53 Stat. 298 as amended, 335, 447 as amended; 26 U. S. C. 2800, 2882, 3656)

§ 185.624 *Certificate of taxpayment, Form 1595.* The collector will issue Form 1595, appropriately modified to cover the spirits gauged in bulk, including the number or numbers of the gauging tanks, and will execute his certificate of taxpayment on all copies of Form 179, enter the serial number of the Form 1595 on all copies of Form 1520, and shall fill in all the required data in the blank spaces on the Form 1595, except those provided in the lower left corner for the verification of the storekeeper-gauger, and will date and sign the certificate in the same manner as provided in § 185.605 for taxpaid stamps. The collector will enter on the original and the copy or copies of Form 1594, in the space provided, the serial number, date and amount of the certificate issued. The collector will retain one copy each of Forms 179 and 1520 and the original copy of Form 1594. He will mail or deliver the certificate, Form 1595, and the original and remaining copies of Forms 179 and 1520 to the proprietor or his designated agent in accordance with his request in Form 1594. The collector will send one copy of the application, Form 1594, to the district supervisor. Where the consignee is located in a different supervisory district, the collector will send the remaining copy of Form 1594 to the supervisor of the district in which the consignee is located.

(53 Stat. 298 as amended; 26 U. S. C. 2800)

§ 185.625 *Storekeeper-gauger's verification.* The proprietor shall deliver the certificate of taxpayment, Form 1595, and all copies of Forms 179 and 1520 to the storekeeper-gauger at the internal revenue bonded warehouse. The storekeeper-gauger will transcribe the serial number of the certificate, Form 1595, to his retained copy of Form 1520 and will verify the contents of the gauging tank or tanks and sign the certificate, Form 1595, in the space provided therefor.

The certificate must be attached to a board on the gauging tank and if the spirits are to be removed by pipe line or in packages it will be cancelled in the same manner as a taxpaid stamp attached to a package. The certificate, Form 1595, shall remain attached to the gauging tank until the spirits covered by the certificate have been removed. If the spirits are to be removed by tank car or tank truck, the subsequent procedure shall be in accordance with the applicable provisions of §§ 185.656–185.659.

(53 Stat. 298 as amended; 26 U. S. C. 2800)

§ 185.626 *Release of spirits from gauging tank.* When the certificate of taxpayment has been affixed to the gauging tank, and cancelled when required, the storekeeper-gauger will unlock the outlet valve to permit the removal of the spirits. The removal of spirits from the gauging tank must be under the immediate supervision of the storekeeper-gauger. If the spirits are transferred by pipe line, the storekeeper-gauger will forward one copy each of Forms 179 and 1520 and the cancelled Form 1595 to the district supervisor, retain one copy each of Forms 179 and 1520 and deliver one copy of Form 179 and two copies of Form 1520 to the warehouseman, who will immediately deliver one copy of Form 1520 to the vendee. If the spirits are to be drawn into packages from the gauging tank for transfer to bottling premises, the procedure prescribed in §§ 185.627–185.636 will be followed and when all spirits have been drawn into packages, the storekeeper-gauger will dispose of Forms 179, 1520, and 1595 in the manner provided in this section for removals by pipe line. If the spirits are to be removed by tank car or tank truck the procedure will be in accordance with the applicable provisions of §§ 185.656–185.659.

(53 Stat. 298 as amended; 26 U. S. C. 2800)

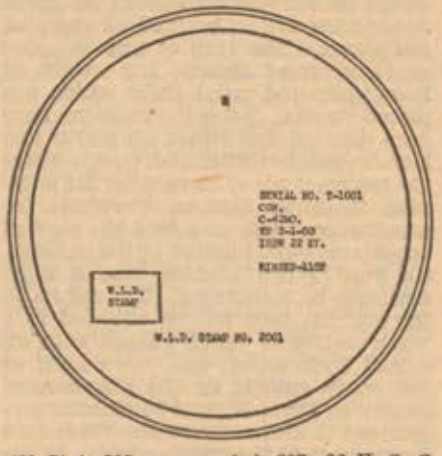
§ 185.627 *Procurement of wholesale liquor dealer's stamps.* Where the proprietor desires to transfer taxpaid spirits from a gauging tank into packages for removal to rectifying or bottling premises, application on Form 92, in quadruplicate, will be made to the storekeeper-gauger in charge of the warehouse for permission to draw the spirits into wholesale liquor dealer's packages. All information indicated by the headings of the various columns and lines on the form, and the instructions printed thereon or issued in respect thereto, and as required by this part, shall be furnished. All copies of the Form 92 will be submitted to the storekeeper-gauger in charge of the warehouse, who, if he finds after inspection of the spirits and verification of the entries and statements in the application that the spirits are correctly described and have been properly taxpaid, will sign Parts 2 and 3 and return all copies of the form to the warehouseman.

(53 Stat. 298 as amended; 26 U. S. C. 2800)

§ 185.628 *Refilling, gauging, and marking packages of taxpaid spirits drawn from a gauging tank.* Upon receipt from the storekeeper-gauger of Form 92, properly certified and approved, the warehouseman will fill and mark the packages under the supervision of a Government officer. Packages into which the spirits are drawn must be marked and branded in letters and figures not less than one-half inch in height to show the name of the distiller or person in whose name the spirits were produced, the registry number of the distillery, the city or town and State in which the distillery is located, the proof at which distilled, and the kind of spirits, all as shown on the original packages and as illustrated in § 185.610. In addition to the above, the packages will be marked and branded in letters and figures not less than one-half inch in height to show that they are consolidated packages, the kind of cooperage into which the spirits were drawn, the serial number of the package (in accordance with § 185.401), the warehouse number and State in which located, the kind of cooperage in which the spirits were stored and the number of months the youngest spirits in the lot were in storage, the date the spirits were taxpaid, and the serial number of the wholesale liquor dealer stamp. Where spirits are drawn from the gauging tank for shipment in packages from which dumped, the refilled packages will be stenciled "Rinsed" or "Not Rinsed," as the case may be. Where the packages are rinsed, the temperature of the water used for rinsing will also be marked on each package, as for example, "Rinsed—115F." A similar notation will be made on Form 92. The additional information required by this section to be marked on the package may be abbreviated as illustrated in § 185.629. The warehouseman will enter the details of the gauge on each copy of Form 92.

(53 Stat. 298 as amended, 307; 26 U. S. C. 2800, 2808)

§ 185.629 *Marks and brands illustrated.* The following cut illustrates the order and manner in which the additional marks and brands required by § 185.628 shall be applied to the head of each package of spirits filled from a gauging tank after bulk gauge and taxpayment in such tank:



(53 Stat. 298 as amended, 307; 26 U. S. C. 2800, 2808)

§ 185.630 *Application for stamps.* When the spirits have been packaged and the details of the gauge thereof entered on Form 92 by the warehouseman, he will execute his application in Part 4 of the form for the issuance of wholesale liquor dealer's stamps. The warehouseman will address it to the storekeeper-gauger in charge of the warehouse and will deliver all copies of the form to that officer.

(53 Stat. 301, 329; 26 U. S. C. 2802, 2863)

§ 185.631 *Issuance of stamps.* Upon receipt of Form 92 with the application in Part 4 duly executed, the storekeeper-gauger in charge will issue a wholesale liquor dealer's stamp, with proper coupons attached, for each package listed on the form. When issuing the stamps, the storekeeper-gauger in charge will enter on each stamp all the information called for except the "Original Proof." The words "Gauge Tank" and the serial number thereof will be entered in the space provided for the serial number of the package from which the wholesale liquor dealer packages were filled. The storekeeper-gauger in charge will enter his signature and title, or a facsimile thereof, in the space provided for the signature of the collector. Where an appreciable number of wholesale liquor dealer's packages will be filled, the warehouseman must provide the storekeeper-gauger in charge with suitable rubber stamps for the insertion of information common to all wholesale liquor dealer stamps to be used by him. The total gallonage for which wholesale liquor dealer's stamps are issued shall in no case exceed that covered by Form 1595, unless due to normal variations in gauge.

(53 Stat. 301, 329; 26 U. S. C. 2802, 2863)

§ 185.632 *Stamp stub.* The storekeeper-gauger in charge shall enter on the stub connected with each stamp data similar to that entered on the stamp, to preserve a perfect record of the detached stamp.

(53 Stat. 301, 329; 26 U. S. C. 2802, 2863)

§ 185.633 *Wholesale liquor dealer's stamp books.* Wholesale liquor dealer's stamps in the required denominations will be furnished by collectors to district supervisors upon request. District supervisors will supply storekeeper-gaugers in charge of bonded warehouses where such stamps are used with sufficient quantities of such stamps as to permit expeditious removal of spirits in wholesale liquor dealer's packages. When all the stamps in a book have been issued, the storekeeper-gauger in charge will return the stub book to the district supervisor.

(53 Stat. 301, 329; 26 U. S. C. 2802, 2863)

§ 185.634 *Record and report of wholesale liquor dealer's stamps.* Storekeeper-gaugers having custody of wholesale liquor dealer's stamps at internal revenue bonded warehouses will keep a record of such stamps received and used on Part 1 of Form 118, properly modified for the purpose, and as required by instructions on the form or as issued in respect thereto. The record will be kept in bound form available for inspection by other Government officers. The storekeeper-gauger will prepare his monthly report on Part 2 of Form 118, properly modified and in duplicate, retain one

copy and furnish one copy to the district supervisor.

§ 185.635 *Disposition of Form 92.* The storekeeper-gauger in charge will enter the serial numbers of the wholesale liquor dealer stamps in the proper column on each Form 92, opposite the description of the package for which the stamp is issued. He will then return two copies of Form 92 to the warehouseman with the stamps, forward one copy of the form to the district supervisor and retain one copy. The retained copy will be placed in a permanent file as authority for issuance of the stamps. The warehouseman will forward one copy of Form 92 to the vendee.

(53 Stat. 301, 329; 26 U. S. C. 2802, 2863)

§ 185.636 *Affixing and canceling stamps.* Upon receipt from the storekeeper-gauger in charge of the Form 92 and accompanying stamps, the warehouseman will affix the stamps to the packages and cancel the same under the supervision of a storekeeper-gauger. The stamps will be affixed, canceled and protected in the same manner as taxpaid spirits stamps are required in § 185.608 to be affixed and canceled, after which the packages must be immediately removed from the warehouse.

SUBPART DD—TAXPAID WITHDRAWALS IN TANK CARS AND TANK TRUCKS

§ 185.650 *Application, Form 179.* Application to withdraw spirits from storage tanks for taxpayment and removal in tank cars or tank trucks shall be made by the warehouseman on Form 179, in quadruplicate, as in the case of withdrawals from such tanks for tax payment in packages, except that the application will show that the transportation will be by tank car or tank truck.

(53 Stat. 298 as amended, 335 as amended; 26 U. S. C. 2800, 2883)

§ 185.651 *Report of gauge, Form 1520.* All copies of Form 179 shall be delivered to the storekeeper-gauger, whereupon the spirits will be run into a gauging tank and gauged for removal. The storekeeper-gauger shall enter the details of the gauge on Form 1520, in quintuplicate. The proof at which the spirits were distilled and the number and name or symbols of the owner of the tank car or tank truck shall, in every instance, be noted by the storekeeper-gauger on Form 1520. The storekeeper-gauger will execute his report on each copy of Form 179 and will return all copies thereof, with four copies of Form 1520 attached, to the proprietor, who will enter in the space provided therefor on each copy of Form 179 the description of the spirits gauged.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.652 *Application for certificate of tax payment; Form 1594.* The proprietor will forward all copies of Form 179 and Form 1520, with Form 1594, appropriately modified when necessary, in duplicate if the vendee is located in the same supervisory district and in triplicate if the vendee is located in a different supervisory district, accompanied by proper remittance for the tax, to the collector of internal revenue. The collector may, in his discretion, accept uncertified checks in payment of the tax on spirits contained in tank cars or tank trucks where certificates are issued in lieu of stamps.

(53 Stat. 335 as amended, 447 as amended; 26 U. S. C. 2863, 3656)

§ 185.653 *Certificate of tax payment, Form 1595.* The collector will issue Form 1595, appropriately modified when necessary, enter the serial number of the certificate in the column on all copies of Form 1520 provided for entering the serial numbers of taxpaid stamps, and execute his certificate of taxpayment on Form 179. The collector will fill in all the required data in the blank spaces on the certificate, except those provided in the lower left corner for the verification of the storekeeper-gauger, and date and sign the certificate in the same manner as a tax-paid stamp is required by § 185.605 to be filled in and dated and signed. This certificate is not negotiable and shall not be used on any tank car or tank truck other than the one described therein. The collector will enter on the original and the copy or copies of Form 1594, in the space provided, the serial number, date and amount of the certificate issued. The collector will retain one copy each of Form 179 and Form 1520, and the original copy of Form 1594. He will mail or deliver the certificate (Form 1595) and the original and remaining copies of Form 179 and Form 1520 to the proprietor or his designated agent, in accordance with the vendor's request in Form 1594. The collector will send one copy of the application (Form 1594) to the district supervisor. Where the vendee is located in a different supervisory district, the collector will send the remaining copy of Form 1594 to the supervisor of the district in which the vendee is located.

(53 Stat. 298 as amended, 335 as amended; 26 U. S. C. 2800, 2883)

§ 185.654 *Route board.* Tank cars and tank trucks used for the transportation of tax-paid distilled spirits must be equipped with a route board at least 10 by 12 inches in size, to which Form 1595 can be attached. Such board shall be of substantial material and shall be affixed permanently and securely to the tank car or tank truck by roundheaded or carriage bolts, nutted and riveted, battered, or welded.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.655 *Bill of lading.* The proprietor shall incorporate in the bill of lading a description of Form 1595 as follows:

Form 1595

COLLECTOR'S CERTIFICATE OF TAXPAYMENT OF DISTILLED SPIRITS FOR SHIPMENT IN TANK CARS

Serial No. ------ Owner and No. of car ----
Vendor ---------- Address ----------
Vendee ---------- Address ----------

Where no bill of lading is issued, as in the case of transfer of a tank car between plants by switching arrangment, the warehouseman shall incorporate in Form 1520 such description of Form 1595.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.656 *Storekeeper-gauger's verification.* The proprietor shall give the certificate of tax payment (Form 1595), the bill of lading (if any), and all copies of Form 179 and Form 1520, to the storekeeper-gauger. The storekeeper-gauger will transcribe the serial number of the certificate, Form 1595, to his retained copy of Form 1520 and will verify the contents of the tank car or tank truck and the description of Form 1595 in the bill of lading or Form 1520, as the case may be, and will determine the security of the route board, and date and sign the certificate in the space provided therefor. The proprietor shall then affix the certificate to the route board in the presence of the storekeeper-gauger. The certificate must be securely affixed to the route board with a good adhesive and with a tack in each corner, after which it will be canceled in the same manner as a tax-paid stamp after attachment to a package, and covered with a coating of transparent shellac, varnish, or lacquer, to prevent its easy removal or alteration.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.657 *Release of tank car or tank truck.* When the certificate of tax payment has been affixed to the route board and canceled, and the tank car or tank truck sealed by the proprietor, the storekeeper-gauger will return the bill of lading (if any) to the proprietor, release the tank car or tank truck for shipment, and note on all copies of Form 1520 the date of the release of the tank car or tank truck. The storekeeper-gauger will forward one copy of Form 179 and Form 1520 to the district supervisor, retain one copy of each form, and deliver one copy of Form 179 and two copies of Form 1520 to the proprietor, who will forward one copy of Form 1520 to the vendee.

(53 Stat. 335 as amended, 373 as amended; 26 U. S. C. 2883, 3170)

PROCEDURE WHEN TANK CAR OR TANK TRUCK IS EMPTIED

§ 185.658 *Scalping certificate.* When distilled spirits are received in a tank car or tank truck by the proprietor of a rectifying plant, a taxpaid bottling warehouse, or other vendee authorized to receive taxpaid distilled spirits in tank cars or tank trucks, the vendee shall at the time the car or truck is emptied, scalp the certificate of taxpayment, Form 1595, by cutting out all of that portion of the certificate within the border. The vendee shall then send the scalped portion of the certificate to the supervisor of the district in which the vendee is located, and shall obliterate the remainder of the certificate. If the tank car or tank truck is received without the certificate attached thereto, the vendee shall note such fact on the bill of lading or Form 1520 and immediately notify the district supervisor, who will cause such inquiry to be made respecting the shipment and receipt of the car or truck as he may deem appropriate. Where a tank car or tank truck with the certifi-

cate missing is received at a plant where a storekeeper-gauger is assigned, such storekeeper-gauger will furnish a complete report to the district supervisor.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.659 *Vendee's use of Form 1520.* The report of gauge, Form 1520, sent to the vendee by the vendor shall be attached to the storage tank in the rectifying plant, taxpaid bottling warehouse, or premises of other vendee authorized to receive the spirits. The proprietor shall enter the date and quantity of removals from the storage tank in the blank space on such Form 1520. The report of gauge shall be kept on the tank until such time as the quantity covered by such report has been withdrawn from the tank. The report shall then be filed by the proprietor, available for inspection by Government officers. If the spirits are transferred directly from the tank car or tank truck into a bottling tank, the vendee shall make a notation to that effect on the Form 1520 and file it. The requirements of this section shall not preclude use of the spirits prior to receipt of Form 1520.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

IN TANK CARS RECEIVED IN BOND

§ 185.660 *Procedure.* Where spirits are received in bond in tank cars at an internal revenue bonded warehouse and tax paid thereat, the procedure prescribed in §§ 185.650 to 185.657 for the tax payment of tank cars of spirits filled from warehouse storage tanks will be followed, except that the spirits in the tank car need not be regauged but may be tax paid on the filling gauge if tax paid within thirty days after filling.

(53 Stat. 298 as amended, 335 as amended, 340 as amended; 26 U. S. C. 2800, 2883, 2901)

§ 185.661 *Report of gauge, Form 1520.* Where the spirits in a tank car are tax paid according to the filling gauge the proprietor will make a copy of such gauge in quintuplicate, for use in tax payment.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

SUBPART EE—TAX-PAID WITHDRAWALS IN CASES

§ 185.670 *Application, Form 1519.* Application for tax payment and withdrawal of distilled spirits in cases bottled in bond shall be made by the warehouseman on Form 1519, in triplicate. Each withdrawal will be made on a separate Form 1519, except that two or more withdrawals on the same day of spirits produced by the same distiller at the same distillery may be made on one form. The storekeeper-gauger will inspect the cases to be removed, and if any case bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such case will be detained by him pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. The warehouseman will cancel the necessary stamps in the exact amount of the tax due in the manner provided by § 185.675. He will then attach the stamps to Form 1519 and submit all copies to the Government officer. The Government officer will complete the cancellation of the stamps as provided by § 185.675 and will execute the certificate on Form 1519 evidencing the receipt and cancellation of stamps for the amount of taxes due.

(53 Stat. 298 as amended; 26 U. S. C. 2800)

§ 185.671 *Withdrawal of spirits.* The spirits will be promptly withdrawn from the warehouse. On the date of withdrawal there will be stenciled on each case the word "Taxpaid," the date when stamps were canceled and surrendered to the storekeeper-gauger in payment of such tax, followed by the name and title of the storekeeper-gauger. Immediately upon withdrawal the storekeeper-gauger will enter on each copy of Form 1519 the date of withdrawal, sign each copy, and forward the copy to which the canceled stamps are attached to the district supervisor, deliver one copy to the warehouseman, and file one copy in his office.

(53 Stat. 298 as amended; 26 U. S. C. 2800)

STAMPS

§ 185.672 *Denominations; purchase and use.* Stamps for the taxpayment of distilled spirits bottled in bond may be purchased in various denominations. The denominations of such stamps are set forth on Form 427–D. Distilled spirits stamps for tax paying distilled spirits bottled in bond should be purchased by proprietors of internal revenue bonded warehouses where such bottled distilled spirits are stored (or bottled, if immediate removal after bottling is contemplated) from the collector of internal revenue of the district in which the warehouse is located. Stamps may not be purchased by one warehouseman from another, nor may they, except in cases of emergency, be purchased from collectors of other districts. Stamps may be sold only to proprietors of internal revenue bonded warehouses and only for the payment of tax on distilled spirits bottled in bond. Warehousemen shall not sell or transfer stamps except that they may (a) transfer such stamps to other internal revenue bonded warehouses operated by themselves as provided in § 185.676 pursuant to the prior approval of the district supervisor; or (b) return such stamps for redemption in accordance with § 185.677. Distilled spirits stamps (for distilled spirits bottled in bond) used or unused may not be purchased, sold, or possessed, except as specifically provided by law or regulations.

(53 Stat. 298 as amended, 374, 375, 398; 26 U. S. C. 2800, 3172, 3175, 3300)

§ 185.673 *Form 427–D.* With each purchase of stamps the warehouseman will submit to the collector Form 427–D, in triplicate, properly filled out. The collector will stamp the date of sale on all copies of Form 427–D, return one copy to the warehouseman with the stamps and send one copy to the appropriate district supervisor. The remaining copy of Form 427–D will be filed in the collector's office so that all purchases of stamps may be verified at any time. The collector will refuse to sell stamps when such form is not submitted.

(53 Stat. 298 as amended, 374; 26 U. S. C. 2800, 3172)

§ 185.674 *Remittance; delivery.* All orders for stamps must be accompanied by proper remittance in a sum equal to the value of the stamps. Unless the stamps are called for by the warehouseman or his agent in person, they will be sent to him by ordinary mail, registered mail, or express, at the expense of the warehouseman. When the stamps are not called for in person the warehouseman will specify on Form 427–D the means (ordinary mail, registered mail, or express) by which he desires the stamps sent to him. If the stamps are ordered sent by ordinary mail, the warehouseman shall enclose with his order sufficient postage stamps, or a separate remittance to cover the postage; if the stamps are ordered sent by registered mail, the warehouseman shall include the postage and registry fee and any required registry surcharge, as provided by the postal laws and regulations. If the remittance is other than cash the sum to cover the postage, registry fee, or surcharge must not be included in the remittance covering the cost of the stamps. The local postmaster should be consulted relative to the amount of the registry fee and surcharge required. Stamps forwarded by express will be sent "collect."

(53 Stat. 298 as amended, 374, 447 as amended; 26 U. S. C. 2800, 3172, 3656)

§ 185.675 *Manner of canceling stamps.* At the time of delivery of the stamps to the Government officer for payment of the distilled spirits tax on distilled spirits bottled in bond, the warehouseman shall cancel the stamps by legibly writing or stamping on each stamp with indelible (India) ink his name, registry number, and the serial number of Form 1519. The taxpaid stamps must be further canceled by being signed by the Government officer, followed by his title. Facsimile signatures of Government officers on stamps may be affixed by the use of hand stamps, provided that care is taken to use only such ink as will neither fade nor blur.

(53 Stat. 298 as amended, 374; 26 U. S. C. 2800, 3172)

§ 185.676 *Transfer to other premises.* When the internal revenue bonded warehouse is permanently discontinued, or the proprietor has no use for the stamps thereat and the proprietor operates other internal revenue bonded warehouses in which the stamps could be used, he may transfer the stamps to such other premises for use thereat. Permission to so transfer stamps to other premises must be first obtained from the district supervisor. If the warehouse to which the stamps are to be transferred is located in another supervisory district, the district supervisor granting authority to transfer the stamps will advise the district supervisor of the other district so that he may know that the receiving warehouse is entitled to receive the stamps. The latter district supervisor will also inform the Government officer assigned to the receiving warehouse of the authority to receive stamps from other internal revenue bonded warehouses. Record of such transfer of

stamps must be made on Form 1697, as provided in § 185.679.

(53 Stat. 298 as amended, 374; 26 U. S. C. 2800, 3172)

§ 185.677 *Redemption of distilled spirits stamps (for distilled spirits bottled in bond.)* Distilled spirits stamps (for distilled spirits bottled in bond) may be redeemed pursuant to section 3304, Internal Revenue Code, which reads as follows:

Redemption of stamps—(a) *Authorization.* The Commissioner, subject to regulations prescribed by the Secretary, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of law, to denote the payment of any internal revenue tax, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected.

(b) *Method and conditions of allowance.* Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner, or until satisfactory proof has been made showing the reason why the same cannot be returned; or, if so required by the said Commissioner, when the person presenting the same cannot satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) *Time for filing claims.* No claim for the redemption of or allowance for stamps shall be allowed unless presented within four years after the purchase of such stamps from the Government.

(d) *Finality of Commissioner's decision.* The findings of facts in and the decision of the Commissioner upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

§ 185.678 *Claim to collector.* Proprietors of internal revenue bonded warehouses desiring to have distilled spirits stamps (for distilled spirits bottled in bond) redeemed under the provisions of section 3364, I. R. C., must make claim on Form 843 to the collector of internal revenue. The stamps, for which redemption is claimed, must be attached to the claim, and the number and denominations thereof must be listed on the claim or on a sheet of paper attached thereto. Where the stamps have been destroyed, evidence satisfactory to the Commissioner establishing such destruction must accompany the claim.

(53 Stat. 298 as amended, 374, 399; 26 U. S. C. 2800, 3172, 3304)

§ 185.679 *Unredeemable stamps.* Distilled spirits stamps (for distilled spirits bottled in bond) may not be redeemed while distilled spirits bottled in bond, on which the stamps can be used in tax-payment, remain on hand and while the bottling-in-bond department of the internal revenue bonded warehouse remains in a qualified status. When an internal revenue bonded warehouse is discontinued and stamps remain on hand, such stamps are not redeemable if the proprietor operates other bonded warehouses at which the stamps could be used. In such cases the stamps will be transferred to the other premises for use thereat. Notation of the transfer must be made on Form 1697 of both premises.

(53 Stat. 298 as amended, 374, 399; 26 U. S. C. 2800, 3172, 3304)

§ 185.680 *Stamp record.* The proprietor of the internal revenue bonded warehouse shall keep a record on Form 1697 of all distilled spirits stamps (for distilled spirits bottled in bond) received and used at his warehouse. Entries will be made thereon and the report submitted in accordance with the headings of the various lines and columns on the form and the instructions printed thereon or issued in respect thereto and as required by this Part. When such distilled spirits stamps are surrendered for redemption, in accordance with §§ 185.677 and 185.678, or are transferred to, or received from, other internal revenue bonded warehouses operated by the proprietor, as authorized in § 185.676, record thereof must be made on Form 1697, giving the reason for such surrender, transfer, or receipt, the date thereof, and the denominations of the stamps surrendered, transferred, or received, and, in cases of transfer or receipt, the name, registry number, and location of the premises to which the stamps were transferred or from which they were received.

(53 Stat. 298 as amended, 374; 26 U. S. C. 2800, 3172)

SUBPART FF—TRANSFERS IN BOND BETWEEN INTERNAL REVENUE BONDED WAREHOUSES

§ 185.690 *Kinds of containers.* Distilled spirits may be transferred in bond from one internal revenue bonded warehouse to another such warehouse (a) in distiller's original packages; (b) in packages to which the contents of such original packages were transferred; (c) in cases where the spirits were bottled in bond; (d) in packages or tank cars filled from warehouse tanks; or (e) in tank cars filled at the distillery.

(53 Stat. 332; 26 U. S. C. 2875)

§ 185.691 *Mingling in gauging tank of spirits intended for transfer in bond.* Only spirits which are eligible for mingling in a warehouse storage tank (see § 185.372) may be mingled in a warehouse gauging tank preparatory to transfer in bond. Spirits in packages may not be dumped together into gauging tanks preparatory to repackaging for transfer in bond to another internal revenue bonded warehouse.

(53 Stat. 332, 335 as amended; 26 U. S. C. 2875, 2883)

§ 185.692 *Transfers in sealed conveyances.* Where a warehouseman desires to transfer packages of distilled spirits in a sealed conveyance, such as a railroad boxcar or a closed van, seals for sealing the conveyance will be furnished and applied by the shipper.

TRANSFERS BETWEEN WAREHOUSES IN SAME DISTRICT

§ 185.693 *Application, Form 236.* Where the transfer is to be made between warehouses in the same supervisory district, the proprietor of the receiving warehouse shall execute an application for the transfer of spirits on Form 236. The applicant shall enter all applicable data indicated by the form, including the maximum quantity in tax gallons to be transferred in any one truck, railroad car, or other vehicle and the type of conveyance. The name of the carrier shall not be specified on Form 236. The applicant shall prepare an original and five copies of the Form 236 and give them to the storekeeper-gauger in charge of the receiving warehouse.

(53 Stat. 332; 26 U. S. C. 2875)

§ 185.694 *Storekeeper-gauger's certificate of sufficiency of bond.* Upon receipt of Form 236 by the storekeeper-gauger in charge, he will compare the penal sum of the bond as stated in the application with his record furnished by the district supervisor pursuant to § 185.314. If the warehouse bond is given in the maximum penal sum of $200,000, he will certify to the sufficiency thereof on Form 236, and return all six copies of the form to the proprietor of the warehouse. If the warehouse bond is given in less than the maximum penal sum, the storekeeper-gauger in charge will determine from his records whether the tax liability on the quantity of distilled spirits represented by the Form 236, plus the quantity of distilled spirits stored in the warehouse, plus the quantity represented by all outstanding approved Forms 236, is within the limits of the penal sum of the transportation and warehousing bond. If so, he will certify to the sufficiency of the bond on Form 236, record such certification in his records, and return all six copies of the form to the proprietor. If the transportation and warehousing bond is not sufficient, he will certify to that fact on Form 236 and return all six copies to the proprietor. Such forms shall be invalid for the transfer of spirits. If the storekeeper-gauger certifies that the bond is sufficient, the proprietor will forward all six copies of the Form 236 to the proprietor of the consignor-warehouse. The proprietor of the consignee-warehouse will be responsible for all outstanding valid Forms 236. If, at any time, he decides not to use one, he will obtain all copies from the consignor and give them to the storekeeper-gauger in charge of the warehouse for cancellation and return to the proprietor of the consignee-warehouse.

(53 Stat. 332; 26 U. S. C. 2875)

§ 185.695 *Transfers in packages.* When the proprietor of the shipping warehouse desires to make shipment of spirits in original packages, or in packages previously filled from warehouse storage tanks, or of blended brandies in packages filled in the brandy-blending department, he will prepare an original and five copies of Form 1619 filling in the heading and giving details as to serial numbers of packages, date of original entry for deposit, original gauge and

last guage (if other than the original). In the case of packages transferred on or before December 31, 1950 the proprietor will enter in Column 8, the heading of which will be amended to read "Entry Tare," the entry tares of the packages. In the case of blended brandies the proprietor shall also show on Form 1619 the date and serial number of the Form 1685 covering the blending of the brandies, the date of the original entry of the oldest brandy in the blend and the date of the original entry of the youngest brandy in the blend. The proprietor shall execute on the six copies of Form 236 a description of the packages to be transferred and will give all copies of Forms 236 and 1619 to the storekeeper-gauger. Upon receipt of the Forms 236 and 1619 the storekeeper-gauger will weigh and examine the packages and where it is determined that any package bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such package will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. The storekeeper-gauger will enter the shipping gross weights on Form 1619. The quantity to be transferred shall not exceed the maximum stated in the application. Upon withdrawal for transfer to noncontiguous premises, the word "Transferred" followed by the date of transfer, the number of the receiving warehouse, and the State in which such warehouse is located, will be plainly and durably stenciled on the Government head of the package in letters and figures not less than one-half inch in height. These marks may be abbreviated as follows:

TRANS. 8–1–50
I. R. B. W. 4–N. Y.

Forms 236 and 1619 will be disposed of in accordance with the provisions of § 185.706.

(53 Stat. 300 as amended, 332; 26 U. S. C. 2801, 2875.)

§ 185.696 *Transfers in cases.* When the proprietor desires to transfer cases of distilled spirits bottled in bond, he will prepare an original and five copies of Form 1620 showing thereon all information called for by the form. The proprietor shall execute on the six copies of Form 236 a description of the cases to be transferred and will give all copies of Forms 236 and 1620 to the storekeeper-gauger. Upon receipt of Forms 236 and 1620 the storekeeper-gauger will examine the cases to be transferred. If any case bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such case will be detained by the storekeeper-gauger pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. Necessary remarks concerning the condition of any particular case at time of shipment should be made on all copies of the Form 1620. The quantity to be transferred shall not exceed the maximum stated in the application. Upon withdrawal for transfer to noncontiguous premises, the word "Transferred" followed by the date of transfer, the number of the receiving warehouse, and the State in which such warehouse is located, will be plainly and durably stenciled or stamped upon the Government side of each case in letters and figures not less than three-eighths inch in height. These marks may be abbreviated as follows:

Trans. 3–29–48
I. R. B. W. 25–N. Y.

Where there is insufficient space on the Government side of the case, these marks may be placed upon another side of the case. Forms 236 and 1620 will be disposed of in accordance with the provisions of § 185.706.

(53 Stat. 332; 26 U. S. C. 2875)

§ 185.697 *Transfers in tank cars.* When the proprietor desires to transfer spirits in a previously filled tank car, he will prepare an original and five copies of Form 1520, copying the details of the entry Form 1520, except that if the contents of the tank car were previously regauged owing to the evidence of loss of spirits therefrom, the transfer Form 1520 will show both the original contents and the contents shown by the regauge. The proprietor shall execute on the six copies of Form 236 a description of the tank car to be transferred and will deliver all copies of Forms 236 and 1520 to the storekeeper-gauger. Upon receipt of Forms 1520 and 236 the storekeeper-gauger will inspect the car and if it bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such car will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. Forms 236 and 1520 will be disposed of in accordance with the provisions of § 185.706. The quantity to be transferred shall not exceed the maximum stated in the application.

(53 Stat. 332, 335 as amended; 26 U. S. C. 2875, 2883)

§ 185.698 *Transfers from storage tanks, in packages or tank cars.* When the proprietor desires to transfer spirits in packages or tank cars, to be filled from warehouse storage tanks, he will deliver a copy of Form 236 to the storekeeper-gauger in charge of the warehouse and furnish him with a complete description of the spirits. Upon receipt of the Form 236 the spirits designated to be transferred will be drawn into packages, gauged, marked, and branded, or run into a gauging tank, gauged, and conveyed by pipe line into a railroad tank car, constructed and marked as hereinafter provided. The storekeeper-gauger will prepare a report of the gauge on an original and five copies of Form 1520, and note on each copy of the form the proof at which the spirits were distilled. The quantity to be transferred shall not exceed the maximum stated in the application. The storekeeper-gauger in charge will give the copy of Form 236 and the six copies of Form 1520 to the proprietor, who shall, on the same date that the spirits are to be transferred, execute on the six copies of Form 236 the description of the packages or tank cars to be transferred. He shall immediately return all copies of the forms to the storekeeper-gauger in charge. Forms 236 and 1520 will be disposed of in accordance with § 185.706.

(53 Stat. 332, 335 as amended; 26 U. S. C. 2875, 2883)

§ 185.699 *Mixing of different spirits prohibited.* Spirits which were produced from different materials, or by two or more distillers, or at two or more distilleries or during different distilling seasons and years, or which differ in kind according to the standards of identity established under the Federal Alcohol Administration Act, or which are otherwise heterogeneous, may not be mingled in filling packages or tank cars from storage tanks.

(53 Stat. 335 as amended, 391; 26 U. S. C. 2833, 3254; sec. 5, 49 Stat. 981 as amended; 27 U. S. C. 205)

§ 185.700 *Marking and construction of tank car.* Each tank car used to transport distilled spirits in bond must have permanently and legibly marked or painted thereon its number, capacity in gallons, and the name and symbols of the owner. The dome or manhole covers on the tank car shall be equipped with facilities for sealing with a cap seal when closed, and the outlet valves or other openings to or from the car shall be so constructed that they may be closed and securely fastened on the inside or sealed in like manner. If the car is not so constructed, the storekeeper-gauger will not permit it to be filled.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.701 *Seals.* Cap seals, to be furnished by the Government, will be used for sealing the tank car, and such seals will be attached as soon as the car is filled.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.702 *Inspection of tank car.* Upon receiving an application, Form 236, for the transfer of spirits in bond in a tank car, the storekeeper-gauger will inspect the tank car to see that the dome may be sealed with a cap seal when closed, and that all other openings to or from the car may be closed and securely fastened on the inside or sealed in like manner. If the car is not so constructed, the officer will not permit it to be filled.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.703 *Filling of tank car.* Tank cars must be filled in the immediate presence of the storekeeper-gauger. The pipe line or hose connection to the tank car must be in full view of the officer and must not be connected or used, except in his presence. The proprietor will prepare the car for sealing and the officer will seal the car as soon as it is filled. The officer will enter on Form 1520, covering the gauge of the spirits, the level of the spirits above or below the full mark, and the temperature of the spirits at filling, for example: "Filled two inches above full mark at 80° F."

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.704 *Route board.* Tank cars used for the transportation of distilled spirits in bond must be equipped with a route board at least 10 by 12 inches in size. Such board shall be of substantial material and shall be affixed perma-

nently and securely to the tank car by roundheaded or carriage bolts, nutted and riveted, battered or welded.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.705 *Label to be attached.* When distilled spirits are shipped in bond in a tank car, to noncontiguous premises, a label, dated and signed by the storekeeper-gauger, showing that the spirits are shipped in bond and giving the name, registry number, and location (city or town and State) of both the shipping and receiving warehouses, shall be securely attached to the route board where it may be readily examined by Government officers. The label must be of good quality paper and be protected from damage by a coating of transparent shellac or similar transparent protective material. The label will be attached by the warehouseman under the supervision of the Government officer. The label, which will be furnished by the shipper, will be in substantially the following form:

Shipped in Bond by
JOHN DOE COMPANY
I. R. B. W. No. 55, Boston, Mass.
To
NEW YORK WAREHOUSE COMPANY
I. R. B. W. No. 81, Brooklyn, N. Y.

(Date) (Storekeeper-gauger)

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.706 *Storekeeper-gauger's certificate of removal.* Upon removal of the spirits, the storekeeper-gauger will execute his report of inspection or gauge and removal on the six copies of Form 236, and if the spirits are contained in a tank car, he will note on Form 236 the serial numbers of the cap seals used. The storekeeper-gauger will retain one copy of Forms 236 and 1520, 1619, or 1620, as the case may be, furnish one copy of each form to the proprietor of the shipping warehouse, forward one copy of each form to the supervisor and forward three copies of each form to the storekeeper-gauger of the receiving warehouse. Where shipment of packages or cases is made by truck, the three copies each of Forms 236 and 1520, 1619, or 1620, for the storekeeper-gauger at the receiving warehouse, will be sealed in an envelope addressed to such storekeeper-gauger and handed to the person in charge of the truck for delivery to him.

(53 Stat. 332, 373 as amended; 26 U. S. C. 2875, 3170)

§ 185.707 *Storekeeper-gauger's receipt of spirits at warehouse.* Upon receipt of the spirits at the receiving warehouse, the storekeeper-gauger will examine the shipment and will ascertain and note on Form 1520, 1619 or 1620, as the case may be, losses or discrepancies, as provided in §§ 185.376–185.378. The storekeeper-gauger will weigh (and proof) the spirits as provided in § 185.375. The storekeeper-gauger will execute his certificate of receipt on each copy of Form 236 and if the spirits are contained in a tank car indicate thereon whether the tank car was received with seals intact. He will retain one copy each of Forms 236 and 1520, 1619 or 1620, give one copy of each form to the proprietor of the warehouse and forward one copy of each form to the district supervisor. No withdrawal or transfer in bond of spirits received at the warehouse will be made until the three copies of Form 236 and the three copies of Form 1520, 1619 or 1620, as the case may be, have been received by the storekeeper-gauger. The storekeeper-gauger will include on Form 1513 the original tax gallons contained in all packages received regardless of any losses in transit. However, any package lost in transit will not be included on Form 1513 but will be entered by the district supervisor in his account of losses, Form 1691.

(53 Stat. 332, 340 as amended; 26 U. S. C. 2875, 2901)

TRANSFERS IN BOND BETWEEN INTERNAL REVENUE BONDED WAREHOUSES IN DIFFERENT DISTRICTS

§ 185.708 *Application, Form 236.* Where the transfer is to be made between bonded warehouses in different supervisory districts, the proprietor of the receiving warehouse shall execute an application for the transfer of the spirits on Form 236. The applicant shall enter all applicable data indicated by the form including the maximum quantity in tax gallons to be transferred in any one truck, railroad car or other vehicle, and the type of conveyance. The name of the carrier shall not be specified on Form 236. The applicant shall prepare an original and six copies of Form 236 and give them to the storekeeper-gauger in charge of the receiving warehouse.

(53 Stat. 332; 26 U. S. C. 2875)

§ 185.709 *Certificate of sufficiency of bond.* Upon receipt of Form 236 by the storekeeper-gauger in charge, he will compare the penal sum of the bond as stated in the application with his record furnished by the district supervisor pursuant to § 185.314. If the warehouse bond is given in the maximum penal sum of $200,000, he will certify to the sufficiency thereof on Form 236, and return all seven copies of the form to the proprietor of the warehouse. If the warehouse bond is given in less than the maximum penal sum, the storekeeper-gauger in charge will determine from his records whether the tax liability on the quantity of distilled spirits represented by the Form 236, plus the quantity of distilled spirits stored in the warehouse, plus the quantity represented by all outstanding approved Forms 236, is within the limits of the penal sum of the transportation and warehousing bond. If so, he will certify to the sufficiency of the bond on Form 236, record such certification in his records, and return all seven copies of the form to the proprietor. If the transportation and warehousing bond is not sufficient, he will certify to that fact on Form 236 and return all seven copies to the proprietor. The proprietor will forward all seven copies of the approved Form 236 to the proprietor of the consignor-warehouse. The proprietor of the consignee-warehouse will be responsible for all outstanding approved Forms 236. If, at any time, he decides not to use one, he will obtain all copies from the consignor-warehouseman and give them to the storekeeper-gauger in charge of the warehouse for cancellation and return to the proprietor of the consignee-warehouse.

(53 Stat. 332; 26 U. S. C. 2875)

§ 185.710 *Transfers in packages, cases, and tank car.* Spirits in original packages, or in packages filled from warehouse storage tanks, will be transferred in accordance with the provisions of § 185.695. Spirits in cases will be transferred in accordance with the provisions of § 185.696. Spirits in a previously filled tank car will be transferred in accordance with the provisions of § 185.697. If spirits to be transferred are in storage tanks, they will be drawn into packages or into a tank car and then transferred in accordance with the provisions of § 185.698. Forms 236 and 1520, 1619 or 1620 will be disposed of in accordance with § 185.711.

(53 Stat. 332; 26 U. S. C. 2875)

§ 185.711 *Storekeeper-gauger's certificate of removal.* Upon removal of the spirits, the storekeeper-gauger will execute his report of inspection or gauge and removal on the seven copies of Form 236, and if the spirits are contained in a tank car, he will note on Form 236 the serial numbers of the cap seals used. The storekeeper-gauger will retain one copy of Forms 236 and 1520, 1619, or 1620, as the case may be, furnish one copy each of such forms to the proprietor at the shipping warehouse, forward one copy of each form to the supervisor-consignor, and forward four copies of Form 236 and three copies of Form 1520, 1619, or 1620 to the storekeeper-gauger of the receiving warehouse. Where shipment of packages or cases is made by truck, four copies of Form 236 and three copies of Form 1520, 1619, or 1620 for the storekeeper-gauger at the receiving warehouse will be sealed in an envelope addressed to such storekeeper-gauger and handed to the person in charge of the truck for delivery to him.

(53 Stat. 332; 26 U. S. C. 2875)

§ 185.712 *Storekeeper-gauger's receipt of spirits at receiving warehouse.* Upon receipt of the spirits at the receiving warehouse, the storekeeper-gauger will examine the shipment and will ascertain and note on Form 1520, 1619, or 1620, as the case may be, any losses or discrepancies, as provided in §§ 185.376–185.378. The storekeeper-gauger will weigh (and proof) the spirits as provided in § 185.375. The storekeeper-gauger will execute his certificate of receipt on each copy of Form 236, and if the spirits are contained in a tank car indicate thereon whether the tank car was received with seals intact. He will retain one copy each of Forms 236 and 1520, 1619, or 1620, give one copy of each form to the proprietor of the warehouse, and forward two copies of Form 236, one copy of Form 1520, 1619, or 1620, as the case may be, to the supervisor of his district. The district supervisor will retain one copy of Form 236 and the copy of Form 1520, 1619, or 1620 and forward the remaining copy of Form 236 to the supervisor of the district from which the spirits were transferred. No withdrawal or transfer in bond of spirits

received at the warehouse will be made until the four copies of Form 236 and the three copies of Form 1520, 1619, or 1620, as the case may be, have been received by the storekeeper-gauger in charge. The storekeeper-gauger will include on Form 1513 the original tax gallons contained in all packages received regardless of any losses in transit. However, any package lost in transit will not be included on Form 1513 but will be entered by the supervisor-consignee in his account of losses, Form 1691.

(53 Stat. 332; 26 U. S. C. 2875)

SUBPART GG—TRANSFERS FOR REDISTILLATION

§ 185.725 *General.* Distilled spirits of any proof may be transferred in approved containers from an internal revenue bonded warehouse to any distillery for redistillation: *Provided*, That distilled spirits produced from material other than fruits or their residues may not be transferred to fruit distilleries for redistillation. Spirits of 160 degrees of proof or more may be transferred by pipeline from storage tanks in an internal revenue bonded warehouse to a distillery on the same or contiguous premises for redistillation or they may be transferred in tank cars to any distillery for redistillation. The pipeline used for conveyance of spirits for redistillation shall be constructed and protected in accordance with the requirements of §§ 185.124 and approved for that purpose. Spirits for redistillation may be removed only pursuant to an approved application filed by the distiller in accordance with Regulations 4 (26 CFR Part 183). Upon removal of spirits from an internal revenue bonded warehouse for redistillation, the consignee distiller shall assume the liability for all taxes and liens in respect of such spirits from the time they leave the warehouse premises; and, upon redistillation, the redistilled spirits shall be treated the same as if they were originally produced by the redistiller and all prior obligations as to taxes and liens thereon shall be superseded. The removal of spirits for redistillation shall be made in accordance with the provisions of this subpart.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.726 *Gauge of spirits to be removed for redistillation.* Upon receipt of application, Form 236, and the copy of the special application authorizing the removal, the warehouseman, when he desires to make shipment will give a copy of Form 236 to the storekeeper-gauger and furnish him with a complete description of the spirits to be shipped. The storekeeper-gauger will verify the information shown on Form 236 with the corresponding information shown on the application. He will make the inspection and gauge of containers or the bulk gauge for removal by pipeline or in tank cars, as the case may be. If the spirits to be removed for redistillation are in packages the proprietor will prepare Form 1520 in the manner provided in § 185.601. Otherwise the report of gauge will be prepared by the storekeeper-gauger. An original and five copies of Form 1520 will be prepared. Where the inspection or gauge discloses containers bearing evidence of unusual loss of contents that is not satisfactorily explained, or of tampering, the storekeeper-gauger shall immediately notify the district supervisor of all facts in the case and will detain the containers and contents thereof pending receipt of instructions from the district supervisor. The marking of containers and distribution of applications and gauge reports will be made, in accordance with the applicable provisions of §§ 185.690–185.712. A copy of the gauge report will be attached to each copy of Form 236. Containers of spirits removed from the warehouse for redistillation must have the required transfer-in-bond markings stenciled thereon, and, in addition, the words "For Redistillation." The storekeeper-gauger will note on all gauge reports covering removal of spirits for redistillation the proof at which the spirits were distilled and the words, "For Redistillation," followed by the serial number and date of approval of the special application authorizing such removal. Spirits may not be removed for redistillation until the proper authorization has been received at the consignor premises and exhibited to the storekeeper-gauger in charge.

(53 Stat. 335 as amended, 492; 26 U. S. C. 2883, 4017)

§ 185.727 *Records.* Spirits removed from an internal revenue bonded warehouse for redistillation shall be reported and accounted for by the proprietor in accordance with Subpart WW of this part and by the storekeeper-gauger in accordance with Subparts UU and VV of this part.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

SUBPART HH—EXPORTATION OF DISTILLED SPIRITS FREE OF TAX

§ 185.735 *General.* Distilled spirits may be withdrawn from an internal revenue bonded warehouse, free of tax, for exportation as provided in this subpart. Distilled spirits may be so withdrawn under a direct export bond, in which case the exporter must furnish to the district supervisor evidence of the actual landing of the spirits in a foreign country or proof of loss of the spirits at sea. Distilled spirits may also be withdrawn for exportation under a transportation bond covering the transfer of the spirits from the internal revenue bonded warehouse to the port of export, in which case the exporter must file with the collector of customs at the port of export bond, Form 693, in a penal sum equal to the internal revenue tax on the spirits to be exported, and proof of actual landing of the spirits at the foreign port in accordance with customs regulations. In both cases a certificate showing the actual clearance of the spirits from the port of export will be furnished to the district supervisor by the collector of customs.

(53 Stat. 336, 337; 26 U. S. C. 2835, 2836)

§ 185.736 *Kinds of containers.* Distilled spirits may be removed in bond, free of tax, for export in (a) distiller's original packages, including those the contents of which have been reduced in proof to not less than 90 degrees; (b) new packages filled from distiller's original packages; (c) cases, when bottled in bond for export under the provisions of Subparts NN–QQ of this part; (d) wooden packages each containing two or more metallic cans of a capacity not less than 5 gallons each; (e) in tank cars, in the case of spirits of not less than 160 degrees of proof transferred from the distillery to warehouse storage tanks for that purpose; and (f) in packages containing brandies blended under this part.

(53 Stat. 300 as amended, 333, 336, 339, 342 as amended, 344, 345; 26 U. S. C. 2801, 2878, 2885, 2888, 2903, 2905, 2910)

§ 185.737 *Mingling in gauging tank of spirits intended for exportation.* Only spirits which conform to the limitations stated in § 185.765 may be mingled in a warehouse gauging tank preparatory to removal for exportation.

(53 Stat. 335 as amended, 339, 391 as amended; 26 U. S. C. 2883, 2888, 3254)

DISTILLER'S ORIGINAL PACKAGES

§ 185.738 *Application and entry.* Whenever an owner desires to remove distilled spirits from an internal revenue bonded warehouse, either for direct exportation or for transportation for export, in distiller's original packages without reducing the proof of the spirits, or after the spirits have been reduced to not less than 90 degrees of proof, he shall execute application on Form 206, in quintuplicate. All information required by the instructions printed on the form, or issued in respect thereto, and in this part, shall be furnished. Applications on Form 206 must be signed in accordance with the instructions printed on the form and sworn to before an officer authorized to administer oaths: *Provided*, That if the form officially prescribed for such application contains therein a provision for verification by a written declaration that such application is made under the penalties of perjury, such application shall be verified by the execution of such declaration, and such declaration shall be in lieu of any oath required herein for verification.

(53 Stat. 336, 337, 63 Stat. 667; 26 U. S. C. 2835, 2836, 3809)

§ 185.739 *Method of conveyance.* The conveyance to be used in transporting the spirits from the bonded warehouse to the port of export and the name of the carrier or carriers shall be shown in the application whenever possible. If the spirits are shipped on a through bill of lading and all carriers handling the spirits while in transit are not known, the name of the carrier to whom the spirits are to be delivered at the shipping warehouse must be shown.

(53 Stat. 336, 337; 26 U. S. C. 2835, 2836)

§ 185.740 *Request for regauge.* After the application, Form 206, has been fully executed, the owner will deliver all copies to the proprietor of the warehouse who will execute his request for regauge of the spirits. The proprietor will prepare Form 1520, in quintuplicate, in the manner provided in § 185.601 and deliver all copies of Forms 206 and 1520 to the storekeeper-gauger in charge of the warehouse.

(53 Stat. 336, 337; 26 U. S. C. 2835, 2836)

§ 185.741 *Inspection and regauge.* Upon receipt of the Form 1520 and the application the storekeeper-gauger, by reference to his records, will verify the entries in the heading on Form 1520 and details of entry gauge transcribed thereto and shall examine the application and request for regauge. If no discrepancies are found in Form 1520 and Form 206 has been fully executed, the storekeeper-gauger will (unless the packages are to be withdrawn on the original gauge as authorized in § 185.564) inspect and regauge the packages. Any package bearing evidence of unusual loss that cannot be satisfactorily explained, or of tampering, will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. When the Form 1520 has been completed by the storekeeper-gauger, he will execute his report on each copy of Form 206, and attach a copy of Form 1520 to each copy thereof. He will retain one copy of each form and deliver the remaining four copies of each form to the proprietor of the warehouse, unless the spirits are to be reduced in proof, in which event the forms will be retained by the storekeeper-gauger until the packages have been regauged after reduction.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.742 *Reduction in proof.* Upon request of the owner, distilled spirits contained in distiller's original packages may be reduced in proof to not less than 90 degrees for exportation, by the addition of pure water only, after the packages have been regauged as provided in § 185.741. The spirits will be reduced by the proprietor of the bonded warehouse in the presence and under the supervision of the storekeeper-gauger. Only such addition of water may be made to the body of the spirits in any package as the natural wantage of the package at the time of withdrawal will allow, but in no case shall the spirits be reduced to less than 90 degrees of proof. No introduction of water will be permitted which would require the withdrawal of any portion of the contents of the packages either before or after reduction. Any transfer of spirits from one package to another for the purpose of reduction is forbidden.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.743 *Gauge after reduction.* After the spirits in the distiller's original packages have been reduced, the storekeeper-gauger will again gauge the packages and report the details thereof on Form 1520, in quintuplicate. Any unusual loss ascertained by the gauge after reduction must be satisfactorily explained by the proprietor and reported in accordance with the provisions of § 185.486. Each such report of gauge shall have noted thereon the statement "Gauge after reduction," and a copy thereof shall be attached to each copy of Form 206, in addition to the copy of Form 1520 covering the withdrawal gauge. After the spirits have been so reduced and gauged, the storekeeper-gauger will execute his report on all copies of Form 206, retain one copy with Forms 1520 attached, and deliver the four remaining copies to the proprietor of the warehouse. The packages, after reduction, shall be marked as provided in § 185.754.

(53 Stat. 336, 337, 340 as amended; 26 U. S. C. 2885, 2886, 2901)

§ 185.744 *Export stamps required.* Every package of distilled spirits intended for exportation must have an export stamp affixed thereto at the time of its removal from the bonded warehouse. Such stamps shall be purchased by the proprietor of the warehouse from the collector of internal revenue of the collection district in which the warehouse is located.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.745 *Remittance for export stamps.* The proprietor of the bonded warehouse will forward all copies of Form 206, with Form 1520 attached, to the collector, together with remittance in acceptable form for the necessary number of export stamps.

(53 Stat. 336, 340 as amended, 447 as amended; 26 U. S. C. 2885, 2901, 3656)

§ 185.746 *Action by collector.* If the remittance is sufficient to cover the cost of the export stamps, the collector will issue the necessary number of export stamps and note the serial numbers of the export stamps on Form 1520. The collector will retain one copy each of Form 206 and 1520 and send three copies thereof, with the export stamps, to the proprietor of the warehouse.

(53 Stat. 336, 337, 340 as amended; 26 U. S. C. 2885, 2886, 2901)

§ 185.747 *Application and bond to district supervisor.* The proprietor of the bonded warehouse shall forward to the district supervisor all copies of the receipted Form 206, with Forms 1520 attached, together with a proper bond, executed in accordance with §§ 185.190–185.209 and 185.748–185.752, except that when an approved continuing bond (Form 657 or 658), in a sufficient penal sum, is on file in district supervisor's office, applications covering exportations thereunder need not be accompanied by an export bond.

(53 Stat. 336, 337, 373 as amended; 26 U. S. C. 2885, 2886, 3170)

§ 185.748 *Export bonds.* Bonds covering the exportation of distilled spirits may be executed by the owner of the spirits in sufficient penal sums, on one of the forms described in § 185.749, § 185.750, § 185.751 or § 185.752, as the case may be.

(53 Stat. 336, 337, 373 as amended; 26 U. S. C. 2885, 2886, 3170)

§ 185.749 *Direct export, Form 547.* If the bond is intended to cover a specific lot of spirits withdrawn for direct exportation, it shall be executed on Form 547, in triplicate. The penal sum of such bond shall be not less than the tax at the distilled spirits rate on the quantity of spirits contained in the packages to be withdrawn for exportation, as shown by the report of regauge.

(53 Stat. 336, 337, 373 as amended; 26 U. S. C. 2885, 2886, 3170)

§ 185.750 *Continuing bond, direct export, Form 657.* If distilled spirits are to be withdrawn for direct exportation from time to time on one bond, a continuing bond, Form 657, in triplicate, shall be filed. The penal sum of such bond shall be sufficient to cover the tax at the distilled spirits rate on the maximum quantity of distilled spirits that may remain unaccounted for at any one time, but in no case shall the penal sum be less than $1,000. Distilled spirits withdrawn for exportation under direct export bonds shall remain unaccounted for until satisfactory proof of landing abroad is filed with the district supervisor in accordance with § 185.787 or § 185.791, or until satisfactory proof of loss at sea without fault or neglect of the owner or shipper has been submitted in accordance with § 185.796, and claim for remission of the tax on the spirits so lost has been allowed.

(53 Stat. 336, 337, 373 as amended; 26 U. S. C. 2885, 2886, 3170)

§ 185.751 *Transportation for export, Form 548.* If the spirits are to be withdrawn for transportation for export and a bond is to be given only for the spirits regauged for that purpose, it shall be executed on Form 548, in triplicate. The penal sum of such bond shall be not less than the tax at the distilled spirits rate on the quantity of spirits regauged for exportation.

(53 Stat. 336, 337, 373 as amended; 26 U. S. C. 2885, 2886, 3170)

§ 185.752 *Continuing bond, transportation for export, Form 658.* If spirits are to be withdrawn for transportation for export from time to time on one transportation for export bond, a continuing bond, Form 658, in triplicate, shall be executed. The bond will be executed in a penal sum sufficient to cover the tax at the distilled spirits rate on the maximum quantity of distilled spirits that may remain unaccounted for at any time, but in no case shall the penal sum be less than $1,000. Distilled spirits withdrawn for transportation for export shall remain unaccounted for until satisfactory proof of clearance of the spirits from the port of export is filed with the district supervisor in accordance with § 185.784 or § 185.785.

(53 Stat. 336, 337, 373 as amended; 26 U. S. C. 2885, 2886, 3170)

§ 185.753 *Approval of bond and application.* The district supervisor will examine the bond, and if it is properly executed as provided in Subpart H of this part, and in a sufficient penal sum, computed as prescribed in § 185.749, § 185.750, §185.751, or § 185.752, as the case may be, he shall note his approval thereon, retain one copy, forward one copy to the Commissioner and deliver one copy to the principal. If the owner and the proprietor of the warehouse have complied with the law and this part and the application is complete in all respects, the district supervisor shall execute his permit for removal and transportation of the spirits on all copies of Form 206 and forward them to the storekeeper-gauger in charge of the warehouse.

(53 Stat. 336, 337, 373 as amended; 26 U. S. C. 2885, 2886, 3170)

§ 185.754 *Marking, branding, and stamping casks.* Upon receipt by the storekeeper-gauger of Form 206 with the permit executed by the district supervisor, the proprietor shall deliver the export stamps to the storekeeper-gauger who shall verify the data thereon with his retained copy of Form 1520, and, if no discrepancies are found, he will affix his signature, or the facsimile thereof, to the stamps and return them to the proprietor who shall proceed to affix and cancel them in the manner provided for the affixing and canceling of taxpaid stamps. The proprietor will cut or brand into the Government head of each package withdrawn for export, in letters and figures not less than one-half inch in height, the date of withdrawal, the proof and tare ascertained at time of withdrawal, the number of the export stamp, and the proof gallon contents as then ascertained. When spirits are withdrawn from a warehouse other than that in which originally deposited, the number of the warehouse and the state in which located will be cut, burned, or stenciled on the head of the package in addition to the original marks placed on the package. The names of the ports from and to which the spirits are to be exported will be marked on the heads of the packages. Where metal packages are used, all of the foregoing marks will be plainly and durably stenciled on the Government head. Such cutting, marking, or branding of export marks on the head will be as follows:

EXPORT

Withdrawn Oct. 30, 1949
I. R. B. W. 4 N. Y.
P. ---------- T. ----------
P. G. ----------
Export Stamp No. 600
[STAMP]
From Brooklyn, N. Y.
To Shanghai, China

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.755 *Release of spirits.* After the packages have been properly stamped, marked, and branded, the storekeeper-gauger will release them for delivery to the exporter named in the application. Upon removal of the spirits, the storekeeper-gauger will execute his report of removal on Form 206.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.756 *Delivery to carrier.* If the spirits are withdrawn from a bonded warehouse located elsewhere than at the port of exportation, the exporter will deliver the shipment to a carrier for transportation to the port of exportation. He shall procure a copy of the bill of lading covering such transportation and deliver it to the storekeeper-gauger at the bonded warehouse. The spirits must be consigned to the collector of customs of the port of export, and must be properly described in the bill of lading by serial numbers, kind, and quantity.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.757 *Delivery directly for customs inspection.* Where the spirits are withdrawn from a bonded warehouse located at the port of exportation, the exporter will deliver the shipment directly for customs inspection and supervision of lading. A copy of the export bill of lading shall be procured and filed with the district supervisor for attachment to the copy of Form 206 retained by him.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.758 *Exportation through border port, etc.* In case of exportation through a border port to contiguous foreign territory, the bill of lading will cover the transportation of the spirits to their destination, and must show the routing, particularly as to the carrier which will deliver the shipment for customs inspection at the border. The shipment must be consigned in care of the collector of customs or deputy collector of customs at the border port. The exporter shall deliver one copy of the bill of lading to the storekeeper-gauger at the bonded warehouse. In case of transportation of the spirits from a bonded warehouse, located elsewhere than at the port of exportation, for shipment by vessel, the exporter shall furnish a copy of the transportation bill of lading and a copy of the export bill of lading to the district supervisor for attachment to the copy of Form 206 retained by him.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.759 *Disposition of forms.* When the packages have been delivered and the exporter has furnished a copy of the bill of lading, the storekeeper-gauger will forward immediately a complete set of the forms (206, 1520, and bill of lading) to the district supervisor, forward one copy each of Forms 206 and 1520 to the collector of customs at the port of exportation, and deliver one copy each of Forms 206 and 1520 to the proprietor for transmittal to the exporter. The exporter will execute his request for customs inspection on Form 206 and file such form with Form 1520 attached with the collector of customs at the port of exportation.

(53 Stat. 336, 337, 373 as amended; 26 U. S. C. 2885, 2886, 3170)

§ 185.760 *Records.* Packages removed from an internal revenue bonded warehouse for exportation shall be reported and accounted for by the proprietor in accordance with Subpart WW of this part and by the storekeeper-gauger in accordance with Subparts UU and VV of this part.

(53 Stat. 346; 26 U. S. C. 2915)

PACKAGES FILLED FROM DISTILLER'S ORIGINAL PACKAGES

§ 185.761 *Application and entry.* Whenever an owner desires to transfer distilled spirits from distiller's original packages to new packages for exportation, he shall execute application on Form 206, in quintuplicate, as provided in § 185.738. By the term "new packages" is meant any suitable packages into which the contents of original packages are transferred for exportation.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.762 *Request for regauge.* After the application has been fully executed on Form 206, the proprietor will follow the procedure in § 185.740 prescribed for the withdrawal for exportation in distiller's original packages.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.763 *Inspection.* The storekeeper-gauger will examine the application and inspect the packages. Packages which do not bear evidence of unusual loss that cannot be satisfactorily explained, or of tampering, will be released for consolidation or change of package. A gauge tank may be used in consolidating or changing packages for export. Where it is determined that any package bears evidence of unusual loss that cannot be explained, or of tampering, such package will be detained pending further investigation in accordance with the applicable provisions of §§ 185.430–185.496.

(53 Stat. 336, 337, 340 as amended; 26 U. S. C. 2885, 2886, 2901)

§ 185.764 *Change of package.* Distilled spirits in distiller's original packages may be transferred from one package to one or more new packages, or the contents, or portions of the contents, of two or more packages may be transferred to one new package. The proprietor of the warehouse must so arrange the contents of the new packages that no residue of spirits will be left in any of the distiller's original packages from which the contents are transferred. The transfer of the contents of the old packages to the new packages shall be made by the proprietor under the immediate supervision of the storekeeper-gauger.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.765 *Mixing of spirits.* The contents of two or more original packages may not be transferred to a new package unless the contents of the old packages are of the same kind and quality, and were produced at approximately the same proof by the same distiller at the same distillery on or about the same date and stored in the same kind of cooperage under the same conditions.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.766 *New packages to be gauged.* After the transfer of the spirits to new packages has been completed, the storekeeper-gauger will gauge such packages. The details of the gauge will be entered on Form 1520, in quintuplicate. The notation "Filled for export from Packages Nos. ----------" (the serial numbers of the original packages being inserted), shall be made on all copies of Form 1520 to distinguish such form from the Form 1520 prepared by the proprietor. A copy of Form 1520, covering the gauge of the new packages, will be attached to each copy of Form 206, in addition to the copy of Form 1520 prepared by the proprietor.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.767 *Rinsing of packages and obliteration of marks and brands.* When the old packages have been emptied, and are not to be used for new consolidated packages, they will be thoroughly rinsed and all marks and brands promptly obliterated. Rinse water not used for reducing the proof of the spirits must be immediately destroyed in the presence of

the storekeeper-gauger. If an old package is to be used for a new consolidated package, the old marks and brands shall be obliterated even though the original contents or a portion thereof is allowed to remain in the package, such retention being regarded as constructive transfer of spirits from the old package to the new package.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.768 *Marks on new packages.* The new packages shall be marked and branded in accordance with § 185.399 and numbered in accordance with § 185.401.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.769 *Storekeeper-gauger's report.* When the packages have been so marked and branded, the storekeeper-gauger shall execute his report on Form 206, retain one copy of the form, with Forms 1520 attached, and deliver the remaining copies to the proprietor of the warehouse.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.770 *Remittance for export stamps.* The proprietor of the warehouse will forward all copies of Form 206, with Forms 1520 attached, to the collector, with remittance for the necessary number of export stamps.

(53 Stat. 336, 337, 340 as amended; 26 U. S. C. 2885, 2886, 2901)

§ 185.771 *Action by collector.* The collector will issue the necessary number of export stamps, and note the serial numbers of the export stamps on the Form 1520 covering the gauge of the new packages. The collector will retain one copy of each form (206 and 1520) and send three copies thereof, with the export stamps, to the proprietor of the warehouse, in accordance with § 185.746.

(53 Stat. 336, 337, 340 as amended; 26 U. S. C. 2885, 2886, 2901)

§ 185.772 *Subsequent procedure.* The procedure for filing bond, the stamping, marking, and branding, and removal of the packages, the disposition of the forms, and the recording of the removal, will be the same as that prescribed in §§ 185.747–185.760, for distilled spirits to be exported in distiller's original packages.

(53 Stat. 336, 337, 373 as amended; 26 U. S. C. 2885, 2886, 3170)

EXPORTATION OF BOTTLED DISTILLED SPIRITS

§ 185.773 *Application and bond.* Whenever it is desired to withdraw bottled distilled spirits from the storage portion of the bonded warehouse or from the bottling-in-bond department, either for direct exportation or for transportation for export, the owner shall execute application on Form 206, in quadruplicate, in accordance with § 185.738. The request for regauge will not be executed. The applicant shall forward all copies of Form 206 to the district supervisor, together with a properly executed export bond in a sufficient penal sum, computed as prescribed in §§ 185.749–185.752, except that the application need not be accompanied by a bond if the applicant has on file with the district supervisor an approved continuing bond (Form 657 or 658) in a sufficient penal sum.

(53 Stat. 344, 373 as amended; 26 U. S. C. 2905, 3170)

§ 185.774 *Approval of bond and application.* The district supervisor will examine the bond and if it is properly executed and in a sufficient penal sum to cover the tax on the spirits contained in the cases, he shall note his approval thereon, retain one copy, send one copy to the Commissioner and deliver one copy to the principal. In cases where the exporter has on file a continuing bond executed on a prior date, under which the exportation is to be made, the district supervisor will determine whether such bond is of sufficient penal sum to cover the tax on the spirits specified in the application as well as any spirits previously removed for export thereunder and unaccounted for. If the owner and the proprietor of the warehouse have complied with the law and this part, the district supervisor shall execute his permit for removal and transportation of the spirits on all copies of Form 206 and forward them to the storekeeper-gauger in charge of the warehouse.

(53 Stat. 344, 345, 373 as amended; 26 U. S. C. 2905, 2910, 3170)

§ 185.775 *Removal of cases for exportation.* Upon receipt of Form 206, approved by the district supervisor, the storekeeper-gauger shall inspect the cases, and if they bear no evidence of unusual loss that cannot be satisfactorily explained, or of tampering, release the cases for exportation. Any case bearing evidence of unusual loss that cannot be satisfactorily explained, or of tampering, will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. Upon removal thereof from the bottling-in-bond department or from the storage portion of the warehouse, the storekeeper-gauger shall execute his report of removal on Form 206. The spirits, when released for exportation, must be consigned to the collector of customs at the port of exportation, and must be properly described in the bill of lading by serial numbers, kind, and quantity. The exporter shall deliver two copies of the bill of lading to the storekeeper-gauger. One copy of Form 206 will be retained by the storekeeper-gauger, one copy thereof with a copy of the bill of lading will be forwarded to the district supervisor, one copy with a copy of the bill of lading will be forwarded to the collector of customs at the port of exportation and one copy will be delivered to the proprietor for transmittal to the exporter. The exporter will execute his request for customs inspection on Form 206 and file such form with the collector of customs at the port of exportation.

(53 Stat. 344, 345; 26 U. S. C. 2905, 2910)

§ 185.776 *Records.* Cases of distilled spirits removed from an internal revenue bonded warehouse for export shall be reported and accounted for by the proprietor in accordance with Subpart WW of this part and by the storekeeper-gauger in accordance with Subparts UU and VV of this part.

(53 Stat. 343; 26 U. S. C. 2904)

WOODEN PACKAGES CONTAINING METALLIC CANS

§ 185.777 *General.* Distilled spirits may be exported in wooden packages, each containing two or more metallic cans, which cans shall each have a capacity of not less than 5 gallons.

(53 Stat. 333; 26 U. S. C. 2878)

§ 185.778 *Exportation of packages containing metallic cans.* Application on Form 206 shall be made promptly by the owner of the spirits for the removal of the packages from the bonded warehouse for exportation. The procedure prescribed in this subpart covering the withdrawal of distiller's original packages shall be applicable to the withdrawal of packages containing metallic cans, except that no regauge will be made in the bonded warehouse prior to the removal of the packages for exportation, and for this reason the request for regauge on Form 206 need not be executed by the proprietor of the warehouse.

(53 Stat. 336, 337, 346; 26 U. S. C. 2885, 2886, 2915)

PROCEEDINGS AT PORTS OF EXPORT

§ 185.779 *Notice to collector of customs of arrival of spirits for exportation.* When distilled spirits withdrawn for direct exportation or transportation for exportation arrive at the port of exportation, the exporter or his agent shall execute his request for customs inspection on the Form 206 delivered to him by the proprietor of the warehouse and file such copy together with the attached Form 1520, if any, with the collector of customs. If Form 206 is properly completed and accompanied by Form 1520, when required, the collector of customs shall execute his order, both on the copy of Form 206 received from the exporter and on the copy received from the storekeeper-gauger, directing an inspector of customs or other customs officer to inspect the packages or cases described in Form 206 and Form 1520, if any, and to supervise the scalping and destruction of the export stamps on packages, as provided in § 185.781, and the lading of the spirits. Both copies of Form 206 and Form 1520, if any, shall be delivered to the inspector of customs or other customs officer. In the case of distilled spirits withdrawn for transportation for exportation the exporter shall file an export-entry on Form 691 with the collector of customs after the inspection and lading of the spirits.

(53 Stat. 336, 337, 344; 26 U. S. C. 2885, 2886, 2905)

§ 185.780 *Lighterage or drayage under supervision.* Immediately upon the arrival of the spirits at the port of exportation, the exporter or his agent shall notify the collector of the port in order that (a) lighterage and drayage may be done under the collector's supervision, (b) the spirits may be at once inspected and laden on board the vessel, and (c) they may be in continuous customs cus-

tody from the time they are delivered from the cars or other conveyances until they leave port on the foreign-bound vessel.

(53 Stat. 336, 337, 344; 26 U. S. C. 2885, 2886, 2905)

§ 185.781 *Bulk containers.* Distilled spirits in casks, or in cases containing metallic cans, shall be carefully gauged by a customs officer and a detailed report of such gauge shall be made on Form 696, in duplicate. In preparing the report, the customs officer shall make entries thereon as to each package in accordance with the column headings, and, if there is a material discrepancy as to any package, shall attach to the Form 696 a statement as to the nature and apparent cause of the loss. When the officer has completed his gauge and report as prescribed above, the entire shipment may be laden without detention of packages bearing evidence of loss, unless the circumstances indicate tampering, in which event such packages will be detained pending investigation by the district supervisor, to whom the detention should be immediately reported. A copy of the report of gauge will be attached to each copy of Form 206 and Form 1520, if any, and delivered to the collector of customs, as provided in § 185.783. There shall be cut out of each export stamp that portion upon which is shown the serial number of the stamp, the date of issue, the name of the collector issuing the same, the serial number of the cask or package, the contents in proof gallons, and the name of the internal revenue storekeeper-gauger. The cut-out portions of the export stamps shall then be attached to one copy of Form 206 for delivery to the collector of customs. After the export stamps have been scalped, the portions thereof remaining on each cask or package shall be obliterated.

(53 Stat. 336, 337; 26 U. S. C. 2885, 2886)

§ 185.782 *Bottled spirits.* A customs officer at the port of exportation will in every instance carefully inspect cases containing spirits for the purpose of ascertaining whether the cases bear evidence of tampering or have sustained losses in transit due to breakage. The officer will report on Form 206 any cases as to which a discrepancy is found, giving the serial numbers of the cases, their original contents in proof gallons, and the nature of the discrepancy as to each case. When the officer has completed his inspection and report as prescribed above, the entire shipment may be laden without detention of the deficient cases, unless the circumstances indicate fraud, in which event such cases will be detained pending investigation by the district supervisor, to whom the detention should be immediately reported.

(53 Stat. 344; 26 U. S. C. 2905)

§ 185.783 *Return of inspection and lading.* After the spirits have been duly laden on board the exporting vessel, car, or truck the customs officer shall execute his report on Form 206 and forward all copies to the collector of customs, together with Forms 1520 and Form 696 in the event the shipment was composed of bulk containers.

(53 Stat. 336, 337, 344; 26 U. S. C. 2885, 2886, 2905)

§ 185.784 *Disposition of forms by collectors of customs.* Upon receipt of the duly executed forms, the collector of customs will execute his certificate on Form 206 and will forward the copy of such form bearing the cut-out portions of the export stamps and one copy of Forms 1520 and Form 696, if any, to the district supervisor of the district in which is located the warehouse from which the spirits were removed for exportation.

(53 Stat. 336, 337, 344, 373 as amended; 26 U. S. C. 2885, 2886, 2905, 3170)

§ 185.785 *Exportation in railroad cars or trucks from port of entry through another port.* Where distilled spirits are to be exported by rail or in trucks through a frontier port and it is desired to avoid the delay of customs inspection and gauge at such port, the spirits may be entered for exportation at an interior customs port and inspected and gauged by a customs officer at that port. The inspecting customs officer will supervise the loading of the spirits and seal the car or truck with customs seals and note the car number or license number of the truck, as the case may be, and the serial numbers of the customs seals, if numbered seals are used, in his report on both copies of Form 206 and forward the forms with Forms 1520 attached together with a copy of the bill of lading to be furnished by the exporter to the collector of customs. The collector will forward both copies of Forms 206 and 1520 to the customs officer at the frontier port and retain the bill of lading and the cut-out portions of the export stamps, if any, pending return of Forms 206. If the customs officer at the frontier port finds upon arrival of the car or truck that the seals are intact and there is no evidence of tampering with the contents, he will execute his report on Form 206, and allow the car or truck to proceed to its destination without opening. The officer will then return both copies of the receipted Form 206 with Form 1520 attached to the collector of customs at the port of entry. If, however, the customs officer finds that the seals are not intact or there is evidence of tampering with the contents, he will open the car or truck, inspect and gauge the spirits, and make report of his gauge on Form 696, in duplicate. When the spirits are so inspected and gauged, the customs officer will append to each copy of Form 206 (with Form 1520 attached, if any) a copy of his gauge on Form 696 before forwarding the forms to the collector of customs at the port of entry. Upon receipt of Forms 206 and Forms 1520 and 696, if any, from the customs officer at the frontier port, the collector at the port of entry will execute his certificate on both copies of Form 206, properly modified, and forward one copy of each form and the cut-out portions of export stamps from package (if any) to the district supervisor of the district from which the spirits were withdrawn from the warehouse.

(53 Stat. 336, 337, 344, 373 as amended; 26 U. S. C. 2885, 2886, 2905, 3170)

§ 185.786 *Subsequent procedure.* Where distilled spirits are withdrawn and shipped under an export bond, the requirements of §§ 185.787–185.792, must be observed. Where the spirits are withdrawn under a transportation for export bond, the exporter must file with the collector of customs bond on Form 693 and proof of actual landing of the spirits at the foreign port, as provided in § 185.735.

(53 Stat. 336, 337, 344; 26 U. S. C. 2885, 2886, 2905)

§ 185.787 *Proof of landing.* Every owner exporting distilled spirits, free of tax, under an export bond shall file with the district supervisor, within six (6) months from the date of exportation, or such additional time as may be granted under § 185.792, evidence satisfactory to the district supervisor that the distilled spirits described in the application for export have been landed at some port outside the jurisdiction of the United States. The landing certificate must give such description as will readily identify the spirits to which it relates.

(53 Stat. 336, 344, 373 as amended; 26 U. S. C. 2885, 2905, 3170)

§ 185.788 *Form of landing certificate.* The landing certificate shall be in substantially the following form:

Port of ....., ... 19.....

I, ..., of ....., do hereby certify that the merchandise hereinafter described, shipped by ..... at the port of ....., on board the ..... on or about the ..... day of ....., 19....., has been landed at this port from on board the ..... on or about the ..... day of ....., 19.....

Number and kind of containers	Serial numbers	Kind of spirits	Quantity (proof gallons)

[SEAL] .....

Subscribed and sworn to before me this ..... day of ..... 19.....

[SEAL] .....
(Name)

.....
(Title)

(53 Stat. 336, 344; 26 U. S. C. 2885, 2905)

§ 185.789 *Execution of landing certificate.* The landing certificate shall be signed by a revenue officer of the foreign country to which the spirits are exported, unless it is shown that such country has no customs administration, in which event the certificate shall be signed by the consignee or by the vessel's agent at the place of landing and sworn to before a notary public or other officer authorized to administer oaths and having an official seal. Where the certificate offered is in a foreign language, a sworn translation must accompany the certificate.

(53 Stat. 336, 344; 26 U. S. C. 2885, 2905)

§ 185.790 *Landing certificate may cover several consignments.* Where several consignments are made by the same shipper to the same consignee, or to a general agent, on the same date, by the same vessel or other conveyance, and to the same foreign port, such consignments may be covered by one landing certificate, provided each consignment is specifically and separately described in the certificate.

(53 Stat. 336, 344; 26 U. S. C. 2835, 2905)

§ 185.791 *Collateral evidence of landing.* Whenever an owner is unable to procure a landing certificate but is able to establish by collateral evidence the actual exportation of the spirits and their delivery to the foreign consignee, he may file application for relief with the district supervisor holding the export bond. Such application must be under oath and must recite the facts connected with the exportation, the date of withdrawal of the spirits from the internal revenue bonded warehouse for exportation, the name and registry number of the internal revenue bonded warehouse from which withdrawn, the name and registry number of the producing distiller, the serial numbers of the packages or cases, the kind and quantity of spirits, the name of the consignee, and the name of the vessel by and the port to which shipment was made. The application must set forth the reason why a landing certificate cannot be filed and must be supported by such collateral evidence of exportation and delivery to the foreign consignee as the exporter may be able to submit. The application must be submitted to the district supervisor before the expiration of the time specified in § 185.787 for furnishing evidence of landing.

(53 Stat. 336, 344; 26 U. S. C. 2885, 2905)

§ 185.792 *Extension of time for submitting proof of landing.* In case the owner, from causes beyond his control, is unable to furnish the required proof of landing within six months from the date of exportation, he may make application to the district supervisor for an extension of time for the production of such evidence. Such application must state specifically the cause of failure to produce the evidence and be verified under oath. An extension of three months may be granted by the district supervisor, and, if necessary, upon a second application an additional three months may be granted.

(53 Stat. 336, 344; 26 U. S. C. 2885, 2905)

§ 185.793 *Account with export bonds, Forms 657, 658, 547 and 548.* The district supervisor will keep an account on Form 1688, with each continuing export bond on Form 657 or Form 658 and with each specific export bond on Form 547 or Form 548. The account shall show all of the information as indicated in the heading and by the various columns and as required by instructions issued in respect thereto and by this part.

(53 Stat. 336, 337, 344, 373 as amended; 26 U. S. C. 2885, 2886, 2905, 3170)

LOSSES

§ 185.794 *Loss at sea.* Section 2885, I. R. C., provides that the bond required to be given for the exportation of distilled spirits shall be canceled upon presentation of satisfactory proof that, after shipment, the spirits were lost at sea without fault or neglect of the owner or shipper thereof.

§ 185.795 *Action by district supervisor.* If, upon examination of Forms 206, 696 and 1520 received from the collector of customs, a loss in transit is disclosed, the district supervisor will follow the procedure prescribed by §§ 185.480–185.496 insofar as applicable.

(53 Stat. 336, 337, 340 as amended; 26 U. S. C. 2885, 2886, 2901)

§ 185.796 *Proof of loss at sea.* When the exporter is unable to furnish proof of landing at a foreign port in consequence of loss at sea, he shall file with the district supervisor with whom he filed the export bond, an application for relief, setting forth fully the cause and extent of the loss, and all the facts and circumstances surrounding the same. Such application must be accompanied by the affidavits of two or more creditable and disinterested persons as to the loss. If the spirits were insured, the exporter shall also file certificates by officers of the insurance company, or board of underwriters, stating whether the insurance has been paid, and, whether to the best of their knowledge and belief the spirits were actually destroyed at sea. When obtainable, affidavits must be furnished by the master and mate of the vessel, detailing the cause and extent of the loss and all of the facts and circumstances surrounding the same. Such proof shall be furnished to the district supervisor within the time specified in § 185.787, for furnishing proof of landing of the spirits in a foreign country. The district supervisor will forward the application and supporting evidence to the Commissioner with his recommendation.

(53 Stat. 336, 344; 26 U. S. C. 2885, 2905)

§ 185.797 *Filing proof of loss at sea in case of exportation under bond on Form 693.* Where the spirits are exported under a bond furnished on Form 693 and the exporter is unable to furnish the required proof of landing at a foreign port in consequence of loss at sea, he will file application for relief and supporting evidence conforming to the provisions of the preceding section with the collector of customs with whom the bond was filed. The collector of customs will forward the application and supporting evidence to the Commissioner of Customs, with his recommendation thereon.

(53 Stat. 337; 26 U. S. C. 2886)

EXPORTATION IN TANK CARS

§ 185.798 *Kind of spirits.* Under the law, distilled spirits of a proof strength of not less than 180 degrees intended for exportation, free of tax, may be drawn from storage tanks in any internal revenue warehouses, for transfer to tank cars for exportation.

(53 Stat. 339; 26 U. S. C. 2888)

§ 185.799 *Procedure applicable.* Where it is desired to export distilled spirits in tank cars pursuant to the above provisions of law, the procedure relating to the exportation of distilled spirits in distiller's original packages, in so far as applicable, shall apply. The tank cars must be so constructed that all openings may be securely closed and sealed. An export stamp shall be procured and affixed to the route board of each tank car of spirits intended for exportation in the same manner as an export stamp is affixed to a package of spirits to be exported, and upon inspection of the tank car at the port of exportation such stamp shall be scalped and disposed of in accordance with § 185.781.

(53 Stat. 339; 26 U. S. C. 2888)

GENERAL PROVISIONS

§ 185.800 *Certificate of origin.* In view of the fact that entry of distilled spirits at ports in certain foreign countries is permitted only upon the filing by the importer of an official certificate showing the origin and age of such spirits, district supervisors with whom export withdrawal entries are filed may, in such cases, furnish the exporter with a certificate showing the origin and age of the spirits described in the entry for withdrawal, so far as may be determined from the marks and brands on the packages or cases containing the spirits. Such certificates shall be furnished in typewritten form on official letterheads.

§ 185.801 *Shipment to American possessions.* The provisions of this subpart relating to the exportation of distilled spirits, free of tax, to foreign countries and the forms prescribed for use in connection therewith, shall apply to like removals and shipments to Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Panama Canal Zone. Distilled spirits shipped to other possessions of the United States, and to Hawaii and Alaska, must be tax paid before withdrawal from bonded warehouses, unless transferred in bond to an internal revenue bonded warehouse located in one of these territories or possessions.

(53 Stat. 405, 406 as amended; 26 U. S. C. 3351, 3361)

§ 185.802 *Exportation of spirits after expiration of bonded period not permitted.* Except as to spirits which were 8 years of age, or older, on July 26, 1936, and remain in warehouse, district supervisors will decline to approve applications for the exportation of distilled spirits which have remained in warehouse after the expiration of the 8-year bonded period prescribed by law. In such cases, the district supervisor will indorse his disapproval across the face of the application and return the disapproved application, together with the bond, to the owner. At the same time the district supervisor will inform the proprietor of the warehouse in which the spirits are stored that the bonded period has expired and demand the immediate tax payment and withdrawal of the spirits.

(53 Stat. 333; 26 U. S. C. 2879)

§ 185.803 *Delay in lading at port.* If the exporting vessel is not prepared to receive distilled spirits withdrawn for export upon arrival at the port of exportation, the collector of customs may permit such spirits to remain in possession of the carrier for a period not

exceeding 15 days. Storage elsewhere for a like cause, and not exceeding the same period, may be approved by the collector of customs. In the event of further delay, the facts will be reported to the Commissioner of Internal Revenue, who will issue appropriate instructions concerning the disposition of the spirits.

(53 Stat. 336, 337, 344; 26 U. S. C. 2885, 2886, 2905)

SUBPART II—SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT

§ 185.815 *General.* Distilled spirits in packages and in cases which have been bottled in bond for exportation may be withdrawn from internal revenue bonded warehouses free of tax for use as supplies on the following vessels and aircraft:

(a) Vessels of war, in ports of the United States, of any nation which may reciprocate such privilege toward the vessels of war of the United States in its ports;

(b) Vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions;

(c) Aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions; and

(d) Aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted, and where the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States.

(46 Stat. 690 as amended (19 U. S. C. 1309))

§ 185.816 *Procedure.* Application to remove distilled spirits in packages and in cases bottled in bond for exportation from internal revenue bonded warehouses for use as supplies on vessels or aircraft will be made on Form 206. The procedure prescribed in §§ 185.738–185.772, as it relates to the withdrawal of packages from internal revenue bonded warehouses for exportation, is hereby made applicable to the withdrawal of packages for use as supplies on vessels or aircraft. The procedure prescribed in §§ 185.773–185.775 relating to the transfer and withdrawal of spirits bottled in bond for exportation, is hereby made applicable to the transfer and withdrawal of bottled spirits free of tax for use as supplies on vessels or aircraft.

(46 Stat. 690 as amended (19 U. S. C. 1309))

§ 185.817 *Bond.* Distilled spirits which are to be withdrawn from internal revenue bonded warehouses free of tax for use as supplies on vessels or aircraft must be covered by a bond on Form 547 or Form 657. Such bonds will be executed in the same manner as bonds for distilled spirits withdrawn free of tax for exportation, but must be accompanied by consent of surety, Form 1533, specifically stipulating that the terms thereof will cover distilled spirits withdrawn for use as supplies on vessels or aircraft. Exporters who have on file bonds on Form 657 covering the exportation of distilled spirits, and who desire to withdraw spirits free of tax from an internal revenue bonded warehouse for use as supplies on vessels or aircraft, may file a consent of surety containing a similar stipulation, provided such bonds are of sufficient penal sum.

(46 Stat. 690 as amended (19 U. S. C. 1309))

§ 185.818 *Export entry.* Before the spirits may be laden on the vessel or aircraft, the owner must file Form 206 with the collector of customs. The provisions of §§ 185.779, 185.780, and 185.782–185.784, will be observed insofar as applicable.

(46 Stat. 690 as amended (19 U. S. C. 1309))

§ 185.819 *Evidence of use as supplies on vessels and aircraft.* If the distilled spirits were laden on board a vessel or aircraft for use as ship's supplies or supplies for aircraft, there must be submitted to the district supervisor, within six months (or such additional extensions of time as may be granted by the district supervisor or the Commissioner), an affidavit of the master or other officer of the vessel or aircraft on which the spirits were laden, having knowledge of the facts, showing that the spirits have been used on board the vessel or aircraft, and that no portion thereof has been unladen in the United States or any of its possessions: *Provided*, That in the case of any shipment, no affidavit will be required if the amount of tax does not exceed $25.00. In the case of vessels of war, such affidavit will not be required.

(46 Stat. 690 as amended (19 U. S. C. 1309))

§ 185.820 *Account with bond, Form 547 or Form 657.* The district supervisor will keep an account with each bond, Form 547 or Form 657, similar to that kept for distilled spirits exported free of tax. In cases where exportations free of tax and withdrawals free of tax for use as supplies on vessels or aircraft are made under the same bond, only one account covering both transactions need be kept. Upon receipt of satisfactory evidence of the use of the spirits as supplies, the bond will be credited with the quantity so reported.

(46 Stat. 690 as amended (19 U. S. C. 1309))

§ 185.821 *Records.* Spirits withdrawn for use as supplies on vessels or aircraft shall be reported and accounted for by the proprietor in accordance with Subpart WW of this part and by the storekeeper-gauger in accordance with Subparts UU and VV of this part.

(46 Stat. 690 as amended (19 U. S. C. 1309))

SUBPART JJ—TRANSFER OF DISTILLED SPIRITS TO CUSTOMS MANUFACTURING BONDED WAREHOUSES

§ 185.825 *General.* Any manufacturer who manufactures medicines, preparations, compositions, perfumeries, cosmetics, and cordials and other liquors, for exportation, at a duly constituted manufacturing bonded warehouse established in accordance with law, may withdraw distilled spirits in distiller's original packages from any internal revenue bonded warehouse, free of tax, for use in the manufacture of such products. The law provides that distilled spirits may be removed from internal revenue bonded warehouses without payment of tax and transported to bonded manufacturing warehouses, class 6, to be rectified, or reduced in proof and bottled, and exported or shipped to Puerto Rico.

(53 Stat. 340, 375, 377; 26 U. S. C. 2891, 3177, 3178)

§ 185.826 *Withdrawal of packages.* When any manufacturer, who is the proprietor of a customs manufacturing bonded warehouse, desires to remove distiller's original packages of distilled spirits to such warehouse from an internal revenue bonded warehouse, free of tax, for use in the manufacture of medicines, preparations, compositions, perfumeries, cosmetics, and cordials and other liquors, for exportation, or, in the case of spirits rectified or reduced in proof and bottled, for exportation or shipment to Puerto Rico, he shall execute application, Form 206, in quintuplicate, in accordance with the applicable provisions of § 185.738, indicating thereon that the spirits are to be withdrawn for transfer to a customs manufacturing warehouse. The proprietor of the internal revenue bonded warehouse from which the spirits are to be removed shall execute request on Form 206 for regauge of the packages covered by the application. The provisions of § 185.741, relating to the gauging of distiller's original packages for exportation, shall so far as applicable apply to packages to be removed to customs manufacturing warehouses.

(53 Stat. 340, 340 as amended; 26 U. S. C. 2891, 2901)

§ 185.827 *Bond.* The manufacturer shall execute a bond to cover the transportation of the spirits from the internal revenue bonded warehouse from which withdrawn to the customs manufacturing bonded warehouse. If the bond is to cover a specific lot of spirits, it shall be executed on Form 643, in triplicate, and in a penal sum sufficient to cover the tax at the rate prescribed by law on the spirits to be so transported. If it is desired to furnish bond under which spirits may be withdrawn from time to time, it shall be executed on Form 1618, in triplicate, in a penal sum sufficient to cover the tax at the rate prescribed by law on the maximum quantity of spirits which may be outstanding against the bond at any one time. The bond and the application, Form 206, with report of gauge, Form 1520, attached, will be forwarded to the district supervisor who will, upon approval, dispose of the bond and application as provided in § 185.753, in the case of the withdrawal of distilled spirits in distiller's original packages for exportation.

(53 Stat. 340; 26 U. S. C. 2891)

§ 185.828 *Account with bonds, Form 1618 and Form 643.* The district supervisor will keep an account on Form 1687, with each continuing bond on Form 1618 and with each specific bond on Form 643. The account shall show all information as indicated in the heading and by the

various columns and as required by instructions issued in respect thereto and by this part.

(53 Stat. 340, 340 as amended; 26 U. S. C. 2891, 2901)

§ 185.829 *Stamps, marks and brands; disposition of forms.* The packages must be stamped, marked and branded in accordance with § 185.754 except that the name of the port to which the spirits are consigned for deposit in a manufacturing warehouse will be substituted for the names of the ports from and to which the spirits are to be exported. Forms will be disposed of in accordance with § 185.759.

(53 Stat. 307, 340; 26 U. S. C. 2808, 2891)

§ 185.830 *Consignment of spirits.* The spirits when withdrawn for shipment must in all cases be consigned to the proprietor of the manufacturing bonded warehouse, in care of the collector of customs of the district in which the warehouse is located.

(53 Stat. 340; 26 U. S. C. 2891)

§ 185.831 *Regauge and deposit in customs manufacturing warehouse.* Upon receipt of Forms 206 and 1520, the collector of customs will direct the proper officer to inspect and gauge the spirits upon their arrival at the warehouse, and to supervise their deposit therein. The officer will make a report of his gauge on Form 696, in duplicate, scalp the export stamps and attach them to one copy of the form, supervise the deposit of the spirits in the warehouse, execute his certificate on Customs Form 3923, in duplicate, and forward the forms to the collector of customs, who will execute his certificate on Form 3923 and forward one copy of each form with the scalped stamps and one copy each of Form 206 and Form 1520 to the district supervisor of the district from which the spirits were received. If there is a material discrepancy as to any package, the inspecting officer will attach to the Form 696 a statement as to the nature and cause of the loss. When the officer has completed his gauge and report as prescribed above, the entire shipment may be deposited without detention of packages bearing evidence of loss, unless the circumstances indicate tampering, in which event such packages will be detained pending investigation by the district supervisor, to whom the detention should be immediately reported.

(53 Stat. 340; 26 U. S. C. 2891)

§ 185.832 *Action by district supervisor.* Upon receipt of Forms 3923, 696, 206, and 1520 from the collector of customs, the district supervisor will ascertain whether there has been a loss of spirits from the packages in transit. If such a loss of spirits has occurred, the district supervisor will follow the procedure prescribed in §§ 185.480–185.496, insofar as applicable. If there has been no loss of spirits in transit, the district supervisor will, if the spirits were withdrawn on a continuing bond on Form 1618, make appropriate entries on Form 1687, or, if the withdrawal was made under bond on Form 643, cancel such bond in accordance with the provisions of § 185.338 and make appropriate entries on Form 1687.

(53 Stat. 340, 340 as amended; 26 U. S. C. 2891, 2901)

SUBPART KK—WITHDRAWAL OF DISTILLED SPIRITS FOR USE OF THE UNITED STATES

§ 185.840 *Persons entitled to make withdrawals.* Distilled spirits stored in internal revenue bonded warehouses and purchased for the use of the United States may be withdrawn, free of tax, by the head of the department, or the head of the bureau or establishment not under control of any department, for which the spirits are purchased.

(53 Stat. 403; 26 U. S. C. 3331)

§ 185.841 *Application, Form 543.* The head of the department or independent bureau or establishment, as the case may be, desiring to so withdraw such distilled spirits free of tax will file application on Form 543, signed by himself or another official duly authorized by him. Where the head of a department or independent bureau authorizes another officer to sign the application he will furnish the Commissioner of Internal Revenue with a copy of the order authorizing such officer to sign, or other evidence of the authority conferred upon the officer. The application will be forwarded to the Commissioner.

(53 Stat. 403; 26 U. S. C. 3331)

§ 185.842 *Permit, Form 1508.* Upon receipt of the application, permit on Form 1508, in quintuplicate, will be issued by the Commissioner and the original and three copies will be forwarded to the Government official by whom the application was signed, who in turn shall detach a copy and forward the original and the two remaining copies to the contractor or warehouseman to whom the spirits are to be delivered for shipment to the designated Government official. Upon approval of the bond, Form 544, pursuant to the provisions of § 185.843, the warehouseman shall furnish the original and the two copies of the Form 1508 to the storekeeper-gauger at the warehouse.

(53 Stat. 403; 26 U. S. C. 3331)

§ 185.843 *Bond, Form 544.* The contractor or the warehouseman will file with the district supervisor a bond on Form 544, in triplicate, in a penal sum not less than the tax on the spirits to be withdrawn. Upon approval of the bond, the district supervisor will forward one copy to the Commissioner and one copy to the principal, and will retain the remaining copy.

(53 Stat. 403; 26 U. S. C. 3331)

§ 185.844 *Form 1520.* If the spirits to be withdrawn are in packages, the warehouseman will prepare an original and four copies of Form 1520 in the manner prescribed in § 185.601. The storekeeper-gauger at the warehouse will, upon presentation of the Form 1520 and the original and two copies of the permit, Form 1508, examine the packages and where it is determined that any package bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such package will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. Packages which do not bear evidence of unusual loss or tampering will then be gauged.

(53 Stat. 340 as amended, 403; 26 U. S. C. 2901, 3331)

§ 185.845 *Form 1519.* If the spirits to be withdrawn were previously bottled in bond, the warehouseman will present the original and two copies of the permit, Form 1508, to the storekeeper-gauger together with an application on Form 1519, in quintuplicate, modified to indicate the type of withdrawal, executed by the principal on the bond Form 544, for withdrawal of the spirits. The storekeeper-gauger will inspect the cases and follow the procedure, insofar as applicable, prescribed by § 185.844. If any cases appear to have sustained a loss, the contents shall be examined and the quantity ascertained to have been lost from each case shall be noted on each copy of Form 1519.

(53 Stat. 340 as amended, 403; 26 U. S. C. 2901, 3331)

§ 185.846 *Forwarding of forms.* Upon completion of the regauge or inspection, the storekeeper-gauger will forward the original and two copies of the permit, Form 1508, and one copy of Form 1520 or 1519, as the case may be, direct to the district supervisor.

(53 Stat. 403; 26 U. S. C. 3331)

§ 185.847 *Supervisor's order to deliver spirits.* If the bond has been approved, the district supervisor, upon receipt of the original and two copies of the permit, Form 1508, and the copy of Form 1520 or 1519 from the storekeeper-gauger, will execute his order on Form 1508 directing the storekeeper-gauger to deliver the spirits to the person named in the order, and will forward all copies of the Form 1508 and Form 1520 or Form 1519 to the storekeeper-gauger: *Provided,* That where inspection of any package or case discloses evidence of tampering or unusual loss as provided in §§ 185.844 or 185.845, the procedure prescribed in §§ 185.480–185.496 will be followed.

(53 Stat. 403; 26 U. S. C. 3331)

§ 185.848 *Delivery of spirits.* Upon receipt from the district supervisor of the original and two copies of the Form 1508 and Form 1520 or Form 1519 by the storekeeper-gauger, the spirits will be delivered as provided in the order of the district supervisor, after the containers have been properly marked. The proprietor will cut, brand, or stencil on the Government head of each package withdrawn for the use of the United States, in letters and figures not less than one-half inch in height, the proof and tare ascertained at the time of gauge for withdrawal, the date and purpose of withdrawal, the number of proof gallons as then ascertained, and the storekeeper-gauger's name, title, and district. Cases will have stenciled thereon the words "Use of U. S.," followed by the date of withdrawal. There will also be plainly marked on each package or case, by means of a stencil or securely affixed label, the name, title, and address of the

Government official to whom the spirits are to be consigned. When delivery of the spirits has been made, the storekeeper-gauger will note over his signature on Form 1508, in the space provided therefor, the name of the person to whom the spirits were delivered and the date of delivery, and will retain one copy of the Form 1508 and one copy of Form 1520 or Form 1519, deliver one copy of each to the warehouseman, forward one copy of the Form 1520 or Form 1519 to the Government official to whom the spirits are to be delivered at destination, and forward the original of the permit, Form 1508 with Form 1520 or Form 1519 attached, to the district supervisor. If the bond was given by a person other than the warehouseman, a copy of Form 1520 or Form 1519 may be furnished to such person.

(53 Stat. 403; 26 U. S. C. 3331)

§ 185.849 *Bill of lading.* Where the spirits are transported from the warehouse by a carrier, the person to whom the spirits are delivered for shipment shall furnish a copy of the bill of lading covering transportation of the spirits from the point of shipment to final destination, to the storekeeper-gauger, who will forward the same to the district supervisor with Form 1508 and Form 1520 or Form 1519.

(53 Stat. 403; 26 U. S. C. 3331)

§ 185.850 *Certificate, Form 545.* Receipts of shipments of spirits withdrawn for use of the United States under this subpart shall be promptly certified to on Form 545, in duplicate, by the official representative of the United States or Governmental agency thereof to whom deliveries of such shipments are made. Where inspection at destination discloses a loss in transit in excess of one proof gallon as to any package, such loss will be noted on each copy of Form 545 by the receiving officer who will also specify the serial number of each such package, the loss ascertained as to each, and whether the condition of the package when received indicated that the loss was due to theft, or to other cause. Similar notations will be made by the receiving official on Form 545 where inspection of shipments of spirits withdrawn in cases reveals any loss in transit.

(53 Stat. 403; 26 U. S. C. 3331)

§ 185.851 *Disposition of Form 545.* The certificate on Form 545, in duplicate, duly executed by the receiving officer to whom the spirits are delivered and countersigned by the head of the department or independent bureau or establishment in interest, shall be forwarded within 30 days from the date of the withdrawal of the spirits to the district supervisor from whose district the withdrawal was made. The district supervisor will note on Form 545 the quantity of spirits shown by the withdrawal papers to have been withdrawn for shipment. If Form 545 shows a loss of spirits in transit upon which a claim for remission of the tax is required to be filed in accordance with the provisions of § 185.482, the district supervisor will forward a copy of the Form 545 to the Commissioner with the claim and his recommendation, otherwise the district supervisor will forward a copy of the form to the Commissioner and will retain one copy of Form 545.

(53 Stat. 340 as amended; 26 U. S. C. 2901)

SUBPART LL—WITHDRAWAL OF BRANDY FOR FORTIFICATION OF WINE

§ 185.855 *Kinds of spirits.* Brandies made exclusively from grapes, citrus fruits (except lemons and limes), peaches, cherries, berries, apricots, prunes, plums, pears, pawpaws, papayas, pineapples, cantaloups, or apples, or from the products or the residues of such fruits and berries, or from grape wine, citrus fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, pawpaw wine, papaya wine, pineapple wine, cantaloup wine, or apple wine in the manufacture of which artificial sweetening may have been used under the limitations prescribed in Regulations 7, "Wine" (26 CFR, Part 178), or the fruit pomace residuum of such grape wine, may be withdrawn from internal revenue bonded warehouses for the fortification of wine.

(53 Stat. 348 as amended, 351; 26 U. S. C. 3031, 3033)

WITHDRAWAL IN PACKAGES

§ 185.856 *Application, Form 257.* Where it is desired to remove brandy in packages from an internal revenue bonded warehouse for the fortification of wine, application will be made by the winemaker on Form 257. The winemaker shall state in the application the penal sum of the bond, Form 700–A. The same application may not include brandy produced by different distillers, nor two or more lots to be removed from the same bonded warehouse at different times, except where the warehouse is contiguous to the winery as provided in § 185.861. The application shall be filed in triplicate where the winery and the bonded warehouse are in the same supervisory district, and in quadruplicate, where they are in different districts. Where the premises are located in the same supervisory district and the bond of the winemaker is given in the maximum penal sum of $50,000, Form 257, will be submitted to the storekeeper-gauger if one is located at the winery, or at a contiguous fruit distillery or internal revenue bonded warehouse, as the case may be. If no storekeeper-gauger is located at such premises, the application will be submitted at the discretion of the district supervisor, to a designated storekeeper-gauger in the vicinity of the bonded winery. The district supervisor will notify each storekeeper-gauger designated to approve Forms 257 and advise him that the winemaker's bond is given in the maximum penal sum of $50,000. He will notify each winemaker concerned where Forms 257 are to be submitted to a storekeeper-gauger. All other Forms 257, that is, (a) those covering intradistrict removals where the bond of the winemaker is in the maximum penal sum but no storekeeper-gauger has been designated to approve Forms 257, (b) those covering intradistrict removals where the bond of the winemaker is not in the maximum penal sum, and (c) those covering interdistrict removals, will be submitted direct to the supervisor of the district in which the winery is located.

(53 Stat. 348 as amended, 351; 26 U. S. C. 3031, 3033)

§ 185.857 *Action on application, Form 257.*—(a) *By district supervisor.* If the application is in order, the quantity of brandy to be withdrawn is not in excess of the applicant's current needs or of the storage capacity of the fortifying room and the bond of the winemaker is sufficient to cover the brandy to be procured, the district supervisor will (1) where the warehouse is in the same district, execute his certificate on the form and send all three copies to the proprietor of the internal revenue bonded warehouse; and (2) where the warehouse is located in another supervisory district, execute his certificate on the form and send all four copies to the supervisor of such district, who will send all four copies to the proprietor of the internal revenue bonded warehouse from which the brandy is to be removed. If a storekeeper-gauger is not located at the internal revenue bonded warehouse, the supervisor of the district in which the warehouse is located will designate a storekeeper-gauger to gauge the brandy. If the application is not in order, the supervisor of the district in which the bonded winery is located will return all copies to the winemaker.

(b) *By storekeeper-gauger.* Upon receipt of Form 257 by the storekeeper-gauger, he will compare the penal sum of the bond as stated in the application with the statement furnished by the district supervisor pursuant to § 185.856. If the bond of the winemaker is given in the maximum penal sum of $50,000, the application is in proper order, and the quantity of brandy to be withdrawn is not in excess of the applicant's current needs or of the storage capacity of the fortifying room, he will certify to the sufficiency thereof on Form 257. He will send all copies of Form 257 to the proprietor of the internal revenue bonded warehouse from which the brandy is to be removed. If the application is not in order he will return all copies to the winemaker.

(53 Stat. 348 as amended, 351; 26 U. S. C. 3031, 3033)

§ 185.858 *Gauge of brandy.* The proprietor, upon receipt of Form 257, will execute his description of the brandy to be gauged on all copies of the form and will, if the brandy to be removed is in previously filled packages, prepare Form 1520 in the manner prescribed in § 185.601. The proprietor will prepare four copies of the report of gauge, Form 1520, where the brandy is to be removed at one time to the fortifying room of a contiguous winery, five copies in all other instances where brandy is to be removed to a winery located in the same supervisor district, and six copies where the winery is located in another district. He will refer the forms to the storekeeper-gauger assigned to the warehouse or to the storekeeper-gauger designated by the district supervisor pursuant to § 185.857, as the case may be. Where the certifi-

cate of sufficiency of the winemaker's bond was executed by a storekeeper-gauger and no storekeeper-gauger is assigned to the warehouse, the proprietor will request the district supervisor to designate one to gauge and release the brandy. The storekeeper-gauger will, by reference to his records, verify the entries in the heading of Form 1520 and the details of the entry gauge transcribed thereto. The storekeeper-gauger will examine the packages and where it is determined that any package bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such package will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. If the packages were previously filled, they will be regauged unless withdrawn on the original gauge as provided in § 185.564. The proprietor will cut, brand or stencil on the Government head in letters and figures not less than one-half inch in height, the proof and tare ascertained at the time of withdrawal, the date of withdrawal, and where the winery is not contiguous, the words "For Fortification of Wine". He will attach one copy of Form 1520 to each copy of Form 257 and will note on the extra copies of Form 1520 the name, registry number, and address of the winery to which the brandy is to be shipped. No greater quantity of brandy may be gauged or withdrawn than stated in the application. If the brandy to be removed is contained in storage tanks, the designated packages, after they have been filled and gauged, will be marked and branded in accordance with § 185.399, serially numbered in accordance with § 185.401, and in addition will have placed thereon the markings required in this section. In such cases, Form 1520 will be prepared and completed by the storekeeper-gauger.

(53 Stat. 348 as amended, 351; 26 U. S. C. 3031, 3033)

§ 185.859 *Warehouse and winery on contiguous premises.* Where the warehouse and winery are located on contiguous premises, and the storekeeper-gauger at the warehouse is charged with supervising the deposit of the brandy in the fortifying room, he will, upon deposit of the brandy, execute his certificates of gauge and removal and receipt on all copies of Form 257, retain one copy, with Form 1520 attached, at the warehouse and one copy at the winery, and forward one copy to the district supervisor. The extra copy of Form 1520 will be delivered to the warehouseman.

(53 Stat. 348 as amended, 351; 26 U. S. C. 3031, 3033)

§ 185.860 *Warehouse and winery not on contiguous premises.* Where the warehouse and winery are not located on contiguous premises, and the storekeeper-gauger at the warehouse is not charged with supervising the deposit of the brandy in the fortifying room of the winery, he will, upon removal of the brandy, execute his certificate of gauge and removal on all copies of Form 257, retain one copy with a copy of Form 1520 attached, and immediately forward the remaining copies (two or three, as the case may be), with a copy of Form 1520 attached to each, to the winemaker. The storekeeper-gauger will forward one of the extra copies of Form 1520 to the district supervisor and will deliver one copy to the warehouseman. When the brandy is received at the winery the officer detailed to duty thereat will examine the packages, supervise their deposit in the fortifying room, and complete and dispose of the forms in accordance with the provisions of Regulations 7 (26 CFR, Part 178).

(53 Stat. 348 as amended, 351; 26 U. S. C. 3031, 3033)

§ 185.861 *Gauging officer's certificate of monthly deposits in contiguous wineries.* If the warehouse and winery are located on contiguous premises and brandy is to be transferred to the winery from time to time during the month under the supervision of a storekeeper-gauger, the winemaker's application on Form 257 may cover all brandy to be transferred to the winery during the month. If the storekeeper-gauger gauging the brandy supervises its transfer to and deposit in the fortifying room, he will certify to the deposit on each copy of Form 1520 as the brandy is deposited, attach one copy thereof to each copy of Form 257, forward one of the extra copies of Form 1520 to the district supervisor, and deliver one copy to the warehouseman. At the close of the month the storekeeper-gauger will execute his certificate of gauge and removal and receipt on Form 257, retain one copy thereof, with a copy of each Form 1520 attached, at the warehouse as a permanent record, and one copy, similarly completed, at the winery for the same purpose, and forward the other copy to the district supervisor.

(53 Stat. 348 as amended, 351, 373 as amended; 26 U. S. C. 3031, 3033, 3170)

§ 185.862 *Winery officer's certificate of monthly deposits in contiguous winery.* Should a storekeeper-gauger be separately assigned to duty at the winery, the storekeeper-gauger at the warehouse will retain one copy of Form 257 and attach one copy of each Form 1520 thereto as the brandy is gauged, forward one of the extra copies of Form 1520 to the district supervisor, give one of such copies of Form 1520 to the warehouseman, and deliver the other two copies of Form 257 and Form 1520 to the storekeeper-gauger at the winery, who will certify to the deposit on Form 1520 as the brandy is received and deposited in the fortifying room, and attach a copy of Form 1520 to each copy of Form 257. At the close of the month the storekeeper-gauger at the warehouse will execute his certificate of gauge and removal on all three copies of Form 257, and the storekeeper-gauger at the winery will execute his certificate of receipt on all copies of the form. The forms will then be disposed of as provided in § 185.861.

(53 Stat. 348 as amended, 351; 26 U. S. C. 3031, 3033)

WITHDRAWAL BY PIPE LINE

§ 185.863 *Application, Form 257.* Where it is desired to transfer brandy by pipeline from warehouse tanks to the fortifying rooms of wineries on contiguous premises, application will be made by the winemaker on Form 257, in triplicate, in the same manner as when brandy is to be transferred in packages, as prescribed in § 185.856. The district supervisor or the storekeeper-gauger, as the case may be, will execute his certificate on the form as prescribed in § 185.857, the warehouseman will indicate the brandy to be gauged, as prescribed in § 185.858, and the storekeeper-gauger designated to gauge the brandy will make his report of gauge and execute his certificate of gauge and removal and receipt and complete and dispose of Forms 257 and Forms 1520, as prescribed in the case of removal in packages. Notation of transfer by pipeline will be made by the storekeeper-gauger on each Form 1520.

(53 Stat. 335 as amended, 348 as amended, 492; 26 U. S. C. 2883, 3031, 4017)

§ 185.864 *Gauge of brandy.* The brandy will be gauged in gauging tanks in the warehouse and run directly from such tanks to fortifying tanks or brandy storage tanks in the fortifying room of the winery, except that where no gauging tank is provided in the warehouse, the brandy may be gauged in a gauging tank in the fortifying room, in which case the brandy will be run direct from the storage tanks in the warehouse to the gauging tank in the fortifying room.

(53 Stat. 335 as amended, 348 as amended; 26 U. S. C. 2883, 3031)

§ 185.865 *Fortifying room not having gauging tank.* Where a gauging tank is not provided in the fortifying room, the brandy may be transferred thereto by pipeline only for immediate use, and only in such quantities as are necessary to fortify a given lot of wine. In such cases the wine to be fortified will be run into the fortifying tank and the required quantity of brandy to fortify the wine will be gauged in the warehouse and run directly into the fortifying tank containing the wine.

(53 Stat. 335 as amended, 348 as amended; 26 U. S. C. 2883, 3031)

§ 185.866 *Deposit in locked tanks.* The pipeline must empty into a closed tank which will be locked with a Government lock while brandy is being discharged therein or remains therein. Where the brandy is run directly by pipeline into a fortifying tank such tank must be fitted with a locked cover. If, however, the gauging tank is located in the fortifying room, it is not necessary that the fortifying tank be fitted with a locked cover.

(53 Stat. 335 as amended, 348 as amended; 26 U. S. C. 2883, 3031)

§ 185.867 *Supervision.* The brandy will be transferred under the immediate supervision of the storekeeper-gauger. The officer supervising the deposit of brandy in the fortifying room of the winery will see that the pipeline is properly connected by the proprietor with the tank into which the brandy is to be transferred before the valve permitting the flow of brandy to such tank is opened. The storekeeper-gauger will also see that the valves controlling the

flow of brandy into or out of tanks are locked with Government locks at all times, except when necessary to be open for the transfer of brandy. The keys will remain in the custody of the storekeeper-gauger, or, if no storekeeper-gauger is assigned to the warehouse or distillery, in the custody of the district supervisor or other officer designated by him. The officer will also see that no pipeline is used for the transfer of brandy unless it has been inspected and has been approved by the district supervisor.

(53 Stat. 335 as amended, 348 as amended; 26 U. S. C. 2883, 3031)

WITHDRAWAL IN TANK CARS

§ 185.868 *Application, Form 257.* Where it is desired to withdraw brandy from warehouse tanks for removal in tank cars to the fortifying room of a winery, application will be made by the winemaker on Form 257, in the same manner as when brandy is removed in packages, as prescribed in § 185.856 for withdrawal of packages. The district supervisor or the storekeeper-gauger, as the case may be, will execute his certificate on the form as prescribed in § 185.857, the warehouseman will indicate the brandy to be gauged as prescribed in § 185.858, and the storekeeper-gauger designated to gauge the brandy will make his report of gauge and execute his certificate of gauge and removal and dispose of Forms 257 and Forms 1520 as prescribed in the case of removal in packages. The storekeeper-gauger must note the kind of brandy on Form 1520. The winemaker will state on his application that the brandy is to be transported by tank car.

(53 Stat. 348 as amended, 492; 26 U. S. C. 3031, 4017)

§ 185.869 *Tank car requirements.* Tank cars used to transport brandy for the fortification of wine must be constructed, marked, inspected, filled, and sealed in the same manner as tank cars used to transport distilled spirits in bond, as provided in § 185.700.

(53 Stat. 348 as amended; 26 U. S. C. 3031)

§ 185.870 *Notation on Form 1520.* When the tank car is shipped the storekeeper-gauger will enter on Form 1520 covering the gauge of brandy the name of the owner and the serial number of the car, the serial numbers of the cap seals, the destination, and the date of shipment; for example: "Withdrawn in U. P. tank car No. 1643, cap seal No. 36437, for transfer to Winery No. 46, Los Angeles, Calif., for fortification of wine. Billed out 3:30 p. m. September 10, 1938."

(53 Stat. 348 as amended; 26 U. S. C. 3031)

§ 185.871 *Label to be attached.* When brandy is shipped in a tank car to a winery for fortification of wine, a label, dated and signed by the storekeeper-gauger, showing that the brandy is shipped in bond for fortification, and giving the name, registry number, and location (city or town and State) of the warehouse from which shipped and the winery to which shipped, shall be securely attached to the route board of the car, where it may be readily examined by Government officers. The label must be of good quality paper and be protected from damage by a coating of transparent shellac or similar transparent protective material. The label will be attached by the warehouseman under the supervision of the Government officer. The label, which will be furnished by the warehouseman, will be in substantially the following form:

Shipped in bond by
CALIFORNIA GRAPE COMPANY
I. R. B. W. No. 80, St. Helena, Calif., 14th Dist.
to
WESTERN WINE COMPANY
B. W. No. 50, Santa Rosa, Calif., 14th Dist.
For fortification of wine

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(Date) (Storekeeper-gauger)

This label will be scraped and obliterated immediately the tank car is emptied.

(53 Stat. 348 as amended; 26 U. S. C. 3031)

§ 185.872 *Deposit of brandy in fortifying room.* The examination of the tank car upon arrival at the winery, the unloading thereof, the gauging of the brandy unloaded, the preparation of the report of gauge, Form 1520, and the completion and disposition of Form 257 and Form 1520 by the storekeeper-gauger supervising the deposit of brandy in the fortifying room, will be in accordance with the provisions of Regulations 7 (26 CFR, Part 178).

(53 Stat. 348 as amended; 26 U. S. C. 3031)

SUBPART MM—WITHDRAWAL OF RUM FOR DENATURATION

§ 185.880 *General.* Rum of not less than 150 degrees proof may be withdrawn from an internal revenue bonded warehouse located on the distillery premises, free of tax, for denaturation:

(a) By pipeline from warehouse storage tanks through gauging tanks to storage or mixing tanks in a denaturing bonded warehouse located on the distillery premises; or

(b) In original packages for transfer to a denaturing bonded warehouse located on the distillery premises where produced.

(53 Stat. 335 as amended, 355; 26 U. S. C. 2883, 3070)

§ 185.881 *Application, Form 573.* When the proprietor of a distillery denaturing bonded warehouse desires to withdraw from an internal revenue bonded warehouse located on the same distillery premises rum of not less than 150 degrees of proof for denaturation, he will file application therefor with the storekeeper-gauger in charge on Form 573, in triplicate. Where the rum to be transferred is in packages, such application will be accompanied by Form 1520, in triplicate, prepared in the manner prescribed in § 185.601. Where the rum is to be transferred from warehouse storage tanks to the denaturing bonded warehouse by pipe line, the applicant shall specify on Form 573 the maximum number of tax gallons to be so transferred.

(53 Stat. 335 as amended, 355; 26 U. S. C. 2883, 3070)

§ 185.882 *Sufficiency of bond.* Where the bond covering operation of a denaturing bonded warehouse is given in less than the maximum penal sum of $100,000, the district supervisor will inform the storekeeper-gauger in charge of the penal sum of the bond, and the storekeeper-gauger will see that the quantity of spirits transferred to the denaturing bonded warehouse is within the limits of the bond.

(53 Stat. 355; 26 U. S. C. 3070)

§ 185.883 *Report of gauge, Form 1520.* Upon receipt of the Form 1520 the storekeeper-gauger will verify by reference to his records, the entries in the heading thereof and the details of the entry gauge transcribed thereto. If the rum described in the application is in packages, a careful gauge thereof will be made, except that rum in original packages may be transferred to the denaturing bonded warehouse on the original gauge if such transfer is made within 30 days of the date of the original entry for deposit. Where packages of rum are transferred to the denaturing bonded warehouse on the original gauge the proprietor will copy the details of such gauge on Form 1520. When rum for denaturation is transferred in packages, a careful inspection of such packages will be made prior to transfer, and where evidence of tampering or unusual loss is found the provisions of §§ 185.480–185.496, relative to losses of distilled spirits in bond will be followed. If the rum described in the application, Form 573, is to be transferred from warehouse storage tanks, it will be run into a gauging tank and carefully gauged except that where no gauging tank is provided in the warehouse, the rum may be gauged in a gauging tank in the denaturing bonded warehouse, in which case the rum shall be run direct from the storage tanks in the warehouse to the gauging tanks in the denaturing bonded warehouse. The storekeeper-gauger will prepare Form 1520, in triplicate, and enter the details of the gauge thereon.

(53 Stat. 355; 26 U. S. C. 3070)

§ 185.884 *Transfer of rum.* Upon completion of gauge, the storekeeper-gauger will permit the rum to be transferred. The proprietor will, under the supervision of the storekeeper-gauger and before removal, stencil upon the head of each package, in letters large enough to be easily read, "For Denaturation," and the date of removal. Details of the gauge need not be cut or stenciled on the package.

(53 Stat. 355; 26 U. S. C. 3070)

§ 185.885 *Supervision of transfers.* All transfers of rum from the internal revenue bonded warehouse to the denaturing bonded warehouse will be made under the immediate supervision of the storekeeper-gauger. Where rum is so transferred by pipeline, the storekeeper-gauger supervising the deposit of the rum in a storage or mixing tank in the denaturing bonded warehouse will see that the outlet and all other openings of such tank, except the inlet, are closed and locked and that the valves in the pipeline are so adjusted by the proprietor as to control the flow of spirits into the tank, before the outlet of the warehouse

storage tank from which the rum is to be transferred is unlocked. When the rum has been deposited in the tank in the denaturing bonded warehouse the inlet of such tank and the outlet of the storage tank in the internal revenue bonded warehouse will be immediately closed by the proprietor and locked by the storekeeper-gauger. The storekeeper-gauger will not permit the transfer of rum from the internal revenue bonded warehouse to the denaturing bonded warehouse by pipeline unless the use of such pipeline has been approved in accordance with the provisions of this part.

(53 Stat. 355; 26 U. S. C. 3070)

§ 185.886 *Disposition of Forms 573 and 1520.* Upon the transfer of the rum, the storekeeper-gauger will execute his certificate of gauge and transfer on each copy of Form 573, retain one copy of Form 573 with Form 1520 attached, deliver one copy of each to the warehouseman, and forward one copy of each to the district supervisor.

(53 Stat. 355; 26 U. S. C. 3070)

SUBPART NN—BOTTLING-IN-BOND DEPARTMENT

SPIRITS TO BE BOTTLED FOR DOMESTIC PURPOSES

§ 185.890 *Spirits which may be bottled for domestic purposes.* Distilled spirits which have remained in bond in wooden containers for at least four years from the date of original entry, or, in the case of fruit brandy, four years from the date of original gauge, may be bottled in bond before tax payment at a proof of 100 degrees for domestic use. Reduction to the necessary degree of proof may be effected by the addition of pure water only. In determining the eligibility of spirits for bottling in bond for domestic purposes, whisky, brandy, rum, and other distilled spirits (other than gin) must have been stored continuously for at least four years in charred, recharred, plain, used, or reused wooden cooperage so that the spirits have been in contact with the wood surface for the purpose of obtaining color or bringing about chemical changes which age and mature the spirits. Spirits (other than gin) which have been stored in wooden cooperage coated or lined with paraffin, or other substances, may not be bottled in bond. Gin to be bottled for domestic purposes must have been stored continuously for at least 4 years in wooden cooperage coated or lined with paraffin, or other substance, which will preclude contact of the spirits with the wood surface and prevent the absorption of wood color and flavor.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.891 *Application.* Application for bottling distilled spirits in bond for domestic purposes will be made to the storekeeper-gauger in charge of the warehouse on Form 1515, in quadruplicate, which will be accompanied by Form 1520, in triplicate, prepared by the proprietor in the manner provided in § 185.601. Upon receipt of the application and the Form 1520 the storekeeper-gauger will satisfy himself that the spirits are eligible for bottling in bond and will inspect and weigh the packages. Where it is determined that any package bears evidence of unusual loss that cannot be satisfactorily explained, or of tampering, such package will be detained pending further investigation in accordance with the applicable provisions of §§ 185.480–185.496. The Form 1515 may be amended to show deletion of any such package. The packages may be inspected and weighed in either the storage portion or the bottling-in-bond department of the warehouse. Where inspection of a package in the bottling-in-bond department discloses evidence of unusual loss that cannot be satisfactorily explained, or of tampering, the package must be returned immediately to the storage portion of the warehouse. The storekeeper-gauger will enter the weight of each package on Form 1520.

(53 Stat. 298 as amended, 342 as amended, 343, 492; 26 U. S. C. 2800, 2903, 2904, 4017)

§ 185.892 *Gauge.* If the spirits are to be transferred to the bottling-in-bond department by pipe line, the packages will be dumped in the bulk gauge tank in the warehouse. The storekeeper-gauger will make his gauge of the spirits, report the details thereof on Form 1520 prepared by the proprietor, and complete his report on Form 1515. The storekeeper-gauger will also enter on Form 1520 the number of the gauging tank. If the spirits are to be removed in packages to the bottling-in-bond department, the storekeeper-gauger in the warehouse will complete his certificate of removal for bottling on Form 1515. When the spirits have been released for transfer to a bottling-in-bond department, all copies of the application and the Form 1520 will be furnished to the storekeeper-gauger assigned to the bottling-in-bond department in order that such officer may inspect the spirits prior to the bottling thereof. If the spirits are received in the bottling-in-bond department in packages, they will be dumped for bulk gauging in dumping and reducing or in bottling tanks. The storekeeper-gauger will make his gauge, either by weight or by volume, and will report the gauge on Forms 1520 and 1515 in the same manner as if the spirits had been gauged in the warehouse. He will at that time return the original of the Form 1520 to the storekeeper-gauger in charge of the warehouse. When the bottling is completed, the storekeeper-gauger will enter the details of the cases on Form 1515, forward one copy, with the Form 1520 attached, to the district supervisor, deliver one copy of each form to the proprietor, return one copy of Form 1515 to the storekeeper-gauger in charge of the warehouse, and file the remaining copy of Form 1515 in the bottling-in-bond department. Spirits taxpaid from the bottling department shall be considered as constructively returned to the storage portion of the warehouse. The storekeeper-gauger shall account for, as deposited, on Forms 1621 and 1513, all spirits bottled. Prior to the removal of cases of distilled spirits from the bottling-in-bond department, the storekeeper-gauger will prepare Form 1620, in triplicate. One copy of the form will be forwarded to the district supervisor, one copy will be given to the warehouseman, and the remaining copy will be filed as a permanent record as provided in § 185.1022.

(53 Stat. 298 as amended, 342 as amended, 343, 492; 26 U. S. C. 2800, 2903, 2904, 4017)

BOTTLING FOR EXPORTATION

§ 185.893 *Application and request for regauge.* Whenever an owner desires to remove distiller's original packages of distilled spirits from an internal revenue bonded warehouse for bottling in bond for exportation, he shall execute Form 1515, in quadruplicate. After the application on Form 1515 has been fully executed, the owner will deliver all copies thereof to the proprietor of the warehouse, who will execute his request for gauge of the spirits. The proprietor will prepare Form 1520, in triplicate, in the manner prescribed in § 185.601 and will deliver all copies of Forms 1515 and 1520 to the storekeeper-gauger in charge of the warehouse. The requirements as to eligibility of distilled spirits to be bottled in bond for export and the mingling of such spirits for convenience in bottling are the same as those prescribed in §§ 185.890 and 185.901 for spirits bottled for domestic purposes, except that such spirits may be reduced by the addition of pure water only to not less than 80 degrees of proof, and gin may at any time within eight years after entry in bond be bottled in bond for export.

(53 Stat. 342 as amended, 343, 345; 26 U. S. C. 2903, 2904, 2910)

§ 185.894 *Regauge of spirits.* Upon receipt of Forms 1515 and 1520 the storekeeper-gauger will, by reference to his records, verify the entries in the heading of Form 1520 and the details of the entry gauge transcribed thereto and will examine the application and request for gauge. If no discrepancies are found in the Form 1520 and the Form 1515 has been fully executed, and the spirits are eligible for bottling in bond for export, the procedure prescribed in §§ 185.891 and 185.892 will be followed.

(53 Stat. 340 as amended, 342 as amended, 343, 345; 26 U. S. C. 2901, 2903, 2904, 2910)

§ 185.895 *Bottling for exportation.* The spirits will be bottled, stamped, cased and marked in accordance with the provisions of subparts OO, PP and QQ of this part after which the spirits may be returned to the storage portion of the warehouse pending withdrawal for exportation or may be removed for immediate exportation after the filing and approval of Form 206 and proper bond, in accordance with the provisions of §§ 185.773 to 185.775. If the spirits are returned to the storage portion of the warehouse they need not be kept in a separate room or building, but shall be kept separate and apart from all other distilled spirits stored in the warehouse. Spirits removed from the bottling department for immediate exportation shall be considered as constructively returned to the storage portion of the warehouse. The storekeeper-gauger shall account for, as deposited, on Forms 1621 and 1513, all spirits bottled. Prior

to the removal of cases of spirits from the bottling-in-bond department, the storekeeper-gauger will prepare Form 1620, in triplicate. One copy of the form will be forwarded to the district supervisor, one copy will be given to the warehouseman, and the remaining copy will be filed as a permanent record as provided in § 185.1022.

(53 Stat. 342 as amended, 343, 344, 345, 346; 26 U. S. C. 2903, 2904, 2905, 2910, 2915)

SUBPART OO—DUMPING, REDUCING AND BOTTLING

§ 185.900 *Prompt dumping of spirits required.* Spirits which have been gauged in a warehouse gauging tank for bottling in bond must be immediately transferred by pipeline and deposited in proper tanks in the bottling-in-bond department of the warehouse. Packages of spirits removed from the storage portion of the warehouse for bottling in bond must be immediately transferred to the bottling-in-bond department and their contents promptly dumped and gauged.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.901 *Mingling of spirits.* Under the law distilled spirits of the same kind, differing only in proof, produced at the same distillery by the same distiller under the same name or style and during the same distilling season and year, may be mingled together in the gauging, dumping, reducing, or bottling tank for convenience in bottling. Spirits which differ in kind may not be mingled together. Spirits which have been subjected to a quick-aging process may not be mingled with spirits which have not been quick-aged and are not homogeneous, nor may spirits which have been stored in different kinds of cooperage or under different conditions and are of different composition or character be mingled together. The law authorizes only the mingling together, for convenience in bottling, of spirits of the same kind, which differ only in proof, and prohibits the mingling of different products. Spirits mingled together in bottling must therefore be homogeneous: *Provided*, That spirits contained in packages if marked and branded as prescribed by the Gauging Manual (26 CFR, Part 186) (in effect at the time of production of the spirits) and which otherwise conform to the requirements set forth in this section will be considered to be homogeneous for mingling and bottling in bond.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.902 *Rinsing of barrels.* When spirits are dumped for bottling in bond, either in the warehouse gauging room or the bottling-in-bond department, the barrels and any char or wood chips contained therein must be thoroughly rinsed. The rinse water should be used to make any necessary reduction in the proof of the spirits dumped from the barrels. Any rinse water remaining after such reduction should be poured upon the ground or into a sewer; it may not be mixed with spirits dumped from other packages.

(a) *Disposition of char and chips.* Char and wood chips dumped from packages must be burned on the warehouse premises, or, if such burning is not practicable due to fire regulations, or to other valid reason, the char or chips must be treated with kerosene before removal thereof from the premises. Where kerosene is used, it must be sprayed or sprinkled on the materials, using not less than 1 gallon of kerosene to each 100 pounds of materials, in such manner as to preclude the abstraction of potable spirits from any part of the materials after removal from the premises. This will be effected by stirring or agitating the materials while the kerosene is being applied. Such burning or treating of materials must be done under the supervision of the storekeeper-gauger. The district supervisor may authorize any other disposition of the materials that will effectively prevent recovery of spirits therefrom.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.903 *Destruction of marks and brands.* When packages of spirits are dumped for bottling, all marks and brands which such packages are required by law to bear, must be completely effaced and obliterated. This should be done immediately upon the completion of the dumping, draining, and rinsing of the packages, and the packages must be immediately removed from the bottling-in-bond department or the gauging room.

(53 Stat. 330, 342 as amended, 343; 26 U. S. C. 2866, 2903, 2904)

§ 185.904 *Spirits in process of bottling.* The bottling of two or more lots of spirits at the same time in the same bottling room will not be permitted unless two or more complete bottling units are installed and bottling operations are so conducted as to prevent any commingling of different lots of spirits in process of bottling: *Provided*, That where one lot of spirits is in the process of bottling, another lot, or lots, may be dumped and reduced and held in locked tanks until the process of bottling of the first lot has been completed. The process of bottling will be regarded as complete for the purpose of this section when the bottled spirits have been placed in the cases and the cases closed: *Provided further*, That the proprietor shall not dump more spirits than can be bottled expeditiously.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.905 *Storage of spirits.* The bottling-in-bond department may not be used for the storage of distilled spirits in tanks or otherwise.

§ 185.906 *Bottling conducted under supervision.* The entire operation of bottling spirits in bond will be performed by the proprietor of the warehouse under the immediate supervision of the storekeeper-gauger. The storekeeper-gauger shall determine the proof of the spirits in the tank after reduction and thorough mingling by the proprietor, and prior to release for bottling, and make appropriate entries on Form 1515. Before filling bottles, the proof of spirits for domestic use shall be adjusted to 100 degrees. The proof of spirits for export purposes may be reduced to not less than 80 degrees. Adjusting the proof to tenths of a degree, either above or below the whole or complete degree, will not be permitted: *Provided*, That when spirits are being prepared for bottling in bond for exportation and are to be bottled and labeled in tenths of a degree of proof, such as 86.8, the proof of the spirits shall be adjusted to such tenths of a degree of proof. The proof in each instance shall be verified as to accuracy by the Government officer. While the storekeeper-gauger is charged with the duty of requiring compliance with the provisions of the law and regulations by the persons engaged in the various operations of bottling the spirits, his failure in any instance will not relieve the proprietor of the warehouse from responsibility.

(53 Stat. 342 as amended, 343, 492; 26 U. S. C. 2903, 2904, 4017)

§ 185.907 *No substance to be added or subtracted.* No material or substance of any kind other than pure water may be added to distilled spirits during the process of bottling in bond, nor may any substance or material be subtracted from the spirits: *Provided*, That charcoal, sediment, or other like substances may be removed from the spirits by straining them through cloth, felt, or other like material. No method or process may be applied to alter or change in any way the original condition or character of the spirits, except as authorized by law.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.908 *Permissible filtration.* Filtering which consists of merely removing foreign substances, such as particles of char, wood, dirt, or other extraneous, solid matter, that have got into the spirits since manufacture, and which does not change the original character of the spirits through removal of congeneric substances, or change the composition of the spirits, may be done in the bottling-in-bond department, since such filtering does not constitute rectification.

§ 185.909 *Use of filter aids.* Filter aids may be used only when they do not change the original character or composition of the spirits, either by the abstraction of any essential constituent or the addition of any substance. When filter aids are used, the district supervisor will cause samples of the spirits to be taken at infrequent intervals, before and after the use of the filter aids, for analysis to determine whether the use of such materials has resulted in a change in the original character or composition of the spirits.

§ 185.910 *Prohibited filtration.* Any filtering of distilled spirits which purifies or refines the same constitutes rectification and may be done only at a rectifying plant. The filtering out of cloudiness in whisky, gin, or other spirits, other than that due to the presence of finely pulverized or agglutinated charcoal or other extraneous, solid matter in suspension, which results in the removal of terpenes or congeneric substances

from the spirits and changes their original composition, constitutes rectification.

(53 Stat. 343, 391 as amended; 26 U. S. C. 2904, 3254)

§ 185.911 *Separate Form 1515 for each lot.* If the spirits are dumped from packages or received by pipeline in a dumping, reducing, or dumping and reducing tank, Form 1515 for each lot will be attached to such tank, and when the spirits are transferred therefrom to the bottling tank, this form will be attached to the bottling tank where it must remain until bottling of the spirits has been completed. If the spirits are removed directly into the bottling tank, this form will be attached to such tank and will remain thereon until the bottling of the spirits has been completed. The spirits must be bottled expeditiously.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.912 *Bottling tank to be used.* All distilled spirits to be bottled in bond must be transferred to an approved bottling tank. Prior to the transfer of the spirits to the bottling tank, and the opening of the inlet to the bottling tank, the storekeeper-gauger will lock the outlet to the tank, which must remain locked until the spirits have been transferred to the bottling tank, at which time the inlet will be locked, the proof and quantity of spirits in the bottling tank verified, and appropriate entry made on Form 1515. The inlet of the bottling tank will remain locked until all spirits within the tank have been bottled and the outlet has been locked. Whenever spirits are to be drawn from bottling tanks or transferred into or out of other tanks secured with Government locks, the storekeeper-gauger will open and close the locks but it shall be the duty of the proprietor to manipulate the stopcocks or valves controlling the flow of the spirits.

(a) *Unauthorized bottling forbidden.* Spirits may not be bottled from any vessel, tank, or receptacle, other than a designated and approved bottling tank, nor may spirits be bottled except under the immediate supervision of the storekeeper-gauger as required herein.

(53 Stat. 343; 26 U. S. C. 2904)

§ 185.913 *Spirits remaining in tanks overnight.* Dumping, reducing, dumping and reducing, or bottling tanks, may not be used for the storage of spirits. If spirits are held in the bottling-in-bond department overnight, the tanks in which such spirits are contained must be locked by the storekeeper-gauger. At the conclusion of the process of drawing the spirits from the dumping, reducing, or dumping and reducing tank, to the bottling tank or tanks, the latter must be securely locked, as well as the inlets and outlets thereto, and so remain until the spirits are to be drawn off into bottles, which shall be done as promptly as possible.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.914 *Removal of spirits bottled for domestic purposes.* Upon completion of bottling, the filled bottles, with labels and strip stamps properly affixed, must be placed in cases marked in accordance with Subpart PP of this part, and the filled cases then sealed, after which such cases must be immediately tax paid and removed, removed for any authorized tax-free purpose, or returned to the storage portion of the bonded warehouse: *Provided,* That the district supervisor may authorize the proprietor to remove to the storage portion of the warehouse, pending the receipt of orders involving affixing of brand labels or State stamps, cases temporarily secured by adhesive cloth tape or reinforced paper tape. The affixing of the bottled-in-bond strip stamps, the caution notices, and mandatory (Government) label information required by the regulations issued pursuant to the Federal Alcohol Administration Act (27 CFR, Part 5) will be performed at the time of bottling and before the goods are returned to the storage portion of the warehouse. However, if all of the mandatory information required by regulations issued pursuant to the Federal Alcohol Administration Act appears on the brand label in lieu of a separate label, the brand label must be affixed to the bottles before the goods are returned to the storage portion of the warehouse: *Provided further,* When orders are received for the spirits in cases temporarily sealed as provided herein, the cases must be returned to the bottling-in-bond department for affixing the brand label, or the State stamp, or both. Such returned spirits must be kept apart from other spirits in the bottling-in-bond department until the work of attaching the brand label, or State stamp, or both, and permanent sealing of the cases has been completed.

(53 Stat. 342 as amended, 343, 492; 26 U. S. C. 2903, 2904, 4017)

§ 185.915 *Losses or gains in bottling.* The loss or gain for each lot of distilled spirits bottled in bond (domestic or export) shall be entered by the storekeeper-gauger on Form 1515. Where the bottling of any particular lot of spirits results in a loss or gain of 2 percent or more of the quantity of spirits gauged in the bottling tank, or where there is evidence of theft, the storekeeper-gauger will initiate an immediate investigation to determine the cause of the discrepancy and prepare a letter report, in triplicate, setting forth in detail all facts and circumstances in each case and will forward two copies of the report to the district supervisor with the gauge and bottling reports covering the lot of spirits in question.

(53 Stat. 340 as amended, 342 as amended, 343, 492; 26 U. S. C. 2901, 2903, 2904, 4017)

REMNANT CASES

§ 185.916 *Remnant cases of domestic spirits.* Where there is less than a case of bottled spirits remaining from a lot of spirits bottled, the remnant will be placed in a case constructed in the same manner as the cases described in § 185.951. The remnant case will be given the serial number of the last full case containing spirits in the same lot, followed by the letter "R", thus: "100–R" or "161–R". If the next lot of spirits dumped for bottling is of the same kind, produced by the same distiller, under the same name, at the same distillery during the same year and distilling season, the remnant case may be held in the bottling-in-bond department and used for filling a complete case, or the contents may be dumped into the bottling tank and mingled with such other spirits for bottling in bond for domestic purposes. Otherwise, the remnant case will be removed with the other cases from the bottling-in-bond department and appropriate entry made in the record. Such remnant case may be taxpaid for domestic consumption, or returned to the bottling-in-bond department when the next lot of spirits of the same kind, produced by the same distiller, under the same name, at the same distillery during the same year and distilling season is dumped for bottling and (a) the bottles used for filling a complete case, or (b) the contents dumped into the bottling tank and mingled with such other spirits for bottling in bond for domestic purposes. In all cases when a remnant is disposed of as heretofore provided, notation will be made on Forms 1515 and 1620 showing the disposition of such remnant.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.917 *Remnants of low-proof spirits.* Remnants of spirits resulting from overflow in filling bottles, and spirits which have deteriorated in proof by evaporation or repacking of filters, may be returned, under the immediate supervision of the storekeeper-gauger, to the dumping, reducing, dumping and reducing tank, or bottling tank, containing the same or another lot of spirits of the same kind, produced by the same distiller, under the same name, at the same distillery during the same distilling season and year. Distilled spirits so returned to the dumping, reducing, dumping and reducing, or bottling tank will be reported on Form 1515.

(53 Stat. 343; 26 U. S. C. 2904)

§ 185.918 *Remnants of distilled spirits bottled in bond for exportation.* Where there is less than a case of bottled spirits remaining from a lot of spirits bottled in bond for exportation, the remnant will be placed in a case which must be marked and branded as prescribed by this part for marking cases of spirits bottled in bond for exportation, except as to the date of withdrawal and the names of the ports. If the next lot of spirits dumped for bottling in bond for exportation, or for domestic purposes, is of the same kind, produced by the same distiller, under the same name, at the same distillery during the same year and distilling season, the remnant case may be held in the bottling-in-bond department and used for filling a complete case, or the contents, even though differing in proof, may be dumped into the bottling tank and mingled with such other spirits for bottling in bond for exportation, or for domestic purposes. Otherwise, the remnant case will be removed with the other cases from the bottling-in-bond department to the storage portion of the warehouse and appropriate entry made in the record. Such remnant case may be taxpaid for domestic consumption or may be returned from the storage portion of

the bonded warehouse to the bottling-in-bond department when the next lot of spirits of the same kind, produced by the same distiller, under the same name, at the same distillery during the same year and distilling season is dumped for bottling in bond for exportation or for domestic purposes and the bottles used for filling a complete case or the contents, even though differing in proof, dumped into the bottling tank and mingled with such other spirits for bottling in bond for export or for domestic purposes.

(53 Stat. 298 as amended, 303 as amended, 331, 342 as amended, 343; 26 U. S. C. 2800, 2803, 2871, 2903, 2904; 49 Stat. 1965, 27 U. S. C. 205)

§ 185.919 *Indicia bottles.* Liquor bottles conforming to § 185.924 must be used in the event the remnant is to be returned to the storage portion of the warehouse for taxpayment or for subsequent disposition as bottled-in-bond spirits for domestic consumption.

(53 Stat. 331; 26 U. S. C. 2871)

§ 185.920 *Labels, stamps, marks, and brands.* The bottles must be properly labeled. Where export remnants are used for filling a complete case of spirits bottled in bond for domestic consumption, the export strip stamps must be replaced by the domestic bottled-in-bond stamps. Where export remnants are taxpaid, the export stamps on the bottles must be replaced by red strip stamps, purchased pursuant to Form 428, unless the spirits are 100 degrees of proof and have remained in wooden containers as required by this part for at least four years from the date of original gauge as to fruit brandy, or original entry as to other spirits, in which event they may be stamped with domestic bottled-in-bond stamps. The removal of the export stamps and the affixing of the red strip stamps or the domestic bottled-in-bond stamps, as the case may be, will be under the immediate supervision of the storekeeper-gauger. Remnant cases must be marked and branded as required by Regulations 11 (26 CFR, Part 189) governing the bottling of tax-paid spirits or the provisions of this part governing the bottling of spirits in bond for domestic purposes, as the case may be.

(53 Stat. 303 as amended, 342 as amended, 343; 26 U. S. C. 2803, 2903, 2904)

§ 185.921 *Records.* In all cases where a remnant is disposed of as heretofore provided, notation will be made on Forms 1515 and 1620, showing the disposition made of such remnant.

§ 185.922 *Taxpayment of remnant cases bottled for exportation.* The tax will be paid on remnant cases removed for domestic consumption pursuant to application on Form 1519, properly modified for the purpose. Such remnants will be removed from the premises immediately upon taxpayment.

(53 Stat. 298 as amended, 342 as amended, 343; 26 U. S. C. 2800, 2903, 2904)

§ 185.923 *Remnant cases of spirits bottled in bond for exportation returned to bottling-in-bond department.* When remnant cases of spirits bottled in bond for exportation are to be returned to the bottling-in-bond department from the storage portion of the warehouse for use in filling a complete case, they will be included in the application, Form 1515, covering the withdrawal of bulk containers for bottling for exportation.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

BOTTLES AND LABELS

§ 185.924 *Liquor bottles.* The proprietor must comply with the provisions of Regulations 13 (26 CFR, Part 175), respecting the use of properly marked liquor bottles. Spirits may be bottled in bond for domestic purposes in the following-sized bottles and no others: 1 quart, 4/5 quart, 1 pint, 1/2 pint, 1/8 pint, 1/10 pint, and, in the case of brandy, 1/16 pint. Bottles must be filled as nearly as possible to conform to the amount stated on the stamp, label or bottle, to be contained therein, but in no event may the amount of spirits contained in any bottle, due to the lack of uniformity of the bottles, vary more than 2 percent from the amount stated to be contained therein and, further, in such case there shall be substantially as many bottles overfilled as there are bottles underfilled for each lot of spirits bottled as reported on Form 1515.

(53 Stat. 331; 26 U. S. C. 2871)

§ 185.925 *Bottles for exportation.* Distilled spirits may be bottled in bond for exportation in the following-sized bottles and no others: 1 quart, 4/5 quart, 1 pint, 1/2 pint, and less than 1/2 pint. Bottles of less than 1/2 pint capacity may be of the size desired. Liquor bottles as defined in Regulations 13 (26 CFR, Part 175) may be used but will not be required in bottling distilled spirits in bond for exportation.

(53 Stat. 331, 344; 26 U. S. C. 2871, 2905)

§ 185.926 *Labels for distilled spirits for domestic consumption.* The labels used on bottles of distilled spirits for domestic consumption must be covered by a "Certificate of Approval of Labels of Domestically Bottled Distilled Spirits," or a "Certificate of Exemption from Label Approval for Distilled Spirits," as required by regulations issued under the Federal Alcohol Administration Act (27 CFR, Part 5). Labels covered by a certificate of exemption from label approval affixed to bottles of a capacity of 1/2 pint or more but not exceeding 1 gallon, in which distilled spirits are packaged for sale at retail, must conform to the provisions of Regulations 13 (26 CFR, Part 175).

(53 Stat. 342 as amended; 26 U. S. C. 2903, 49 Stat. 1965, 27 U. S. C. 205)

§ 185.927 *Certificate to be exhibited.* All bottlers of distilled spirits are required to exhibit certificates of label approval, or certificates of exemption from label approval, upon demand to any internal revenue officer. Internal revenue officers will call upon the proprietor to exhibit the required certificates of label approval or certificates of exemption from label approval. The original certificate or duplicate original issued under the Federal Alcohol Administration Act must be exhibited to the officer. Photostatic copies are not acceptable for this purpose.

(53 Stat. 342 as amended; 26 U. S. C. 2903, 49 Stat. 1965, 27 U. S. C. 205)

§ 185.928 *Comparison of labels with contents of bottling tank.* Before releasing spirits from bottling tanks for bottling, the Government officer will require the proprietor to submit to him the label he proposes to use for the spirits in the bottling tank, together with the certificate of label approval or the certificate of label exemption, as the case may be, and he will compare such label with the label affixed to such certificate to see that they agree in every respect except for the differences allowed by the certificate. He will then compare such label with Form 1515 to determine whether the label to be used corresponds in every respect with the spirits in the bottling tank, including age, class and type, and proof. In making this determination he will take into consideration the kind of spirits, the proof of distillation, the kind of cooperage in which the spirits were stored, and whether the spirits were treated with oak chips, etc., as disclosed by the marks and brands on the packages and entered on Form 1515. If the label and spirits agree in every respect, the Government officer will attach the label securely to the copy of Form 1515 to be attached to the bottling tank and release the spirits for bottling. If the label and spirits do not agree in every respect, the Government officer will withhold the release of the spirits for bottling until the proprietor submits to him a label and a certificate of label approval or exemption, as the case may be, correctly describing the spirits to be bottled.

§ 185.929 *Additional label requirements.* Officers assigned to bottling-in-bond departments of internal revenue bonded warehouses will also see that all labels affixed to containers of distilled spirits subject to the provisions of Regulations 13 (26 CFR, Part 175) conform to the requirements of such regulations. The methods prescribed in § 185.928 will be followed in making such determinations.

§ 185.930 *Tests of bottled spirits.* Officers assigned to bottling-in-bond departments will, at frequent, irregular intervals during the process of bottling, test and examine the bottled spirits to determine (a) whether the label attached is identical with the label verified by the Government officer under § 185.928; (b) whether the bottled spirits agree in proof with the data on the label and stamp; and (c) whether the quantity agrees with the data on the label, stamp or bottle, subject to the limitation prescribed by §§ 185.924 and 185.925. The test as to quantity will be made (a) by the utilization of a glass graduate standardized at 60 degrees Fahrenheit to be provided by the proprietor or (b) by weighing a given number of empty bottles and reweighing the same bottles after filling. If the contents do not agree as to quantity (subject to the limitation of §§ 185.924 and 185.925) or as to proof (subject to a normal drop in proof occurring during bottling opera-

tions not to exceed three-tenths of a degree) with the respective data on the label, stamp or bottle, the Government officer will withhold release of the bottled spirits and require the proprietor to rebottle, recondition (where permissible), or relabel the spirits in such manner that the label will correctly describe the contents. However, the proof at the beginning of the bottling operations shall always be set exactly as provided in § 185.906.

§ 185.931 *Proprietor's responsibility.* Notwithstanding that Government officers assigned to bottling - in - bond departments of internal revenue bonded warehouses are required to verify labeling data, full responsibility rests upon the proprietor to see that the labeling of all spirits bottled at his plant is in conformity with the requirements of the Federal Alcohol Administration Act and regulations issued thereunder, and Regulations 13 (26 CFR, Part 175).

§ 185.932 *Labeling of distilled spirits bottled for exportation.* All bottles containing distilled spirits bottled in bond for exportation shall have securely affixed thereto a label showing the following information:

(a) Kind of spirits;

(b) Name of actual bona fide distiller, or the name of the individual, firm, partnership, corporation, or association in whose name the spirits were produced and warehoused;

(c) The registry number of the distillery and State in which produced;

(d) Proof of the spirits;

(e) The words "Bottled in Bond for Export;"

(f) The name or trade name of proprietor of the warehouse (if desired);

(g) The registry number of the internal revenue bonded warehouse and State in which bottled.

(53 Stat. 344; 26 U. S. C. 2905)

§ 185.933 *Caution notice.* Every person bottling distilled spirits in bond, except for export, shall attach to each bottle filled by him a caution notice reading as follows:

This bottle has been filled and stamped under the provisions of sections 2903–2909, inclusive, Internal Revenue Code. Any person who shall reuse the stamp affixed to this bottle or remove the contents of this bottle without so destroying the stamp affixed thereto as to prevent reuse, or who shall sell this bottle, or reuse it for distilled spirits, will be liable to the penalties prescribed by law.

This notice shall be of convenient size for attachment to the bottle, shall be printed in plain, legible characters, with a border in a color contrasting with the color of the label, and shall be securely attached to the bottle. The type used in printing caution labels shall not be less than 6 point when used on bottles of 1 pint or more. When spirits are bottled for exportation, the proprietor may attach the caution notice to the bottles if he so desires.

(53 Stat. 345; 26 U. S. C. 2908)

§ 185.934 *Trade marks and distiller's name.* The label which contains the trade-mark or special name which the owner may see fit to give to his spirits, or some additional label equally conspicuous, shall be affixed to such bottles of spirits for domestic purposes, and shall bear the real name of the actual bona fide distiller or the name of the individual, firm, partnership, corporation, or association in whose name the spirits were produced and warehoused, and the registry number of the distillery and State in which produced; the registry number of the warehouse and State in which bottled; and the name or trade-name of the proprietor of the warehouse (if desired). In addition thereto the labels must conform to the provisions of regulations issued under the Federal Alcohol Administration Act (27 CFR Part 5), and Regulations 13 (26 CFR Part 175) except when bottled for exportation.

(49 Stat. 1965, 27 U. S. C. 205)

BOTTLING OF DISTILLED SPIRITS UNDER AN APPROVED TRADE NAME

§ 185.935 *Qualification of proprietor.* Whenever the proprietor desires to bottle or label distilled spirits under a trade name, he must procure approval of such name in the manner prescribed by § 185.280 prior to bottling or labeling spirits under such name.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.936 *Notice, Form 404.* Upon approval by the Commissioner of the names under which distilled spirits will be bottled, such names may be used by the proprietor, provided notice of intention to use such name or names is given to the district supervisor on Form 404, in triplicate. The storekeeper-gauger will not authorize the bottling of spirits under a name or names which have not been approved pursuant to the filing of Forms 27–D and 404.

§ 185.937 *Bottling.* Before bottling distilled spirits in bond under an approved trade name, the proprietor will execute Form 1515, in quintuplicate, in accordance with § 185.891, and show in the appropriate place on the form the name under which the spirits are to be bottled.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.938 *Marking, branding, stamping, and labeling.* The spirits will be marked, branded, stamped, and labeled as prescribed by the provisions of Subparts PP and QQ of this part.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

SUBPART PP—MARKS AND BRANDS AND CONSTRUCTION OF CASES

§ 185.940 *Capacity of cases.* Spirits bottled in bond for domestic use shall be packed in cases as follows: 12 bottles or 16 bottles containing 1 quart each; 12 bottles, 15 bottles, or 16 bottles containing ⅘ quart each; 24 bottles containing 1 pint each; 48 bottles containing ½ pint each; 192 bottles containing ⅛ pint each; 240 bottles containing 1/10 pint each; and (brandy only) 384 bottles containing 1/16 pint each. Spirits bottled in bond for exportation shall be packed in cases to contain not less than 2.0 gallons nor more than 5.0 gallons each.

(53 Stat. 342 as amended, 343, 344, 26 U. S. C. 2903, 2904, 2905)

§ 185.941 *Serial numbers.* Each case of distilled spirits filled in the bottling-in-bond department must be numbered serially beginning with No. 1 for the first case filled: *Provided*, That the series in current use at existing bottling-in-bond departments will be continued. Where there is a change in the individual, firm, or corporate name, or in the trade name or style, of the proprietor, the series in use at the time of such change will be continued, but a new series will be commenced where there is a change of proprietorship of the warehouse. Where spirits are bottled in more than one bottling room at the same time, the spirits bottled and cased in each bottling room should not be numbered until near the close of the day, in order that the cases may be numbered in their proper consecutive order in the regular series in use at the warehouse. The series of numbers in use for numbering cases containing spirits bottled for domestic consumption will be continued in numbering cases containing spirits bottled in bond for exportation. Remnant cases will be given the serial number of the last full case containing spirits in the same bottling lot followed by the letter "R," thus: "100R," or "161R."

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.942 *New or separate series.* The serial numbers of the cases filled shall run consecutively and shall not be broken in any manner except that whenever the number 1,000,000 is reached, the proprietor may, if he so desires, begin a new series, commencing with No. 1 as originally. Cases may be serially numbered either before or after filling.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.943 *Marks and brands on cases for domestic spirits.* Each case of distilled spirits bottled in bond for domestic consumption shall have plainly burned, embossed, printed, or stenciled on the Government side thereof, in letters and figures not less than one-half of an inch in height, in addition to the serial number, the registry number and State in which the warehouse at which the spirits are bottled is located, and the quantity and proof of the spirits. There shall also be plainly burned, embossed, printed, or stenciled on the Government side of each case, in letters not less than one-half of an inch in height, the kind of spirits, such as "Rye Whisky," "Rum," "Gin," etc., the real name of the actual bona fide distiller or of the individual, firm, partnership, corporation, or association in whose name the spirits were produced and warehoused, the registry number and location (city or town and State) of the distillery at which the spirits were produced, and the season and year of production and bottling. The word "Inspected," followed by the date of inspection, shall also be marked on each case in letters and figures not less than one-fourth of an inch in height. Where the spirits are tax paid and removed directly from the bottling-in-bond department, the words "Tax paid," in letters not less than one-half inch in height, and the date the stamps were canceled and surrendered, and the name of the storekeeper-gauger supervising the removal of the spirits from the bottling-

in-bond department, and his title, in letters and figures not less than one-fourth inch in height, shall be marked on the Government side of the case. All marks on cases, which are embossed, printed, or stenciled, must be made with a permanent ink in a color distinctly in contrast to the color used as a background. No marks, brands, labels, caution notices, or other devices whatever, other than those required by law and this part will be permitted on the Government side of the case.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.944 *Illustration of marks.* The required marks will be placed on the cases containing spirits for domestic purposes in the following manner and order:



§ 185.945 *Marking cases for spirits bottled for exportation.* The Government side of cases used for packaging distilled spirits bottled in bond for exportation shall be marked (insofar as applicable) as provided in § 185.943 for distilled spirits bottled in bond for domestic consumption, and in addition thereto, the number and capacity of the bottles contained therein, the words "For Export from U. S. A.," the name of the domestic port from which, and the name of the foreign port to which, the spirits are to be shipped shall be plainly burned, embossed, printed, or stenciled thereon, in letters and figures of not less than one-half inch in height. The name and title of the storekeeper-gauger supervising the removal for exportation, and the word "Withdrawn," followed by the date of withdrawal for exportation, shall also be marked on each case in letters and figures not less than one-fourth of an inch in height. If the cases are embossed, printed, or stenciled, a permanent ink shall be used as prescribed in § 185.943.

(53 Stat. 342 as amended, 343, 344; 26 U. S. C. 2903, 2904, 2905)

§185.946 *Illustration of marks.* The marks and brands will be placed on the cases containing spirits for exportation in the following manner and order:



§ 185.947 *Verification of marks and brands.* The storekeeper-gauger will verify the marks and brands on cases with the reports, and shall satisfy himself of the accuracy and correctness of the marks and brands.

§ 185.948 *Preservation of marks and brands.* The marks, brands, and serial numbers required by this part to be placed on cases shall not be removed therefrom, or obscured or obliterated, before the contents thereof have been removed.

(53 Stat. 345; 26 U. S. C. 2908)

§ 185.949 *Obscurity of marks and brands.* The marks and brands required by law and regulations to be applied to cases of distilled spirits bottled in bond are designed to evidence the legal status of the spirits contained therein, and they must not be obscured in any manner or covered by incasing the package bearing the same in another, but must at all times be in such condition as to admit of ready examination by Government officers.

§ 185.950 *Imitation stamps, labels, trade marks, or caution notices.* Any person who affixes or causes to be affixed to any package containing distilled spirits any imitation stamp, or other label, device, or document, either designed as a trade mark, or caution notice, and which shall be in the similitude or likeness of or which has the semblance or general appearance of any internal revenue stamp required by law to be affixed to or upon any packages containing spirits, is liable to severe penalties, and, in addition, the package with its contents shall be forfeited to the United States.

(53 Stat. 330; 26 U. S. C. 2869)

§ 185.951 *Cases.* Distilled spirits bottled in bond may be placed in cases constructed of wood, fiberboard, or other material provided such cases are so constructed as to afford protection against breakage or theft during storage or transfer in bond. Cases constructed of wood shall have the outer surface of the Government side or end made of dressed lumber.

Subpart QQ—Bottling in Bond Strip Stamps

§ 185.960 *Strip stamps.* The proprietor must affix over the mouth of each bottle of distilled spirits a domestic strip stamp, or export strip stamp, as the case may be, in accordance with §§ 185.977–185.979.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.961 *Stamp denominations.* Domestic bottled in bond strip stamps will be provided in the following denominations and in no other: 1 quart, 4/5 quart, 1 pint, 1/2 pint, and less than 1/2 pint. Stamps of less than 1/2 pint denomination will be used on bottles of the following sizes: 1/8 pint, 1/10 pint, and 1/16 pint.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.962 *Number of stamps in a sheet.* Stamps of all denominations will be issued 50 in a sheet. Requisitions for stamps by proprietors of warehouses must be made for full sheets. Stamps less than a full sheet may not be sold by collectors to proprietors of internal revenue bonded warehouses.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.963 *Requisition, Form 403.* Proprietors of internal revenue bonded warehouses may purchase domestic bottled in bond strip stamps in anticipation of their reasonable and current needs. Requisition for such stamps will be made on Form 403, in triplicate.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.964 *Approval of requisition.* The proprietor will submit all copies of the requisition, Form 403, to the storekeeper-gauger in charge of the warehouse for approval, who will indicate his approval by signing each copy of the form. Before approving the requisition, the storekeeper-gauger will see that it is properly executed and will satisfy himself that the number of stamps for which requisition is made is necessary for the reasonable and anticipated current needs of the proprietor. Upon approval of the form, the approving officer will return all copies to the proprietor.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.965 *Purchase of stamps.* Strip stamps will be purchased by the proprietor from the collector of the district in which the warehouse is located. Stamps may not be purchased by one proprietor from another, nor may they, except in cases of emergency, be purchased from collectors of other districts. The proprietor will forward all copies of the approved Form 403 received from the approving officer to the collector with remittance for the stamps. The collector will sell to the proprietor of the warehouse strip stamps at a price of 1 cent for each stamp, except that in the case of stamps for containers of less than one-half pint, the price shall be one-quarter of 1 cent for each stamp. The collector will enter the serial numbers of the stamps issued and stamp the date of sale on all copies of Form 403. The collector will retain one copy and immediately forward the original copy to the district supervisor, and forward one copy (by mail) to the storekeeper-gauger in charge of the warehouse. The collector will, in every case, forward the stamps to the storekeeper-gauger in charge of the warehouse, in care of the proprietor. The proprietor will retain the package intact and deliver it unopened to the storekeeper-gauger who will immediately place the stamps in the Government room, vault, or cabinet.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.966 *Remittance.* All orders for stamps must be accompanied by remittance in the proper form. If the order is to be sent by registered mail, there should be attached sufficient postage stamps, or a separate remittance, to pay postage and registry fee and any required registry surcharge as provided by the postal laws and regulations. Under no circumstances should the sum to cover postage, registry fee or surcharge, be included in the remittance covering the cost of stamps. The local postmaster should be consulted relative to the amount of registry fee and surcharge re-

quired. Stamps may also be forwarded by express at the expense of the proprietor in accordance with § 185.967.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.967 *Shipment of stamps.* Where the stamps are to be shipped, the collector will forward the stamps to the storekeeper-gauger named on the Form 403 by registered mail or express. The expense of forwarding the stamps will be borne by the proprietor. The collector may furnish the stamps directly to the proprietor for immediate delivery to the storekeeper-gauger in accordance with § 185.965. The storekeeper-gauger will enter on Form 1606 all bottled in bond stamps received from the collector. All stamps in the custody of the storekeeper-gauger will be kept by him in the Government room, vault, or cabinet.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.968 *Original overprinting of stamps.* Bottled in bond strip stamps must be overprinted, such overprinting to be in the blank spaces provided therefor. At such time as the proprietor of the warehouse desires to have stamps overprinted and cut, the storekeeper-gauger will deliver the stamps to him. The overprinting of stamps may be done by the proprietor, or by a designated commercial printer approved by the district supervisor. In overprinting strip stamps the proprietor should exercise the utmost care to see that the name of the producing distiller of the spirits is precisely the same as that shown in the notice filed by the distiller and is in agreement with the marks and brands on the packages of distilled spirits to be bottled in bond: *Provided*, That where the word "company," "corporation," or "incorporated," is a part of the name of the actual bona fide distiller of the spirits, or of the individual, firm, partnership, corporation, or association, in whose name the spirits were produced and warehoused, the abbreviation of such word may be used. Overprinting will be done in red ink with not less than 8-point type. The season and year when the spirits were produced, and the season and year when bottled, will be overprinted in the blank spaces on the end of the stamp bearing the serial number: *Provided*, That in the case of stamps of "Less than ½ pint" denomination, which do not have serial numbers, the season and year when produced, and the season and year when bottled, will be placed on the right-hand end of the stamp. In the blank space on the other end of the stamp will be placed the name of the actual bona fide distiller, or the name of the individual, firm, partnership, corporation, or association, in whose name the spirits were produced and warehoused. Overprinting of the stamp will be in the following form:



(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.969 *Second overprinting of stamps.* Strip stamps for distilled spirits bottled in bond, which the proprietor cannot use in the season or year for which they were overprinted, or on which an error was made in overprinting the season or year of production or bottling, may be again overprinted. The season or year when "produced" or when "bottled," or both, overprinted on the stamps may be obliterated and the desired seasons or years of production and bottling substituted. One overprinting only will be permitted after the original or first overprinting. The name of the distiller or any data other than the season and year of production or bottling, may not be changed after the original or first over-printing.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.970 *Cutting of stamps.* The storekeeper-gauger may, upon request, permit the proprietor to cut all, or any quantity, of stamps in advance of his needs. The stamps will be cut under the supervision of the storekeeper-gauger and returned to him in the same numerical sequence. Each separate package of cut bottled in bond strip stamps must be marked with the quantity of such stamps in the package and the first and last numbers.

§ 185.971 *Delivery of stamps to storekeeper-gauger.* When the stamps have been overprinted or cut, the proprietor will deliver them to the storekeeper-gauger, who will determine whether the correct number has been returned, and place them in the Government room, vault, or cabinet.

§ 185.972 *Exchange and redemption of stamps.* Unused bottled in bond strip stamps issued under section 2903 of the Internal Revenue Code, in quantities of the value of $5 or more, may be exchanged for bottled in bond strip stamps, of equal value and in any prescribed denomination, or the value thereof may be refunded, provided a claim for such exchange or refund, establishing the lawful issuance and ownership of the stamps, is filed with the collector of internal revenue who issued the stamps within two years after the date on which such stamps were lawfully issued: *Provided, however*, That the value of unused stamps which have been destroyed may be refunded upon the filing of a claim as provided herein with proof to the satisfaction of the Commissioner of the destruction of the stamps. Claims for exchange of stamps will be filed on Form 1579 and claims for refund of the value of stamps on Form 843, in accordance with procedure prescribed by the Commissioner. Appropriate notation will be made on Form 1606 by the storekeeper-gauger of bottled in bond stamps destroyed, exchanged, or surrendered for refund of the value thereof.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.973 *Record, Form 96.* Where the bottled in bond stamps are returned to the proprietor for filing a claim for exchange or redemption, the proprietor shall account for such stamps on Form 96 until the exchange or redemption has been effected. Appropriate modification of the form to specify bottled in bond stamps shall be made. The form will be prepared and disposed of in accordance with the applicable instructions thereon relating to "Other persons assigned custody of stamps."

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.974 *Proprietor's application, Form 1515.* All distilled spirits of each particular lot transferred to a bottling tank should be immediately drawn off into bottles of the desired size or sizes, as provided in this part. Application for domestic strip stamps will be made by the proprietor on Form 1515 at the time of execution of his application to bottle in bond pursuant to § 185.891. The applicant should request the estimated number of strip stamps necessary to bottle the quantity of spirits contained in the packages.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

§ 185.975 *Stamps issued in serial order.* All bottled in bond strip stamps will be issued by the storekeeper-gauger to the proprietor in proper serial order, starting with the lowest serial number of the stamps of the denominations desired on hand at the time of issuance. The proprietor will not, however, be required to affix bottled in bond strip stamps in serial order. If, after filling the cases, there remain bottles less than the number necessary to constitute a full case, such bottles must be stamped and placed in a case conforming to the requirements of this part.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.976 *Storekeeper-gauger's responsibility.* Storekeeper-gaugers who have custody of bottled in bond strip stamps will be held strictly responsible for the proper control and accounting of all stamps received, issued, used, and on hand. They shall determine whether the number of stamps requisitioned is needed; that those issued are properly affixed to bottles of spirits; that all stamps issued to the proprietor and not used are returned to them; and that a proper accounting is made of all stamps reported mutilated.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.977 *Manner of affixing stamps.* The stamps must be securely affixed to the bottles with the use of a good adhesive. The adhesive used must be in proper liquid condition, and care must be taken to cover the entire back of the stamp with the adhesive, and to press the whole surface of the stamp firmly against the surface of the bottle sufficiently long to cause the entire surface of the stamp to adhere securely to the bottle. The stamp must pass over the mouth of the bottle, extending an approximately equal distance on two sides of the bottle. The stamp must be affixed in such a manner that upon opening the bottle a portion of the stamp will be left attached thereto until emptied.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.978 *Concealing or obscuring stamps.* No part of the stamp shall be concealed or obscured by any label or other covering, except that a cup may be placed over the opening of the bottle, or the bottle may be placed in a carton, as hereinafter provided. Seals made of cellulose or other material which are shrunk or otherwise fitted over the necks of the bottles and cover the stamps must be sufficiently transparent to permit the stamps to be plainly seen and the data thereon easily read. No cup or cap may be placed over the opening of a bottle and cover the stamp, unless such cup or cap is transparent, or is so placed on the bottle that it may be readily removed at any time without injury to the stamp, and the arrangement is such that the ends of the stamp will be plainly visible when the cap or cup is in place. Cartons or other coverings of bottles of distilled spirits are permitted, if so made that they may be opened and closed without being torn or broken. Sealed cartons or other coverings may not be used unless transparent, or unless openings therein permit the data on the stamp and the indicia and penalty clause required by Regulations 13 (26 CFR, Part 175) on the bottle to be plainly seen and read.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.979 *Affixing stamp over cup or cap.* The stamp may be affixed over a cup or cap placed over the opening of the bottle, provided the arrangement is such that the stamp will be torn apart or destroyed when the cup or cap is unscrewed or removed or destroyed. Where it is desired to affix the stamp over a removable cup or cap, the cup or cap must be securely screwed or fastened over the opening of the bottle, and must be of such size and construction that the stamp will pass over the top and extend beyond the cup or cap for such length that each end of the stamp may be securely affixed to the surface of the bottle. The stamp must be securely affixed with a strong adhesive to both the cup or cap and the bottle. Where it is desired to affix the stamp over a cap or seal made of cellulose or other similar adhesive material which is so shrunk or otherwise fitted over the neck of the bottle as to be unremovable without being destroyed, and is of such size and construction that the stamp will not extend beyond such cap or seal to permit each end to be affixed to the surface of the bottle, it will not be necessary for the ends of the stamp to be affixed to the surface of the bottle, provided the cap or seal is affixed to the bottle in such manner that when the bottle is opened the stamp will be torn apart and a portion of the cap or seal and stamp will remain attached to the bottle. In any case where there is doubt as to the propriety of the use of any cup or cap, the bottle and cup or cap should be submitted to the district supervisor for a ruling thereon.

(53 Stat. 342 as amended; 26 U. S. C. 2903)

§ 185.980 *Requisitions for export stamps.* Export strip stamps will be provided in the following denominations and in no other: 1 quart, ⅘ quart, 1 pint, ½ pint, and less than ½ pint. The provisions of §§ 185.961 to 185.972, relative to requisitions for purchase, shipment, the overprinting of domestic strip stamps (except that in overprinting export strip stamps the proof at which the spirits are to be bottled will be printed on the stamps in addition to the other required data), and the exchange and redemption of stamps, will, insofar as applicable, apply to export strip stamps. Export strip stamps must be securely affixed to the bottles in the same manner as strip stamps are required to be affixed to spirits bottled in bond for domestic consumption. The provisions of §§ 185.977 to 185.979, respecting the affixing of strip stamps, and the use of cups, caps, and seals, and cartons, on bottles so stamped shall apply to spirits bottled for exportation.

(53 Stat. 342 as amended, 344; 26 U. S. C. 2903, 2905)

§ 185.981 *Application, Form 1515.* Application for export strip stamps will be made by the proprietor on Form 1515 at the time of execution of his application to bottle in bond pursuant to § 185.893. The applicant should request the estimated number of strip stamps necessary to bottle the quantity of spirits contained in the packages.

(53 Stat. 344; 26 U. S. C. 2905)

RECORD AND REPORT OF STRIP STAMPS

§ 185.982 *Record, Form 1606.* Storekeeper-gaugers assigned to supervise operations in the bottling-in-bond department will make a record and report of strip stamps received and used on Parts I and II of Form 1606, in accordance with the provisions of § 185.1033.

(53 Stat. 344; 26 U. S. C. 2905)

§ 185.983 *Removal prohibited.* Strip stamps which have been affixed to bottles of distilled spirits shall not be removed therefrom, except in the process of destruction when the bottles are opened; and such stamps, used or unused, may not be purchased, sold or possessed, except as specifically provided by law or regulations.

(53 Stat. 345; 26 U. S. C. 2908)

SUBPART RR—REBOTTLING, RELABELING, AND RESTAMPING OF BOTTLED SPIRITS

§ 185.990 *Permission must be obtained.* Warehousemen desiring to rebottle, relabel, or restamp spirits bottled in bond will make application to the supervisor of the district in which the work is to be performed. The application will state specifically the reasons why such is necessary, giving the serial numbers of the cases, the name of the distiller producing the spirits, the registry number of the distillery and State in which produced, season and year of production, the name of the original bottler, the registry number of the warehouse and State in which bottled, season and year of original bottling, and whether the spirits have been continuously in the possession of the applicant. If the spirits were originally bottled by a distiller or warehouseman other than the applicant, the application must be accompanied by a statement from the original bottler consenting to the reconditioning thereof by the applicant. Warehousemen and supervisors will bear in mind that the rebottling, relabeling, or restamping of bottled in bond spirits may be done only when necessary to render the spirits merchantable. The work must be done at such time and in such manner as will require no unnecessary supervision, or assignment of additional officers for that purpose.

(53 Stat. 343; 26 U. S. C. 2904)

§ 185.991 *Examination of spirits.* Upon receipt of such application, the district supervisor will have the storekeeper-gauger in charge at the warehouse, or an inspector, examine the condition of the spirits and verify the data contained in the application. The officer will make a full report of his inspection to the district supervisor.

§ 185.992 *Action on application.* If the district supervisor finds that the reconditioning, rebottling, relabeling, or restamping of the spirits is necessary, he will approve the application. Cases of tax-paid bottled in bond spirits, which have left the premises of the warehouseman, may be rebottled, restamped, or relabeled, provided the district supervisor is satisfied, upon investigation, that the spirits have not been tampered with in any manner, and are of the required proof for bottled in bond spirits. Where tax-paid bottled in bond spirits have left the premises of the warehouseman, and investigation discloses that the spirits have been tampered with, or where the district supervisor is doubtful as to the proper action to be taken, rebottling, relabeling, or restamping should not be authorized until the matter has been referred to the Commissioner for consideration and advice.

§ 185.993 *New strip stamps required.* Whenever bottled distilled spirits are dumped for rebottling, the strip stamps on the bottles must be destroyed at the time of dumping, and new strip stamps must be affixed to the bottles in which the spirits are rebottled. The new stamps will bear the same data as to seasons and years when produced and bottled, the name of the distiller or the name of the individual, firm, partnership, corporation, or association, in whose name the spirits were produced and warehoused. The registered distillery number, and the number and district of the warehouse at which originally bottled will not be printed on new stamps where stamps of prior issues bearing such data are affixed to the bottles.

(53 Stat. 342 as amended, 344; 26 U. S. C. 2903, 2905)

§ 185.994 *Indicia bottles.* The bottles must bear the indicia, and conform to the standards of fill, required by this Part and by Regulations 13 (26 CFR, Part 175). The reconditioned spirits may be rebottled in the same bottles from which removed if such bottles containing the spirits originally conform to the requirements of Regulations 13 and bear the proper indicia and have not been sold to the consumer or opened, and the use of such bottles is authorized by the

district supervisor in accordance with the said regulations.

(53 Stat. 331; 26 U. S. C. 2871)

§ 185.995 *Relabeling.* If the spirits are to be relabeled, the new label to be used must be covered by an appropriate certificate of label approval or a certificate of exemption from label approval issued under the Federal Alcohol Administration Act. If the new label is covered by a certificate of exemption from label approval, it must conform to the requirements of Regulations 13 (26 CFR, Part 175). Authorization to relabel spirits which have left the possession of the original bottler must be obtained by the proprietor of the warehouse who is to do the relabeling from the district supervisor in accordance with § 185.990.

(53 Stat. 331; 26 U. S. C. 2871, 49 Stat. 1965, 27 U. S. C. 205)

§ 185.996 *Supervision required.* All rebottling, relabeling, and restamping of spirits must be conducted in a bottling-in-bond department under the supervision of a storekeeper-gauger: *Provided,* That the district supervisor may authorize the relabeling or restamping of spirits in an internal revenue bonded warehouse not having a bottling-in-bond department where space and facilities for such activities are available. Spirits of two or more distillers, or spirits produced at different distilleries, or produced under two or more trade names by the same distiller, or of different seasons' or years' production or bottling, may not be reconditioned at the same time, and rebottling operations may not be conducted at a time when other spirits are in the process of bottling except where two or more complete bottling units are installed as provided in § 185.904.

(53 Stat. 342 as amended, 344; 26 U. S. C. 2903, 2905)

§ 185.997 *Filtering.* Warehousemen may remove by straining through cloth, felt, or other like material, any charcoal, sediment, or other like substances found in the spirits. In the process of rebottling, the spirits may not be subjected to any treatment deemed to be rectification as defined in Regulations 15 (26 CFR, Part 190).

§ 185.998 *Records and reports.* Application will be made on Form 1515, properly modified, for the removal of bottled spirits from the storage portion of the internal revenue bonded warehouse for rebottling or restamping and for strip stamps to cover the quantity of spirits to be rebottled or restamped. Untaxpaid spirits which are rebottled will be acounted for in the same manner as spirits originally entered for bottling in bond. Untaxpaid spirits which are to be restamped or relabeled only will not be acounted for on Form 1621 or 1513 nor in the case of relabeling on Form 1515. Taxpaid spirits which are rebottled, relabeled or restamped will not be accounted for on the records except that application on Form 1515 will be made when such spirits are to be rebottled or restamped in accordance with this part, and the form will be properly modified to show that the spirits to be rebottled or restamped are taxpaid.

(53 Stat. 342 as amended, 343; 26 U. S. C. 2903, 2904)

SUBPART SS—SALES OF DISTILLED SPIRITS BY PROPRIETORS OF BONDED WAREHOUSES

§ 185.1010 *Bulk containers.* Under the regulations issued pursuant to the Federal Alcohol Administration Act (27 CFR, Part 3), proprietors of internal revenue bonded warehouses may sell or dispose of distilled spirits in bulk, i. e., in containers having a capacity in excess of 1 gallon, (a) to distillers and proprietors of internal revenue bonded warehouses, industrial alcohol plants and industrial alcohol bonded warehouses (holding a permit under the Federal Alcohol Administration Act), including those operating taxpaid bottling houses; (b) to proprietors of class 8 customs bonded warehouses (imported spirits only); (c) to rectifiers; (d) to winemakers (brandy or alcohol) for fortification of wine; (e) to any agency of the United States, or of any State or political subdivision thereof; (f) for export; (g) on warehouse receipts, conforming to the regulations issued under the Federal Alcohol Administration Act, for distilled spirits in internal revenue bonded warehouses; and (h) for industrial use in accordance with the regulations issued under the Federal Alcohol Administration Act (27 CFR, Part 2), as follows: For experimental purposes, and for use in the manufacture (1) of medicinal, pharmaceutical, or antiseptic products, including prescriptions compounded by retail druggists; (2) of toilet products; (3) of flavoring extracts, sirups, or food products; or (4) of scientific, chemical, mechanical, or industrial products, provided such products are unfit for beverage use. Distilled spirits distilled at 160 degrees of proof or more may, however, upon taxpayment be withdrawn for beverage purposes only. Under the regulations issued pursuant to the Federal Alcohol Administration Act (27 CFR, Part 3) warehousemen may not sell in bulk for industrial use other distilled spirits (except neutral spirits—fruit or alcohol) unless such spirits are shipped or delivered directly to the industrial user thereof.

(53 Stat. 335 as amended; 26 U. S. C. 2883, 49 Stat. 985; 27 U. S. C. 206)

§ 185.1011 *Retail containers.* Except as provided in § 185.1010, proprietors of bonded warehouses may sell or dispose of distilled spirits only in containers having a capacity of 1 gallon or less. All such containers having a capacity of ½ pint or more must conform to the requirements of Regulations 13 (26 CFR, Part 175).

(53 Stat. 331; 26 U. S. C. 2871, 49 Stat. 985, 27 U. S. C. 206)

SUBPART TT—SPECIAL (OCCUPATIONAL) TAXES

§ 185.1015 *Wholesale and retail liquor dealer.* Proprietors of bonded warehouses who sell distilled spirits must file returns on Form 11, and pay special (occupational) taxes as wholesale liquor dealer or retail liquor dealer, or both, in accordance with the law and regulations governing the payment of such special taxes unless they are qualified as distillers and sell only distilled spirits of their own production at the place of manufacture, or the place of storage in bond, in the original packages to which the taxpaid stamps are affixed, as provided in § 185.1017.

(53 Stat. 388 as amended, 394; 26 U. S. C. 3250, 3270, 3271, 3272)

§ 185.1016 *Warehouse receipts covering distilled spirits.* Since the sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits, every proprietor of an internal revenue bonded warehouse who sells, or offers for sale, warehouse receipts for distilled spirits stored in internal revenue bonded warehouses, or elsewhere, incurs liability to special tax as a dealer in liquors at the place where such warehouse receipts are sold or offered for sale, and must file return and pay occupational tax as provided in § 185.1015. Sellers of warehouse receipts must also possess a wholesaler's basic permit under the Federal Alcohol Administration Act.

(53 Stat. 388 as amended, 391 as amended, 394; 26 U. S. C. 3250, 3254, 3270, 3271, 3272; 49 Stat. 978 as amended, 27 U. S. C. 203)

§ 185.1017 *Exemption of distiller.* No distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages, to which the tax-paid stamps are affixed, shall be required to pay the special tax of a wholesale dealer in liquors on account of such sales. This provision does not exempt distillers from the payment of special taxes for sales of distilled spirits of their own production in bond (by warehouse receipt or otherwise), or in cases or containers other than the original packages, or for exportation, fortification of wine, use of the United States, etc., without attachment of taxpaid stamps to the original packages, nor does it exempt them from liability for special taxes where distilled spirits produced by other distillers are sold by them. This exemption does not apply to the sale of brandies blended and packaged by a distiller in an internal revenue bonded warehouse.

(53 Stat. 300 as amended, 388 as amended; 26 U. S. C. 2801, 3250)

§ 185.1018 *Exemption from special tax as a rectifier.* Proprietors of internal revenue bonded warehouses who blend brandies under the provisions of section 2801 (e) (5) of the Internal Revenue Code shall not be required to pay special tax as rectifiers.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

SUBPART UU—STOREKEEPER-GAUGER'S FILES AND RECORDS

§ 185.1020 *Summary of deposits and withdrawals, Form 1621.* The storekeeper-gauger in charge of each internal revenue bonded warehouse shall keep a summary on Form 1621 of the spirits entered into, withdrawn from, and remaining in warehouse. Entries shall be made as indicated by the headings of

the columns and lines on the form and in accordance with instructions issued by the Commissioner. Daily entries need not be made in the column "Balance in Warehouse," but the account shall be balanced and posted monthly, or at the end of each page if transactions are sufficiently numerous to fill more than one page per month. In the case of packages of blended brandies, the registry number of the warehouse where such packages were filled shall be substituted for the registry number of the distillery. The records shall be arranged alphabetically by States (a) numerically by distilleries according to registry number within each State and (b) in case of blended brandies, numerically by internal revenue bonded warehouses according to registry number within each State. Separate sheets shall be used for each kind of spirits (including blended brandies) and for each season's production, and for packages, cases, storage tanks, tank cars, and packages of blended brandies. A summary account for each producer showing for packages, cases, storage tanks, and tank cars the total deposits and withdrawals by kind of spirits shall be maintained. Warehouse summary accounts showing for packages, cases, storage tanks, and tank cars the total deposits and withdrawals by kinds of spirits and the total deposits and withdrawals of all kinds of spirits should be maintained. This record shall also be used by storekeeper-gaugers in connection with the preparation of the monthly report on Form 1513.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.1021 *Storage tank account.* In addition to the accounts required by § 185.1020, the storekeeper-gauger shall maintain a separate account of each warehouse storage tank on Form 1621, and will report all deposits, withdrawals, and quantities of spirits remaining in such tanks in monthly report, Form 1513, as provided in § 185.1030. Stocks of spirits remaining on hand in storage tanks, by kind and season of production, will be determined by physical inventory at the close of each month. Losses from each storage tank will be determined at the time of monthly physical inventories or at such time during the month that a tank is emptied, and losses, if any, entered on Form 1621 and monthly report, Form 1513. Losses sustained from a storage tank which do not exceed 1 percent of the total quantity contained in such tank during the month, provided there are no circumstances indicating that any of the spirits were lost by theft or unauthorized voluntary destruction, may be considered as normal storage losses, otherwise such losses shall be investigated and reported in accordance with the procedure prescribed by §§ 185.480 to 185.496.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.1022 *Files and records covering deposits.* The storekeeper-gauger's copy of all Forms 1520, covering the deposit in warehouse of spirits received from distilleries; Forms 1619 and 1620, covering spirits received from other warehouses; Forms 1520, covering packages filled from storage tanks and retained in the warehouse; Forms 1520, covering packages filled from brandy-blending tanks; and Forms 1620, covering cases of bottled in bond spirits returned to the storage portion of the warehouse, shall be filed as permanent records, in the office of the storekeeper-gauger. Before filing such forms, the storekeeper-gauger shall make appropriate entries covering the receipt of the spirits in his summary of deposits and withdrawals, Form 1621. The storekeeper-gauger shall enter the date of deposit of the spirits in the warehouse at the bottom of each form. Forms 1520 and 1619 shall be filed under the name of the producing distiller (or warehouseman in the case of blended brandies) and arranged in chronological order according to date of deposit and in sequence by serial numbers of the packages where possible. Forms 1620 shall be filed similarly in a separate binder. Separate files shall be maintained for storage tanks and for packages filled from storage tanks and retained in the warehouse and for packages filled from brandy-blending tanks. Where two or more lots of spirits are deposited in the same storage tank, the Forms 1520 covering such deposits shall be kept together and identifying notations shall be made on each form showing that they collectively represent the spirits deposited in the tank within any one distilling season. The date of deposit of the spirits shall be entered at the bottom of each Form 236 covering spirits received in bond from other premises; at the bottom of each Form 1515 covering spirits bottled in bond and returned to the warehouse; and at the bottom of each Form 1685 covering brandy blended in brandy-blending tanks and returned to the warehouse, and such forms shall be filed separately by form number in chronological order.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.1023 *Files and records covering withdrawals.* When spirits are to be withdrawn, the storekeeper-gauger shall, upon presentation of the proper withdrawal form by the proprietor, secure from his file the Form 1520, 1619, or 1620, covering the deposit of the spirits, including blended brandy returned to the storage portion of the warehouse from the brandy-blending department, and shall verify the details of entry gauge transcribed to the withdrawal form. The storekeeper-gauger shall at that time enclose by red line blocking on the entry Form 1520, 1619, or 1620, the packages or cases to be withdrawn and shall, above a diagonal red line drawn through the block, enter the current date. Upon withdrawal of the spirits, the storekeeper-gauger shall indicate below the diagonal red line within the block on the entry Form 1520, 1619, or 1620, the number of packages withdrawn and the date and purpose of the withdrawal and in the margin of the form, immediately adjacent to the block, the total original tax gallons of the packages or cases withdrawn. He shall also make the necessary entries covering the withdrawal on Form 1621, and shall enter the date of withdrawal at the bottom of the retained copies of the withdrawal forms and applications. When, at the time of entering this information on the entry Form 1520, 1619, or 1620, examination of the form discloses that all the packages or cases covered by the form have been removed, the storekeeper-gauger shall compare the totals of the spirits entered for deposit with the totals of the spirits withdrawn for the purpose of determining the existence of any errors in transactions involving items covered by the particular form. When a storage tank is emptied the storekeeper-gauger shall note in red on the Forms 1520 covering the spirits deposited therein during any one distilling season, the date the tank was emptied and remove the Forms 1520 to an inactive file.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.1024 *Retention of records.* Each Form 1520, 1619, or 1620, covering the deposit of the spirits shall be retained in the active binder until all spirits covered by the form have been withdrawn, at which time such form shall be removed and filed in the same order in an inactive file. Each binder shall be appropriately marked to show the kind of forms it contains and the period covered thereby. The binders for packages received from the distillery on the same or contiguous premises, packages filled from storage tanks, packages of blended brandy filled in the brandy-blending department, and cases bottled at the warehouse shall also have shown thereon the serial numbers of the packages or cases. Where a change in proprietorship of the warehouse occurs, the files of all deposit and withdrawal forms shall be retained and continued in connection with the transactions of the successor.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

§ 185.1025 *Withdrawals from storage tanks.* When spirits warehoused in storage tanks are withdrawn therefrom, either for immediate withdrawal from warehouse or for storage in packages in the warehouse, the storekeeper-gauger will note on Form 1621, covering the tank from which withdrawn, the date and the quantity withdrawn. Where the spirits are drawn into packages for storage in the warehouse, the storekeeper-gauger will enter the deposit of the packages on Form 1621 and note the date of deposit at the bottom of Form 1520, covering the gauge of the packages. Where the spirits are drawn into packages or tank cars for withdrawal from warehouse, the storekeeper-gauger will note the date of withdrawal at the bottom of the retained copies of the withdrawal forms and applications.

(53 Stat. 335 as amended; 26 U. S. C. 2883)

§ 185.1026 *Filing of withdrawal forms and applications.* The copies of the reports of the withdrawal gauge, Form 1520, the reports of removal for transfer in bond, Form 1619 or 1620, or the application for tax payment and withdrawal of bottled in bond spirits, Form 1519, as the case may be, retained by the storekeeper-gauger, shall be filed separately by form number in chronological order, according to the date of withdrawal noted on the bottom of the forms. The storekeeper-gauger's copies of withdrawal applications, Forms 179, 206, 236,

257, 573, 1515, and 1685, and of permit, Form 1508, will be filed separately by form number, in chronological order, in the same manner as the withdrawal forms. The withdrawal reports and applications for each month shall be separated in the file by proper markers and each file shall be appropriately marked to show the kind of forms contained therein and the period covered thereby.

(53 Stat. 300 as amended; 26 U. S. C. 2801)

SUBPART VV—STOREKEEPER-GAUGER'S REPORTS

§ 185.1030 *Storekeeper-gauger's daily report.* The storekeeper-gauger will prepare a daily report, Form 1699, in duplicate. Entries will be made in accordance with the headings of the columns and lines on the form and in accordance with instructions issued in respect thereto. The original shall be submitted to the district supervisor with the forms covering the daily transactions at the warehouse. The storekeeper-gauger will retain the duplicate in the Government office.

§ 185.1031 *Preparation of monthly report.* The storekeeper-gauger in charge of every internal revenue bonded warehouse shall prepare a monthly report on Form 1513, in duplicate, of all distilled spirits deposited in, withdrawn from, and remaining in the warehouse. All information indicated by the headings of the columns and lines and the instructions printed on the form and required by this part or issued pursuant thereto shall be entered on the form. The report shall be kept in bound form available for inspection by Government officers.

(53 Stat. 300 as amended, 346; 26 U. S. C. 2801, 2915)

§ 185.1032 *Filing monthly report.* The storekeeper-gauger will forward the original of the monthly report to the district supervisor on or before the 5th day of the month succeeding that for which rendered.

(53 Stat. 346; 26 U. S. C. 2915)

§ 185.1033 *Record, Form 1606.* At the close of the month storekeeper-gaugers assigned to the bottling-in-bond department of an internal revenue bonded warehouse will make a record and report of strip stamps received and used on Parts I and II of Form 1606.

(a) *Part I.* One copy of Part I of the form will be prepared each month, using a separate page for each denomination of stamps. A separate record marked "Export" on Form 1606 (Part I) of the number of each denomination of export strip stamps received, turned over to the proprietor for overprinting and returned to him, the number used during the month, and the number on hand at the beginning and close of the month will be kept. Part I will be retained in the Government office in bound form available for inspection by succeeding storekeeper-gaugers or other Government officers.

(b) *Part II.* Storekeeper-gaugers will prepare Part II of Form 1606, in triplicate, each month. A separate report on Part II, in triplicate, marked "Export" will be rendered for export strip stamps. A complete summary of all stamps received and disposed of must be made in accordance with the headings of the columns and the titles of the lines. One copy of Part II will be retained on the premises in bound form available for inspection by succeeding storekeeper-gaugers or other Government officers. On or before the 5th day of the month succeeding that for which the report is rendered the storekeeper-gauger will furnish one copy to the proprietor of the warehouse and forward one copy to the district supervisor.

(c) *Transfer of storekeeper-gaugers.* In the event a storekeeper-gauger having custody of stamps is relieved of such custody of strip stamps at any time between the first and last day of the month because of transfer or for any other reason, he will sign Part I of Form 1606 for the period of the month during which the stamps were in his custody. The storekeeper-gauger having custody of the stamps at the close of the month will render a summary report to the district supervisor.

(d) *Inventory.* Whenever a storekeeper-gauger having custody of stamps is relieved of such custody, the succeeding storekeeper-gauger will inventory the stamps turned over to him by his predecessor. Any overage or shortage of stamps disclosed by the inventory will be reported in the respective accounts of the summary with an explanatory statement noted thereon.

(53 Stat. 343; 26 U. S. C. 2904)

SUBPART WW—RECORDS AND REPORTS OF PROPRIETOR

§ 185.1040 *Record of removals from warehouse, Form 52C.* Every proprietor of an internal revenue bonded warehouse shall keep a daily record on Form 52C, of all bulk and bottled in bond distilled spirits removed from the warehouse. Entries will be made as indicated by the headings of the columns and lines and as required by the instructions printed thereon or issued in respect thereto and by this part.

(53 Stat. 327 as amended, 328; 26 U. S. C. 2857, 2859)

§ 185.1041 *Record of sales at tax-paid premises, Form 52E.* Every proprietor of an internal revenue bonded warehouse, who maintains tax-paid premises at which tax-paid distilled spirits are received, stored, and sold in bulk, shall keep Form 52E, of all spirits, both bulk and bottled, received and disposed of at his tax-paid premises: *Provided*, That, if such proprietor so desires, he may keep Form 52E for bulk spirits only and Record 52, for bottled spirits only. Where only bottled distilled spirits are received, stored and sold at such tax-paid premises, the proprietor shall keep Record 52 of all such spirits received and disposed of at his tax-paid premises. By tax-paid premises is meant the "tax paid" or "free" warehouse or room maintained in conjunction with the internal revenue bonded warehouse, or premises maintained at other locations for the receipt, storage and disposition of tax-paid spirits. Separate records must be kept at each of such premises.

(53 Stat. 327 as amended; 26 U. S. C. 2857)

§ 185.1042 *Record of warehouse receipts to be kept by warehouseman.* Every proprietor of an internal revenue bonded warehouse who sells, or offers for sale, distilled spirits by warehouse receipts shall keep a separate record, and render a monthly transcript, of all purchases and sales of warehouse receipts on Form 52F. There need not be entered on Form 52F transactions in warehouse receipts not involving the purchase or sale of distilled spirits, such as the issuance by the warehouseman of warehouse receipts covering the deposit or bottling of spirits in his warehouse or the receipt of warehouse receipts surrendered for the bottling of the spirits in bond or their transfer in bond to another warehouse. Entries on Form 52F shall be made as indicated by the headings of the columns and lines of the form and in accordance with the instructions printed thereon or issued in respect thereto and as required by this subpart. The provisions of § 185.1044 with respect to the time of making entries, and of § 185.1049 with respect to forms to be provided by users, are hereby made applicable to Form 52F. The provisions of § 185.1045 with respect to a separate record of serial numbers of cases are hereby made applicable to Form 52F with respect to serial numbers of packages and cases purchased or sold by warehouse receipts. The monthly transcript on Form 52F shall be forwarded to the district supervisor on or before the 10th day of the succeeding month. The physical removal of distilled spirits from the internal revenue bonded warehouse shall continue to be reported on Form 52C in accordance with the provisions of § 185.1040. The physical receipt and disposition of distilled spirits at taxpaid premises shall continue to be reported on Form 52–E or Record 52, as the case may be, in accordance with the provisions of § 185.1041.

(53 Stat. 327 as amended, 328, 391 as amended; 26 U. S. C. 2857, 2859, 3254)

§ 185.1043 *Place where Form 52F shall be kept.* Every proprietor of an internal revenue bonded warehouse shall keep Form 52F at the place of business where warehouse receipts are sold or offered for sale.

(53 Stat. 327 as amended, 328, 391 as amended; 26 U. S. C. 2857, 2859, 3254)

§ 185.1044 *Time of making entries.* Daily entries shall be made on Record 52 and Forms 52C and 52E, as indicated by the headings of the various columns and in accordance with instructions printed on the forms before the close of the business day next succeeding the day on which the transactions occur. Where the proprietor of tax-paid premises defers the making of entries to the next business day, he shall maintain a separate record, such as invoices, of the removals of distilled spirits showing the removal data required to be entered on Record 52 or Form 52E, and appropriate memoranda of other transactions required to be entered on such records for the purpose of correctly making the entries. Where the making of the entries on Form 52C is deferred to the next business day, the proprietor of the internal revenue bonded warehouse shall main-

tain appropriate memoranda for the purpose of making the entries correctly.

(53 Stat. 327 as amended, 328; 26 U. S. C. 2857, 2859)

§ 185.1045 *Separate record of serial numbers of cases.* Serial numbers of cases of distilled spirits disposed of need not be entered on Record 52 or Form 52E, provided the proprietor keeps in his place of business a separate record, approved by the district supervisor, showing such serial numbers, with necessary identifying data, including the date of removal and the name and address of the consignee. Such separate record may be kept in book form (including loose-leaf books) or may consist of commercial papers, such as invoices or bills. Such books, invoices, and bills shall be preserved for a period of four years and in such a manner that the required information may be ascertained readily therefrom, and during such period, shall be available during business hours for inspection and the taking of abstracts therefrom by internal revenue officers. Entries shall be made on such separate approved record before the close of the business day next succeeding the day on which the transactions occur. Where the making of the entries is deferred to the next business day, appropriate memoranda shall be maintained for the purpose of making the entries correctly. The proprietor, whose separate record has been approved by the district supervisor, shall make a notation in the column for reporting serial numbers, as follows: "Serial numbers shown on commercial records per authority, dated ----------"

(53 Stat. 327 as amended; 26 U. S. C. 2857)

§ 185.1046 *Reports.* Except as otherwise provided in this section, the proprietor shall file, daily, full and complete transcripts of Record 52 and Forms 52C and 52E (Parts 1 and 2) on Forms 52A, 52B, 52C and 52E (Parts 1 and 2) with the district supervisor, by delivering or mailing them to such officer on the date the transactions entered therein occurred or before the close of the business day next succeeding the day on which the transactions occurred: *Provided*, That in any case in which the district supervisor shall direct, the transcripts shall be so filed with the investigator in charge instead of with the district supervisor. The transcripts shall bear the following certification signed by the person or officer authorized to execute Form 338, 52C, or 52E:

I hereby certify that these transcripts, consisting of ------ pages, disclose all the transactions which occurred during the period covered thereby, and that each entry is correct.

If in any case the district supervisor shall so authorize, the transcripts, in lieu of being filed daily, may be filed with him on or before the 10th day of the month succeeding the month in which the transactions in distilled spirits occurred. In such event, transactions will be entered on Record 52, Form 52C and Form 52E in accordance with the provisions of § 185.1044. Monthly summary reports on Form 338 (where Record 52 is kept) and Form 52E (Part 3) shall be prepared in duplicate, one copy of which will be retained on file and the original forwarded to the district supervisor on or before the 10th day of the month succeeding the month in which the transactions in distilled spirits occurred. The proprietor shall also file a monthly report on Part 2 of Form 52C, in duplicate, with the district supervisor on or before the 10th day of the succeeding month. Records kept on Record 52 and Forms 52C and 52E shall be preserved for a period of 4 years, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer.

(53 Stat. 327 as amended, 328; 26 U. S. C. 2857, 2859)

ADDITIONAL REQUIREMENTS

§ 185.1047 *Payment of tax, bottling charge, etc., by third party.* The proprietor of an internal revenue bonded warehouse shall report, on Form 52C, when Record 52 is kept, on Part 2 and on transcript, Form 52B, and when Form 52E is kept, on Part 2, the name and address of each consignee, in the column now designated "Name." In the column now designated "Address," there will be reported the name and address of the person, firm or corporation paying (by advancement or reimbursement) either tax, bottling charge, brokerage fee, handling charge, or clearance fee, indicating which are included. The heading of both columns will be amended accordingly.

(53 Stat. 327 as amended, 328; 26 U. S. C. 2857, 2859)

§ 185.1048 *Order by third party to ship or deliver distilled spirits.* Where the proprietor of an internal revenue bonded warehouse ships or delivers distilled spirits to a consignee on the order of another wholesale liquor dealer, detailed records of the transactions shall be kept (a) on Form 52C by the proprietor of the internal revenue bonded warehouse making the shipment or delivery, (b) on Record 52 by the wholesale liquor dealer giving the order, and (c) on Record 52 by the consignee if he is a wholesale liquor dealer. For example, assuming that the proprietor of internal revenue bonded warehouse (A) ships or delivers the distilled spirits to consignee (C) on the order of wholesale dealer (B), entries will be made on the prescribed forms as follows:

(1) The proprietor of the internal revenue bonded warehouse (A) will show in his Form 52C the name and address of wholesale dealer (B) who ordered the distilled spirits, as well as the name and address of consignee (C), the person to whom the distilled spirits are actually shipped or delivered;

(2) Wholesale dealer (B) will show in his Record 52 that the distilled spirits were purchased from warehouseman (A), giving both the name and address of (A), and will at the same time make an entry showing that the distilled spirits were shipped or delivered by (A) to consignee (C) giving the name and address of (C); and

(3) Consignee (C), if a wholesale liquor dealer, will show in his Record 52 that the distilled spirits were purchased from wholesale dealer (B) and received by him from the proprietor of internal revenue bonded warehouse (A), giving name and address of both. A copy of Form 52C and transcripts of Record 52 on Forms 52A and 52B, required to be filed with the district supervisor, will similarly show the details of such transactions. Where the proprietor of an internal revenue bonded warehouse keeps Record 52, or Form 52E, and is a party to transactions similar to those described in this section, he shall make similar entries of such transactions in Record 52, or Form 52E, as the case may be; and the transcripts on Forms 52A and 52B, or Form 52E, respectively, required to be filed with the district supervisor, will likewise show the details of the transactions.

(53 Stat. 327 as amended, 328; 26 U. S. C. 2857, 2859)

§ 185.1049 *Forms to be provided by users.* Record 52, and Forms 52A, 52B, 52C, 52E, 52F, and 338, will be provided by users at their own expense, but must be in the form prescribed by the Commissioner: *Provided*, That with the approval of the Commissioner, they may be modified to adapt their use to tabulating or other mechanical equipment: *Provided further*, That where the form is printed in book form, including loose-leaf books, the instructions may be printed on the cover or the flyleaf of the book instead of on the individual form.

§ 185.1050 *Record and report of transactions at off-premises export storage room.* Every proprietor of an internal revenue bonded warehouse who maintains an off-premises export storage room at which tax-paid distilled spirits and wines bottled or packaged especially for export are held pending exportation or use as supplies on vessels or aircraft shall keep a record of all such products received and disposed of. The transactions shall be recorded on the date on which they occur and a summary made at the end of the month. A transcript of the record shall be prepared and forwarded to the district supervisor on or before the 10th day of the succeeding month. Form 52E shall be used, upon modification of the title of the form and headings of the columns to serve the purpose, in preparing such record and report.

(53 Stat. 377 as amended; 26 U. S. C. 3179)

SUBPART XX—DISTRICT SUPERVISOR'S ANNUAL REPORT OF SPIRITS IN WAREHOUSE

§ 185.1055 *Form 332.* Each district supervisor shall render an annual report on Form 332, by kind, seasons, and years of production, of distilled spirits in internal revenue bonded warehouses at the close of the fiscal year (June 30), for each State within his district. In the case of blended brandy the season and year of the oldest brandy in the blend shall be considered the season and year of the blended brandy. The entries shall be made as indicated by the headings of the columns and lines and in accordance with the instructions printed on the form. Form 332 shall be prepared in duplicate and one copy shall be for-

warded to the Commissioner not later than July 31 of each year. The remaining copy shall be retained by the district supervisor.

SUBPART YY—CONCERNING LOCKS AND SEALS

§ 185.1060 *General.* Except as otherwise provided in this part, the Commissioner will furnish, at the expense of the United States, all Government locks and seals to be used at internal revenue bonded warehouses. District supervisors will see that internal revenue bonded warehouses in their respective districts are fully equipped with locks in good condition, and that the necessary seals are provided for seal locks. District supervisors will bear in mind that Government locks are required on all doors in the warehouse, including the bottling-in-bond department; on all shutters opening onto fire escapes; on all openings in storage, gauging and bottling tanks, and on the control valves of pipe lines which convey spirits to and from tanks; and on the ends of pipe lines used to convey spirits to and from the warehouse.

§ 185.1061 *Seal locks.* Seal locks will be used on the entrance door of the bonded warehouse; on the entrance doors of the bottling-in-bond rooms; on the door of the Government room, vault, or cabinet; and on such other places where the use of seal locks is required by this part or deemed necessary by the district supervisor.

§ 185.1062 *Plain locks.* Plain locks will be used at all other places in the bonded warehouse where locks are required by the provisions of this part.

§ 185.1063 *Custody of locks, keys, and seals.* Storekeeper-gaugers are strictly prohibited from entrusting locks, keys, or seals in their charge to any person other than an internal revenue officer entitled to receive them, and under no circumstances will they permit locks to remain open, whether hanging by the shackle or otherwise.

§ 185.1064 *Cap seals.* All unions, flanges, and other connections in pipelines installed for the entry of spirits into warehouse tanks and the withdrawal of spirits from such tanks, which connections are not welded or brazed or otherwise secured, must be securely connected and sealed with seals approved by the Commissioner. A special type of seal, serially numbered, has been approved for such use. This seal has, for the purpose of identification, been designated a "Cap" seal.

§ 185.1065 *Breaking of sealed connections prohibited.* Sealed connections must not be broken by the proprietor for any reason, except in cases of emergency and then only after notifying the storekeeper-gauger in charge or the district supervisor. Where the proprietor desires to make changes in the equipment involving the breaking of a sealed connection he will follow the procedure prescribed in § 185.262.

§ 185.1066 *Removal of cap seals.* Except as provided in § 185.1065, cap seals which have been affixed will be removed only by a storekeeper-gauger or some other officer designated for the purpose by the district supervisor. The officer will destroy all removed cap seals in a manner sufficient to prevent their reuse.

SUBPART ZZ—SAFEGUARDING GOVERNMENT PROPERTY

§ 185.1070 *Storage in Government room, vault, or cabinet.* Government seals, locks not in use, the Government officer's records, other Government property when not in use, and the proprietor's supply of strip stamps, shall be kept in a Government room, vault, or cabinet which shall be locked with a Government seal lock, the key to which at all times shall remain in the possession of the storekeeper-gauger. The storekeeper-gauger must not leave the room, vault, or cabinet open except in his immediate presence, nor give the key thereof to anyone except another Government officer authorized to receive it. Where it is necessary to open the room, vault, or cabinet at various times during the day, the lock will not be seal-locked until the close of business.

Effective date. These regulations shall be effective as of September 1, 1950.

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

Approved: August 7, 1950.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 50-7005; Filed, Aug. 10, 1950; 8:48 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 975]

[Docket No. AO 179-A6]

HANDLING OF MILK IN CLEVELAND, OHIO, MARKETING AREA

DECISION WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER AMENDING THE ORDER AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Cleveland, Ohio, on February 13-15, 1950, pursuant to notice thereof which was issued on January 25, 1950 (15 F. R. 489).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Assistant Administrator, Production and Marketing Administration, on June 15, 1950, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER (15 F. R. 3965).

Within the period reserved for filing exceptions, exceptions were submitted on behalf of the Milk Producers Federation of Cleveland, the Milk Market Survey Committee, the Northwestern Cooperative Sales Association of Toledo, Smith Dairy Products Company of Orrville, the Wayne Co-operative Milk Producers, Inc. of Fort Wayne, Indiana, Dorset Co-operative Milk Company of Dorset, the Central Ohio Co-operative Milk Producers, Inc., of Columbus and the Akron Milk Producers, Inc. of Akron. These exceptions have been considered and to the extent to which the findings and conclusions of this decision are at variance with the exceptions, such exceptions are hereby overruled. The hearing record has been re-studied in connection with exceptions taken to the recommended decision to make no changes in producer location differentials. It is concluded that the record is inadequate to support such revision of the order as would tend to result in a correction of unsatisfactory competitive conditions testified to. Additional hearing testimony is considered necessary to provide a record of all facts pertinent to the issue before final conclusions on this subject may be reached.

The material issues and the findings and conclusions of the recommended decision (F. R. Doc. 50-5301, 15 F. R. 3965) are hereby approved and adopted as the material issues and the findings and conclusions of this decision as if set forth in full herein.

Determination of representative period. The month of May 1950 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order amending the order, as amended, regulating the handling of milk in the Cleveland, Ohio, marketing area in the manner set forth in the attached amending order is approved or favored by producers who during such period were engaged in the production of milk for sale in the marketing area specified in such marketing order, as amended, and as proposed to be further amended.

Annexed hereto and made a part hereof are two documents entitled respectively "Marketing Agreement Regulating the Handling of Milk in the Cleveland, Ohio, Marketing Area," and "Order Amending the Order, As Amended, Regulating the Handling of Milk in the Cleveland, Ohio, Marketing Area," which have been decided upon

as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 8th day of August 1950.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

Order,[1] *Amending the Order, as Amended, Regulating the Handling of Milk in the Cleveland, Ohio, Marketing Area*

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AUTHORITY: §§ 975.0 to 975.97 issued under sec. 5, 49 Stat. 758 as amended; 7 U. S. C. and Sup. 608c.

§ 975.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Cleveland, Ohio, on February 13–15, 1950, upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Cleveland, Ohio, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Cleveland, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

DEFINITIONS

§ 975.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 975.2 *Secretary.* "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 975.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in § 975.60.

§ 975.4 *Market administrator.* "Market administrator" means the agency described in § 975.20.

§ 975.5 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 975.6 *Cleveland, Ohio, marketing area.* "Cleveland, Ohio, marketing area" hereinafter called the "marketing area," means all territory, including but not being limited to all municipal corporations, within Cuyahoga County, the township of Willoughby in Lake County, and the townships of Liverpool, Brunswick, Hinckley, York, Granger, Medina, Lafayette and Montville in Medina County; all in the State of Ohio.

§ 975.7 *Handler.* "Handler" means any person who: (a) Operates a pool plant; or (b) operates a nonpool plant and either directly or indirectly disposes of milk, skim milk, buttermilk, flavored milk, or flavored milk drinks; (1) on a route extending into the marketing area; or (2) to a pool plant described under § 975.30 which receives less than 50 percent of such plant's total receipts of skim milk and butterfat from producers or from other pool plants.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 975.8 *Producer.* "Producer" means any person with respect to milk produced by him having the approval of the health authority of any community in the marketing area for consumption as fluid milk in such community which milk is moved directly from his farm to:

(a) A pool plant (1) out of which a route is operated in such community, or (2) furnishing milk to another pool plant out of which a route is operated in such community (but not including milk diverted from a nonpool plant for the account of such plant);

(b) A nonpool plant within April, May, June, or July for the account of a pool plant by diversion from a pool plant. Milk so diverted shall be deemed to have been received by the pool plant for whose account it was diverted; or

(c) A pool plant for the account of another pool plant by diversion from the latter pool plant. Milk so diverted shall be deemed to have been received by the pool plant for whose account it was diverted.

§ 975.9 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association;

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 975.10 *Nonhandler.* "Nonhandler" means any person not a handler who operates a nonpool plant.

§ 975.11 *Producer-handler.* "Producer-handler" means any person who:

(a) Produces milk but receives no milk from dairy farmers; and

(b) Operates a route extending into the marketing area.

§ 975.12 *Pool plant.* "Pool plant" means a plant designated pursuant to § 975.30.

§ 975.13 *Nonpool plant.* "Nonpool plant" means any milk manufacturing or processing plant not a pool plant.

§ 975.14 *Other source milk.* "Other source milk" means all skim milk and butterfat received at any pool plant other than from producers or other pool plants and all skim milk and butterfat received at a pool plant from any other pool plant in excess of the total amount received at the latter pool plant from producers.

§ 975.15 *Route.* "Route" means a delivery (including a sale from a plant store) of milk, skim milk, buttermilk, flavored milk, or flavored milk drink in fluid form to a wholesale or retail stop(s), including any eating place where such items are disposed of for consumption on or off the premises, other than a pool plant(s) or nonpool plant(s).

§ 975.16 *Delivery period.* "Delivery period" means the calendar month or the total portion thereof during which this order is in effect.

MARKET ADMINISTRATOR

§ 975.20 *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 975.21 *Powers.* The market administrator shall have the following powers with respect to this order:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 975.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 975.86:

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 975.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to § 975.40, or (2) payments pursuant to §§ 975.80, 975.84, 975.86, 975.87, or 975.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Upon request, supply on or before the 25th day after the end of each delivery period to each cooperative association not a handler with respect to producers whose membership in such cooperative association has been verified by the market administrator, a record of the pounds of milk received by each handler from member producers and the class utilization of such milk. For the purpose of this report such member milk shall be prorated to each class in the proportions that the total receipts of milk from producers by such handler were classified in each class;

(i) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or nonhandler upon whose utilization the classification of skim milk and butterfat for such handler depends;

(j) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(1) On or before the 6th day of such delivery period the minimum prices for skim milk and butterfat in Class I milk and Class II milk computed pursuant to §§ 975.61 and 975.62;

(2) On or before the 6th day after the end of such delivery period the minimum prices for skim milk and butterfat in Class III milk computed pursuant to § 975.63; and

(3) On or before the 14th day after the end of such delivery period the uniform price computed pursuant to § 975.73 and the butterfat differential computed pursuant to § 975.82; and

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

POOL PLANT

§ 975.30 *Designation.* Subject to the conditions set forth in §§ 975.31 and 975.32, a pool plant means any of the following plants, except a bottling plant operated by a producer-handler:

(a) A bottling plant which is:

(1) Located inside the marketing area and out of which a route is operated; or

(2) Located outside the marketing area with 10 percent or more of the aggregate weight of the skim milk and butterfat contained in its total route disposition of milk, skim milk, buttermilk, flavored milk, and flavored milk drink in fluid form on routes operated wholly or partially within the marketing area.

(b) A plant having approval of the appropriate health authority in the marketing area to supply milk to a pool plant described in paragraph (a) of this section and appearing on a list prepared and publicly announced by the market administrator for each delivery period not later than the 14th day after the end of such delivery period by posting in a conspicuous place in his office. Such list shall include:

(1) The following plants:

Location of plant (Feb. 1, 1946)	*Operator of plant on Feb. 1, 1946*
Ashland, Ohio.....	Cleveland Dairy Products Co. (Echo Dairy).

Location of plant (Feb. 1, 1946)	*Operator of plant on Feb. 1, 1946*
Conneaut, Ohio	Conneaut Creamery Co.
Dorset, Ohio	Dorset Milk Co.
East Liberty, Ohio	Dutchland Farms, Inc.
Tiffin, Ohio	Do.
Akron, Ohio (route 7)	Mountrose Dairy Co.
Orrville, Ohio	Orrville Milk Condensing Co.
Trail, Ohio (P. O. Dundee, Ohio).	Do.
Woodville, Ohio	Soeder's Sons Co.
Attica, Ohio	Telling-Belle Vernon Co.
Beloit, Ohio	Do.
Jefferson, Ohio	Do.
Prospect, Ohio	Do.
Rome, Ohio	Do.
Wellington, Ohio	Do.
Lodi, Ohio	United Dairy Co.
Wooster, Ohio	Wooster Farm Dairies Co.
Cleveland, Ohio	Milk Producers Federation of Cleveland; and

(2) A plant which either was a pool plant on August 31, 1948, or has become a pool plant pursuant to paragraph (c) of this section.

(c) A plant having approval of the appropriate health authority in the marketing area to do so which has, within the delivery period of January, February, or March, and within each of the five consecutive preceding delivery periods, furnished milk to a pool plant described in paragraph (a) of this section in an amount equal to 50 percent or more of its entire receipts of milk from dairy farmers during each such delivery period.

§ 975.31 *Replacement.* A plant which replaces a pool plant shall acquire immediately the pool plant status of the replaced plant if the operator thereof shows to the satisfaction of the market administrator that 50 percent or more of the dairy farmers delivering milk to it previously had been producers at the pool plant so replaced.

§ 975.32 *Disqualification.* A plant shall be disqualified as a pool plant under either of the following circumstances:

(a) Upon prior written request for disqualification made by the plant operator; such disqualification to be effective at the beginning of the first delivery period (following the market administrator's receipt of such request) within which no milk was furnished by such plant to a pool plant described in § 975.30 (a); or

(b) If such plant furnished to a pool plant described in § 975.30 (a) less than 10 percent of its dairy farm supply of milk in any month except April, May, June, or July and less than 50 percent of such supply during more than one of the months of October, November, December, and January: *Provided*, That upon receipt by the market administrator prior to the delivery period of a written request made by the handler, all pool plants operated by such handler shall be considered, for such delivery period, as one plant for the purpose of meeting the minimum percentage requirements of this paragraph: *And provided further*, That this paragraph shall not apply to the plant of the Milk Producers Federation of Cleveland.

REPORTS, RECORDS, AND FACILITIES

§ 975.40 *Reports of receipts and utilization.* On or before the 8th day after the end of each delivery period, each handler, except a producer-handler, shall report to the market administrator with respect to milk received from producers, other source milk received at a pool plant, skim milk and butterfat received in any form at a pool plant or at a nonpool plant from a pool plant, skim milk and butterfat received in any form at a nonpool plant engaged in the manufacture of ice cream or ice cream mix which is operated by such handler and is located within the marketing area, and all skim milk and butterfat received in any form from all sources at a nonpool plant referred to in § 975.7 (b), in the detail and on forms prescribed by the market administrator:

(a) The quantities of butterfat and quantities of skim milk contained in (or used in the production of) such receipts, and their sources;

(b) The utilization of such receipts; and

(c) Such other information with respect to such receipts and utilization as the market administrator may prescribe.

§ 975.41 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such times and in such manner as the market administrator may request.

(b) On or before the 25th day after the end of each delivery period, each handler who received milk from producers shall submit to the market administrator his producer payroll for the delivery period, which shall show:

(1) The pounds of milk, and the percentage of butterfat contained therein, received from each producer;

(2) The amount and date of payment to each producer (or to a cooperative association not a handler which is authorized to collect payment for the milk of such producer); and

(3) The nature and amount of each deduction or charge involved in the payments referred to in subparagraph (2) of this paragraph.

§ 975.42 *Records and facilities.* Each handler shall maintain, and make available to the market administrator during the usual hours of business, such accounts and records of all of his operations, including those of his nonpool plants in which any milk is received from a pool plant or of his nonpool plants located within the marketing area in which ice cream or ice cream mix is manufactured, and such facilities as, in the opinion of the market administrator, are necessary to verify reports or to ascertain the correct information with respect to:

(a) The receipts and utilization of all skim milk and butterfat required to be reported pursuant to § 975.40 or § 975.41 (a);

(b) The pounds of skim milk and butter fat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and at the end of each delivery period;

(c) The weights and tests for butterfat and for other contents of all milk and milk products handled; and

(d) Payments to producers and to cooperative associations.

§ 975.43 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided*, That if, within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are not longer necessary in connection therewith.

CLASSIFICATION

§ 975.50 *Skim milk and butterfat to be classified.* Skim milk and butterfat contained in milk, skim milk, and cream, or used to produce milk products, received from all sources by each handler at his (a) pool plant(s) and (b) nonpool plant(s) engaged in the manufacture of ice cream or ice cream mix and located within the marketing area, shall be classified separately (as skim milk or butterfat) pursuant to the following provisions of this section.

§ 975.51 *Classes of utilization.* Subject to the conditions set forth in §§ 975.53 and 975.54, skim milk and butterfat described in § 975.50 shall be classified by the market administrator on the basis of the following classes of utilization:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:

(1) Disposed of in fluid form as milk; skim milk or buttermilk (except for livestock feed); flavored milk or flavored milk drinks; or eggnog;

(2) Transferred as any item included in subparagraph (1) of this paragraph from a pool plant to the plant of a producer-handler, or transferred as any such item to a nonpool plant located more than 265 miles from the Public Square in Cleveland, Ohio, by shortest highway distance as determined by the market administrator.

(3) Accounted for as any item not listed under subparagraph (1) of this paragraph or as Class II milk or Class III milk; or

(4) Such shrinkage on milk received from producers computed pursuant to paragraph (d) of § 975.52 which is in excess of 2 percent of such receipts.

(b) Class II milk shall be all skim milk and butterfat used to produce sweet or sour cream; any milk product not specified in Class I milk or Class III milk and containing 8 percent or more of butterfat; ice cream, imitation ice cream, and other frozen desserts and mixes for such products (liquid or powdered); or cottage cheese.

(c) Class III milk shall be all skim milk and butterfat:

(1) Used to produce butter; butter oil; cheese (except cottage cheese); bulk condensed skim milk or whole milk (sweetened or unsweetened); evaporated or condensed milk (or skim milk) in hermetically sealed cans; casein; nonfat dry milk solids, dry whole milk; condensed or dry buttermilk; whey; powdered malted milk; lactose; and skim milk or buttermilk disposed of for livestock feed;

(2) In actual shrinkage of milk received from producers computed pursuant to paragraph (d) of § 975.52 but not in excess of 2 percent of such receipts; and

(3) In actual shrinkage of other source milk computed pursuant to paragraph (d) of § 975.52.

§ 975.52 *Shrinkage.* The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in milk received from producers and in other source milk received in the following manner: *Provided*, That milk of producers transferred by a handler to another handler and received at the latter's pool plant, or nonpool plant engaged in the manufacture of ice cream or ice cream mix and located within the marketing area, without first having been received for purposes of weighing and testing in the transferring handler's pool plant shall be included in the receipts at such plant of the second handler for the purpose of computing his plant shrinkage and shall be excluded from the receipts at the pool plant of the transferring handler in computing his plant shrinkage.

(a) Compute the total shrinkage of skim milk and butterfat, respectively, by (1) combining the shrinkage thereof for all pool plants operated by the handler, and (2) combining in a separate sum the shrinkage thereof for all nonpool plants operated by him to which any skim milk or butterfat has been transferred from any of his pool plants;

(b) Prorate the shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) (2) of this section, in such nonpool plants between (1) skim milk or butterfat, respectively, transferred from any of his pool plants, and (2) skim milk or butterfat, respectively, received from all other sources;

(c) Add to the shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) (1) of this section, the shrinkage on skim milk or butterfat, respectively, transferred from the handler's pool plant(s) to his nonpool plant(s) computed pursuant to paragraph (b) of this section; and

(d) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (c) of this section between that in milk received from producers and in other source milk at his pool plants, after deducting from the total receipts therein the receipts from pool plants other than his own.

§ 975.53 *Transfers.* Skim milk or butterfat transferred from a pool plant shall be classified as follows:

(a) As Class I milk if transferred as any item listed in paragraph (a) (1) of § 975.51, and as Class II milk if transferred as cream, to the pool plant of another handler, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 8th day after the end of the delivery period within which such transfer was made: *Provided*, That if either or both pool plants have received other source milk, such transfers shall be classified by the market administrator at both plants so as to return the highest-valued class utilization to milk of producers: *Provided further*, That if transfers are made from a pool plant to more than one other pool plant any other source milk involved in such transfers shall be prorated by the market administrator among the transferee pool plants on the basis of the percentage which the other source milk transferred bears to the total quantity of transfers made pursuant to this subparagraph from the transferor plant.

(b) As Class I milk if transferred as any item listed in paragraph (a) (1) of § 975.51 and as Class II milk if transferred as cream, to a nonpool plant (except a plant described in paragraph (a) (2) of § 975.51), unless (1) other utilization is mutually indicated in writing to the market administrator by both the transferring handler and the receiver on or before the 8th day after the end of the delivery period within which such transfer was made, (2) the receiver maintains books and records showing utilization of all skim milk and butterfat at his plant which are made available to the market administrator for audit, and (3) such receiving plant had actually used not less than an equivalent amount of skim milk or butterfat in the use indicated in such statement: *Provided*, That if such nonpool plant had not actually used an equivalent amount of skim milk or butterfat in such indicated use, the remaining pounds shall be classified in the next lower-priced available class of utilization as if the classes of utilization set forth in § 975.51 were applicable to such nonpool plants; or

(c) As Class I milk if transferred as bulk milk and as Class II milk if transferred as bulk cream to (1) a manufacturer of soup, candy or bakery products for use in such manufacturing operations, or (2) any retail establishment which disposes of milk in fluid form.

§ 975.54 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first received such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat classified (except that classified pursuant to paragraph (a) (2) of § 975.51) in one class shall be reclassified if used or reused by such handler or by another handler in another class: *Provided*, That skim milk and butterfat used to produce cream may be reclassified to Class III milk if such cream is disposed of to a nonhandler and used by such nonhandler in the manufacture of butter and the receiver complies with the requirements of paragraph (b) (2) and (3) (except the proviso) of § 975.53.

§ 975.55 *Computation of the skim milk and butterfat in each class.* For each delivery period the market administrator shall correct for mathematical and for other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

§ 975.56 *Allocation of butterfat classified.* The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to milk received from producers:

(a) Subtract from the total pounds of butterfat in Class III milk (other than butterfat in butter), the pounds of butterfat shrinkage allowed pursuant to paragraph (c) (2) of § 975.51;

(b) For the delivery periods of October, November, December, and January, subtract from the pounds of butterfat in Class I milk, the smaller of the following:

(1) The pounds, if any, by which the butterfat in milk received from producers and pool plants is less than 110 percent of the pounds of butterfat in such handler's milk, skim milk, buttermilk, flavored milk and flavored milk drink classified as Class I milk (exclusive of any reconstituted skim milk) pursuant to paragraph (a) (1) of § 975.51, not including such Class I milk transferred to pool plants or to nonpool plants; or

(2) The pounds of butterfat in other source milk received.

(c) Subtract from the pounds of butterfat in other source milk, the pounds deducted pursuant to paragraph (b) of this section;

(d) Subtract from the pounds of butterfat remaining in each class, after making the deduction pursuant to paragraph (b) of this section, in series beginning with the lowest-priced utilization, the pounds of butterfat remaining in other source milk after making the deduction pursuant to paragraph (c) of this section;

(e) Subtract from the remaining pounds of butterfat in each class the pounds of butterfat received from other handlers in such classes pursuant to § 975.53; and

(f) Add to the remaining pounds of butterfat in Class III milk (other than butterfat in butter), the pounds subtracted pursuant to paragraph (a) of this section; or if the remaining pounds of butterfat in all classes exceed the pounds of butterfat in milk received from producers, subtract such excess from the remaining pounds of butterfat in each class in series beginning with the lowest-priced utilization.

§ 975.57 *Allocation of skim milk classified.* Allocate the pounds of skim milk in each class to milk received from pro-

ducers in a manner similar to that prescribed for butterfat in § 975.56.

MINIMUM PRICES

§ 975.60 *Basic formula price.* The basic formula price per hundredweight of milk to be used in determining the Class I milk price for each delivery period, pursuant to § 975.61, shall be the highest of the prices per hundredweight of milk of 3.5 percent butterfat content computed by the market administrator pursuant to paragraphs (a), (b) and (c) of this section.

(a) The average of the basic (or field) prices ascertained to have been paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator by the Department of Agriculture or by the companies indicated below:

Company and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight resulting from the following formula:

(1) Multiply by 6 the average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter for the delivery period as reported by the Department of Agriculture for the Chicago market.

(2) Add an amount equal to 2.4 times the simple average as published by the Department of Agriculture of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wis., for the trading days that fall within the delivery period.

(3) Divide by 7 and to the resulting amount add 30 percent; and then multiply by 3.5.

(c) The price per hundredweight computed by adding together the plus amounts pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the average price of butter as computed in paragraph (b) (1) of this section, subtract 3 cents, add 20 percent of the resulting amount, and then multiply by 3.5; and

(2) From the simple average of the weighted averages of the carlot prices per pound of spray and roller process nonfat dry milk solids in barrels for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the delivery period by the Department of Agriculture, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.965.

§ 975.61 *Class I milk prices.* The respective minimum prices per hundredweight to be paid by each handler, f. o. b. his plant, for skim milk and butterfat in milk received from producers or from a pool plant of a cooperative association, during the delivery period, which is classified as Class I milk, shall be as follows as computed by the market administrator:

(a) Add to the basic formula price the following amount for the delivery period indicated:

Delivery period:	*Amount*
May and June	$0.85
March, April, July, August	1.00
January, February, September, October, November, December	1.15

(b) The price of butterfat shall be the amount obtained in paragraph (a) of this section multiplied by 20: *Provided*, That in no event shall the price of butterfat pursuant to this subparagraph be less than the price of butterfat computed pursuant to paragraph (a) of § 975.62.

(c) The price of skim milk shall be computed by (1) multiplying the price of butterfat pursuant to paragraph (b) of this section by 0.035; (2) subtracting such amount from the amount obtained in paragraph (a) of this section; (3) dividing such net amount by 0.965; and (4) rounding off to the nearest full cent.

§ 975.62 *Class II milk prices.* The respective minimum prices per hundredweight to be paid by each handler, f. o. b. his plant, for skim milk and butterfat in milk received from producers or from a pool plant of a cooperative association, during the delivery period, which is classified as Class II milk, shall be as follows as computed by the market administrator:

(a) The price of butterfat shall be the average price of butter as computed pursuant to paragraph (b) (1) of § 975.60 multiplied by 125: *Provided*, That the price per hundredweight of butterfat used to produce ice cream or ice cream mix shall be the Class III price for butterfat.

(b) The price of skim milk shall be the simple average (using the midpoint of any price range as one price) of the carlot prices per pound of spray process nonfat dry milk solids in barrels for human consumption at Chicago for the weeks ending within the delivery period as reported by the Department of Agriculture, less 5.5 cents, multiplied by 6.5.

§ 975.63 *Class III milk prices.* The respective minimum prices per hundredweight to be paid by each handler, f. o. b. his plant for skim milk and butterfat in milk received from producers or from a pool plant of a cooperative association during the delivery period, which is classified as Class III milk, shall be as follows, as computed by the market administrator:

(a) The price per hundredweight of butterfat shall be the average price of butter as computed pursuant to paragraph (b) (1) of § 975.60 multiplied by 120: *Provided*, That the price per hundredweight of butterfat used to produce butter or contained in shrinkage pursuant to paragraph (c) (2) of § 975.51 shall be such price less $5.00.

(b) The price per hundredweight of skim milk shall be the weighted average of the carlot prices per pound of roller process nonfat dry milk solids in barrels for human consumption f. o. b. manufacturing plants in the Chicago area as published for the delivery period by the Department of Agriculture less 5.5 cents, multiplied by 8.5: *Provided*, That the price of skim milk used to produce evaporated or condensed milk (or skim milk) in hermetically sealed cans shall be determined by (1) subtracting 8 cents from the price computed pursuant to paragraph (a) of § 975.60 and then subtracting an amount computed by multiplying by 0.035 the price of butterfat computed prior to the proviso in paragraph (a) of this section, and (2) dividing the result so obtained by 0.965.

DETERMINATION OF UNIFORM PRICE

§ 975.70 *Computation of pool value for each handler operating a pool plant.* Subject to the location adjustment provided by § 975.71, the pool value for each delivery period for each handler operating a pool plant shall be a sum of money computed by the market administrator by multiplying by the applicable prices for skim milk and butterfat in each class pursuant to §§ 975.61, 975.62 and 975.63 the skim milk and butterfat in milk received from producers according to their classification pursuant to §§ 975.56 and 975.57, and adding together the resulting amounts: *Provided*, That if such handler, after subtracting all receipts of skim milk and butterfat, respectively, other than in milk received from producers has a utilization of skim milk or butterfat greater than has been accounted for in milk received from producers, there shall be added a further amount equal to the quantity of such excess of skim milk or butterfat multiplied by the applicable prices: *And provided also*, That such handler shall be credited at the difference between the applicable class prices for skim milk and butterfat and the highest of the Class III prices for skim milk and butterfat, respectively, with respect to milk or cream disposed of in fluid form during April, May, June, or July, to a manufacturer of soup, candy, or bakery products for use in such manufacturing operations.

§ 975.71 *Location adjustments to handlers.* With respect to the actual weight of (a) milk, cream, or any other item named in Class I milk and Class II milk which is moved directly to the marketing area from a pool plant located outside the marketing area, and (b) Class I milk and Class II milk disposed of outside the marketing area from a pool plant so located, there shall be deducted, in the computation of the handler's pool value, the following amount per hundredweight thereof applicable for the location of such plant by shortest highway distance from the Public Square in Cleveland, Ohio, such distance to be determined by the market administrator:

Mileage zone	Cents per hundredweight
Not more than 30 miles	0
More than 30 miles but not more than 45 miles	15
More than 45 miles but not more than 60 miles	17
More than 60 miles but not more than 75 miles	19
More than 75 miles but not more than 90 miles	21
Within each 15-mile zone thereafter an additional 1 cent.	

Provided, That such adjustment shall be limited to an amount of milk, cream, or other item so moved which could be derived from the milk received from producers at such plant.

§ 975.72 *Obligation to the producer-settlement fund for certain handlers operating nonpool plants.* (a) For each delivery period the obligation to the producer-settlement fund for each handler (except a producer-handler) who operates a nonpool plant out of which a route is operated which extends into the marketing area, shall be computed by the market administrator by multiplying by the respective prices for skim milk and butterfat in Class I milk the total pounds of skim milk and butterfat disposed of as milk, skim milk, buttermilk, flavored milk, or flavored milk drink within such delivery period on each such route, and subtracting therefrom an amount computed by multiplying such volume of skim milk and butterfat by the higher of the prices for skim milk and butterfat, respectively, in Class III milk.

(b) For each delivery period, the obligation to the producer-settlement fund for each handler who operates a nonpool plant and supplies milk, skim milk, buttermilk, flavored milk, or flavored milk drink to a plant designated as a pool plant pursuant to paragraph (a) of §975.30, which latter plant received within such delivery period less than 50 percent of its total receipts of skim milk and butterfat from producers or from other pool plants, shall be computed by the market administrator by multiplying by the difference between the respective prices for skim milk and butterfat in Class I milk and Class III milk, the amount of such receipts from such nonpool plant which are Class I milk at the receiving pool plant.

§ 975.73 *Computation of uniform price.* For each delivery period, the market administrator shall compute the "uniform price" per hundredweight for milk of 3.5 percent butterfat content, f. o. b. the marketing area, received from producers by:

(a) Combining into one total the pool values computed under § 975.70 for all handlers who reported pursuant to § 975.40 for such delivery period, except those in default in payments required pursuant to § 975.84 for the preceding delivery period;

(b) Adding an amount representing the monies received in payment of obligations computed under § 975.72;

(c) Adding the aggregate of the values of all allowable location adjustments computed at the maximum rates for the appropriate zones as set forth in § 975.81;

(d) Adding an amount representing not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Subtracting, if the weighted average butterfat test of all milk received from producers represented by the values included in paragraph (a) of this section is greater than 3.5 percent or adding, if the weighted average butterfat test of such milk is less than 3.5 percent, an amount computed by multiplying the total hundredweight of butterfat represented by the variance of such weighted average butterfat test from 3.5 percent, by the butterfat differential computed pursuant to § 975.82 multiplied by 1.000;

(f) Dividing by the hundredweight of milk received from producers represented by the values included in paragraph (a) of this section; and

(g) Subtracting not less than 4 cents nor more than 5 cents.

§ 975.74 *Notification.* The market administrator shall notify:

(a) On or before the 14th day after the end of each delivery period, each handler who operates a pool plant of:

(1) The amounts and pool values of his skim milk and butterfat in each class and the totals of such amounts and values;

(2) The uniform price;

(3) The amount due such handler from the producer-settlement fund or the amount to be paid by such handler to the producer-settlement fund, as the case may be; and

(4) The totals of the minimum amounts to be paid by such handler pursuant to §§ 975.80, 975.84, 975.86, 975.87, 975.88 and 975.89.

(b) On or before the 14th day after the end of each delivery period each handler described in § 975.7 (b) of:

(1) The pounds of his skim milk and butterfat in milk, skim milk, buttermilk, flavored milk, and flavored milk drink subject to the provisions of this section; and

(2) The amount due the producer-settlement fund from each such handler.

PAYMENTS

§ 975.80 *Time and method of payment.* (a) Except as provided by paragraph (b) of this section, on or before the 20th day after the end of each delivery period, each handler (except a cooperative association) shall pay each producer for milk received from him within such delivery period, not less than an amount of money computed by multiplying the total pounds of such milk by the uniform price, less the location adjustment pursuant to § 975.81 and adjusted by the butterfat differential pursuant to § 975.82: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to § 975.85 he may reduce such payments uniformly per hundredweight for all producers, by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) On or before the 19th day after the end of each delivery period, each handler shall pay a cooperative association not a handler, with respect to milk of producers for which it has received written authorization to collect payment, a total amount not less than the sum of the individual amounts otherwise payable to such producers pursuant to paragraph (a) of this section.

(c) On or before the 15th day after the end of each delivery period, each handler shall pay a cooperative association which is a handler, with respect to skim milk and butterfat received by him from a pool plant operated by such cooperative association, not less than an amount computed by multiplying the minimum prices for skim milk and butterfat, respectively, in each class, subject to the applicable location adjustment provided by § 975.71, by the hundredweight of skim milk and butterfat, respectively, in each class pursuant to §§ 975.56 and 975.57.

§ 975.81 *Location adjustments to producers.* In making payments pursuant to paragraphs (a) and (b) of § 975.80 a handler may deduct, with respect to all milk received from producers at a plant located outside the marketing area, not more than the following respective amount per hundredweight of milk applicable for the location of such plant by shortest highway distance from the Public Square in Cleveland, Ohio, such distance to be determined by the market administrator:

Mileage zone	Cents per hundredweight
Not more than 30 miles	0
More than 30 miles but not more than 45 miles	15
More than 45 miles but not more than 60 miles	17
More than 60 miles but not more than 75 miles	19
More than 75 miles but not more than 90 miles	21
Within each 15-mile zone thereafter an additional 1 cent.	

§ 975.82 *Butterfat differential.* In making payments pursuant to paragraphs (a) and (b) of § 975.80 there shall be added to or subtracted from, the uniform price per hundredweight, for each one-tenth of 1 percent of such butterfat content in milk above or below 3.5 percent, as the case may be, a butterfat differential computed by the market administrator as follows:

(a) Multiply the hundredweight of butterfat in each class computed pursuant to § 975.56 by the applicable minimum price for butterfat in such class computed pursuant to §§ 975.61, 975.62 and 975.63;

(b) Add into one total the butterfat values obtained in paragraph (a) of this section and divide such total by the total hundredweight of butterfat in all classes computed pursuant to § 975.56 to determine a weighted average price for butterfat;

(c) Subtract from the weighted average price per hundredweight of butterfat computed in paragraph (b) of this section a weighted average price per hundredweight of skim milk computed as follows:

(1) Multiply the hundredweight of skim milk computed in each class pursuant to § 975.57 by the respective minimum price for skim milk in such class computed pursuant to §§ 975.61, 975.62 and 975.63; and

(2) Add into one total the skim milk values so obtained for all classes and divide such total by the total hundredweight of skim milk in all classes computed pursuant to § 975.57; and

(d) Divide by 1.000 the price of butterfat resulting pursuant to paragraph (c) of this section and round off to the nearest tenth of a cent.

§ 975.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund," into which he shall deposit all payments made pursuant to § 975.84 and out of which he shall make all payments pursuant to § 975.85.

§ 975.84 *Payments to the producer-settlement fund.* On or before the 16th day after the end of each delivery period, each handler:

(a) Whose pool value is required to be computed pursuant to § 975.70, shall pay to the market administrator the amount by which such pool value for such delivery period is greater than the total minimum amount required to be paid by him pursuant to paragraphs (a) and (b) of § 975.80; and

(b) Whose obligation is required to be computed pursuant to § 975.72, shall pay to the market administrator such obligation for such delivery period.

§ 975.85 *Payments out of the producer-settlement fund.* On or before the 18th day after the end of each delivery period, the market administrator shall pay to each handler the amount by which such handler's pool value pursuant to § 975.70 is less than the total minimum amount required to be paid by him pursuant to paragraphs (a) and (b) of § 975.80, less any unpaid obligations of such handler to the market administrator pursuant to §§ 975.84, 975.86, 975.87, or 975.89. *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 975.86 *Expense of administration.* As his prorata share of the expense incurred pursuant to paragraph (d) of § 975.22, each handler shall pay the market administrator on or before the 16th day after the end of each delivery period, three cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, to be announced by the market administrator on or before the 14th day after the end of such delivery period, with respect to all receipts within the delivery period, of milk from producers at pool plants (including such handler's own production), of other source milk at pool plants, except that used in the manufacture of ice cream or ice cream mix, and of other source milk on which payment is required pursuant to § 975.72: *Provided*, That such payment shall not be made with respect to any milk subject to a payment required under the provision for expense of administration of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing area.

§ 975.87 *Marketing services.* Except as set forth in § 975.88 each handler in making payments to producers pursuant to paragraphs (a) and (b) of § 975.80, with respect to all milk received from each producer (except milk of such handler's own production) at a plant, not operated by a cooperative association of which such producer is a member, shall deduct four cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, to be announced by the market administrator on or before the 14th day after the end of each delivery period; and, on or before the 16th day after the end of such delivery period, shall pay such deductions to the market administrator. Such moneys shall be expended by the market administrator to verify weights, samples, and tests of the milk of such producers and to provide such producers with market information; such services to be performed in whole or in part by the market administrator, or by an agent engaged by and responsible to him.

§ 975.88 *Cooperative association.* In the case of producers whose milk is received at a plant, not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in § 975.87, as determined by the market administrator, each handler shall make, in lieu of the deductions specified in § 975.87, such deductions from payments required pursuant to paragraphs (a) and (b) of § 975.80 as may be authorized by such producers, and pay such deductions on or before the 16th day after the end of each delivery period to the cooperative association rendering such services of which such producers are members.

§ 975.89 *Adjustment of accounts*—(a) *Payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

(b) *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 975.84, 975.85, 975.86, 975.87, 975.88 or 975.89 (a) shall be increased one-half of one percent on the first day of the calendar month next following the due date of such obligation and, on the first day of each calendar month thereafter until such obligation is paid.

MISCELLANEOUS PROVISIONS

§ 975.90 *Application of provisions*—(a) *Exempt milk.* Milk received at a plant of a handler, the handling of which the Secretary determines to be subject to the pricing and payment provisions of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing area shall not be subject to the pricing and payment provisions hereof.

(b) *Milk caused to be delivered by cooperative associations.* Milk referred to herein as received from producers by a handler shall include milk of producers caused to be delivered to such handler by a cooperative association which is not a handler and which is authorized to collect payment for such milk.

§ 975.91 *Effective time.* The provisions hereof, or of any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 975.92 *Suspension or termination.* The Secretary shall, whenever he finds that this order, or any provision thereof, obstructs or does not tend to effecuate the declared policy of the act, terminate or suspend the operation of this order or any such provision thereof.

§ 975.93 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 975.94 *Liquidation.* Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

§ 975.95 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

§ 975.96 *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provi-

sions hereof, to other persons or circumstances shall not be affected thereby.

§ 975.97 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers; the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

[F. R. Doc. 50-7046; Filed, Aug. 11, 1950; 8:47 a. m.]

[7 CFR, Part 979]

IRISH POTATOES GROWN IN EASTERN SOUTH DAKOTA PRODUCTION AREA

NOTICE OF PROPOSED BUDGET AND RATE OF ASSESSMENT

Notice is hereby given that the Secretary of Agriculture is considering the approval of the budget of expenses and rate of assessment which are hereinafter set forth and were recommended by the South Dakota Potato Committee, established pursuant to Marketing Agreement No. 103 and Order No. 79 (7 CFR 979.1 et seq.) regulating the handling of Irish potatoes grown in the Eastern South Dakota production area, effective under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051).

Consideration will be given to any data, views, or arguments pertaining thereto which are filed in triplicate with the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., not later than 15 days following publication of this notice in the FEDERAL REGISTER. The proposals are as follows:

§ 979.203 *Budget of expenses and rate of assessment.* (1) The expense necessary to be incurred by the South Dakota Potato Committee, established pursuant to Marketing Agreement No. 103 and Order No. 79, to enable such committee to carry out its functions pursuant to provisions of the aforesaid marketing agreement and order, during the fiscal year ending June 30, 1951, will amount to $2,500;

(2) The rate of assessment to be paid by each handler who first ships potatoes shall be one-half cent per hundredweight of potatoes handled by him as the first handler thereof during said fiscal year; and

(3) Terms used herein shall have the same meaning as when used in Marketing Agreement No. 103 and Order No. 79.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051)

Done at Washington, D. C., this 9th day of Aug. 1950.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 50-7067; Filed, Aug. 11, 1950; 8:50 a. m.]

NOTICES

DEPARTMENT OF DEFENSE

Office of the Secretary

MILITARY PRIORITY FOR PUBLIC HOUSING

DELEGATION OF AUTHORITY TO SECRETARIES OF ARMY, NAVY AND AIR FORCE

Public Law 475 provides that, upon the transfer of certain temporary and permanent housing projects by the Housing and Home Finance Agency, military personnel and persons engaged in national defense or mobilization activities shall be afforded certain limited priority of assignment and occupancy.

Section 601 (d) (1) provides that "* * * if the transferee is a State political subdivision, local housing authority, or local public agency, it will, in filling vacancies in housing transferred under subsection 601 (b) hereof, give such preferences to military personnel and persons engaged in national defense or mobilization activities as the Secretary of Defense or his designee prescribes to such transferee."

Section 606 (c) (2) provides that military personnel "as designated by the Secretary of Defense or his designee," who are ineligible for continued occupancy under the provisions of the United States Housing Act of 1937, shall not be subject to removal from permanent type defense housing until 18 months after the date of the transfer of the project to a local housing authority.

Section 606 (c) (6) provides that "for one year after the date of conveyance of a project, the public housing agency shall, to the extent permitted by law, give such preferences, by allocation or otherwise, to military personnel as the Secretary of Defense or his designee prescribes to the public housing agency."

The authorities vested in the Secretary of Defense under the above provisions of Public Law 475 are hereby delegated to the Secretaries of the Army, Navy and the Air Force for exercise on behalf of their respective Departments,

LOUIS JOHNSON,
Secretary of Defense.

MAY 24, 1950.

[F. R. Doc. 50-7039; Filed, Aug. 11, 1950; 8:45 a. m.]

DEPARTMENT OF THE INTERIOR

Geological Survey

WYOMING

DEFINITIONS OF KNOWN GEOLOGIC STRUCTURES OF PRODUCING OIL AND GAS FIELDS

AUGUST 8, 1950.

Former paragraph (c) of sec. 227.0, Part 227, Title 30, Chapter II, Code of

Federal Regulations (1947 Supp.), codification of which has been discontinued by a document published in Part II of the FEDERAL REGISTER dated December 31, 1948, is hereby supplemented by the addition of the following structure defined effective as of the date shown:

Name of Field, Effective Date, and Acreage

(9) WYOMING

Lake Creek Field (revision), May 15, 1949 ---------- 4,612

W. E. WRATHER,
Director.

[F. R. Doc. 50-7040; Filed, Aug. 11, 1950; 8:45 a. m.]

CALIFORNIA AND UTAH

DEFINITIONS OF KNOWN GEOLOGIC STRUCTURES OF PRODUCING OIL AND GAS FIELDS

Former paragraph (c) of sec. 227.0, Part 227, Title 30, Chapter II, Code of Federal Regulations (1947 Supp.), codification of which has been discontinued by a document published in Part II of the FEDERAL REGISTER dated December 31, 1948, is hereby supplemented by the addition of the following:

Name of Field, Effective Date, and Acreage

(1) CALIFORNIA

Keating Field (revocation), August 1, 1950---------- 160

(8) UTAH

Cisco Dome Field (cancellation), August 1, 1950---------- 13,515

W. E. WRATHER,
Director.

[F. R. Doc. 50-7064; Filed, Aug. 11, 1950; 8:49 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1949 CROP LOAN COTTON

NOTICE OF POOLING

Notice is hereby given that all 1949 crop upland and American-Egyptian cotton securing loans under Commodity Credit Corporation's 1949 cotton loan programs which are still outstanding on October 1, 1950, will be pooled for the borrowers' accounts on that date, as provided in the loan agreements under which the loans were made. Prior to October 1, 1950, producers may request that their notes be forwarded to local banks for repayment of the loans by using the Producer's Redemption Requests, or the producers may sell their equities in the cotton by using the Producer's Equity Transfers, on their copies of the Producer's Loan Statements.

After the cotton is pooled, borrowers will not be entitled to sell their equities in the cotton or to arrange to repay their loans. No payment will be made to borrowers at the time their cotton is pooled. On final liquidation of the cotton in each pool, the net proceeds, if any, after deduction of all advances, interest, and charges—including storage, insurance and handling charges—will be distributed among the borrowers whose cotton was placed in the pool, in proportion to the amounts of the loans made to the borrowers on such cotton.

Issued this 8th day of August 1950.

[SEAL] ELMER F. KRUSE,
Vice President,
Commodity Credit Corporation.

Approved:

FRANK K. WOOLLEY,
Acting President,
Commodity Credit Corporation.

[F. R. Doc. 50-7042; Filed, Aug. 11, 1950; 8:46 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

AMERICAN HAWAIIAN STEAMSHIP CO. ET AL.

NOTICE OF HEARING ON APPLICATIONS TO EXTEND BAREBOAT CHARTER AGREEMENTS

American Hawaiian Steamship Company, Luckenbach Steamship Co., Pacific Atlantic Steamship Co., and Pope & Talbot, Inc.

Pursuant to section 3, Public Law 591, 81st Congress, notice is hereby given that an informal public hearing will be held in Room 4823, Commerce Building, Washington, D. C. on August 31, 1950, at 10 o'clock a. m., e. d. s. t., before Examiner C. W. Robinson, upon the applications of the above-named parties to extend their bareboat charter agreements with respect to Government-owned war-built dry-cargo vessels.

The purpose of the hearing is to receive evidence with respect to whether continuance of the services under which such vessels are now chartered is required in the public interest and such services will not be adequately served without such extension, and with respect to the availability of privately-owned American-flag vessels on reasonable conditions and at reasonable rates for such services.

All persons having an interest in such applications will be given an opportunity to be heard if present.

The parties may have oral argument before the examiner immediately following the close of the hearing in lieu of briefs, and the examiner will issue a recommended decision. Parties may have 15 days within which to file exceptions to or memoranda in support of the examiner's recommended decision, but the Board reserves the right to determine whether oral argument on exceptions will be granted or whether briefs in connection therewith will be received.

Dated: August 10, 1950.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 50-7091; Filed, Aug. 11, 1950; 8:51 a. m.]

ACTIUM SHIPPING CORP. ET AL.

NOTICE OF HEARING ON APPLICATION FOR BAREBOAT CHARTER OF DRY-CARGO VESSELS

Actium Shipping Corp., Admanthos Ship Operating Co. Inc., Agwilines, Inc. (New York & Cuba Mail), Alaska Steamship Co., Albatross Steamship Co., Inc., American Foreign Steamship Corp., American Hawaiian Steamship Co., American Mail Line, Ltd., American Pacific Steamship Co., American President Lines, Ltd., Arnold Bernstein Line, Inc., Nick Bez, Blidberg Rothchild Co., Inc., A. H. Bull Steamship Co., A. L. Burbank & Co., Burns Steamship Co., W. R. Chamberlin & Co., Clifton Steamship Corp., Coastwise Line, Cosmopolitan Shipping Co., Inc., Cuba Mail Line, Dichmann, Wright & Pugh, Inc., Dolphin Steamship Corp., Eastern Steamship Lines, Eastport Steamship Corp., El Dia Steamship Corp., John S. Emery & Co., Inc., Fall River Navigation Co., Federal Motorship Corp., Firth Steamship Corp., Flomarcy Lines, Inc., Fribourg Steamship Co., Inc., James Griffiths & Sons, Gulf Range Steamship Corp., Isbrandtsen Co., Inc., W. P. Iverson & Co., Inc., A. Willard Ivers, Inc., J. Lasry & Sons, Inc., Luckenbach Steamship Co., Inc., Marine Navigation Co., Inc., Marine Transport Lines, Inc., Mariner Steamship Co., Inc., Mississippi Shipping Co., Inc., Ocean Tramp Carriers, Inc., American & Overseas Chartering Co., Moore-McCormack Lines, Inc., Wm. H. Muller Shipping Corp., Naess Mojlander & Co., Inc., Neptune Shipping, Inc., Newtex Steamship Corp., North American Shipping & Trad., North Atlantic & Gulf Steamship Co., Ocean Freighting & Brokerage Corp., Olympic Steamship Co., Inc., Omnium Freighting Corp., Orion Shipping & Trading Co., Inc., Pacific Transport Lines, Inc., Pacific Atlantic Steamship Co., Pacific Far East Line, Inc., Palmer Shipping Corp., Pittston Marine Corp., Polarus Steamship Co., Inc., Ponchelet Marine Corp., Pope & Talbot, Inc., Prudential Steamship Corp., Wm. J. Rountree Co., Inc., St. Lawrence Navigation Co., Inc., Senior Lines, Shepard Steamship Co., South Atlantic Steamship Line, Inc., Standard Fruit & Steamship Corp., T. J. Stevenson & Co., Inc., Stockard Steamship Corp., Sudden & Christenson, Inc., Sword Line, Tramer Shipping Co., Inc., Transportation, Inc., States Marine Corp. of Delaware, Union Sulphur Co., Inc., United States Lines, United States Navigation Co., Inc., Wessel Duval & Co., Inc., West Coast Trans-Oceanic Steamship Line, West India Steamship Co., White Range Steamship Co., Southern Seas Steamship Co., Inc., Daniel F. Young, Inc.

Pursuant to section 3, Public Law 591, 81st Congress, notice is hereby given that an informal public hearing will be held in Room 4821, Commerce Building, Washington, D. C., on August 17, 1950, at 10:00 a. m., e. d. s. t. before the Federal Maritime Board, upon application of the above-named parties and all other parties filing application with the Secretary of the Maritime Administration, Room 4850, Department of Commerce Building, on or before 5:00 p. m., e. d. s. t., August 15, 1950, to bareboat-charter war-built dry-cargo vessels for use of the Military Sea Transportation Service of the Department of the Navy in the trans-Pacific area.

The purpose of the hearing is to receive evidence with respect to whether such service is required in the public

interest and is not adequately served, and with respect to the availability of privately owned American-flag vessels on reasonable conditions and at reasonable rates for this service.

All persons having an interest in such application should arrange to be present.

Dated: August 10, 1950.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 50-7092; Filed, Aug. 11, 1950; 8:51 a. m.]

PACIFIC FAR EAST LINE, INC.

NOTICE OF HEARING ON APPLICATION FOR BAREBOAT CHARTER OF A DRY-CARGO VESSEL

Pursuant to section 3, Public Law 591, 81st Congress, notice is hereby given that an informal public hearing will be held in Room 4821, Commerce Building, Washington, D. C., on August 16, 1950, at 10:00 a. m., e. d. s. t., before the Federal Maritime Board, upon application of the Pacific Far East Line, Inc., to bareboat-charter a war-built dry-cargo vessel for use between United States Pacific Coast ports and Straits Settlements, Indonesia, Thailand, India and the Persian Gulf.

The purpose of the hearing is to receive evidence with respect to whether such service is required in the public interest and is not adequately served, and with respect to the availability of privately owned American-flag vessels on reasonable conditions and at reasonable rates for this service.

All persons having an interest in such application should arrange to be present.

By order of the Federal Maritime Board.

Dated: August 10, 1950.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 50-7110; Filed, Aug. 11, 1950; 8:52 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-1419, G-1420, G-1423]

PRINCE GEORGE'S GAS CORP. ET AL.

NOTICE OF FINDINGS AND ORDERS

AUGUST 9, 1950.

In the matters of Prince George's Gas Corporation, Docket No. G-1419; Hope Natural Gas Company, Docket No. G-1420; Natural Gas Pipeline Company of America, Docket No. G-1423.

Notice is hereby given that, on August 8, 1950, the Federal Power Commission issued its findings and orders entered August 8, 1950, issuing certificates of public convenience and necessity in the above-designated matters.

[SEAL] J H. GUTRIDE, *Acting Secretary.*

[F. R. Doc. 50-7047; Filed, Aug. 11, 1950; 8:47 a. m.]

[Docket Nos. G-1312, G-1339]

TEXAS GAS TRANSMISSION CORP. AND MAYFIELD GAS CO.

NOTICE OF FINAL DECISION

AUGUST 9, 1950.

Notice is hereby given that the initial decision issuing certificates of public convenience and necessity in the above-designated matters was issued and served upon all parties on June 29, 1950. No exceptions thereto having been filed or review initiated by the Commission, in conformity with the Commission's rules of practice and procedure said initial decision became effective on July 31, 1950, as the final decision and order of the Commission.

[SEAL] J. H. GUTRIDE, *Acting Secretary.*

[F. R. Doc. 50-7048; Filed, Aug. 11, 1950; 8:47 a. m.]

[Project No. 2005]

OAKDALE IRRIGATION DISTRICT AND SOUTH SAN JOAQUIN IRRIGATION DISTRICT

NOTICE OF APPLICATION FOR AMENDMENT OF LICENSE (MAJOR)

AUGUST 7, 1950.

Public notice is hereby given that Oakdale Irrigation District and South San Joaquin Irrigation District, of Oakdale and Manteca, California, respectively, joint licensees for major Project No. 2005, have made application, pursuant to the provisions of the Federal Power Act (16 U. S. C. 791a-825r) for amendment of license to authorize the construction, operation, and maintenance of a second proposed hydroelectric development to be located on Middle Fork of Stanislaus River, California.

Any protest against the approval of this application or request for hearing thereon, with the reasons for such protest or request, and the name and address of the party or parties so protesting or requesting, should be submitted on or before September 25, 1950, to the Federal Power Commission at Washington, D. C.

[SEAL] J. H. GUTRIDE, *Acting Secretary.*

[F. R. Doc. 50-7055; Filed, Aug. 11, 1950; 8:48 a. m.]

[Docket No. E-6307]

FLORIDA POWER CORP.

NOTICE OF APPLICATION

AUGUST 7, 1950.

Take notice that on August 4, 1950, an application was filed with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, by Florida Power Corporation, a corporation organized under the laws of the State of Florida and doing business in said State, with its principal business office at St. Petersburg, Florida, seeking an order authorizing the issuance of additional promissory notes in the aggregate amount of $1,700,000 to the Guaranty Trust Company of New York, Central Hanover Bank and Trust Company, and The Florida National Bank, St. Petersburg, Florida, for the purpose of obtaining construction funds, said loans to be payable not to exceed 120 days from authorization thereof at an interest rate to be hereafter determined; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 25th of August 1950, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE, *Acting Secretary.*

[F. R. Doc. 50-7056; Filed, Aug. 11, 1950; 8:48 a. m.]

[Docket No. G-1452]

TEXAS GAS TRANSMISSION CORP.

NOTICE OF APPLICATION

AUGUST 7, 1950.

Take notice that on July 31, 1950, Texas Gas Transmission Corporation (Applicant), a Delaware corporation with its principal place of business in Owensboro, Kentucky, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of the following described facilities:

1. A sales meter station on its main line system at a point in Ross Township, Butler County, Ohio, near the town of Venice, Ohio.

2. A sales meter station on its main line system in Clear Creek Township, Warren County, Ohio, near Station No. 16 of Texas Eastern Transmission Corporation, and at the same point a sales lateral line approximately 1,050 feet in length extending from the main 26" pipeline of Applicant to said sales meter station, thence connecting with the pipeline facilities of The Ohio Fuel Gas Company.

3. The sale of up to 5,000 Mcf per day of natural gas to The Ohio Fuel Gas Company.

Applicant calls attention to the fact that the design of the sales meter station and the 1,050-foot lateral requested to be installed in Clear Creek Township, Ohio, are of sufficient size to handle approximately 100,000 Mcf daily, whereas the sale to The Ohio Fuel Gas Company for which authority is here sought is for only 5,000 Mcf. It says that it contemplates using such excess capacity sometime in the near future to supply The Ohio Fuel Gas Company with some 94,000 Mcf of gas per day which that company has requested Applicant to deliver, beginning November 1, 1951; that, in the meantime such facilities will serve as Applicant's only direct connection with the pipeline facilities of The Ohio Fuel Gas Company, through which emergency deliveries could be made if required.

Deliveries of gas to The Ohio Fuel Gas Company in the full contract quantity of up to 5,000 Mcf per day through the proposed facilities are expected to begin on or about November 1, 1950.

The total estimated cost of the construction of the facilities for which application is made approximates $32,080.89, which Applicant will finance from cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) before the 25th day of August 1950. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 50-7058; Filed, Aug. 11, 1950; 8:48 a. m.]

[Docket No. G-1449]

GEORGIA NATURAL GAS CO.

NOTICE OF APPLICATION

AUGUST 7, 1950.

Take notice that Georgia Natural Gas Company (Applicant), a Georgia corporation, P. O. Box 1203, Albany, Georgia, filed on July 27, 1950, an application for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing the construction and operation of certain transmission pipeline facilities hereinafter described, and for an order pursuant to section 7 (a) of the Natural Gas Act, directing Southern Natural Gas Company (Southern Natural) to provide and sell to Applicant an adequate supply of natural gas.

Applicant proposes to construct approximately 335 miles of 8⅝-inch, 6⅝-inch and 4½-inch pipeline and laterals extending southerly from a point of connection with the pipe line of Southern Natural near Phenix City, Alabama to Tallahassee, Florida, serving, among other communities, the Cities of Americus, Albany, Camilla, Pelham, Cordele, Moultrie, Bainbridge, Thomasville, Quitman, Valdosta, in Georgia, and the City of Tallahassee, Florida; with estimated maximum day sales of 30,000 Mcf.

The estimated cost of the proposed facilities is $5,100,000 to be financed by the issuance of first mortagage pipeline bonds and capital stock.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 25th day of August 1950. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 50-7057; Filed, Aug. 11, 1950; 8:48 a. m.]

[Docket No. G-1453]

TENNESSEE GAS TRANSMISSION CO.

NOTICE OF APPLICATION

AUGUST 7, 1950.

Take notice that Tennessee Gas Transmission Company (Applicant), a Delaware corporation, address, Houston, Texas, filed on July 31, 1950, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of a sales meter station at a point on its main transmission pipeline in Chautauqua County, New York, for the sale of natural gas to the Republic Light, Heat and Power Company, Inc.

Applicant proposes, by means of the said facilities to sell natural gas to Republic Light, Heat and Power Company, Inc., under a contract providing for a contracted demand quantity of 600 Mcf per day, to be resold in the communities of Mayville, Westfield, and Chautauqua, New York, which are presently being served with natural gas by Republic Light, Heat and Power Company, Inc. It is expected that the gas to be delivered by means of the proposed facilities will be taken at an annual average load factor of 75 percent.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 25th day of August 1950. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 50-7059; Filed, Aug. 11, 1950; 8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 25307]

MALT LIQUORS TO THE SOUTHWEST

APPLICATION FOR RELIEF

AUGUST 9, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for an on behalf of carriers parties to his tariff I. C. C. No. 3897.

Commodities involved: Malt liquors, viz; ale, beer, tonic, porter or stout, carloads.

From: Gateways and western territories.

To: Points in the Southwest.

Grounds for relief: Circuitous routes and to maintain grouping.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3897, Supplement 16.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-7050; Filed, Aug. 11, 1950; 8:47 a. m.]

[4th Sec. Application 25308]

ALL FREIGHT FROM CINCINNATI, OHIO, TO GREENVILLE, S. C.

APPLICATION FOR RELIEF

AUGUST 9, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1073.

Commodities involved: Merchandise, mixed carloads.

From: Cincinnati, Ohio.

To: Greenville, S. C.

Grounds for relief: Competition with motor carriers.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1073, Supplement 48.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-7051; Filed, Aug. 11, 1950; 8:47 a. m.]

[4th Sec. Application 25309]

COTTON PIECE GOODS IN THE SOUTH

APPLICATION FOR RELIEF

AUGUST 9, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1190.

Commodities involved: Cotton piece goods and related articles, carloads.

From: Southern mill points.

To: Southern ports for export, coastwise and intercoastal movement.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1190.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-7052; Filed, Aug. 11, 1950; 8:47 a. m.]

[4th Sec. Application 25310]

FARM DRAIN TILE IN THE SOUTH

APPLICATION FOR RELIEF

AUGUST 9, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1044.

Commodities involved: Farm drain tile, carloads.

Between: Points in the south and between points in the south, on the one hand, and points in Virginia in official territory, on the other.

Grounds for relief: Circuitous routes and to maintain grouping.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1044, Supplement 103.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-7053; Filed, Aug. 11, 1950; 8:48 a. m.]

[4th Sec. Application 25311]

PAPER ARTICLES FROM CROSSETT, ARK., TO CINCINNATI, OHIO

APPLICATION FOR RELIEF

AUGUST 9, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for and on behalf of carriers parties to his tariff I. C. C. No. 3788.

Commodities involved: Paper and paper articles, carloads.

From: Crossett, Ark.

To: Cincinnati, Ohio.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3788, Supplement 56.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-7054; Filed, Aug. 11, 1950; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2279]

COLUMBIA GAS SYSTEM, INC. AND OHIO FUEL GAS CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 8th day of August A. D. 1950.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary, The Ohio Fuel Gas Company ("Ohio Fuel"), having filed a joint declaration and an amendment thereto pursuant to the provisions of sections 7 and 12 of the Public Utility Holding Company Act of 1935 and Rules U-43 and U-45 promulgated thereunder, with respect to the following proposed transaction:

Columbia and its subsidiary, Ohio Fuel, propose to enter into a supplemental interest agreement whereby Columbia will agree to accept an amount as the interest on the 3¼ percent notes of Ohio Fuel which it presently holds or may hereafter hold, so that the average interest paid by Ohio Fuel on all its debt obligations, consisting of 6 percent and 3¼ percent notes, held by Columbia will not exceed 3¼ percent.

Said joint declaration having been duly filed and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said joint declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said joint declaration as amended that the requirements of the applicable provisions of the act and rules thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that the said joint declaration as amended be permitted to become effective:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act that the said joint declaration as amended, be, and hereby is permitted to become effective forthwith subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 50-7041; Filed, Aug. 11, 1950; 8:45 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 13536, Amdt.]

ELISABETH SCHMIDT ET AL.

In re: Interest in real property, property insurance policies and a claim owned by Elisabeth Schmidt, also known as Elizabeth Schmidt and others.

Vesting Order 13536, dated July 13, 1949, is hereby amended as follows and not otherwise:

By deleting therefrom subparagraph 2 thereof and substituting therefor the following:

2. That Notar Salomon, Selma Ella Liebert Berger, Emma Klara Liebert Junghans, Anna Martha Liebert Ebert and Frau Selma Liebert, being the personal representatives, heirs, next of kin, legatees and distributees of Robert Milus Liebert, also known as Robert Liebert, deceased, whose last known addresses are Germany, are residents of Germany and

nationals of a designated enemy country (Germany; (.)

All other provisions of said Vesting Order 13536 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on August 4, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-7060; Filed, Aug. 11, 1950; 8:49 a. m.]

[Return Order 621, Amdt.]

S. A. MELODI AND EDIZIONI MUSICALI ITALIANE

Having issued a determination on May 5, 1950, allowing the claims of S. A. Melodi and Edizioni Musicali Italiane, Milan, Italy, and having issued an amendment of said determination, which amendment by reference is incorporated herein and filed herewith,

Return Order No. 621 (15 F. R. 2864), is hereby amended as follows and not otherwise: The sum of $5,437.57 listed opposite the name of S. A. Melodi is hereby deleted and the sum of $4,577.10 substituted therefor; the sum of $3,285.40 listed opposite the name of Edizioni Musicali Italiane is hereby deleted and the sum of $4,986.51 substituted therefor.

All other provisions of said return order are hereby ratified and confirmed.

Executed at Washington, D. C., on August 8, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-7061; Filed, Aug. 11, 1950; 8:49 a. m.]

JOSEPH JENNY ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Joseph Jenny, a/k/a Josef Jenny; Claim No. 38699; $350.41 in the Treasury of the United States.

Anne Rundel, a/k/a Anna Rundel; Claim No. 38700; $275.41 in the Treasury of the United States.

Fini Jenny, a/k/a Josefine Jenny; Claim No. 37222; $876.02 in the Treasury of the United States.

All of Vorariberg, Austria.

Executed at Washington, D. C., on August 8, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-7062; Filed, Aug. 11, 1950; 8:49 a. m.]

CHRISTINE TILL

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Christine Till, Braybourne, Sasqua-Mills, East Norwalk, Conn.; Claim No. 6389; $1,748.67 in the Treasury of the United States.

Executed at Washington, D. C., on August 8, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-7063; Filed, Aug. 11, 1950; 8:49 a. m.]