Part II begins on page 3067

PART I

FEDERAL REGISTER

VOLUME 24 NUMBER 77

Washington, Tuesday, April 21, 1959

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Federal Aviation Agency

Effective upon publication in the FEDERAL REGISTER, paragraph (c) is added to § 6.364 as set out below.

§ 6.364 Federal Aviation Agency.

* * * * *

(c) One Private Secretary to the Deputy Administrator.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-3295; Filed, Apr. 20, 1959; 8:45 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[1957 C.C.C. Grain Price Support Bulletin 1, Supp. 3, Grain Sorghums]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1957-Crop Grain Sorghums Extended Reseal Loan Program Regulations

An extended reseal loan program has been announced for 1957-crop grain sorghums. The 1957 C.C.C. Grain Price Support Bulletin 1 (22 F.R. 2321), issued by the Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1957, supplemented by Supplements 1 and 2, Grain Sorghums (22 F.R. 3216, 3379, 5975, 6961, 8470, 8874, 8973, 10679 and 23 F.R. 244 and 2964), containing the specific requirements for the 1957-crop grain sorghums price support program, is hereby further supplemented as follows:

This issue includes two parts bound together. Part II contains several documents of the Alcohol and Tobacco Tax Division, Internal Revenue Service.

Sec.
421.2449 Applicable selections of 1957 C.C.C. Grain Price Support Bulletin 1, and Supplements 1 and 2, Grain Sorghums.
421.2450 Availability.
421.2451 Eligible producer.
421.2452 Eligible grain sorghums.
421.2453 Approved storage.
421.2454 Approved forms.
421.2455 Quantity eligible for extended reseal.
421.2456 Service charges.
421.2457 Transfer of producer's equity.
421.2458 Storage and track-loading payments.
421.2459 Maturity and satisfaction.
421.2460 Support rates.

AUTHORITY: §§ 421.2449 to 421.2460 issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interprets or applies sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1053, 1054, as amended, sec. 308, 70 Stat. 206; 15 U.S.C. 714c, 7 U.S.C. 1447, 1421, 1442.

§ 421.2449 Applicable sections of 1957 C.C.C. Grain Price Support Bulletin 1 and Supplements 1 and 2, Grain Sorghums.

The following sections of the 1957 C.C.C. Grain Price Support Bulletin 1, and Supplements 1 and 2, Grain Sorghums, published in 22 F.R. 2321, 3216, 3379, 5975, 6961, 8470, 8874, 8973, 10679 and 23 F.R. 244 and 2964 shall be applicable to the 1957 grain sorghums extended reseal loan program: § 421.2201; § 421.2208; § 421.2210; § 421.2211; § 421.2213; § 421.2214; § 421.2215; § 421.2216; § 421.2217; § 421.2219; § 421.2430; § 421.2431 and also provisions regarding setoffs in 23 F.R. 8439. Other sections of the 1957 C.C.C. Grain Price Support Bulletin 1, and Supplements 1 and 2,

(Continued on p. 3025)

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

CODIFICATION GUIDE—Con.

Grain Sorghums shall be applicable to the extent indicated in this subpart.

§ 421.2450 Availability.

(a) *Area and scope.* The extended reseal loan program will be available in the States of Nebraska and South Dakota where 1957-crop grain sorghums are under reseal loan and the ASC State committee determines that there may be a shortage of storage space, that the grain sorghums can be safely stored on the farm for the period of the extended reseal loan and that it will be advantageous to producers and CCC to permit producers to obtain extended reseal loans. This program provides, under certain circumstances, for the extension of 1957-crop grain sorghums farm-storage reseal loans. Neither warehouse-storage loans nor purchase agreements will be available to producers under this program.

(b) *Time and source.* The producer who has a reseal loan on his grain sorghums and who desires to extend such loan must make application to the county committee which approved his reseal loan before the final date for delivery specified in the delivery instructions issued to him by the office of the county committee.

§ 421.2451 Eligible producer.

An eligible producer shall be an individual, partnership, association, corporation, estate, trust or other business enterprise, or legal entity, and wherever applicable, a State, political subdivision of a State, or any agency thereof, producing grain sorghums in 1957 as landowner, landlord, tenant, or sharecropper, who has a reseal farm-storage loan in effect on grain sorghums of the 1957 crop. Where the county office has experienced difficulties in settling farm-storage loans with a producer, the county office shall determine that he is not eligible for an extended reseal loan under this program.

§ 421.2452 Eligible grain sorghums.

(a) *Requirements of eligibility.* The grain sorghums must meet the requirements set forth in § 421.2428 (a), (b) and (c).

(b) *Inspection.* If a producer makes application to extend his reseal loan, the commodity loan inspector shall, with the producer, reinspect the grain sorghums and the farm-storage structure in which the grain sorghums are stored, obtain a sample if the grain sorghums and structure appear eligible, and submit the sample for grade analysis.

(c) *Determination of quality.* Quality determinations shall be made as set forth in § 421.2431.

§ 421.2453 Approved storage.

Grain sorghums covered by any extended reseal loans must be stored in structures which meet the requirements for farm-storage loans as provided in § 421.2206(a). Consent for storage for any loans extended or new loans completed must be obtained by the producer for the period ending May 31, 1960, if the structure is owned or controlled by someone other than the producer, or if the lease expires prior to such date.

§ 421.2454 Approved forms.

(a) The approved forms, which together with the provisions of this subpart govern the rights and responsibilities of the producer, shall consist of a Producer's Note and Supplemental Loan Agreement, secured by a Commodity Chattel Mortgage and such other forms and documents as may be prescribed by CCC. Notes and Chattel Mortgages must have State and documentary revenue stamps affixed thereto where required by law. Loan documents executed by an administrator, executor or trustee will be acceptable only where legally valid.

(b) Where required by State law, a new producer's note and chattel mortgage shall be completed when a farm-storage loan is extended. Where new forms are not completed, extension of the farm-storage loan shall not affect the rights of CCC, including its right to accelerate the note, and the rights and responsibilities of the producer as set forth in this subpart and in the original approved forms completed by the producer.

§ 421.2455 Quantity eligible for extended reseal.

The quantity of grain sorghums eligible for an extended reseal loan will be the quantity shown on the original note and chattel mortgage, less any quantity delivered or redeemed.

§ 421.2456 Service charges.

When a reseal loan is extended, the producer will not be required to pay an additional service charge.

§ 421.2457 Transfer of producer's equity.

The producer shall not transfer either his remaining interest in or his right to redeem the grain sorghums mortgaged as security for a loan under this program. Subject to the provisions of § 421.2217 regarding the partial redemption of farm-storage loans, a producer who wishes to liquidate all or part of his loan by contracting for the sale of the grain sorghums must obtain written prior approval of the county committee on Commodity Loan Form 12 to remove the grain sorghums from storage when the proceeds of the sale are needed to repay all or any part of the loan. Any such approval shall be subject to the terms and conditions set out in Commodity Loan Form 12, copies of which may be obtained by producers or prospective purchasers at the office of the county committee.

§ 421.2458 Storage and track-loading payments.

(a) *Storage payment for 1958–59 storage period.* (1) A producer who extends his farm-storage reseal loan will at the time of extention of the reseal loan receive a payment for earned storage during the 1958–59 reseal loan period. This payment will be computed at the rate of 29 cents per hundredweight in the State of South Dakota and 30 cents per hundredweight in the State of Nebraska on the quantity of grain sorghums held in farm storage for the full reseal period ending March 31, 1959. The reseal storage payment will be disbursed to the producer by the office of the ASC county committee.

(2) Upon delivery of the 1957-crop grain sorghums to CCC, the actual quantity of grain sorghums held in farm storage under the intended reseal loan program will be determined by weighing. The storage payment previously made to the producer at the time the reseal loan was extended covering the 1958–59 storage period will be recomputed on the basis of the actual quantity determined to have been covered by the extended reseal loan. Any amount due the producer for such storage on the quantity delivered in excess of the quantity stated in the extended reseal loan documents will be regarded as an additional credit in effecting settlement with the producer. The amount of any overpayment which is determined to have been made to the producer at the time the reseal loan was extended shall be collected from the producer.

(3) No storage payment will be made for the 1958–59 reseal loan period where

the producer has made any false representation in the loan documents or in obtaining the loan, or where during or prior to the 1958–59 reseal loan period (i) the grain sorghums have been abandoned, (ii) there has been conversion on the part of the producer or (iii) the grain sorghums were damaged or otherwise impaired due to negligence on the part of the producer.

(b) *Storage payment for 1959–60 storage period.* A storage payment for the 1959–60 extended reseal storage period will be made as follows:

(1) *Storage payment for full extended reseal period.* A storage payment will be made to the producer on the quantity involved if he (i) redeems the grain sorghums from the loan on or after March 31, 1960, (ii) delivers the grain sorghums to CCC on or after March 31, 1960, or (iii) delivers the grain sorghums to CCC prior to March 31, 1960, pursuant to demand by CCC for repayment of the loan solely for the convenience of CCC. Such storage payment will be computed at the rate of 29 cents per hundredweight for the State of South Dakota and 30 cents per hundredweight for the State of Nebraska.

(2) *Prorated storage payment.* (i) A storage payment determined by prorating such yearly rate according to the length of time the quantity of grain sorghums involved was in store after May 31, 1959, will be made to the producer (*a*) in the case of loss assumed by CCC under the provisions of the loan program, (*b*) in the case of grain sorghums redeemed from the loan prior to March 31, 1960, and (*c*) in the case of grain sorghums delivered to CCC prior to March 31, 1960, pursuant to CCC's demand and not solely for the convenience of CCC, or upon request of the producer and with the approval of CCC. The prorated storage payment will be computed at the rate of $0.00095 per hundredweight a day (but not to exceed 29 cents per hundredweight) in the State of South Dakota; $0.00099 per hundredweight a day (but not to exceed 30 cents per hundredweight) in the State of Nebraska. In the case of losses assumed by CCC, the period for computing the storage payment shall end on the date of the loss, and in the case of redemptions, on the date of repayment.

(3) *No storage payments.* Notwithstanding the foregoing, in no case will any storage payment be made for the 1959–60 extended reseal loan storage period where the producer has made any false representation in the loan documents or in obtaining the loan or where during or prior to such period (i) the grain sorghums have been abandoned, (ii) there has been conversion on the part of the producer, or (iii) the grain sorghums were damaged or otherwise impairer due to negligence on the part of the producer.

(c) *Track-loading payment.* A track-loading payment of 6 cents per hundredweight will be made to the producer on grain sorghums delivered to CCC, in accordance with instructions of the county committee, on track at a country point.

§ 421.2459 Maturity and satisfaction.

(a) Loans will mature on demand but not later than March 31, 1960. The producer must pay off his loan, plus interest, on or before maturity or deliver the mortgaged grain sorghums in accordance with the instructions of the county office. If the producer desires to deliver the grain sorghums he should, prior to maturity, give the county office notice in writing of his intention to do so. The producer may, however, pay off his loan and redeem his grain sorghums at any time prior to delivery of the grain sorghums to CCC or removal of the grain sorghums by CCC. Credit will be given at the applicable settlement value according to grade and quality for the total quantity eligible for delivery. Delivery of grain sorghums will be accepted only from bin(s) in which the grain sorghums under extended reseal loan are stored. The provisions of § 421.2218 (a) and (d), and of § 421.2436 (a) (1) and (b) (2), (3) and (4) and (e) and (g) shall be applicable thereto.

§ 421.2460 Support rates.

(a) The support rate for an extended farm-storage reseal loan shall remain the same as for the original loan.

(b) Any discounts established for variation in quality as shown in § 421.2433 (d) and (e) shall apply.

Issued this 16th day of April 1959.

[SEAL] CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-3337; Filed, Apr. 20, 1959; 8:51 a.m.]

[1958 C.C.C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 7, Barley]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1958-Crop Barley Loan and Purchase Agreement Program

COUNTIES AND RATES OF PAYMENTS

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 23 F.R. 3492, 5317, 6174, 7876, 8439, 9051, and 24 F.R. 2112 containing specific requirements for the 1958-crop barley price support program are hereby amended as follows:

1. Section 421.3086(h) is amended by adding the following counties and rates of payments per bushel:

ARKANSAS

County	Amount per bushel (cents)[1]	County	Amount per bushel (cents)[1]
Arkansas	$0.05	Independence	$0.05
Clay	.04	Jackson	.04
Cleburne	.04	Lawrence	.04
Craighead	.05	Lee	.03
Crittenden	.02	Lonoke	.04
Cross	.05	Mississippi	.04
Fulton	.04	Monroe	.05
Greene	.05		

[1] No payment will be made where purchases of barley under loan have been made by producers with Soil Bank Certificates.

ARKANSAS—Continued

County	Amount per bushel (cents)[1]	County	Amount per bushel (cents)[1]
Phillips	$0.02	St. Francis	$0.03
Poinsett	.06	Sharp	.04
Prairie	.04	White	.04
Randolph	.04	Woodruff	.04

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, sec. 301, 401, 63 Stat. 1053, 1054; 15 U.S.C. 714c, 7 U.S.C. 1421, 1447)

Issued this 16th day of April 1959.

[SEAL] CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-3335; Filed, Apr. 20, 1959; 8:50 a.m.]

[1958 C.C.C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 6, Grain Sorghums]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1958-Crop Grain Sorghums Loan and Purchase Agreement Program

COUNTIES AND RATES OF PAYMENTS

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 23 F.R. 4401, 4722, 6173, 7062, 7567, 8261 and 24 F.R. 2113 containing the specific requirements for the 1958-crop grain sorghums price support program are hereby amended as follows:

1. Section 421.3236(h) is amended by adding the following counties and rates of payment per hundredweight.

NEBRASKA

County	Amount per hundredweight (cents)[1]	County	Amount per hundredweight (cents)[1]
Antelope	$0.08	Lancaster	$0.01
Boone	.05	Madison	.05
Boyd	.07	Nance	.04
Burt	.01	Otoe	.02
Cass	.03	Pierce	.06
Cedar	.09	Platte	.03
Dakota	.04	Saunders	.02
Dixon	.06	Stanton	.04
Greeley	.02	Thurston	.02
Holt	.04	Wayne	.08
Knox	.10	Wheeler	.06

[1] No payment will be made where purchases of grain sorghums under loan have been made by producers with Soil Bank Certificates.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interprets or applies sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053, 1054, as amended; sec. 308, 70 Stat. 206; 15 U.S.C. 714c; 7 U.S.C. 1447, 1421)

Issued this 16th day of April 1959.

[SEAL] CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-3334; Filed, Apr. 20, 1959; 8:50 a.m.]

[C.C.C. Grain Price Support Bulletin 1, 1959 Supp. 1, Barley]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1959-Crop Barley Loan and Purchase Agreement Program

A price support program has been announced for the 1959-crop of barley. The C.C.C. Grain Price Support Bulletin 1 (23 F.R. 9651), issued by the Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for certain grains and other commodities produced in 1959 is supplemented as follows:

Sec.
421.4076 Purpose.
421.4077 Availability of price support.
421.4078 Eligible barley.
421.4079 Warehouse receipts.
421.4080 Determination of quantity.
421.4081 Determination of quality.
421.4082 Maturity of loans.
421.4083 Determination of support rates.
421.4084 Warehouse charges.
421.4085 Inspection of barley under purchase agreement.
421.4086 Settlement.

AUTHORITY: §§ 421.4076 to 421.4086 issued under sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, sec. 105, 401, 63 Stat. 1051, as amended, 15 U.S.C 714, 7 U.S.C. 1421, 1441, 1442.

§ 421.4076 Purpose.

Sections 421.4076 to 421.4086 state additional specific regulations which, together with the general regulations contained in the C.C.C. Grain Price Support Bulletin 1, applicable to 1959 and subsequent crop years (§§ 421.4001 to 421.4021), apply to loans and purchase agreements under the 1959-Crop Barley Price Support Program.

§ 421.4077 Availability of price support.

(a) *Method of support.* Price support will be available through farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever barley is grown in the continental United States, except that farm-storage loans will not be available in areas where the State committee determines that barley cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support should be made at the office of the county committee which keeps the farm-program records for the farm.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1960, and the applicable documents must be signed by the producer and delivered to the office of the county committee not later than such date. Applicable documents referred to herein include the Producer's Note and Loan Agreement for warehouse-storage loans, the Producer's Note and Supplemental Loan Agreement and the Commodity Chattel Mortgage for farm-storage loans, and the Purchase Agreement for purchase agreements.

(e) *Eligible producer.* An eligible producer shall be an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and whenever applicable, a State, political subdivision of a State, or any agency thereof, producing barley in 1959 as landowner, landlord, tenant, or sharecropper. Executors, administrators, trustees, or receivers who represent an eligible producer or his estate may qualify for price support provided the loan or purchase agreement documents executed by them are legally valid. Two or more eligible producers may obtain a joint loan on eligible barley harvested by them if stored in the same farm-storage facility. In the case of joint loans, each person signing the note shall be held jointly and severally responsible for the loan. Warehouse-storage loans may be made to a warehouseman who tenders to CCC warehouse receipts issued by him on grain produced by him only in those States where the issuance and pledge of such warehouse receipts is valid under State law. Where the county office has experienced difficulties in settling farm-storage loans with a producer, the county committee shall determine that he is not eligible for a farm-storage loan. He shall be eligible, however, to obtain a warehouse-storage loan or sign a purchase agreement.

§ 421.4078 Eligible barley.

Barley, to be eligible for price support, must meet all of the applicable requirements set forth in this section.

(a) The barley must have been produced in the continental United States in 1959 by an eligible producer.

(b) At the time the barley is placed under loan or delivered under a purchase agreement the beneficial interest in the barley must be in the eligible producer tendering the barley for loan or for delivery under a purchase agreement, and must always have been in him, or must have been in him and a former producer whom he succeeded before the barley was harvested. Any producer who is in doubt as to whether his interest in the commodity complies with the requirements of this subpart should make available to the county committee all pertinent information, prior to filing an application, which will permit a determination to be made by CCC as to his eligibility for price support. To meet the requirements of succession to a former producer, the rights, responsibilities and interest of the former producer with respect to the farming unit on which the barley was produced shall have been substantially assumed by the producer claiming succession. Mere purchase of the crop prior to harvest, without acquisition of any additional interest in the farming unit shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met.

(c) Barley, at the time it is placed under loan, and barley under purchase agreement which is in approved warehouse storage prior to notification by the producer of his intention to sell to CCC, must meet the following requirements:

(1) The barley must be of any class grading No. 4 or better (or No. 4 Garlicky or better), except that Western Barley shall have a test weight of not less than 40 pounds per bushel.

(2) Barley grading Tough, Weevily, Stained if Western Barley, Blighted, Bleached, Ergoty or Smutty, or containing mercurial compounds or other substances poisonous to man or animals, shall not be eligible, except that barley represented by warehouse receipts grading Tough will be eligible if the warehouseman certifies on the supplemental certificate or on a statement attached to the warehouse receipt substantially as follows: "On barley grading 'Tough' delivery will be made of the same country-run quality, quantity and grade, not Tough, and no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt."

(3) If offered as security for a farm-storage loan, the barley must have been stored in the granary at least 30 days prior to its inspection for measurement, sampling, and sealing, unless otherwise approved by the State committee.

(d) Except as otherwise provided in § 421.4085(a), barley under purchase agreement stored in other than approved warehouse storage shall not be eligible for sale to CCC, if it does not meet the requirements of paragraph (c) (1) and (2) of this section on the basis of a predelivery inspection performed by a representative of the county committee, unless the producer complies with the conditions specified in § 421.4085(a) and the barley on the basis of the inspection made at the time of delivery meets the requirements set forth in paragraphs (c) (1) and (2) of this section.

§ 421.4079 Warehouse receipts.

Warehouse receipts representing barley in approved warehouse storage to be placed under a loan or delivered under a purchase agreement, must meet the following requirements of this section:

(a) Warehouse receipts must be issued in the name of the producer, must be properly endorsed in blank so as to vest title in the holder, and must be receipts issued by a warehouse for which a Uniform Grain Storage Agreement is in effect and which is approved by CCC for price support purposes, or must be receipts issued on warehouses operated by Eastern common carriers under tariffs approved by the Interstate Commerce Commission for which custodian agreements are in effect.

(b) (1) Each warehouse receipt or the warehouseman's supplemental certificate (in duplicate), properly identified with the warehouse receipt must show: (i) Gross weight and net bushels, (ii) class, (iii) grade (including special grades), (iv) test weight, (v) dockage, (vi) any other factor(s) when such factor(s) and not test weight determine the grade, and (vii) whether the barley arrived by rail, truck or barge. In the case of barley delivered by rail or barge, the grading factors on the warehouse receipts must agree with the inbound inspection certificate for the car or barge if such certificate is issued.

(2) If the warehouseman has furnished a statement as provided in

§ 421.4078(c)(2), the supplemental certificate must show the numerical grade and the grading factors of the barley to be delivered. Where the grade and grading factors shown on the supplemental certificate do not agree with the warehouse receipt, the factors shown on the supplemental certificate shall take precedence.

(c) A separate warehouse receipt must be submitted for each grade and class of barley.

(d) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 421.4084.

(e) Warehouse receipts representing barley which has been shipped by rail or water from a country shipping point to a designated terminal point or shipped by rail or water from a country shipping point and stored in transit to a designated terminal point, must be accompanied by registered freight bills, or by a certificate containing similar information in a form prescribed by the CSS commodity office which shall be signed by the warehouseman and which may be a part of the supplemental certificate.

(f) If the receipt is issued for grain of which the warehouseman is the producer and the owner either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. Such receipts shall also be registered or recorded with appropriate State or local officials when required by State law. In States where the pledge of warehouse receipts by a warehouseman on his own barley is not valid under State law and the warehouseman elects to deliver barley to CCC under a purchase agreement for which he is eligible under this program, the warehouse receipt shall be issued in the name of CCC.

(g) Each warehouse receipt or accompanying supplemental certificate representing grain stored in an approved warehouse operating under the Uniform Grain Storage Agreement shall indicate that the barley is insured, in accordance with CCC Form 25, Uniform Grain Storage Agreement. Each warehouse receipt or accompanying supplemental certificate issued on warehouses operated by Eastern Common Carriers and representing barley to be placed under loan shall indicate that the barley is insured at the full market value against loss or damage by fire, lightning, inherent explosion, windstorm, cyclone and tornado.

§ 421.4080 Determination of quantity.

(a) The quantity of barley placed under farm-storage loan may be determined either by weight or by measurement. The quantity of barley placed under a warehouse-storage loan or delivered under a farm-storage loan or under a purchase agreement shall be determined by weight.

(b) When the quantity is determined by weight, a bushel shall be 48 pounds of clean barley free of dockage. In determining the quantity of sacked barley by weight, a deduction of three-fourths of a pound for each sack shall be made.

(c) When the quantity of barley is determined by measurement, a bushel shall be 1.25 cubic feet of barley testing 48 pounds per bushel. The quantity determined shall be the following percentage of the quantity determined for 48-pound barley:

For barley testing:	*Percent*
50 pounds or over	104
49 pounds or over, but less than 50 pounds	102
48 pounds or over, but less than 49 pounds	100
47 pounds or over, but less than 48 pounds	98
46 pounds or over, but less than 47 pounds	96
45 pounds or over, but less than 46 pounds	94
44 pounds or over, but less than 45 pounds	92
43 pounds or over, but less than 44 pounds	90
42 pounds or over, but less than 43 pounds	88
41 pounds or over, but less than 42 pounds	85
40 pounds or over, but less than 41 pounds	83

(d) The percentage of dockage shall be determined and the weight of such dockage shall be deducted from the gross weight of the barley in determining the net quantity available for loan or purchase.

§ 421.4081 Determination of quality.

The grade, class, grading factors, and all other quality factors shall be determined in accordance with the methods set forth in the Official Grain Standards of the United States for Barley, whether or not such determinations are made on the basis of an official inspection.

§ 421.4082 Maturity of loans.

Loans mature on demand but not later than February 29, 1960, in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, not later than March 10, 1960, in Arizona and California, and not later than April 30, 1960, in all other States. The maturity date for a loan shall be the maturity date for the State where the barley is stored.

§ 421.4083 Determination of support rates.

Basic support rates for barley will be set forth in C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Barley. Support rates will be established for barley stored in approved warehouse storage at designated terminal markets, and for barley stored in approved country warehouses and in approved farm storage. The support rate for the quality of barley placed under a loan or delivered under a purchase agreement shall be the applicable basic support rate adjusted in accordance with the provisions of this section and C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Barley.

(a) *Support rates at designated terminal markets.* (1)(i) In order to be eligible for loan or purchase at the support rate established for designated terminal markets the barley must have been shipped on a domestic interstate freight rate basis. The support rate at the designated terminal market on any barley shipped at other than the domestic interstate freight rate, shall be reduced by the difference between the freight rate paid and the domestic interstate freight rate.

(ii) The support rates established for designated terminal markets apply to barley which has been shipped by rail or water from a country shipping point to one of the designated terminal markets as evidenced by paid freight bills duly registered for transit privileges: *Provided*, That in the event the amount of paid-in freight is insufficient to guarantee the minimum proportional domestic interstate freight rate, if any, from the terminal market to a recognized market as determined by CCC, there shall be deducted from the applicable terminal support rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the minimum proportional domestic interstate freight rate.

(2)(i) Notwithstanding the foregoing provisions of this paragraph, the support rate for barley which is shipped by rail or water and stored at any designated terminal market and for which neither registered freight bills nor registered freight certificates are presented shall be equal to the terminal rate minus 10 cents per bushel.

(ii) The support rate for barley received by truck and stored at any designated terminal market shall be the terminal rate minus 13½ cents per bushel.

(3)(i) Notwithstanding the foregoing provisions of this paragraph, the support rate for barley shipped by rail or water and stored at any of the following terminal markets and for which neither registered freight bills nor registered freight certificates are presented to guarantee outbound movement at the minimum proportional domestic interstate freight rate, shall be equal to the applicable terminal rate:

Los Angeles, San Francisco, Stockton, and Oakland, Calif.
New Orleans, Baton Rouge, La.
Baltimore, Md.
Duluth, Minn.
Portland and Astoria, Oreg.
Albany and New York, N.Y.
Philadelphia, Pa.
Galveston, Houston, and Port Arthur, Tex.
Norfolk, Va.
Seattle, Longview, Tacoma, and Vancouver, Wash.
Superior, Wis.

(ii) Notwithstanding the foregoing provisions of this paragraph, the support rate for barley received by truck and stored at any of the terminal markets listed in subdivision (i) of this subparagraph shall be determined by making a deduction of 3½ cents per bushel from the terminal rate.

(b) *Support rates for barley in approved warehouse storage at other than designated terminal markets.* (1) The support rate for barley which is shipped by rail or water and stored in approved warehouses (other than those situated in the designated terminal markets) shall be determined by deducting from the rate for the appropriate designated terminal market as determined by CCC, an amount equal to the transit balance,

if any, of the through-freight rate from point of origin for such barley to such terminal market: *Provided,* That on any barley shipped at other than the domestic interstate freight rate, the support rate shall be further reduced by the difference between the freight rate paid and the domestic interstate freight rate from the point of origin of such barley to the point of storage: *And provided further,* That in the case of barley stored at any railroad transit point, taking a penalty by reason of out-of-line movement to the appropriate designated market, or for any other reason, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing barley in such position.

(2) The warehouse receipts must be accompanied by the original paid freight bills or certificates of the warehousemen and other required documents as set forth in § 421.4079.

(c) *Discounts and premiums.* (1) The basic support rates shall be adjusted by all applicable premiums and discounts listed in C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Barley.

(2) The basic support rates in C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Barley, will also be subject to the following provisions applicable to barley affected by State, district, or county weed control laws: Where the State committee determines that State, district, or county weed control laws, as administered, affect the barley crop, the support rate in the case of farm storage shall be 10 cents below the applicable county support rate unless the producer obtains a certificate from the appropriate weed control official indicating that the barley complies with the weed control laws. In the case of warehouse storage, whenever the State committee of the State in which the barley is stored determines that State, district or county weed control laws as administered affect barley stored in approved warehouses, the rate shall be 10 cents below the applicable support rate unless the producer obtains a certificate from either the appropriate State, county or district weed control official or the storing warehouseman that the barley complies with the weed control laws, and in the case of the warehouseman, that he will save CCC harmless from loss or penalty because of the weed control laws. The certificate of the warehouseman may be in substantially the following form:

CERTIFICATION

This is to certify that the grain evidenced by warehouse receipt No. ------ issued to ---------- is not subject to seizure or other action under weed control laws or regulations in effect at point of storage. It is further certified and agreed that should such grain be taken over by CCC in settlement of a loan or be purchased under the purchase agreement program that the undersigned will save CCC from loss or penalty under weed control laws or regulations in effect at the point the grain was stored under the above warehouse receipt.

(Signature)

(Address)

(Date)

§ 421.4084 Warehouse charges.

(a) Warehouse receipts and the barley represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement may be subject to liens for warehouse handling and storage charges at not to exceed the Uniform Grain Storage Agreement rates from the date the barley is deposited in the warehouse for storage: *Provided,* That the warehouseman shall not be entitled to satisfy the lien by sale of the commodity when CCC is holder of the warehouse receipt. Where the date of deposit (the date of the warehouse receipt if the date of deposit is not shown) on warehouse receipts representing barley stored in warehouses operating under the Uniform Grain Storage Agreement is on or before February 29, 1960, March 10, 1960, or April 30, 1960, the applicable date to be determined in accordance with § 421.4082, there shall be deducted in computing the amount of the loan or purchase price the storage charges per bushel as shown in the following table unless written evidence has been submitted with the warehouse receipt that all warehouse charges, except receiving and loading-out charges have been prepaid through February 29, 1960, March 10, 1960, or April 30, 1960, the applicable date to be determined in accordance with § 421.4082.

Amount of deduction (cents per bushel)	For States having a maturity date not later than Apr. 30, 1960, date of deposit (all dates inclusive)	For States having a maturity date not later than Feb. 29, 1960, date of deposit (all dates inclusive)	For States having a maturity date not later than Mar. 10, 1960, date of deposit (all dates inclusive)
16	Prior to May 25, 1959		
15	May 25–June 15, 1959		
14	June 16–July 7, 1959	Prior to May 8, 1959	Prior to May 18, 1959.
13	July 8–July 29, 1959	May 8–May 29, 1959	May 18–June 8, 1959.
12	July 30–Aug. 20, 1959	May 30–June 20, 1959	June 9–June 30, 1959.
11	Aug. 21–Sept. 11, 1959	June 21–July 12, 1959	July 1–July 22, 1959.
10	Sept. 12–Oct. 3, 1959	July 13–Aug. 3, 1959	July 23–Aug. 13, 1959.
9	Oct. 4–Oct. 25, 1959	Aug. 4–Aug. 25, 1959	Aug. 14–Sept. 4, 1959.
8	Oct. 26–Nov. 16, 1959	Aug. 26–Sept. 16, 1959	Sept. 5–Sept. 26, 1959.
7	Nov. 17–Dec. 8, 1959	Sept. 17–Oct. 8, 1959	Sept. 27–Oct. 18, 1959.
6	Dec. 9–Dec. 30, 1959	Oct. 9–Oct. 30, 1959	Oct. 19–Nov. 9, 1959.
5	Dec. 31, 1959–Jan. 21, 1960	Oct. 31–Nov. 21, 1959	Nov. 10–Dec. 1, 1959.
4	Jan. 22–Feb. 12, 1960	Nov. 22–Dec. 13, 1959	Dec. 2–Dec. 23, 1959.
3	Feb. 13–Mar. 6, 1960	Dec. 14, 1959–Jan. 4, 1960	Dec. 24, 1959–Jan. 14, 1960.
2	Mar. 7–Mar. 28, 1960	Jan. 5–Jan. 26, 1960	Jan. 15–Feb. 5, 1960.
1	Mar. 29–Apr. 30, 1960	Jan. 27–Feb. 29, 1960	Feb. 6–Mar. 10, 1960.

(b) Warehouse receipts and the barley represented thereby stored in approved warehouses operated by Eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission: *Provided,* That the warehouseman shall not be entitled to satisfy the lien by sale of the commodity when CCC is holder of the warehouse receipt. There shall be deducted in computing the loan or purchase price, the amount of the approved tariff rate for storage (not including elevation), which will accumulate from the date of deposit through February 29, 1960, or April 30, 1960, whichever date is applicable to the point of storage as determined in accordance with § 421.4082, unless written evidence is submitted with the warehouse receipt that the storage charges have been prepaid. The county office shall request the CSS commodity office to determine the amount of such charges. Where the producer presents evidence showing that elevation charges have been prepaid, the amount of the storage charges to be deducted shall be reduced by the amount of the elevation charges prepaid by the producer.

§ 421.4085 Inspection of barley under purchase agreement.

(a) *Predelivery inspection.* Where the producer has given written notice within the 30-day period prior to the loan maturity date of his intent to sell his barley stored in other than an approved warehouse under purchase agreement to CCC, the county office shall make an inspection of the barley and obtain a sample of the barley and submit it for grade analysis within the 30-day period or as soon as possible thereafter but prior to delivery of the barley. If the barley, on the basis of the predelivery inspection, is of a quality which meets the requirements for a farm-storage loan, the county office shall issue delivery instructions on or after the final date of the 30-day period or the date of inspection, whichever is later. The producer must then complete delivery within a 15-day period immediately following the date the county office issues delivery instructions unless the county office determines that more time is needed for the delivery. The producer whose barley is stored in other than an approved warehouse and whose barley is not of a quality eligible for a loan at the time of the predelivery inspection shall be notified in writing by the county office that his barley is not eligible for purchase by CCC. If, nevertheless, the producer informs the county office that he will condition the barley or otherwise take action to make the barley eligible and insists upon delivery of the barley, the county office shall issue delivery instructions. In such case, the producer shall be further informed that if such barley, upon delivery and before purchase, does not meet the eligibility requirements of § 421.4078(c) (1) and (2) as determined on the basis of sample taken at the time of delivery, the barley will not be accepted for purchase by CCC. A predelivery inspection shall not be made on barley stored commingled in warehouses not approved for storage or on barley in an unapproved warehouse which is stored so that the identity of the producer's barley is maintained but a predelivery inspection is not possible. When a predelivery inspection is not made, such barley at the

time of delivery must meet the eligibility requirements of § 421.4078(c) (1) and (2).

(b) *Inspection of barley stored by producer, after maturity date.* The producer may be required to retain the barley stored in other than approved warehouse storage under purchase agreement for a period of 60 days after the loan maturity date without any cost to CCC. CCC will not assume any loss in quantity or quality of the barley covered by a purchase agreement occurring prior to delivery to CCC, except for quality deterioration under the following circumstances. If a producer has properly requested delivery instructions for barley which was determined to be of an eligible grade and quality at the time of the predelivery inspection, and CCC cannot accept delivery within the 60-day period following the loan maturity date, the producer may notify the county office at any time after such 60-day period that the barley is going out of condition or is in danger of going out of condition. Such notice must be confirmed in writing. If the county office determines that the barley is going out of condition or is in danger of going out of condition and that the barley cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county office shall obtain an inspection and grade and quality determination. When delivery is completed, settlement shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of the quantity actually delivered.

§ 421.4086 Settlement.

(a) *Settlement value*—(1) *Farm-storage loans.* In the case of eligible barley delivered to CCC from farm storage under the loan program, settlement shall be made at the applicable support rate determined in accordance with paragraph (b) of this section. The support rate shall be for the grade and quality of the total quantity of barley eligible for delivery. If upon delivery, the barley under farm-storage loan is of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the barley placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade and quality placed under loan and the market price of the barley delivered, as determined by CCC: *Provided, however,* That if such barley is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price: *And provided further,* That, if, upon delivery, such barley contains mercurial compounds or other substances poisonous to man or animals, the barley shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial use where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell the barley for the use specified above, the settlement value shall be the market value, as determined by CCC, as of the date of delivery.

(2) *Warehouse-storage loans.* Settlement for eligible barley under warehouse-storage loans not redeemed on maturity and represented by warehouse receipts issued by an approved warehouse shall be made on the basis of the weight, grade, and other quality factors shown on the warehouse receipts or accompanying documents at the applicable support rate determined in accordance with paragraph (b) of this section.

(3) *Purchase agreements*—(i) *Delivery from farm storage.* Settlement for barley delivered to CCC from farm-storage meeting the eligibility requirements of § 421.4078(c) (1) and (2) as determined by a reinspection at the time of delivery, shall be made at the applicable support rate for the grade and quality of the quantity eligible for delivery on the basis of such inspection. Such support rate shall be determined in accordance with paragraph (b) of this section. If barley which was determined to be eligible at the time of the predelivery inspection is, upon delivery, of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the eligible barley as determined at the time of the predelivery inspection, less the difference, if any, at the time of delivery, between the market price for the grade and quality of the barley determined by the predelivery inspection and the market price of the barley delivered, as determined by CCC: *Provided, however,* That if such barley is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price: *And provided further,* That if, upon delivery, the barley contains mercurial compounds or other substances poisonous to man or animals, the barley shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such barley for the use specified above, the settlement value shall be the market value, as determined by CCC, as of the date of delivery.

(ii) *Delivery from approved warehouse storage.* In the case of eligible barley stored commingled in an approved warehouse, the producer must, not later than the day following the loan maturity date, or during such period of time thereafter as may be specified by the county committee, submit to the office of the county committee warehouse receipts under which the warehouseman guarantees quality and quantity for the quantity of barley he elects to sell to CCC. Settlement for eligible barley delivered under purchase agreement to CCC by submission of warehouse receipts issued by an approved warehouse shall be made on the basis of the weight, grade and other quality factors shown on the warehouse receipt or accompanying documents at the applicable support rate determined in accordance with paragraph (b) of this section.

(iii) *Delivery from unapproved warehouse storage.* The county office will issue instructions on or after the loan maturity date for delivery of barley in a warehouse not approved for storage which is stored commingled, or which is stored so that the identity of the producer's barley is maintained but a predelivery inspection is not possible where the producer has properly given the county office written notice of his intent to sell such barley to CCC. Settlement for such barley delivered to CCC which meets the eligibility requirements of § 421.4078(c) (1) and (2) shall be made at the applicable support rate for the grade and quantity eligible for delivery. Such support rate shall be determined in accordance with paragraph (b) of this section. If a predelivery inspection of the producer's barley can be made, the provisions of § 421.4085 shall apply and settlement will be the same as for barley delivered under a purchase agreement from farm storage as provided in subdivision (i) of this subparagraph.

(iv) *Barley ineligible for delivery, inadvertently accepted by CCC.* The settlement provisions hereof shall apply to the following categories of barley ineligible for delivery which is inadvertently accepted by CCC and which CCC determines it is not in a position to reject: (*a*) Barley which was of an ineligible grade or quality both at the time of the predelivery inspection and at the time of the delivery as redetermined by a reinspection; ~~(b)~~ Barley of an ineligible grade or quality which is delivered to CCC in excess of the maximum quantity stated in the purchase agreement; and (*c*) Barley in a warehouse not approved for storage which is stored commingled or stored so that the identity of the producer's barley is maintained but a predelivery inspection is not possible, and which at the time of the delivery does not meet the eligibility requirements of § 421.4078(c) (1) and (2). The settlement value shall be the market price for the grade, quality and quantity of such ineligible barley delivered as determined by CCC: *Provided, however,* That if such barley is sold by CCC in order to determine its market price, the settlement value shall not be less than the sales price: *And provided further,* That if upon delivery, the barley contains mercurial compounds or other substances poisonous to man or animals, such barley shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such barley for the use specified above, the settlement value shall be the market value as determined by CCC as of the date of delivery. If barley delivered is of an eligible grade and quality but in excess of the maximum stated in the purchase agreement and such barley is inadvertently accepted by CCC the settlement value shall be the sales price if the barley is immediately sold. If the

barley is not immediately sold, the settlement value shall be the applicable support rate or the market price, as determined by whichever is lower.

(b) *Applicable support rate for settlement of loans and purchase agreements.* (1) In the case of barley stored in an approved warehouse, settlement shall be made at the applicable support rate specified in § 421.4083 for the location in which the warehouse is located, except as otherwise provided in subparagraph (4) of this paragraph.

(2) In the case of barley delivered from other than approved warehouse storage, settlement shall be made at the applicable support rate for the county in which the producer's customary shipping point (as determined by the county committee) is located except as otherwise provided in subparagraphs (3) and (4) of this paragraph.

(3) If the producer is directed to deliver his barley to a terminal market for which a support rate is established, settlement shall be based on the support rate for such terminal market.

(4) If two or more approved warehouses are located at the same or adjoining towns, villages, or cities having the same domestic interstate freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point, and the same settlement rate shall apply even though such warehouses are not all located in the same county. Such settlement rate shall be the highest support rate of the counties involved.

(c) *Storage deduction for early delivery.* No deductions for storage shall be made for farm-stored barley under loan or purchase agreement authorized to be delivered to CCC prior to the loan maturity date except where it is necessary to call the loan through fault or negligence on the part of the producer or where the producer requests early delivery and the county committee approves the early delivery and determines such early delivery is solely for the convenience of the producer. The deduction for storage shall be made in accordance with the schedule of deductions for warehouse charges in § 421.4084.

(d) *Refund of prepaid handling charges.* In case a warehouseman charges the producer for the receiving or the receiving and loading-out charges on barley under loan or purchase agreement stored in a warehouse under the Uniform Grain Storage Agreement, the producer shall, upon delivery of the barley to CCC, be reimbursed or given credit by the county office for such prepaid charges in an amount not to exceed the charges authorized under the Uniform Grain Storage Agreement: *Provided,* The producer furnishes to the county committee written evidence signed by the warehouseman that such charges have been paid.

(e) *Storage payment where CCC is unable to take delivery of barley stored in other than an approved warehouse under loan or purchase agreement.* The producer may be required to retain barley stored in other than an approved warehouse under loan or purchase agreement for a period of 60 days after the maturity date without any cost to CCC. However, if CCC is unable to take delivery of such barley within the 60-day period after maturity, the producer shall be paid a storage payment upon delivery of the barley to CCC: *Provided, however,* That a storage payment shall be paid a producer whose barley is stored in other than an approved warehouse under purchase agreement only if he has properly given notice of his intentions to sell the barley to CCC and delivery cannot be accepted within the 60-day period after maturity. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after the maturity date and extend through the final date of delivery, or the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment shall be computed at the rate of $0.00045 per bushel a day for the barley accepted for sale or delivery to CCC.

(f) *Track-loading payment.* A track-loading payment of 3 cents per bushel shall be made to the producer on barley delivered to CCC on track at a country point.

(g) *Compensation for hauling.* If the producer is directed by the county office to deliver his barley to a point other than his customary shipping point, the producer shall be allowed compensation (as determined by CCC, at not to exceed the common carrier truck rate or the rate available from local truckers) for the additional cost of hauling the barley any distance greater than the distance from the point where the barley is stored by the producer to the customary shipping point: *Provided,* That if the producer is directed to deliver his barley to a terminal market for which a support rate is established, no compensation shall be allowed for hauling.

(h) *Method of payment under purchase agreement settlements.* When delivery of barley under purchase agreement is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct, on Commodity Purchase Form 4, to whom payment of the proceeds shall be made.

Issued this 16th day of April 1959.

[SEAL] CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-3336; Filed, Apr. 20, 1959; 8:50 a.m.]

[C.C.C. Grain Price Support Bulletin 1, 1959 Supp. 1, Grain Sorghums]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1959-Crop Grain Sorghums Loan and Purchase Agreement Program

A price support program has been announced for the 1959 crop of grain sorghums. The C.C.C. Grain Price Support Bulletin 1 (23 F.R. 9651), issued by the Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for grains and certain other commodities produced in 1959 is supplemented as follows:

Sec.
421.4226 Purpose.
421.4227 Availability of price support.
421.4228 Eligible grain sorghums.
421.4229 Warehouse receipts.
421.4230 Determination of quantity.
421.4231 Determination of quality.
421.4232 Maturity of loans.
421.4233 Determination of support rates.
421.4234 Warehouse charges.
421.4235 Inspection of grain sorghums under purchase agreement.
421.4236 Settlement.

AUTHORITY: §§ 421.4226 to 421.4236 issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051, as amended, 15 U.S.C. 714c, 7 U.S.C. 1421, 1441.

§ 421.4226 Purpose.

Sections 421.4226 to 421.4236 state additional specific regulations which, together with the general regulations contained in the C.C.C. Grain Price Support Bulletin 1, applicable to 1959 and subsequent crop years (§§ 421.4001 to 421.4021), apply to loans and purchase agreements under the 1959-Crop Grain Sorghums Price Support Program.

§ 421.4227 Availability of price support.

(a) *Method of support.* Price support will be made available through farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever grain sorghums are grown in the continental United States, except that farm-storage loans will not be available in areas where the State committee determines that grain sorghums cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support should be made at the office of the county committee which keeps the farm-program records for the farm.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1960, and the applicable documents must be signed by the producer and delivered to the office of the county committee not later than such date. Applicable documents include the Producer's Note and Loan Agreement for warehouse-storage loans, the Producer's Note and Supplemental Loan Agreement and the Commodity Chattel Mortgage for farm-storage loans, and the Purchase Agreement for purchase agreements.

(e) *Eligible producer.* An eligible producer shall be an individual, partnership, association, corporation, estate, trust, or other business enterprise, or legal entity, and wherever applicable, a State, political subdivision of a State, or any agency thereof producing grain sorghums in 1959 as landowner, landlord, tenant, or sharecropper. Executors, administrators, trustees, or receivers who represent an eligible producer or his estate may qualify for price support provided the loan or purchase agreement documents executed by them are legally valid. Two or more eligible producers

may obtain a joint loan on eligible grain sorghums harvested by them if stored in the same farm-storage facility. In the case of joint loans, each person signing the note shall be held jointly and severally responsible for the loan. Warehouse-storage loans may be made to a warehouseman who tenders to CCC warehouse receipts issued by him on grain produced by him only in those States where the issuance and pledge of such warehouse receipts are valid under State law. Where the county office has experienced difficulties in settling farm-storage loans with a producer, the county committee shall determine that he is not eligible for a farm-storage loan. He shall be eligible, however, to obtain a warehouse-storage loan or sign a purchase agreement.

§ 421.4228 Eligible grain sorghums.

Grain sorghums, to be eligible for price support, must meet all of the applicable requirements set forth in this section.

(a) The grain sorghums must have been produced in the continental United States in 1959 by an eligible producer.

(b) At the time the grain sorghums are placed under loan or delivered under a purchase agreement the beneficial interest in the grain sorghums must be in the eligible producer tendering the grain sorghums for loan or for delivery under a purchase agreement, and must always have been in him, or must have been in him and a former producer whom he succeeded before the grain sorghums were harvested. Any producer who is in doubt as to whether his interest in the commodity complies with the requirements of this subpart should make available to the county committee all pertinent information, prior to filing an application, which will permit a determination to be made by CCC as to his eligibility for price support. To meet the requirements of succession to a former producer, the rights, responsibilities and interest of the former producer with respect to the farming unit on which the grain sorghums were produced shall have been substantially assumed by the producer claiming succession. Mere purchase of the crop prior to harvest, without acquisition of any additional interest in the farming unit, shall not constitute succession. The county committee shall determine whether requirements with respect to succession have been met.

(c) Grain sorghums, at the time they are placed under loan, and grain sorghums under purchase agreement which are in approved warehouse storage prior to notification by the producer of his intention to sell to CCC, must meet the following requirements:

(1) The grain sorghums must be of any class grading No. 4 or better, No. 4 "Smutty" or better, or No. 4 "Discolored" or better.

(2) Grain sorghums grading "Weevily," or containing mercurial compounds or other substances poisonous to man or animals, or containing in excess of 13 percent moisture, shall not be eligible, except that grain sorghums represented by warehouse receipts which indicate that the grain sorghums are ineligible because of moisture content only, will be eligible if the warehouseman certifies on the supplemental certificate or on a statement attached to the warehouse receipt that grain sorghums of 13 percent moisture or less of an eligible grade which meets the requirements of subparagraphs (1) and (2) of this paragraph will be delivered. The certification shall be as shown in subdivision (i) of this subparagraph if the grain sorghums received in the warehouse contain from 13.1 to 15.0 percent moisture and as shown in subdivision (ii) of this subparagraph if the grain sorghums received in the warehouse contain moisture over 15.0 percent but not in excess of 18 percent moisture:

(i) On grain sorghums containing over 13 percent moisture and not in excess of 15 percent moisture, delivery will be made of grain sorghums which grade No. _____, which contain not in excess of 13 percent moisture, and which are otherwise of the same quality or better and of the same quantity as the grain sorghums described on warehouse receipt No. _____. No lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or from any subsequent holder of the warehouse receipt.

(ii) On grain sorghums containing over 15 percent moisture, but not in excess of 18 percent moisture, delivery will be made of grain sorghums which grade No. _____, which contain not in excess of 13 percent moisture, which are otherwise of the same quality or better as the grain sorghums described on warehouse receipt No. _____ and which are the actual quantity obtained after drying the grain sorghums described in such receipt to not in excess of 13 percent moisture. No lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt.

(3) If offered as security for a farm-storage loan the grain sorghums must have been stored in the granary at least 30 days prior to their inspection for measurement, sampling, and sealing, unless otherwise approved by the State committee.

(d) Except as otherwise provided in § 421.4235(a), grain sorghums under purchase agreement stored in other than approved warehouse storage shall not be eligible for sale to CCC if they do not meet the requirements of paragraph (c) (1) and (2) of this section on the basis of a predelivery inspection performed by a representative of the county committee, unless the producer complies with the conditions specified in § 421.4235(a) and the grain sorghums on the basis of the inspection made at the time of delivery meet the requirements set forth in paragraph (c) (1) and (2) of this section.

§ 421.4229 Warehouse receipts.

Warehouse receipts, representing grain sorghums in approved warehouse storage to be placed under loan or delivered under a purchase agreement, must meet the following requirements of this section:

(a) Warehouse receipts must be issued in the name of the producer, must be properly endorsed in blank so as to vest title in the holder, and must be receipts issued on a warehouse for which a Uniform Grain Storage Agreement is in effect and which is approved by CCC for price support purposes, or must be receipts issued on warehouses operated by Eastern common carriers under tariffs approved by the Interstate Commerce Commission for which custodian agreements are in effect.

(b) (1) Each warehouse receipt or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show (i) gross weight and net weight, (ii) class, (iii) grade (including special grades), (iv) test weight, (v) moisture, (vi) dockage, (vii) any other grading factor(s) when such factor(s) and not test weight, determine the grade and (viii) whether the grain sorghums arrived by rail, truck, or barge. In the case of grain sorghums delivered by rail or barge, the grading factors on the warehouse receipt must agree with the inbound inspection certificate for the car or barge if such certificate is issued.

(2) If the warehouseman has furnished a statement as provided in § 421.4228(c)(2) (i) or (ii), the supplemental certificate must show the numerical grade, grading factors and the quantity of the grain sorghums to be delivered. Where the grade, grading factors or the quantity of the grain sorghums shown on the supplemental certificate do not agree with the warehouse receipt, the grade, factors and quantity shown on the supplemental certificate shall take precedence.

(c) A separate warehouse receipt must be submitted for each grade and class of grain sorghums.

(d) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 421.4234.

(e) Warehouse receipts representing grain sorghums which have been shipped by rail or water from a country shipping point to a designated terminal point or shipped by rail or water from a country shipping point and stored in transit to a designated terminal point, must be accompanied by registered freight bills, or by a certificate containing similar information in a form prescribed by the CSS commodity office which shall be signed by the warehouseman and which may be a part of the supplemental certificate.

(f) If the receipt is issued for grain of which the warehouseman is the producer and the owner either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. Such receipts shall also be registered or recorded with appropriate State or local officials when required by State law. In States where the pledge of warehouse receipts by a warehouseman on his own grain sorghums is not valid under State law and the warehouseman elects to deliver grain sorghums to CCC under a purchase agreement for which he is eligible under the program, the warehouse receipt shall be issued in the name of CCC.

(g) Each warehouse receipt or accompanying supplemental certificate representing grain stored in an approved

warehouse operating under the Uniform Grain Storage Agreement shall indicate that the grain sorghums are insured, in accordance with CCC Form 25, Uniform Grain Storage Agreement. Each warehouse receipt or accompanying supplemental certificate issued on warehouses operated by Eastern common carriers and representing grain sorghums to be placed under loan shall indicate that the grain sorghums are insured at the full market value against loss or damage by fire, lightning, inherent explosion, windstorm, cyclone and tornado.

§ 421.4230 Determination of quantity.

(a) The quantity of grain sorghums placed under farm-storage loan may be determined either by weight or by measurement. The quantity of grain sorghums delivered under a farm-storage loan or under a purchase agreement shall be determined by weight. The quantity of grain sorghums on which a warehouse-storage loan shall be made shall be the net weight of the grain sorghums represented by the warehouse receipt or on the supplemental certificate if applicable. If the warehouseman has made the certification provided in § 421.4228 (c)(2)(ii), such quantity shall be the net weight obtained after drying the grain sorghums to not in excess of 13 percent moisture.

(b) When the quantity is determined by weight, a unit of 100 pounds shall be determined to be 100 pounds of grain sorghums free of dockage. In determining the quantity of sacked grain sorghums by weight, a deduction of three-fourths of a pound for each sack shall be made.

(c) When the quantity of grain sorghums is determined by measurement, 100 pounds shall be 2.25 cubic feet of grain sorghums testing 56 pounds per bushel. The quantity determined by measurement of grain sorghums having a test weight of less than 56 pounds per bushel shall be adjusted by applying the applicable percentage as shown in the following table:

For grain sorghums testing:	*Percent*
56 pounds or over	100
55 pounds or over, but less than 56 pounds	98
54 pounds or over, but less than 55 pounds	96
53 pounds or over, but less than 54 pounds	95
52 pounds or over, but less than 53 pounds	93
51 pounds or over, but less than 52 pounds	91
50 pounds or over, but less than 51 pounds	89
49 pounds or over, but less than 50 pounds	87

(d) The percentage of dockage shall be determined and the weight of such dockage shall be deducted from the gross weight of the grain sorghums in determining the net quantity available for loan or purchase.

§ 421.4231 Determination of quality.

The class, subclass, grade, grading factors, and all other quality factors shall be determined in accordance with the methods set forth in the Official Grain Standards of the United States for Grain Sorghums, whether or not such determinations are made on the basis of an official inspection.

§ 421.4232 Maturity of loans.

Loans mature on demand but not later than March 31, 1960.

§ 421.4233 Determination of support rates.

Basic support rates for grain sorghums placed under loan or delivered under a purchase agreement will be set forth in C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Grain Sorghums. Support rates will be established for grain sorghums stored in approved warehouse storage at designated terminal markets, and for grain sorghums stored in approved country warehouses and in approved farm storage. The support rate for the quality of grain sorghums placed under a loan or delivered under a purchase agreement shall be the applicable basic support rate adjusted in accordance with the provisions of this section and C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Grain Sorghums.

(a) *Support rates at designated terminal markets.* (1)(i) In order to be eligible for loan or purchase at the support rate established for designated terminal markets, the grain sorghums must have been shipped on a domestic interstate freight rate basis. The support rate at the designated terminal market on any grain sorghums shipped at other than the domestic interstate freight rate, shall be reduced by the difference between the rate of the freight paid and the domestic interstate freight rate.

(ii) The support rates established for designated terminal markets apply to grain sorghums which have been shipped by rail or water from a country shipping point to one of the designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges: *Provided*, That in the event the amount of paid-in freight is insufficient to guarantee the minimum proportional domestic interstate freight rate, if any, from the terminal market to a recognized market as determined by CCC, there shall be deducted from the applicable terminal support rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the minimum proportional domestic interstate freight rate.

(2)(i) Notwithstanding the foregoing provisions of this paragraph, the support rate for grain sorghums which are shipped by rail or water and stored at any designated terminal market, for which neither registered freight bills nor registered freight certificates are presented shall be equal to the terminal rate minus 20 cents per 100 pounds.

(ii) The support rate for grain sorghums received by truck and stored at any designated terminal market, shall be determined by making a deduction from the terminal rate as follows:

Terminal market:	*Amount of deduction (cents per 100 pounds)*
Omaha, Nebr.; Council Bluffs, Iowa; Kansas City, Mo.; Kansas City, Kans.; St. Louis, Mo.; Saint Joseph, Mo.; Atchison, Kans.; Cairo, Ill.	29
Memphis, Tenn.	31

(3)(i) Notwithstanding the foregoing provisions of this paragraph the support rate for grain sorghums shipped by rail or water and stored at any of the following terminal markets for which neither registered freight bills nor registered freight certificates are presented to guarantee outbound movement at the minimum proportional domestic interstate freight rate shall be equal to the applicable terminal rate:

Los Angeles, Calif.; San Francisco, Calif.; Stockton, Calif.; Oakland, Calif.; Astoria, Oreg.; Portland, Oreg.; Corpus Christi, Tex.; Galveston, Tex.; Houston, Tex.; Port Arthur, Tex.; Longview, Wash.; Seattle, Wash.; Tacoma, Wash.; Vancouver, Wash.; Baton Rouge, La.; and New Orleans, La.

(ii) Notwithstanding the foregoing provisions of this paragraph the support rate for grain sorghums received by truck and stored at any of the terminal markets listed in subdivision (i) of this subparagraph shall be determined by making a deduction from the terminal rate as follows:

Terminal market:	*Amount of deduction (cents per 100 pounds)*
Los Angeles, Calif.; San Francisco, Calif.; Stockton, Calif.; Oakland, Calif.; Astoria, Oreg.; Portland, Oreg.; Longview, Wash.; Seattle, Wash.; Tacoma, Wash.; Vancouver, Wash.	8
Corpus Christi, Tex.; Houston, Tex.; Galveston, Tex.; Port Arthur, Tex.; Baton Rouge, La.; New Orleans, La.	11

(b) *Support rates for grain sorghums in approved warehouse-storage at other than designated terminal markets.* The support rates for grain sorghums which are shipped by rail or water and stored in approved warehouses (other than those situated in the designated terminal markets) shall be determined by deducting from the appropriate designated terminal market, as determined by CCC, an amount equal to the transit balance if any of the through-freight rate from point of origin for such grain sorghums to such terminal market: *Provided*, That on any grain sorghums shipped at other than the domestic interstate freight rate, the support rate shall be further reduced by the difference between the rate of freight paid and the domestic interstate freight rate from the point of origin of such grain sorghums to the point of storage: *And provided further*, That in the case of grain sorghums stored at any railroad transit point taking a penalty by reason of out-of-line movement or for any other reason, to the appropriate designated market, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing grain sorghums in such position.

(c) *Discounts and premiums.* (1) The basic support rates shall be adjusted by all applicable premiums and discounts listed in C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Grain Sorghums.

(2) The basic support rates in C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Grain Sorghums, will also be subject to the following provisions applicable to grain sorghums affected by State, district, or county weed control laws: Where the State committee determines that State, district, or county weed control laws, as administered, affect the grain sorghums crop, the support rate in the case of farm storage shall be 15 cents below the applicable county support rate unless the producer obtains a certificate from the appropriate weed control official indicating that the grain sorghums comply with the weed control laws. In the case of warehouse storage, whenever the State committee of the State in which the grain sorghums are stored determines that State, district or county weed control laws, as administered, affect grain sorghums stored in approved warehouses, the rate shall be 15 cents below the applicable support rate unless the producer obtains a certificate from either the appropriate State, county or district weed control official or the storing warehouseman that the grain sorghums comply with the weed control laws, and in the case of the warehouseman, that he will save CCC harmless from loss or penalty because of the weed control laws. The certificate of the warehouseman may be in substantially the following form:

CERTIFICATION

This is to certify that the grain evidenced by warehouse receipt No. _____ issued to _____ is not subject to seizure or other action under weed control laws or regulations in effect at point of storage. It is further certified and agreed that should such grain be taken over by CCC in settlement of a loan or be purchased under the purchase agreement program that the undersigned will save CCC from loss or penalty under weed control laws or regulations in effect at the point the grain was stored under the above warehouse receipt.

_____
(Signature)

_____
(Address)

_____
(Date)

§ 421.4234 Warehouse charges.

(a) Warehouse receipts and the grain sorghums represented thereby stored in approved warehouses operating under the Uniform Grain Storage Agreement may be subject to liens for warehouse handling and storage charges at not to exceed the Uniform Grain Storage Agreement rates from the date the grain sorghums are deposited in the warehouse for storage. Where the date of deposit (the date of the warehouse receipt if the date of deposit is not shown) on warehouse receipts representing grain sorghums stored in warehouses operating under the Uniform Grain Storage Agreement is on or before March 31, 1960, there shall be deducted in computing the amount of the loan or purchase price the storage charges per hundredweight as shown in the following table unless written evidence has been submitted with the warehouse receipt that all warehouse charges, except receiving and loading out charges, have been prepaid through March 31, 1960:

Amount of deduction (cents per hundredweight)	Date of deposit (all dates inclusive)		
	Area I [1]	Areas II,[2] III,[3] and IV [4]	Area V [5]
28			Prior to May 19, 1959.
27		Prior to May 18, 1959	May 19–May 30, 1959.
26	Prior to May 4, 1959	May 18–May 29, 1959	May 31–June 11, 1959.
25	May 4–May 16, 1959	May 30–June 10, 1959	June 12–June 23, 1959.
24	May 17–May 29, 1959	June 11–June 22, 1959	June 24–July 5, 1959.
23	May 30–June 11, 1959	June 23–July 4, 1959	July 6–July 17, 1959.
22	June 12–June 24, 1959	July 5–July 16, 1959	July 18–July 29, 1959.
21	June 25–July 7, 1959	July 17–July 28, 1959	July 30–Aug. 10, 1959.
20	July 8–July 20, 1959	July 29–Aug. 9, 1959	Aug. 11–Aug. 22, 1959.
19	July 21–Aug. 2, 1959	Aug. 10–Aug. 21, 1959	Aug. 23–Sept. 3, 1959.
18	Aug. 3–Aug. 15, 1959	Aug. 22–Sept. 2, 1959	Sept. 4–Sept. 15, 1959.
17	Aug. 16–Aug. 28, 1959	Sept. 3–Sept. 14, 1959	Sept. 16–Sept. 27, 1959.
16	Aug. 29–Sept. 10, 1959	Sept. 15–Sept. 26, 1959	Sept. 28–Oct. 9, 1959.
15	Sept. 11–Sept. 23, 1959	Sept. 27–Oct. 8, 1959	Oct. 10–Oct. 21, 1959.
14	Sept. 24–Oct. 6, 1959	Oct. 9–Oct. 20, 1959	Oct. 22–Nov. 1, 1959.
13	Oct. 7–Oct. 19, 1959	Oct. 21–Nov. 1, 1959	Nov. 2–Nov. 12, 1959.
12	Oct. 20–Nov. 1, 1959	Nov. 2–Nov. 13, 1959	Nov. 13–Nov. 23, 1959.
11	Nov. 2–Nov. 14, 1959	Nov. 14–Nov. 25, 1959	Nov. 24–Dec. 4, 1959.
10	Nov. 15–Nov. 27, 1959	Nov. 26–Dec. 7, 1959	Dec. 5–Dec. 15, 1959.
9	Nov. 28–Dec. 10, 1959	Dec. 8–Dec. 19, 1959	Dec. 16–Dec. 26, 1959.
8	Dec. 11–Dec. 23, 1959	Dec. 20–Dec. 31, 1959	Dec. 27, 1959–Jan. 6, 1960.
7	Dec. 24, 1959–Jan. 5, 1960	Jan. 1–Jan. 12, 1960	Jan. 7–Jan. 17, 1960.
6	Jan. 6–Jan. 18, 1960	Jan. 13–Jan. 24, 1960	Jan. 18–Jan. 28, 1960.
5	Jan. 19–Jan. 31, 1960	Jan. 25–Feb. 5, 1960	Jan. 29–Feb. 8, 1960.
4	Feb. 1–Feb. 13, 1960	Feb. 6–Feb. 17, 1960	Feb. 9–Feb. 19, 1960.
3	Feb. 14–Feb. 26, 1960	Feb. 18–Mar. 1, 1960	Feb. 20–Mar. 2, 1960
2	Feb. 27–Mar. 11, 1960	Mar. 2–Mar. 13, 1960	Mar. 3–Mar. 13, 1960.
1	Mar. 12–Mar. 31, 1960	Mar. 14–Mar. 31, 1960	Mar. 14–Mar. 31, 1960.

[1] Area I includes: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington.
[2] Area II includes: Minnesota, Montana, North Dakota, South Dakota (also Superior, Wisconsin).
[3] Area III includes: Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, Wyoming, Wisconsin (except Superior).
[4] Area IV includes: Arkansas, Connecticut, Delaware, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, West Virginia.
[5] Area V includes: Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee.

(b) Warehouse receipts and the grain sorghums represented thereby stored in approved warehouses operated by Eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission: *Provided,* That the warehouseman shall not be entitled to satisfy the lien by sale of the commodity when CCC is holder of the warehouse receipt. There shall be deducted in computing the loan or purchase price, the amount of the approved tariff rate for storage (not including elevation), which will accumulate from the date of deposit through March 31, 1960, unless written evidence is submitted with the warehouse receipt that the storage charges have been prepaid. The county office shall request the CSS commodity office to determine the amount of such charges. Where the producer presents evidence showing that elevation charges have been prepaid, the amount of the storage charges to be deducted shall be reduced by the amount of the elevation charges prepaid by the producer.

§ 421.4235 Inspection of Grain Sorghums under purchase agreement.

(a) *Predelivery inspection.* Where the producer has given written notice within the 30-day period prior to the loan maturity date of his intent to sell his grain sorghums stored in other than an approved warehouse under purchase agreement to CCC, the county office shall make an inspection of the grain sorghums and obtain a sample of the grain sorghums and submit it for grade analysis within the 30-day period or as soon as possible thereafter but prior to delivery of the grain sorghums. If the grain sorghums on the basis of the predelivery inspection are of a quality which meets the requirements for a farm-storage loan, the county office shall issue delivery instructions on or after the final date of the 30-day period or the date of inspection, whichever is later. The producer must then complete delivery within a 15-day period immediately following the date the county office issues delivery instructions unless the county office determines that more time is needed for delivery. The producer whose grain sorghums are stored in other than an approved warehouse and whose grain sorghums are not of a quality eligible for a loan at the time of the predelivery inspection shall be notified in writing by the county office that his grain sorghums are not eligible for purchase by CCC. If, nevertheless, the producer informs the county office that he will condition the grain sorghums, or otherwise take action to make the grain sorghums eligible and insists upon delivery of the grain sorghums, the county office shall issue delivery instructions. In such case the producer shall be further informed that if such grain sorghums, upon delivery and before purchase, do not meet the eligibility requirements of § 421.4228(c) (1) and (2) as determined on the basis of a sample taken at the time of delivery, the grain sorghums will not be accepted for purchase by CCC. A predelivery inspection shall not be made on grain sorghums stored commingled in warehouses not approved for storage or on grain sorghums in an unapproved warehouse which are stored so that the identity of the producer's grain sorghums is main-

tained but a predelivery inspection is not possible. When a predelivery inspection is not made such grain sorghums, at the time of delivery must meet the eligibility requirements of § 421.4228 (c) (1) and (2).

(b) *Inspection of grain sorghums stored by producer after maturity date.* The producer may be required to retain the grain sorghums stored in other than approved warehouse storage under purchase agreement for a period of 60 days after the loan maturity date without any cost to CCC. CCC will not assume any loss in quantity or quality of the grain sorghums covered by a purchase agreement occurring prior to delivery to CCC, except for quality deterioration under the following circumstances. If a producer has properly requested delivery instructions for grain sorghums which were determined to be of an eligible grade and quality at the time of the predelivery inspection, and CCC cannot accept delivery within the 60-day period following the loan maturity date, the producer may notify the county office at any time after such 60-day period that the grain sorghums are going out of condition or are in danger of going out of condition. Such notice must be confirmed in writing. If the county office determines that the grain sorghums are going out of condition or are in danger of going out of condition and that the grain sorghums cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county office shall obtain an inspection and grade and quality determination. When delivery is completed, settlement shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of the quantity actually delivered.

§ 421.4236 Settlement.

(a) *Settlement value*—(1) *Farm-storage loans.* In the case of eligible grain sorghums delivered to CCC from farm-storage under the loan program, settlement shall be made at the applicable support rate determined in accordance with paragraph (b) of this section. The support rate shall be for the grade and quality of the total quantity of grain sorghums eligible for delivery. If upon delivery the grain sorghums under farm-storage loan are of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the grain sorghums placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade and quality placed under loan and the market price of the grain sorghums delivered, as determined by CCC: *Provided, however,* That if such grain sorghums are sold by CCC in order to determine their market price, the settlement value shall not be less than such sales price: *And provided further,* That if upon delivery the grain sorghums contain mercurial compounds or other substances poisonous to man or animals, such grain sorghums shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such commodity for the use specified above, the settlement value shall be the market value, if any, as determined by CCC, as of the date of delivery.

(2) *Warehouse-storage loans.* Settlement for eligible grain sorghums under warehouse-storage loans not redeemed on maturity and represented by warehouse receipts issued by an approved warehouse shall be made on the basis of the weight, grade, and other quality factors shown on the warehouse receipts or accompanying documents at the applicable support rate determined in accordance with paragraph (b) of this section.

(3) *Purchase agreements*—(i) *Delivery from farm storage.* Settlement for grain sorghums delivered to CCC from farm storage meeting the eligibility requirements of § 421.4228(c) (1) and (2), as determined by a reinspection at the time of delivery, shall be made at the applicable support rate for the grade and quality of the quantity eligible for delivery on the basis of such inspection. Such support rate shall be determined in accordance with paragraph (b) of this section. If grain sorghums, which were determined to be eligible at the time of the predelivery inspection are, upon delivery, of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the eligible grain sorghums as determined at the time of the predelivery inspection, less the difference, if any, at the time of delivery between the market price for the grade and quality of the grain sorghums, determined by the predelivery inspection, and the market price of the grain sorghums delivered, as determined by CCC: *Provided, however,* That if such grain sorghums are sold by CCC in order to determine the market price, the settlement value shall not be less than such sales price: *And provided further,* That, if upon delivery, the grain sorghums contain mercurial compounds or other substances poisonous to man or animals, such grain sorghums shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel or industrial uses where the end product will not be consumed by man or animals and the settlement value shall be the same as the sales price: *Provided further,* That, if CCC is unable to sell such grain sorghums for the use specified above, the settlement value shall be the market value, if any, as determined by CCC, as of the date of delivery.

(ii) *Delivery from approved warehouse storage.* In the case of eligible grain sorghums stored commingled in an approved warehouse, the producer must, not later than the day following the loan maturity date, or during such period of time thereafter as may be specified by the county committee, submit to the office of the county committee warehouse receipts under which the warehouseman guarantees quality and quantity for the quantity of grain sorghums he elects to sell to CCC. Settlement for eligible grain sorghums delivered under purchase agreement to CCC by submission of warehouse receipts issued by an approved warehouse shall be made on the basis of the weight, grade, and other quality factors shown on the warehouse receipt or accompanying documents at the applicable support rate determined in accordance with paragraph (b) of this section.

(iii) *Delivery from unapproved warehouse storage.* Where the producer has properly given the county office written notice of his intent to sell to CCC, grain sorghums in a warehouse not approved for storage which are stored commingled, or which are stored so that the identity of the producer's grain sorghums is maintained, but a predelivery inspection is not possible, the county office will issue instructions on or after the loan maturity date for delivery of the grain sorghums. Settlement for such grain sorghums delivered to CCC which meet the eligibility requirements of § 421.4228(c) (1) and (2) shall be made at the applicable support rate for the grade and quantity eligible for delivery. Such support rate shall be determined in accordance with paragraph (b) of this section. If a predelivery inspection of the producer's grain sorghums can be made, the provisions of § 421.4235 shall apply and settlement will be the same as for grain sorghums delivered under a purchase agreement from farm storage as provided in subdivision (i) of this subparagraph.

(iv) *Grain sorghums ineligible for delivery, inadvertently accepted by CCC.* The settlement provisions hereof shall apply to the following categories of grain sorghums ineligible for delivery which are inadvertently accepted by CCC and which CCC determines it is not in a position to reject: (*a*) Grain sorghums which were of an ineligible grade or quality both at the time of the predelivery inspection and at the time of delivery as redetermined by a reinspection; (*b*) grain sorghums of an ineligible grade or quality which are delivered to CCC in excess of the maximum quantity stated in the purchase agreement; and (*c*) grain sorghums in other than approved warehouse storage on which a predelivery inspection was not performed, and which at the time of delivery does not meet the eligibility requirements of § 421.4228(c) (1) and (2). The settlement value shall be the market price for the grade, quality, and quantity of such ineligible grain sorghums delivered as determined by CCC: *Provided, however,* That if such grain sorghums are sold by CCC in order to determine their market price, the settlement value shall not be less than the sales price: *And provided further,* That, if upon delivery, the grain sorghums contain mercurial compounds or other substances poisonous to man or animals, such grain sorghums shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel or industrial uses where the

end product will not be consumed by man or animals and the settlement value shall be the same as the sales price: *Provided further,* That if CCC is unable to sell such grain sorghums for the use specified above, the settlement value shall be the market value, if any, as determined by CCC as of the date of delivery. If grain sorghums delivered are of an eligible grade and quality but in excess of the maximum quantity stated in the purchase agreement and such grain sorghums are inadvertently accepted by CCC, the settlement value shall be the sales price if the grain sorghums are immediately sold. If the grain sorghums are not immediately sold, the settlement value shall be the applicable support rate or the market price, as determined by CCC, whichever is lower.

(b) *Applicable support rate for settlement of loans and purchase agreements.* (1) In the case of grain sorghums stored in an approved warehouse, settlement shall be made at the applicable support rate as specified in § 421.4233 for the location in which the warehouse is located, except as otherwise provided in subparagraph (4) of this paragraph.

(2) In the case of grain sorghums delivered from other than approved warehouse storage, settlement shall be made at the applicable support rate for the county in which the producer's customary shipping point (as determined by the county committee) is located, except as otherwise provided in subparagraphs (3) and (4) of this paragraph.

(3) If the producer is directed to deliver his grain sorghums to a terminal market for which a support rate is established, settlement shall be based on the support rate for such terminal market.

(4) If two or more approved warehouses are located at the same or adjoining towns, villages, or cities having the same domestic interstate freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point, and the same settlement rate shall apply even though such warehouses are not all located in the same county. Such settlement rate shall be the highest support rate of the counties involved.

(c) *Storage deduction for early delivery.* No deduction for storage shall be made for farm-stored grain sorghums under loan or purchase agreement authorized to be delivered to CCC prior to the loan maturity date, except where it is necessary to call the loan through fault or negligence on the part of the producer or where the producer requests early delivery and the county committee approves the early delivery and determines such early delivery is solely for the convenience of the producer. The deduction for storage shall be made in accordance with the schedule of deductions for warehouse charges in § 421.4234.

(d) *Refund of prepaid handling charges.* In case a warehouseman charges the producer for the receiving or the receiving and loading out charges on grain sorghums under loan or purchase agreement stored in a warehouse under the Uniform Grain Storage Agreement, the producer shall, upon delivery of the grain sorghums to CCC be reimbursed or given credit by the county office for such prepaid charges in an amount not to exceed the charges authorized under the Uniform Grain Storage Agreement, provided the producer furnishes to the county committee written evidence signed by the warehouseman that such charges have been paid.

(e) *Storage payment where CCC is unable to take delivery of grain sorghums stored in other than an approved warehouse under loan or purchase agreement.* The producer may be required to retain grain sorghums stored in other than an approved warehouse under loan or purchase agreement for a period of 60 days after the maturity date without any cost to CCC. However, if CCC is unable to take delivery of such grain sorghums within the 60-day period after maturity, the producer shall be paid a storage payment upon delivery of the grain sorghums to CCC: *Provided, however,* That a storage payment shall be paid a producer whose grain sorghums are stored in other than approved warehouse under purchase agreement only if he has properly given notice of his intention to sell the grain sorghums to CCC and delivery cannot be accepted within the 60-day period after maturity. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after the maturity date and extend through the final date of delivery, or the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment shall be computed at the rate of $0.00077 per 100 pounds per day in Area I; $0.00080 per 100 pounds per day in Area II; $0.00082 per 100 pounds per day in Area III; $0.00084 per 100 pounds per day in Area IV; and $0.00087 per 100 pounds per day in Area V for the grain sorghums accepted for delivery or sale to CCC.

(f) *Track-loading payment.* A track-loading payment of 6 cents per 100 pounds shall be made to the producer on grain sorghums delivered to CCC on track at a country point.

(g) *Compensation for hauling.* In the case of grain sorghums, if the producer is directed by the county office to deliver his grain sorghums to a point other than his customary shipping point, the producer shall be allowed compensation (as determined by CCC, at not to exceed the common carrier truck rate or the rate available from local truckers) for the additional cost of hauling the grain sorghums any distance greater than the distance from the point where the grain sorghums are stored by the producer to the customary shipping point: *Provided,* That, if the producer is directed to deliver his grain sorghums to a terminal market for which a support rate is established, no compensation shall be allowed for hauling.

(h) *Method of payment under purchase agreement settlements.* When delivery of grain sorghums under purchase agreement is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct on Commodity Purchase Form 4 to whom payment of the proceeds shall be made.

Issued this 16th day of April 1959.

[SEAL] CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

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[C.C.C. Grain Price Support Bulletin 1, 1959 Supp. 1, Flaxseed]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1959-Crop Flaxseed Loan and Purchase Agreement Program

A price support program has been announced for the 1959 crop of flaxseed. The C.C.C. Grain Price Support Bulletin 1 (23 F.R. 9651), issued by the Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for certain grains and other commodities produced in 1959 is supplemented as follows:

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AUTHORITY: §§ 421.4476 to 421.4486 issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1054; 15 U.S.C. 714c, 7 U.S.C. 1447, 1421.

§ 421.4476 Purpose.

Sections 421.4476 to 421.4486 state additional specific regulations which together with the general regulations contained in the C.C.C. Grain Price Support Bulletin 1, applicable to 1959 and subsequent crop years (§§ 421.4001 to 421.4021), apply to loans and purchase agreements under the 1959-Crop Flaxseed Price Support Program.

§ 421.4477 Availability of price support.

(a) *Method of support.* Price support will be made available through farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever flaxseed is grown in the continental United States, except in Texas counties designated under the 1959-Texas Flaxseed Purchase Program (§§ 421.4526 to 421.4541). Farm-storage loans will not be available in areas where the State committee determines that flaxseed cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support should be made at the office of the county committee which keeps the farm-program records for the farm.

(d) *When to apply.* Loans and purchase agreements will be available from

the time of harvest through October 31, 1959, in Arizona and California, and from the time of harvest through January 31, 1960, in all other States. The applicable documents must be signed by the producer and delivered to the office of the county committee not later than such final dates. Applicable documents referred to herein include the Producer's Note and Loan Agreement for warehouse-storage loans, the Producer's Note and Supplemental Loan Agreement and the Commodity Chattel Mortgage for farm-storage loans, and the Purchase Agreement for purchase agreements.

(e) *Eligible producer.* An eligible producer shall be an individual, partnership, association, corporation, estate, trust, or other business enterprise, or legal entity, and wherever applicable, a State, political subdivision of a State, or any agency thereof producing flaxseed in 1959 as landowner, landlord, tenant, or sharecropper. Executors, administrators, trustees, or receivers who represent an eligible producer or his estate may qualify for price support provided the loan or purchase agreement documents executed by them are legally valid. Two or more eligible producers may obtain a joint loan on eligible flaxseed harvested by them if stored in the same farm-storage facility. In the case of joint loans, each person signing the note shall be held jointly and severally responsible for the loan. Warehouse-storage loans may be made to a warehouseman who tenders to CCC warehouse receipts issued by him on flaxseed produced by him only in those States where the issuance and pledge of such warehouse receipts is valid under State law. Where the county office has experienced difficulties in settling farm-storage loans with a producer, the county committee shall determine that he is not eligible for a farm-storage loan. He shall be eligible, however, to obtain a warehouse-storage loan or sign a purchase agreement.

§ 421.4478 Eligible flaxseed.

Flaxseed, to be eligible for price support, must meet all of the applicable requirements set forth in this section.

(a) The flaxseed must have been produced in the continental United States (excluding the Texas counties designated under the 1959 Texas Flaxseed Purchase Program) in 1959 by an eligible producer.

(b) At the time the flaxseed is placed under loan or delivered under a purchase agreement the beneficial interest in the flaxseed must be in the eligible producer tendering the flaxseed for loan or for delivery under a purchase agreement and must always have been in him or must have been in him and a former producer whom he succeeded before the flaxseed was harvested. Any producer who is in doubt as to whether his interest in the flaxseed complies with the requirements of this subpart should make available to the county committee all pertinent information prior to filing an application, which will permit a determination to be made by CCC as to his eligibility for price support. To meet the requirements of succession to a former producer, the rights, responsibilities and interest of the former producer with respect to the farming unit on which the flaxseed was produced shall have been substantially assumed by the producer claiming succession. Mere purchase of the crop prior to harvest, without acquisition of any additional interest in the farming unit, shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met.

(c) Flaxseed, at the time it is placed under loan and flaxseed under purchase agreement which is in approved warehouse storage prior to notification by a producer of his intention to sell to CCC, must meet the following requirements:

(1) The flaxseed must grade No. 1 or No. 2.

(2) The flaxseed must not contain mercurial compounds or other substances poisonous to man or animals.

(3) If offered as security for a farm-storage loan, the flaxseed must have been stored in the granary at least 30 days prior to its inspection, measurement, sampling and sealing, unless otherwise approved by the State committee.

(d) Except as otherwise provided in § 421.4485(a), flaxseed under purchase agreement stored in other than approved warehouse storage shall not be eligible for sale to CCC if it does not meet the requirements of paragraph (c) (1) and (2) of this section on the basis of a predelivery inspection performed by a representative of the county committee, unless the producer complies with the conditions specified in § 421.4485(a) and the flaxseed on the basis of an inspection made at the time of delivery meets the requirements set forth in paragraph (c) (1) and (2) of this section.

§ 421.4479 Warehouse receipts.

Warehouse receipts, representing flaxseed in approved warehouse storage to be placed under loan or delivered under a purchase agreement, must meet the following requirements:

(a) Warehouse receipts must be issued in the name of the producer, must be properly endorsed in blank so as to vest title in the holder, and must be receipts issued on a warehouse for which a Uniform Grain Storage Agreement is in effect and which is approved by CCC for price support purposes, or must be receipts issued on warehouses operated by Eastern common carriers under tariffs approved by the Interstate Commerce Commission for which custodian agreements are in effect.

(b) Each warehouse receipt or the warehouseman's supplemental certificate (in duplicate), properly identified with the warehouse receipt, must show: (1) Gross weight and net bushels, (2) grade, (3) test weight, (4) moisture, (5) dockage, (6) percentage of damage when such factor, and not test weight, determines the grade, and (7) whether the flaxseed arrived by rail, truck or barge. In the case of flaxseed delivered by rail or barge, the grading factors on the warehouse receipt must agree with the inbound inspection certificate for the car or barge if such certificate is issued.

(c) A separate warehouse receipt must be submitted for each grade of flaxseed.

(d) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 421.4484.

(e) Warehouse receipts representing flaxseed which has been shipped by rail or water from a country shipping point to a designated terminal point, or shipped by rail or water from a country shipping point and stored in transit to a designated terminal point, must be accompanied by registered freight bills, or by a certificate containing similar information in a form prescribed by the CSS commodity office which shall be signed by the warehouseman and which may be a part of the supplemental certificate.

(f) If the receipt is issued for flaxseed of which the warehouseman is the producer and owner either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. Such receipts shall also be registered or recorded with appropriate State or local officials when required by State law. In States where the pledge of warehouse receipts by a warehouseman on his own flaxseed is not valid under State law and the warehouseman elects to deliver flaxseed to CSS under a purchase agreement for which he is eligible under this program, the warehouse receipt shall be issued in the name of CSS.

(g) Each warehouse receipt or accompanying supplemental certificate representing flaxseed stored in an approved warehouse operating under the Uniform Grain Storage Agreement shall indicate that the flaxseed is insured in accordance with CCC Form 25, Uniform Grain Storage Agreement. Each warehouse receipt or accompanying supplemental certificate issued on warehouses operated by Eastern common carriers and representing flaxseed to be placed under loan shall indicate that the flaxseed is insured at the full market value against loss or damage by fire, lightning, inherent explosion, wind storm, cyclone and tornado.

§ 421.4480 Determination of quantity.

(a) The quantity of flaxseed placed under farm-storage loan may be determined either by weight or by measurement. The quantity of flaxseed placed under warehouse-storage loan or delivered under a farm-storage loan or under a purchase agreement shall be determined by weight.

(b) When the quantity is determined by weight, a bushel shall be 56 pounds of flaxseed free of dockage. In determining the quantity of sacked flaxseed by weight, a deduction of three-fourths of a pound for each sack shall be made.

(c) When the quantity of flaxseed is determined by measurement, a bushel shall be 1.25 cubic feet of flaxseed testing 56 pounds per bushel. The quantity determined shall be adjusted by the following applicable percentages:

For flaxseed testing:	*Percentage*
56 pounds or over	100
55 pounds or over, but less than 56 pounds	98
54 pounds or over, but less than 55 pounds	96
53 pounds or over, but less than 54 pounds	94
52 pounds or over, but less than 53 pounds	92

For flaxseed testing—Continued	Percentage
51 pounds or over, but less than 52 pounds	90
50 pounds or over, but less than 51 pounds	88
49 pounds or over, but less than 50 pounds	85
48 pounds or over, but less than 49 pounds	83
47 pounds or over, but less than 48 pounds	81

(d) The percentage of dockage shall be determined and the weight of such dockage shall be deducted from the gross weight of the flaxseed in determining the net quantity available for loan or purchase.

§ 421.4481 Determination of quality.

The grade and grading factors, and all other quality factors shall be determined in accordance with the method set forth in the Official Grain Standards of the United States for Flaxseed, whether or not such determinations are made on the basis of an official inspection.

§ 421.4482 Maturity of loans.

Loans mature on demand but not later than January 31, 1960, on flaxseed stored in Arizona and California, and not later than March 31, 1960, on flaxseed stored in all other States.

§ 421.4483 Support rates.

Basic support rates for flaxseed placed under loan or delivered under a purchase agreement are set forth in this section.

(a) *Basic support rates at designated terminal markets.* (1) The basic support rate for Grade No. 1 flaxseed containing 10.6 to 11.0 percent moisture stored in approved warehouses at the Minneapolis and St. Paul, Minnesota, terminal markets shall be $2.66 per bushel.

(i) In order to be eligible for loan or purchase at the support rate shown above, the flaxseed must have been shipped on a domestic interstate freight rate basis. The support rate at such designated terminal markets on any flaxseed shipped at other than the domestic interstate freight rate, shall be reduced by the difference between the freight rate paid and the domestic interstate freight rate.

(ii) The support rates established for such designated terminal markets apply to flaxseed which has been shipped by rail or water from a country shipping point to one of such designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges: *Provided,* That in the event the amount of paid-in freight is insufficient to guarantee the minimum proportional domestic interstate freight rate, if any, from the terminal market to a recognized market as determined by CCC, there shall be deducted from the applicable terminal support rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the minimum proportional domestic interstate freight rate.

(iii) Notwithstanding the foregoing provisions of this paragraph, the support rate for flaxseed which is shipped by rail or water and stored at any of such designated terminal markets and for which neither registered freight bills nor registered freight certificates are presented shall be equal to the terminal rate minus 12 cents per bushel.

(iv) The support rate for flaxseed received by truck and stored at any of such designated terminal markets shall be the terminal rate minus 16½ cents per bushel.

(2) Basic support rates per bushel for Grade No. 1 flaxseed containing 10.6 to 11.0 percent moisture stored in approved warehouses at the port terminal markets listed below are as follows:

Terminal market:	Rate per bushel for No. 1
Los Angeles, Calif.	$2.92
San Francisco, Calif.	2.86
Duluth, Minn.	2.66
Superior, Wis.	2.66
Corpus Christi and Houston, Tex.	2.41

(i) The support rate for flaxseed which is shipped by rail or water and stored at any of such port terminal markets, shall be equal to the applicable terminal rate, regardless of whether registered freight bills or registered freight certificates are presented to guarantee outbound movement at the minimum proportional domestic interstate freight rate.

(ii) The support rate for flaxseed which is received by truck and stored at any of such port terminal markets shall be determined by making a deduction of 4½ cents per bushel from the terminal rate.

(b) *Support rates for flaxseed in approved warehouse-storage at other than designated terminal markets.* (1) The support rate for flaxseed which is shipped by rail or water and stored in approved warehouses (other than those situated in the designated terminal markets) shall be determined by deducting from the rate for the appropriate designated terminal market as determined by CCC, an amount equal to the transit balance, if any, of the through-freight rate from point of origin for such flaxseed to such terminal market: *Provided,* That on any flaxseed shipped at other than the domestic interstate freight rate, the support rate shall be further reduced by the difference between the freight rate paid and the domestic interstate freight rate from the point of origin of such flaxseed to the point of storage: *And provided further,* That in the case of flaxseed stored at any railroad transit point taking a penalty by reason of out-of-line movement to the appropriate designated market, or for any other reason, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing flaxseed in such position.

(2) The warehouse receipts must be accompanied by the original paid freight bills or certificates of the warehouseman and other required documents as set forth in § 421.4479.

(c) *Basic county support rates.* (1) The following basic county support rates per bushel are established for grade No. 1 flaxseed containing 10.6 to 11.0 percent moisture. Farm-storage loans and county warehouse-storage loans, except as otherwise provided in paragraph (b) of this section, will be based on the support rate established for the county in which the flaxseed is stored.

(2) If two or more approved warehouses are located in the same or adjoining towns, villages, or cities having the same domestic interstate freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

ARIZONA

County	Rate per bushel	County	Rate per bushel
Cochise	$2.59	Pinal	$2.67
Graham	2.53	Yavapai	2.32
Maricopa	2.67	Yuma	2.70
Pima	2.66		

CALIFORNIA

Alameda	$2.71	Napa	$2.71
Colusa	2.64	Riverside	2.72
Fresno	2.68	Sacramento	2.68
Imperial	2.75	San Benito	2.68
Kern	2.70	San Joaquin	2.69
Kings	2.70	San Mateo	2.71
Los Angeles	2.77	Santa Clara	2.71
Madera	2.66	Santa Cruz	2.68
Merced	2.67	Sutter	2.65
Modoc	2.39	Yolo	2.68

GEORGIA

All counties	$1.79

IDAHO

All counties	$1.82

IOWA

County	Rate per bushel	County	Rate per bushel
Adair	$2.30	Jasper	$2.36
Adams	2.30	Johnson	2.35
Allamakee	2.39	Jones	2.36
Appanoose	2.30	Keokuk	2.33
Audubon	2.32	Kossuth	2.39
Benton	2.37	Linn	2.37
Black Hawk	2.37	Lucas	2.31
Boone	2.36	Lyon	2.37
Bremer	2.38	Madison	2.33
Buchanan	2.37	Mahaska	2.34
Buena Vista	2.37	Marion	2.33
Butler	2.38	Marshall	2.37
Calhoun	2.37	Mills	2.31
Carroll	2.35	Mitchell	2.41
Cass	2.30	Monona	2.35
Cedar	2.35	Monroe	2.31
Cerro Gordo	2.40	Montgomery	2.30
Cherokee	2.36	O'Brien	2.38
Chickasaw	2.39	Osceola	2.38
Clarke	2.31	Page	2.30
Clay	2.38	Palo Alto	2.39
Clayton	2.37	Plymouth	2.36
Crawford	2.34	Pocohontas	2.37
Dallas	2.36	Polk	2.36
Davis	2.30	Pottawattamie	2.32
Decatur	2.29	Poweshiek	2.35
Delaware	2.37	Ringgold	2.29
Dickinson	2.39	Sac	2.36
Dubuque	2.36	Shelby	2.34
Emmet	2.40	Sioux	2.36
Fayette	2.38	Story	2.36
Floyd	2.40	Tama	2.37
Franklin	2.38	Taylor	2.28
Fremont	2.31	Union	2.30
Greene	2.36	Wapello	2.32
Grundy	2.37	Warren	2.33
Guthrie	2.35	Wayne	2.31
Hamilton	2.37	Webster	2.38
Hancock	2.39	Winnebago	2.41
Hardin	2.37	Winneshiek	2.39
Harrison	2.34	Woodbury	2.36
Howard	2.40	Worth	2.41
Humboldt	2.38	Wright	2.38
Ida	2.35	All other counties	2.29
Iowa	2.35		

KANSAS

County	Rate per bushel
All counties	$2.01

MICHIGAN

County	Rate per bushel
Chippewa	$2.25

MINNESOTA

County	Rate per bushel	County	Rate per bushel
Aitkin	$2.45	Martin	$2.41
Anoka	2.45	Meeker	2.45
Becker	2.38	Mille Lacs	2.45
Beltrami	2.38	Morrison	2.43
Benton	2.44	Mower	2.42
Big Stone	2.39	Murray	2.40
Blue Earth	2.43	Nicollet	2.45
Brown	2.43	Nobles	2.38
Carlton	2.46	Norman	2.37
Carver	2.45	Olmsted	2.43
Cass	2.42	Otter Tail	2.40
Chippewa	2.41	Pennington	2.35
Chisago	2.45	Pine	2.44
Clay	2.38	Pipestone	2.39
Clearwater	2.38	Polk	2.36
Cottonwood	2.41	Pope	2.42
Crow Wing	2.43	Ramsey	2.45
Dakota	2.45	Red Lake	2.37
Dodge	2.43	Redwood	2.42
Douglas	2.42	Renville	2.43
Faribault	2.41	Rice	2.45
Fillmore	2.40	Rock	2.38
Freeborn	2.43	Roseau	2.34
Goodhue	2.44	St. Louis	2.44
Grant	2.40	Scott	2.45
Hennepin	2.45	Sherburne	2.45
Houston	2.40	Sibley	2.45
Hubbard	2.39	Stearns	2.44
Isanti	2.45	Steele	2.43
Itasca	2.43	Stevens	2.41
Jackson	2.40	Swift	2.42
Kanabec	2.44	Todd	2.42
Kandiyohi	2.45	Traverse	2.39
Kittson	2.32	Wabasha	2.44
Koochiching	2.34	Wadena	2.42
Lac Qui Parle	2.39	Waseca	2.44
Lake of the Woods	2.35	Washington	2.45
Le Suer	2.45	Watonwan	2.42
Lincoln	2.39	Wilkin	2.38
Lyon	2.40	Winona	2.43
McLeod	2.45	Wright	2.45
Mahnomen	2.37	Yellow Medicine	2.41
Marshall	2.35		

MONTANA

County	Rate per bushel	County	Rate per bushel
Beaverhead	$1.88	Liberty	$2.04
Big Horn	1.97	McCone	2.16
Blaine	2.07	Musselshell	2.08
Broadwater	2.04	Park	2.04
Carbon	2.04	Petroleum	2.04
Carter	2.18	Phillips	2.10
Cascade	2.04	Pondera	2.04
Chouteau	2.04	Powder River	2.14
Custer	2.16	Prairie	2.16
Daniels	2.14	Richland	2.17
Dawson	2.17	Roosevelt	2.18
Deer Lodge	2.00	Rosebud	2.11
Fallon	2.18	Sheridan	2.17
Fergus	2.04	Stillwater	2.04
Gallatin	2.04	Sweet Grass	2.04
Garfield	2.15	Teton	2.04
Glacier	2.04	Toole	2.04
Golden Valley	2.04	Treasure	2.10
Hill	2.04	Valley	2.13
Judith Basin	2.04	Wheatland	2.04
Lewis and Clark	2.04	Wibaux	2.19
		Yellowstone	2.04

NEBRASKA

County	Rate per bushel
Box Butte	$2.01

NORTH DAKOTA

County	Rate per bushel	County	Rate per bushel
Adams	$2.24	Burleigh	$2.29
Barnes	2.35	Cass	2.36
Benson	2.30	Cavalier	2.30
Billings	2.24	Dickey	2.34
Bottineau	2.26	Divide	2.22
Bowman	2.23	Dunn	2.24
Burke	2.24	Eddy	2.31

NORTH DAKOTA—Continued

County	Rate per bushel	County	Rate per bushel
Emmons	$2.28	Pierce	$2.29
Foster	2.32	Ramsey	2.31
Golden Valley	2.20	Ransom	2.35
Grand Forks	2.35	Renville	2.25
Grant	2.25	Richland	2.38
Griggs	2.34	Rolette	2.28
Hettinger	2.25	Sargent	2.36
Kidder	2.30	Sheridan	2.29
La Moure	2.33	Sioux	2.26
Logan	2.31	Slope	2.20
McHenry	2.28	Stark	2.24
McIntosh	2.30	Steele	2.35
McKenzie	2.20	Stutsman	2.33
McLean	2.27	Towner	2.29
Mercer	2.26	Traill	2.35
Morton	2.26	Walsh	2.32
Mountrail	2.25	Ward	2.25
Nelson	2.32	Wells	2.31
Oliver	2.26	Williams	2.23
Pembina	2.31		

OKLAHOMA

County	Rate per bushel
All counties	$1.87

OREGON

County	Rate per bushel
All counties	$1.82

SOUTH DAKOTA

County	Rate per bushel	County	Rate per bushel
Aurora	$2.30	Jackson	$2.23
Beadle	2.35	Jerauld	2.35
Bennett	2.19	Jones	2.24
Bon Homme	2.32	Kingsbury	2.37
Brookings	2.38	Lake	2.37
Brown	2.35	Lawrence	2.18
Brule	2.28	Lincoln	2.36
Buffalo	2.28	Lyman	2.26
Butte	2.18	McCook	2.36
Campbell	2.30	McPherson	2.32
Charles Mix	2.29	Marshall	2.35
Clark	2.37	Meade	2.21
Clay	2.35	Mellette	2.20
Codington	2.38	Miner	2.36
Corson	2.27	Minnehaha	2.37
Custer	2.18	Moody	2.38
Davison	2.34	Pennington	2.21
Day	2.36	Perkins	2.24
Deuel	2.38	Potter	2.30
Dewey	2.26	Roberts	2.37
Douglas	2.30	Sanborn	2.35
Edmunds	2.33	Shannon	2.17
Fall River	2.11	Spink	2.35
Faulk	2.33	Stanley	2.29
Grant	2.38	Sully	2.29
Gregory	2.25	Todd	2.20
Haakon	2.24	Tripp	2.23
Hamlin	2.38	Turner	2.36
Hand	2.34	Union	2.36
Hanson	2.35	Walworth	2.30
Harding	2.23	Washabaugh	2.23
Hughes	2.31	Yankton	2.34
Hutchinson	2.32	Ziebach	2.23
Hyde	2.32		

TEXAS

County	Rate per bushel	County	Rate per bushel
Carson	$1.95	Hockley	$1.95
Culberson	1.87	Lamb	1.95
Deaf Smith	1.95	Moore	1.93
Floyd	1.95	Pecos	1.88
Glasscock	1.95		

WISCONSIN

County	Rate per bushel	County	Rate per bushel
Adams	$2.36	Douglas	$2.46
Ashland	2.41	Dunn	2.43
Barron	2.42	Eau Claire	2.43
Bayfield	2.42	Florence	2.32
Brown	2.30	Fond du Lac	2.29
Buffalo	2.42	Forest	2.36
Burnett	2.45	Grant	2.32
Calumet	2.28	Green	2.28
Chippewa	2.41	Green Lake	2.32
Clark	2.38	Iowa	2.30
Columbia	2.34	Iron	2.39
Crawford	2.38	Jackson	2.40
Dane	2.31	Jefferson	2.30
Dodge	2.31	Juneau	2.37
Door	2.28	Kenosha	2.28

WISCONSIN—Continued

County	Rate per bushel	County	Rate per bushel
Kewaunee	$2.28	Richland	$2.33
La Crosse	2.39	Rock	2.29
Lafayette	2.28	Rusk	2.41
Langlade	2.33	St. Croix	2.45
Lincoln	2.32	Sauk	2.33
Manitowoc	2.28	Sawyer	2.42
Marathon	2.37	Shawano	2.32
Marinette	2.29	Sheboygan	2.28
Marquette	2.35	Taylor	2.39
Milwaukee	2.28	Trempealeau	2.41
Monroe	2.38	Vernon	2.38
Oconto	2.29	Vilas	2.33
Oneida	2.33	Walworth	2.28
Outagamie	2.32	Washburn	2.43
Ozaukee	2.28	Washington	2.28
Pepin	2.44	Waukesha	2.28
Pierce	2.45	Waupaca	2.34
Polk	2.45	Waushara	2.33
Portage	2.36	Winnebago	2.31
Price	2.39	Wood	2.38
Racine	2.28		

WYOMING

County	Rate per bushel
All counties	$1.99

(d) *Grade discount.* The support rate for grade No. 2 flaxseed shall be 6 cents per bushel less than the support rate for grade No. 1 flaxseed. This discount shall, in the case of loans, be applied to the basic rate at the time the loan is completed and, in the case of deliveries under purchase agreements shall be applied to the basic rate at the time of settlement.

(e) *Premiums for low moisture content.* The following premiums are applicable to eligible flaxseed. In the case of farm-storage loans and deliveries under purchase agreements, premiums shall be applied to the basic rates at the time of settlement. In the case of warehouse-storage loans, premiums shall be applied to the basic rates at the time the loans are completed.

Moisture content (percent):	Premium (cents per bushel)
10.6 to 11.0 inclusive	0
10.1 to 10.5 inclusive	1
9.6 to 10.0 inclusive	2
9.1 to 9.5 inclusive	3
9.0 or less	4

(f) *Applicability of weed control provisions.* Where the State committee determines that State, district or county weed control laws, as administered, affect the flaxseed crop, the support rate in the case of farm storage shall be 15 cents below the applicable county support rate unless the producer obtains a certificate from the appropriate weed control official indicating that the flaxseed complies with the weed control laws. In the case of warehouse storage, whenever the State committee of the State in which the flaxseed is stored determines that State, district or county weed control laws, as administered, affect flaxseed stored in approved warehouses, the rate shall be 15 cents below the applicable support rate unless the producer obtains a certificate from either the appropriate State, county or district weed control official or the storing warehouseman that the flaxseed complies with the weed control laws, and in the case of the warehouseman, that he will save CCC harmless from loss or penalty because of the weed control laws. The certificate of the warehouseman may be in substantially the following form:

CERTIFICATION

This is to certify that the grain evidenced by warehouse receipt No. _____ issued to _____ is not subject to seizure or other action under weed control laws or regulations in effect at point of storage. It is further certified and agreed that should such grain be taken over by CCC in settlement of a loan or be purchased under the purchase agreement program that the undersigned will save CCC from loss or penalty under weed control laws or regulations in effect at the point the grain was stored under the above warehouse receipt.

_____
(Signature)

_____
(Address)

_____
(Date)

§ 421.4484 Warehouse charges.

(a) Warehouse receipts and the flaxseed represented thereby stored in approved warehouses operating under the Uniform Grain Storage Agreement may be subject to liens for warehouse handling and storage charges at not to exceed the Uniform Grain Storage Agreement rates from the date the flaxseed is deposited in the warehouse for storage: *Provided*, That the warehouseman shall not be entitled to satisfy the lien by sale of the flaxseed when CCC is holder of the warehouse receipt.

(1) In Arizona and California, where the date of deposit (the date of the warehouse receipt if the date of deposit is not shown) on warehouse receipts representing flaxseed stored in warehouses operating under the Uniform Grain Storage Agreement is on or before January 31, 1960, there shall be deducted in computing the amount of the loan or purchase price the storage charges per bushel (gross weight basis) as shown in the following table, unless written evidence has been submitted with the warehouse receipt that all warehouse charges except receiving and loading out charges have been prepaid through the maturity date, January 31, 1960.

Date of deposit (all dates inclusive):	*Amount of deduction (cents per bushel (gross weight basis))*
Prior to Apr. 17, 1959	15
Apr. 17, 1959–May 6, 1959	14
May 7, 1959–May 26, 1959	13
May 27, 1959–June 15, 1959	12
June 16, 1959–July 5, 1959	11
July 6, 1959–July 25, 1959	10
July 26, 1959–Aug. 14, 1959	9
Aug. 15, 1959–Sept. 3, 1959	8
Sept. 4, 1959–Sept. 23, 1959	7
Sept. 24, 1959–Oct. 13, 1959	6
Oct. 14, 1959–Nov. 2, 1959	5
Nov. 3, 1959–Nov. 22, 1959	4
Nov. 23, 1959–Dec. 12, 1959	3
Dec. 13, 1959–Jan. 1, 1960	2
Jan. 2, 1960–Jan. 31, 1960	1

(2) In all other States, where the date of deposit (the date of the warehouse receipt if the date of deposit is not shown) on warehouse receipts representing flaxseed stored in warehouses operating under the Uniform Grain Storage Agreement is on or before March 31, 1960, there shall be deducted in computing the amount of the loan or purchase price the storage charges per bushel (gross weight basis) as shown in the following table, unless written evidence has been submitted with the warehouse receipt that all warehouse charges except receiving and loading out charges have been prepaid through the maturity date, March 31, 1960.

Date of deposit (all dates inclusive):	*Amount of deduction (cents per bushel (gross weight basis))*
Prior to May 6, 1959	17
May 6, 1959–May 25, 1959	16
May 26, 1959–June 14, 1959	15
June 15, 1959–July 4, 1959	14
July 5, 1959–July 24, 1959	13
July 25, 1959–Aug. 13, 1959	12
Aug. 14, 1959–Sept. 2, 1959	11
Sept. 3, 1959–Sept. 22, 1959	10
Sept. 23, 1959–Oct. 12, 1959	9
Oct. 13, 1959–Nov. 1, 1959	8
Nov. 2, 1959–Nov. 21, 1959	7
Nov. 22, 1959–Dec. 11, 1959	6
Dec. 12, 1959–Dec. 31, 1959	5
Jan. 1, 1960–Jan. 20, 1960	4
Jan. 21, 1960—Feb. 9, 1960	3
Feb. 10, 1960–Mar. 1, 1960	2
Mar. 2, 1960–Mar. 31, 1960	1

(b) Warehouse receipts and the flaxseed represented thereby stored in approved warehouses operated by Eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission: *Provided*, That the warehouseman shall not be entitled to satisfy the lien by sale of the flaxseed when CCC is holder of the warehouse receipt. There shall be deducted in computing the amount of the loan or purchase price, the amount of the approved tariff rate per bushel (gross weight basis) for storage (not including elevation), which will accumulate from the date of deposit through the program maturity date, unless written evidence has been submitted with the warehouse receipt that the storage charges have been prepaid. The county office shall request the CSS commodity office to determine the amount of such charges. Where the producer presents evidence showing that elevation charges have been prepaid, the amount of the storage charges to be deducted shall be reduced by the amount of the elevation charges prepaid by the producer.

§ 421.4485 Inspection of flaxseed under purchase agreements.

(a) *Predelivery inspection.* Where the producer has given written notice within the 30-day period prior to the applicable loan maturity date of his intent to sell his flaxseed stored in other than an approved warehouse under purchase agreement to CCC, the county office shall make an inspection of the flaxseed and obtain a sample of the flaxseed and submit it for grade analysis within the 30-day period, or as soon as possible thereafter but prior to the delivery of the flaxseed. If the flaxseed, on the basis of the predelivery inspection is of a quality which meets the requirements for a farm-storage loan, the county office shall issue delivery instructions on or after the final date of the 30-day period or the date of inspection, whichever is later. The producer must then complete delivery within a 15-day period immediately following the date the county office issues delivery instructions unless the county office determines that more time is needed for delivery. The producer, whose flaxseed is stored in other than an approved warehouse and whose flaxseed is not of a quality eligible for a loan at the time of the predelivery inspection, shall be notified in writing by the county office that his flaxseed is not eligible for purchase by CCC. If, nevertheless, the producer informs the county office that he will condition the flaxseed, or otherwise take action to make the flaxseed eligible and insists upon delivery of the flaxseed, the county office shall issue delivery instructions. In such case, the producer shall be further informed that if such flaxseed, upon delivery and before purchase, does not meet the eligibility requirements of § 421.4478(c) (1) and (2) as determined on the basis of a sample taken at the time of delivery, the flaxseed will not be accepted for purchase by CCC. A predelivery inspection shall not be made on flaxseed stored commingled in warehouses not approved for storage or on flaxseed in an unapproved warehouse which is stored so that the identity of the producer's flaxseed is maintained but a predelivery inspection is not possible. When a predelivery inspection is not made, such flaxseed at the time of delivery must meet the eligibility requirements of § 421.4478(c) (1) and (2).

(b) *Inspection of flaxseed stored by producer after maturity date.* The producer may be required to retain the flaxseed stored in other than approved warehouse storage for a period of 60 days after the applicable loan maturity date without any cost to CCC. CCC will not assume any loss in quantity or quality of the flaxseed covered by a purchase agreement occurring prior to delivery to CCC, except for quality deterioration under the following circumstances. If a producer has properly requested delivery instructions for flaxseed which was of an eligible grade and quality at the time of the predelivery inspection, and CCC cannot accept delivery within the 60-day period following the applicable loan maturity date, the producer may notify the county office at any time after such 60-day period that the flaxseed is going out of condition or is in danger of going out of condition. Such notice must be confirmed in writing. If the county office determines that the flaxseed is going out of condition or is in danger of going out of condition and that the flaxseed cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county office shall obtain an inspection and grade and quality determination. When delivery is completed, settlement shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of the quantity actually delivered.

§ 421.4486 Settlement.

(a) *Settlement value*—(1) *Farm-storage loans.* In the case of eligible flaxseed delivered to CCC from farm storage under the loan program, settle-

ment shall be made at the applicable support rate determined in accordance with paragraph (b) of this section. The support rate shall be for the grade and quality of the total quantity of flaxseed eligible for delivery. If, upon delivery, the flaxseed under farm-storage loan is of a grade or quality for which no support rate has been established, the settlement value shall be computed at the basic support rate, adjusted for premiums and discounts, if any, applicable to the grade and quality of the flaxseed placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade and quality placed under loan and the market price of the flaxseed delivered, as determined by CCC: *Provided, however,* That if such flaxseed is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price: *And provided further,* That if upon delivery the flaxseed contains mercurial compounds or other substances poisonous to man or animals, such flaxseed shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such flaxseed for the use specified above, the settlement value shall be the market value, as determined by CCC, as of the date of delivery.

(2) *Warehouse-storage loans.* Settlement for eligible flaxseed under warehouse-storage loans not redeemed on maturity and represented by warehouse receipts issued by an approved warehouse shall be made on the basis of the weight, grade, and other quality factors shown on the warehouse receipts or accompanying documents at the applicable support rate determined in accordance with paragraph (b) of this section.

(3) *Purchase agreements*—(i) *Delivery from farm-storage.* Settlement for flaxseed delivered to CCC from farm storage meeting the eligibility requirements of § 421.4478(c) (1) and (2), as determined by a reinspection at the time of delivery, shall be made at the applicable support rate for the grade and quality of the quantity eligible for delivery on the basis of such inspection. Such support rate shall be determined in accordance with paragraph (b) of this section. If flaxseed which was determined to be eligible at the time of the predelivery inspection is, upon delivery, of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the eligible flaxseed as determined at the time of the predelivery inspection less the difference, if any, at the time of delivery, between the market price for the grade and quality of the flaxseed determined by the predelivery inspection and the market price of the flaxseed delivered, as determined by CCC: *Provided, however,* That if such flaxseed is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price: *And provided further,* That if upon delivery the flaxseed contains mercurial compounds or other substances poisonous to man or animals such flaxseed shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such flaxseed for the use specified above, the settlement value shall be the market value, as determined by CCC, as of the date of delivery.

(ii) *Delivery from approved warehouse-storage.* In the case of eligible flaxseed stored commingled in an approved warehouse, the producer must, not later than the day following the loan maturity date, or during such period of time thereafter as may be specified by the county committee, submit to the office of the county committee, warehouse receipts under which the warehouseman guarantees quality and quantity for the quantity of flaxseed he elects to sell to CCC. Settlement for eligible flaxseed delivered under purchase agreement to CCC by submission of warehouse receipts issued by an approved warehouse shall be made on the basis of the weight, grade, and other quality factors shown on the warehouse receipt or accompanying documents at the applicable support rate determined in accordance with paragraph (b) of this section.

(iii) *Delivery from unapproved warehouse-storage.* The county office will issue instructions on or after the loan maturity date for delivery of flaxseed in a warehouse not approved for storage which is stored commingled, or which is stored so that the identity of the producer's flaxseed is maintained but a predelivery inspection is not possible where the producer has properly given the county office written notice of his intent to sell such flaxseed to CCC. Settlement for such flaxseed delivered to CCC which meets the eligibility requirements of § 421.4478(c) (1) and (2) shall be made at the applicable support rate for the grade and quality of the quantity eligible for delivery. Such support rate shall be determined in accordance with paragraph (b) of this section. If a predelivery inspection of the producer's flaxseed can be made, the provisions of § 421.4485 shall apply and settlement will be the same as for flaxseed delivered under a purchase agreement from farm storage as provided in subdivision (i) of this subparagraph.

(iv) *Flaxseed ineligible for delivery inadvertently accepted by CCC.* The settlement provisions hereof shall apply to the following categories of flaxseed ineligible for delivery which is inadvertently accepted by CCC and which CCC determines that it is not in a position to reject: (*a*) Flaxseed which was of an ineligible grade or quality both at the time of the predelivery inspection and at the time of delivery as redetermined by a reinspection; (*b*) flaxseed of an inelegible grade or quality which is delivered to CCC in excess of the maximum quantity stated in the purchase agreement; and (*c*) flaxseed in unapproved warehouse storage on which a predelivery inspection was not performed, and which at the time of delivery does not meet the eligibility requirements of § 421.4478(c) (1) and (2). The settlement value shall be the market price for the grade, quality, and quantity of such ineligible flaxseed delivered as determined by CCC: *Provided, however,* That if such flaxseed is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price: *And provided further,* That if upon delivery the flaxseed contains mercurial compounds or other substances poisonous to man or animals, such flaxseed shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such flaxseed for the use specified above, the settlement value shall be the market value, determined by CCC, as of the date of delivery. If flaxseed delivered is of an eligible grade and quality but in excess of the maximum quantity stated in the purchase agreement and such flaxseed is inadvertently accepted by CCC, the settlement value shall be the sales price if the flaxseed is immediately sold. If the flaxseed is not immediately sold, the settlement value shall be the applicable support rate or the market price, as determined by CCC, whichever is lower.

(b) *Applicable support rate for settlement of loans and purchase agreements.* (1) In the case of flaxseed stored in an approved warehouse, settlement shall be made at the applicable support rate as specified in § 421.4483 for the location in which the warehouse is located, except as otherwise provided in subparagraph (4) of this paragraph.

(2) In the case of flaxseed delivered from other than approved warehouse storage, settlement shall be made at the applicable support rate for the county in which the producer's customary shipping point (as determined by the county committee) is located, except as otherwise provided in subparagraphs (3) and (4) of this paragraph.

(3) If the producer is directed to deliver his flaxseed to a terminal market for which a support rate is established, settlement shall be based on the support rate for such terminal market.

(4) If two or more approved warehouses are located at the same or adjoining towns, villages, or cities having the same domestic interstate freight rate, such towns, villages or cities shall be deemed to constitute one shipping point, and the same settlement rate shall apply even though such warehouses are not all located in the same county. Such settlement rate shall be the highest support rate of the counties involved.

(c) *Storage deduction for early delivery.* No deduction for storage shall be made for farm-stored flaxseed under loan or purchase agreement authorized to be delivered to CCC prior to the loan maturity date, except where it is necessary to call the loan through fault or negligence on the part of the producer or where the producer requests early delivery and the

county committee approves the early delivery and determines such early delivery is solely for the convenience of the producer. The deduction for storage shall be made in accordance with the schedule of deductions for warehouse charges in § 421.4484.

(d) *Refund of prepaid handling charges.* In case a warehouseman charges the producer for the receiving or the receiving and loading out charges on flaxseed under loan or purchase agreement stored in a warehouse under the Uniform Grain Storage Agreement, the producer shall, upon delivery of the flaxseed to CCC, be reimbursed or given credit by the county office for such prepaid charges in an amount not to exceed the charges authorized under the Uniform Grain Storage Agreement: *Provided,* The producer furnishes to the county office written evidence signed by the warehouseman that such charges have been paid.

(e) *Storage payment where CCC is unable to take delivery of flaxseed stored in other than an approved warehouse under loan or purchase agreement.* The producer may be required to retain flaxseed stored in other than an approved warehouse under loan or purchase agreement for a period of 60 days after the maturity date without any cost to CCC. However, if CCC is unable to take delivery of such flaxseed within the 60-day period after maturity, the producer shall be paid a storage payment upon delivery of the flaxseed to CCC: *Provided, however,* That a storage payment shall be paid a producer whose flaxseed is stored in other than an approved warehouse under purchase agreement only if he has properly given notice of his intention to sell the flaxseed to CCC and delivery cannot be accepted within the 60-day period after maturity. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after the maturity date and extend through the final date of delivery, or the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment shall be computed at the rate of $0.00049 per bushel per day for the flaxseed accepted for delivery or sale to CCC.

(f) *Track-loading payment.* A track-loading payment of 3 cents per bushel shall be made to the producer on flaxseed delivered to CCC on track at a country point.

(g) *Compensation for hauling.* If the producer is directed by the county office to deliver his flaxseed to a point other than his customary shipping point, he shall be allowed compensation (as determined by CCC, at not to exceed the common carrier truck rate or the rate available from local truckers) for the additional cost of hauling the flaxseed any distance greater than the distance from the point where the flaxseed is stored by the producer to the customary shipping point: *Provided,* That if the producer is directed to deliver his flaxseed to a terminal market for which a support rate is established, no compensation shall be allowed for hauling.

(h) *Method of payment under purchase agreement settlements.* When delivery of flaxseed under purchase agreement is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct, on Commodity Purchase Form 4, to whom payment of the proceeds shall be made.

Issued this 16th day of April 1959.

[SEAL] CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-3339; Filed, Apr. 20, 1959; 8:51 a.m.]

Title 14—CIVIL AVIATION

Chapter II—Federal Aviation Agency

[Amdt. 10]

PART 600—DESIGNATION OF CIVIL AIRWAYS

Alterations

Prior to the advent of commercial jet operations in the United States it was believed that the line of demarcation between jet aircraft operations and other type aircraft operations should be at 27,000 feet MSL. Accordingly, the lower limits of the jet routes were established at 27,000 feet MSL and civil airways extended only up to that altitude.

Experience has indicated, however, that commercial jet operations would be facilitated if conducted on specified jet routes at 24,000 feet MSL and above. In addition, the floor of the continental control area is presently at 24,000 feet MSL. Therefore, a readjustment of the jet route and civil airway structure is necessary.

This action lowers the upper limit of civil airways to extend up to, but not including, 24,000 feet MSL, compatible with the existing base of the continental control area. Concurrent action is being taken to lower the base of the jet routes from 27,000 feet MSL to 24,000 feet MSL.

This action has been coordinated with various civil aviation organizations, the Army, the Navy and the Air Force. It will become effective on June 4, 1959. For these reasons, the notice, effective date and procedure requirements of section 4 of the Administrative Procedure Act have, in effect, been complied with.

Accordingly, Part 600 is amended as follows:

1. Paragraph (b) of § 600.2 *Explanation of terms* is amended to read:

(b) The continental United States shall mean all of the several States of the United States (including the District of Columbia, but excluding the State of Alaska) and the territorial waters and the overlying airspace thereof.

2. Paragraph (a) of § 600.3 *Extent of civil airways* is amended by changing "27,000 feet MSL:" to read: "24,000 feet MSL:".

This amendment shall become effective 0001 e.s.t., June 4, 1959.

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (P.L. 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

Issued in Washington, D.C., on April 14, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-3298; Filed, Apr. 20, 1959 8:45 a.m.]

[Amdt. 9]

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN CONTINENTAL CONTROL AREA

Alterations

Prior to the advent of commercial jet operations in the United States it was believed that the line of demarcation between jet aircraft operations and other type aircraft operations should be at 27,000 feet MSL. Accordingly, the lower limits of the jet routes were established at 27,000 feet MSL and civil airways extended only up to that altitude.

Experience has indicated, however, that commercial jet operations would be facilitated if conducted on specified jet routes at 24,000 feet MSL and above. In addition, the floor of the continental control area is presently at 24,000 feet MSL. Therefore, a readjustment of the jet route and civil airway structure is necessary.

This action lowers the base of the jet routes to 24,000 feet MSL, compatible with the existing base of the continental control area. Concurrent action is being taken to lower the upper limit of civil airways from 27,000 feet MSL so as to extend up to 24,000 feet MSL.

This action has been coordinated with various civil aviation organizations, the Army, the Navy and the Air Force. It will become effective on June 4, 1959. For these reasons, the notice, effective date and procedure requirements of section 4 of the Administrative Procedure Act have, in effect, been complied with.

Accordingly, Part 602 is amended as follows:

1. Section 602.1 *Basis and purpose* is amended by changing the portion which reads: "at and above 27,000 feet MSL." to read: "at and above 24,000 feet MSL."

2. Section 602.2 *Explanation of terms* is amended by changing the portion which reads: "at and above 27,000 feet MSL" to read: "at and above 24,000 feet MSL" where it appears in paragraphs (a) and (b) thereof.

This amendment shall become effective 0001 e.s.t. June 4, 1959.

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (P.L. 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

Issued in Washington, D.C., on April 14, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-3299; Filed, Apr. 20, 1959; 8:45 a.m.]

[Amdt. 113]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Alterations

The new and revised standard instrument approach procedures appearing hereinafter are adopted to become effective and/or canceled when indicated in order to promote safety. The revised procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the revised procedures specify the complete procedure and indicate the changes to the existing procedures. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 609 is amended as follows:

1. The low or medium frequency range procedures prescribed in § 609.100(a) are amended to read in part:

LFR Standard Instrument Approach Procedure

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Oakland LFR	Fremont FM-HW	Direct	4000	T-dn	300-1	300-1	#200-½
Evergreen FM-HW	Fremont FM-HW	Direct	4000	C-dn	500-1	600-1	600-1½
Oakland VOR	Fremont FM-HW	Direct	4000	S-dn-27L-R	500-1	500-1	500-1
Fremont FM-HW	Mt. Eden Int (Final)	Direct	1900	A-dn	800-2	800-2	800-2
Mt. Eden Int*	OAK LFR	Direct	500				
SFO Gap RBn	Fremont FM-HW	Direct	4000				

Procedure turn NA. All maneuvering and descent shall be accomplished in the Fremont FM-HW L/F holding pattern.
Minimum altitude 4000'. Descent to 3500' authorized to cross Fremont FM-HW on final approach course inbound.
Minimum altitude over facility on final approach crs, 500'.
Facility on airport (NW corner). Descent to airport minimums authorized after passing Mt. Eden Int.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.6 miles, climb to 2000' in a one-minute right turn holding pattern on the NW crs of OAK LFR (124° inbnd, 304° outbnd, all turns W side of crs.) Missed or discontinued approach must not cross OAK LFR above 1500'.
Caution: High terrain (Mt. Diablo 3925' MSL) 6 miles SE of NE crs 15 miles from OAK LFR. Also high terrain paralleling SE crs on NE side.
Note: Airborne ADF equipment required.
#300-1 required for takeoff on Rwy 33.
*Int SE crs OAK LFR and brg 047° to Hayward RBn.

City, Oakland; State, Calif; Airport Name, Met Oakland Int.; Elev., 5'; Fac. Class, SBRAZ; Ident., OAK; Procedure No. 1, Amdt. 6; Eff. Date, 9 May 59; Sup. Amdt. No. 5; Dated, 5 Feb. 55

Roseville Int	SAC-LFR	Direct	1600	T-dn	300-1	300-1	200-½
Galt Int	SAC-LFR	Direct	1200	C-dn	500-1	600-1	600-1½
Rio Int	SAC-LFR	Direct	1200	A-dn	800-2	800-2	800-2
Clarksburg FM	SAC-LFR (Final)	Direct	700				

Procedure turn E side SW crs, 199° Outbnd, 019° Inbnd, 1200' within 10 miles. NA beyond Clarksburg FM.
Minimum Altitude over facility on final approach crs, 700'.
Crs and distance, facility to airport, 028—1.5.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.5 miles, climb to 2500' on NE crs within 20 miles.
Note: Alternate missed approach procedure when directed by ATC: within 1.5 miles, climb straight ahead to 500' and make climbing left turn to 2000' on crs of 323° from SAC LFR within 20 miles.

City, Sacramento; State, Calif.; Airport Name, Municipal; Elev., 21'; Fac. Class, SBMRAZ; Ident., SAC; Procedure No. 1, Amdt. 8; Eff. Date, 9 May 59; Sup. Amdt. No. 7; Dated, 11 Apr. 59

2. The automatic direction finding procedures prescribed in § 609.100(b) are amended to read in part:

ADF Standard Instrument Approach Procedure

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
AMA LFR	TDW RBn	Direct	5000	T-dn	300-1	NA	NA
AMA VOR	TDW RBn	Direct	5000	C-dn	600-1	NA	NA
Soncy INT	TDW RBn	Direct	5000	A-dn	NA	NA	NA
Bivins INT	TDW RBn	Direct	5300				
Panhandle INT	TDW RBn	Direct	5000				
Claude INT	TDW RBn	Direct	5000				
Palo Duro INT	TDW RBn	Direct	5000				
Tower INT	TDW RBn	Direct	5300				
Sam INT	TDW RBn	Direct	5300				
West Side INT	TDW RBn	Direct	5000				

Teardrop Procedure Turn to left* 147° Outbnd, 309° Inbnd, 4900' within 10 mi.
Minimum altitude over facility on final approach crs, 4200'.
Crs and distance, facility to airport, 309°—1.6 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.6 mi after passing Tradewind MHW, turn left, climb to 5000' within 20 mi on 260° brng. from TDW MHW or, when directed by ATC, turn left, climbing to 5100' on brng. 218° from TDW MHW within 20 mi.
Caution: Towers 3920' MSL 2 mi NW of airport; 3994' MSL 2 mi NE of airport; 3929' MSL 2 mi NE of airport.
Notes: No weather service at airport. Air Carrier use NA.
*Procedure turn nonstandard due to ATC requirements.

City, Amarillo; State, Tex.; Airport Name, Tradewind; Elev., 3636'; Fac. Class, MHW; Ident., TDW; Procedure No. 1, Amdt. Orig. ;Eff. Date, 9 May 59

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Shuttle: On crs of 183° Outbound, 003° Inbound		Within 25 mi	4000	T-dn-19	300–1	300–1	200–½
				T-dn-01	500–2	500–2	500–2
				C-dn	700–1½	700–1½	700–2
				S-dn-01	400–1	500–1	500–1
				A-dn	1000–3	1000–3	1000–3

Procedure turn East side of crs, 183° Outbnd, 003° Inbnd, 3000′ within 10 miles. Beyond 10 mi NA.
Minimum altitude over facility on final approach crs, 1200′.
Crs and distance, facility to airport, 003°—1.2 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.2 miles, turn left, climb to 3000′ on crs of 183° within 20 miles.
CAUTION: High terrain East of airport, all maneuvering to be accomplished West of airport. 1000′ terrain 2 miles NNE, 2000′ hills 5 mi E, 3000′ hills 7 mi E.
AIR CARRIER NOTE: Sliding scale NA.

City, Bettles; State, Alaska; Airport Name, Bettles; Elev., 665′; Fac. Class, SBRAZ; Ident., BTT; Procedure No. 1, Amdt. Orig.; Eff. Date, 9 May 1959

Binghamton VOR	BGM RBn	Direct	3500	T-dn	300–1	300–1	200–½
Montrose Int	BGM RBn	Direct	3500	C-dn*	400–1	500–1	500–1½
Sidney Int	BGM RBn	Direct	3500	S-dn-34*	400–1	400–1	400–1
Stevens Point Int	BGM RBn	Direct	3500	A-dn	800–2	800–2	800–2
Sanford Int	BGM RBn	Direct	3500				

Procedure turn E side of crs, 158° Outbnd, 338° Inbnd, 3500′ within 10 miles of Binghamton RBn.
Minimum altitude over facility on final approach crs, 3000′.
Crs and distance, BGM RBn to airport, 338°—6.9 mi; GM LMM to airport, 338°—0.6 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.9 miles after passing BGM RBn, climb to 3500′ on crs of 338° Outbnd from BGM RBn within 20 miles.
MAJOR CHANGE: Adds new intersections; deletes old intersections.
*ADF minimums premised on use of both BGM RBn and LMM. If LMM inoperative or not used, the following ADF landing minimums apply to all aircraft: S-d—500–1, S-n—500–2; C-d—500–1½, C-n—500–2.

City, Binghamton; State, N.Y.; Airport Name, Broome County; Elev., 1629′; Fac. Class, MHW; Ident., BGM; Procedure No. 1, Amdt. 5; Eff. Date, 9 May 59; Sup Amdt. No. 4 (ADF portion of Comb. ILS-ADF); Dated, 3 Mar. 56

Dallas VOR	LOM	Direct	1800	T-dn	300–1	300–1	200–½
Ross Ave Int	LOM	Direct	1800	C-dn	400–1	500–1	500–1½
Lakeside Int	LOM	Direct	1600	S-dn-13	400–1	400–1	400–1
Dallas RBn	LOM	Direct	1800	A-dn	800–2	800–2	800–2
Farmers Branch Int	LOM	Direct	1600				

Radar Terminal transition altitude: 2000′* within 20 miles.
Procedure turn N# side crs, 307° outbnd, 127° inbnd, 2000′ within 10 mi. NA beyond 10 mi.
Minimum altitude over facility on final approach, 1400′.
Crs and distance, facility to airport, 127°—4.2 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles of LOM, climb to 2000′ on track of 127 within 20 mi or, when directed by ATC, turn left, proceed to DAL VOR climbing to 2000′ or when under positive RADAR contact, climb to 2000′* on crs as directed by ATC.
CAUTION: 1221′ radio tower 5.6 mi WNW of LOM, 695′ tank 1.7 mi SE rnwy 31.
*Radar control must provide 1000′ clearance within 3 mi or 500′ clearance within 3–5 miles of radio towers 1108′ msl 20 mi North; 1221′ msl 10 mi WNW; and TV tower 2349′ msl 17 mi SSW of airport.
#Procedure turn nonstandard due ATC.

City, Dallas; State, Tex.; Airport Name, Love Field; Elev., 485′; Fac. Class, LOM; Ident., DA; Procedure No. 1, Amdt. 1; Eff. Date, 9 May 59; Sup. Amdt. No. Orig.; Dated 16 Aug. 58

Rockwood Int	LOM	Direct	2000	T-dn	300–1	300–1	200–½
Salem VOR	LOM	Direct	2000	C-dn	400–1	500–1	500–1½
Carleton VOR	LOM	Direct	2000	S-dn-3L-R	400–1	400–1	400–1
Milan Int	LOM	Direct	2000	A-dn	800–2	800–2	800–2
YIP LOM	LOM	Direct	2000				
Park Int	LOM	Direct	2000				
Detroit LFR	LOM	Direct	2000				
Flat Rock Int	LOM	Direct	2000				

Radar transitions to final approach course authorized.*
Procedure turn East side of crs, 212° Outbnd, 032° Inbnd, 2000′ within 10 miles.
Minimum altitude over facility on final approach crs, 1500′.
Crs and distance, facility to Runway 3L, 032°—4.3 mi; to Runway 3R, 040°—4.6 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles of LOM, make right turn, climb to 2300′, proceed to Park Int via R-264 Windsor VOR or, as directed by ATC, make right 180° turn, climb to 2300′ and proceed to Flat Rock Int via SE crs of DTW LFR.
*Aircraft will be released for final approach without procedure turn on inbound final approach course at least 3.0 miles from LOM. Refer to Willow Run Radar procedure if detailed information on sector altitudes are desired.

City, Detroit; State, Mich.; Airport Name, Detroit Metropolitan Wayne County; Elev., 639′; Fac. Class, LOM; Ident., TW; Procedure No. 1, Amdt. 3; Eff. Date, 9 May 59; Sup. Amdt. No. 2 (ADF portion of Comb. ILS-ADF); Dated, 31 May 56

HUF-VOR	HUF-RBn	Direct	2000	T-dn	300–1	300–1	200–½
				C-dn	400–1	500–1	500–1½
				S-dn-23	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Procedure turn North side of crs, 045° Outbnd, 225° Inbnd, 1800′ within 10 mi.
Minimum altitude over facility on final approach crs, 1300′.
Crs and distance, facility to airport, 225°—4.0 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.0 miles, climb to 2000′ on crs of 225° within 20 miles

City, Terre Haute; State, Ind.; Airport Name, Hulman Field; Elev., 585′; Fac. Class, BH; Ident., HUF; Procedure No. 1, Amdt. Orig.; Eff. Date, 9 May 59

3. The very high frequency omnirange (VOR) procedures prescribed in § 609.100(c) are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				T-dn	300-1	NA	NA
				C-d	800-1	NA	NA
				C-n	800-3	NA	NA
				A-dn	NA	NA	NA

Procedure turn North side of crs, 049° Outbnd, 229° Inbnd, 5000′ within 10 miles.
Minimum altitude over facility on final approach crs, 3700′.
Crs and distance, facility to airport, 229°—0.5 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at the Bluefield VOR, make an immediate climbing right (North) turn to 5000′. Hold Northeast on the Bluefield VOR R-049 within 10 miles of the VOR.
NOTE: No weather reporting. No tower communications at airport. Contact Pulaski, Va. ATCS for clearance.

City, Bluefield; State, W. Va.; Airport Name, Mercer County; Elev., 2857′; Fac. Class, VOR; Ident., BLF; Procedure No. 1, Amdt. Orig.; Eff. Date, 9 May 59

CRW LFR	CRW VOR	Direct	3000	T-dn	300-1	300-1	200-½
				C-dn	900-2	900-2	900-2
				A-dn	1000-2	1000-2	1000-2

Procedure turn South side of crs, 264° Outbnd, 084° Inbnd, 3000′ within 10 mi.
Minimum altitude over facility on final approach crs, 2500′.
Crs and distance, facility to airport, 084°—8.1 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 8.1 miles, climb to 2000′ on CRW VOR R-084, then make a right climbing turn to 3000′ and proceed direct to CRW VOR.

City, Charleston; State, W. Va.; Airport Name, Kanawha County; Elev., 981′; Fac. Class, BVOR; Ident., CRW; Procedure No. 1, Amdt. Orig.; Eff. Date, 9 May 59

				T-d	300-1	300-1	NA
				C-d	1000-1	1000-1	NA
				A-d	1000-2	1000-2	NA

Procedure turn N side of crs, 080° Outbnd, 260° Inbnd, 2300′ within 10 mi. Beyond 10 mi. NA.
Minimum altitude over facility on final approach crs, 1800′.
Crs and distance, facility to airport, 260°—6.3 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.3 miles climb to 2300′ on R-260 within 20 mi.
CAUTION: 1300′ MSL unlighted hill one mile West of airport.
NOTE: Air Carrier use NA.

City, Flippin; State, Ark.; Airport Name, Municipal; Elev., 721′; Fac. Class, BVOR; Ident., FLP; Procedure No. 1, Amdt. Orig.; Eff Date, 9 May 59

				T-dn	300-1	300-1	200-½
				C-d	400-1	500-1	500-1½
				C-n	400-2	500-2	500-2
				S-d-4	400-1	400-2	400-2
				S-n-4	400-2	400-2	400-2
				A-dn	800-2	800-2	800-2

Procedure turn N side of crs, 236° Outbnd, 056° Inbnd, 2000′ within 10 miles.
Minimum Altitude over facility on final approach crs, 1500′.
Crs and distance, facility to airport, 034—4.3.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles, climb to 2100′ on R-034 within 20 miles.
CAUTION: Radio Tower 1100 MSL 2.7 miles N of airport.
NOTES: No control zone established. VHF communications with Rockford radio not available below 1400 MSL.

City, Janesville; State, Wis.; Airport Name, Rock County; Elev., 808′; Fac. Class, VORW; Ident., JVL; Procedure No. 1, Amdt. 3; Eff. Date, 9 May 59; Sup. Amdt. No. 2; Dated, 3 Jan. 59

Meridian LFR	MEI-VOR	Direct	1600	T-dn	300-1	300-1	200-½
				C-dn	600-1	600-1	600-1½
				A-dn	800-2	800-2	800-2

Procedure turn S side crs, 309° Outbnd, 129° Inbnd, 1700′ within 10 mi. Beyond 10 mi NA.
Minimum altitude over facility on final approach crs, 1200′.
Crs and distance, facility to airport, 129—3.2.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.2 mi turn right, climb to 2000′ on R-170 within 20 mi.
NOTE: 300-1 required for take-off Rny 9.
AIR CARRIER NOTE: Takeoffs with less than 200-½ NA runways 5-23.
CAUTION: Trees 600′ MSL 2 miles East of airport.
MAJOR CHANGE: Deletes straight-in to Runway 14. (Runway 14 permanently closed.)

City, Meridian; State, Miss.; Airport Name, Key Field; Elev., 297′; Fac. Class, BVOR; Ident., MEI; Procedure No. 1, Amdt. 1; Eff. Date, 9 May 59; Sup. Amdt. No. Orig.; Dated, 19 Dec. 56

				T-dn	300-1	300-1	200-½
				C-dn	400-1	500-1	500-1½
				S-dn-21	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn N side of crs, 061° Outbnd, 241° Inbnd, 3400′ within 10 mi. Beyond 10 mi. NA.
Minimum altitude over facility on final approach crs, 2500′.
Crs and distance, facility to airport, 234—1.8.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.8 mi, climb to 3600′ on R234 within 20 miles.
MAJOR CHANGE: Deletes LFR transition.

City, San Angelo; State, Tex.; Airport Name, Mathis; Elev., 1915′; Fac. Class, BVOR: Ident., SJT; Procedure No. 1, Amdt. 5; Eff. Date, 9 May 59; Sup. Amdt. No. 4; Dated, 23 Feb. 1957

4. The terminal very high frequency omnirange (TerVOR) procedures prescribed in § 609.200 are amended to read in part:

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Lakeside Int	ADS TVOR	Direct	1800	T-dn	300-1	300-1	200-½
DAL VOR	ADS TVOR	Direct	1900	C-dn	400-1	500-1	500-1½
Trinity Fork Int	ADS TVOR	Direct	2000	S-dn-18	400-1	400-1	400-1
DeSoto Int	ADS TVOR	Direct	2000	A-dn	800-2	800-2	800-2

Radar transition altitude 2000' within 20 mi. Radar control must provide 1000' clearance within 3 mi or 500' clearance between 3-5 miles of radio towers 1108' m.s.l. 20 mi North; 1221' m.s.l. 10 mi WSW; and 2349' m.s.l. 17 mi SSW of airport.

Procedure turn E side crs, 358° Outbnd, 178° Inbnd, 2000' within 10 mi. Beyond 10 mi NA.

Minimum altitude over facility on final approach crs, 1200'*.

Minimum altitude over Highline Int# on final approach crs, 1100'.

Crs and distance, Highline Int# to airport, 178°—2.7 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.2 miles, turn left, proceed direct to DAL VOR, climbing to 2000'.

*Descent to 1100' authorized after passing ADS TVOR.

#Int ADS VOR R-177 and DAL VOR R-227.

City, Dallas; State, Tex.; Airport Name, Love Field; Elev., 485'; Fac. Class, TVOR (nonfederal facility); Ident., ADS; Procedure No. Ter VOR-18, Amdt. 4; Eff. Date, 9 May 59; Sup. Amdt. No. 3; Dated, 10 Jan. 59

5. The instrument landing system procedures prescribed in § 609.400 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Binghamton VOR	BGM-MHW or River Int*	Direct	3500	T-dn	300-1	300-1	200-½
Montrose Int	BGM-MHW	Direct	3500	C-dn	400-1	500-1	500-1½
Sidney Int	BGM-MHW	Direct	3500	S-dn-34	300-¾	300-¾	300-¾
Sanford Int	BGM-MHW	Direct	3500	A-dn	600-2	600-2	600-2
Stevens Point	BGM-MHW	Direct	3500				

Procedure turn E side SE crs, 158° Outbnd, 338° Inbnd, 3500' within 10 mi of Binghamton MHW or River Int*.

Minimum altitude at G.S. int inbnd, 3500'.

Altitude of G.S. and distance to approach end of Rny from BGM-MHW or River Int*, 3540'—6.9 mi.

Altitude of G.S. and distance to approach end of Rny at OM, 2750'—3.9 mi; at MM, 1825'—0.6 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb on crs of 338° to 3500' within 15 miles, then make left turn to BGM-VOR or, when directed by ATC, make left climbing turn to 3500' to the BGM VOR.

MAJOR CHANGE: Adds new intersections; deletes old intersections.

*Int R-116 BGM VOR and SE crs BGM ILS.

City, Binghamton; State, N.Y.; Airport Name, Broome County; Elev., 1629'; Fac. Class, ILS; Ident., BGM; Procedure No. ILS-34, Amdt. 5; Eff. Date, 9 May 59; Sup. Amdt No. 4 (ILS portion of Comb. ILS-ADF); Dated, 3 Mar. 56

Dallas VOR	LOM	Direct	1800	T-dn	300-1	300-1	200-½
Ross Ave. Int	LOM	Direct	1800	C-dn	400-1	500-1	500-1½
Farmers Branch Int	LOM	Direct	1600	S-dn-13	200-½	200-½	200-½
DAL RBn	LOM	Direct	1800	A-dn	600-2	600-2	600-2
Lakeside Int	LOM	Direct	1600				

Radar terminal area transition altitude: 2000'* within 20 miles.

Procedure turn N side NW crs, 307° Outbnd, 127° Inbnd, 2000' within 10 mi. NA beyond 10 mi.

Minimum altitude at G.S. int inbnd, 2000'.

Altitude of G.S. and distance to appr end of rny at OM 2000—4.2; at MM 634—0.6.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles of LOM climb to 2000 on SE crs ILS (127) within 20 miles or, when directed by ATC, turn left, proceed to DAL VOR, climbing to 2000', or when under positive radar contact, climb to 2000'** on crs as directed by ATC.

CAUTION: 1221' R.T. 5.6 mi WNW of LOM. 695' tank 1.7 mi SE runway 31. Procedure turn non-standard due ATC.

*Radar control must provide 1000' clearance when within 3 mi or 500' clearance when within 3-5 mi of radio towers—1108 msl 20 mi N; 1221 msl 10 mi WNW; and TV tower 2349' msl 17 mi SSW of airport.

City, Dallas; State, Tex.; Airport Name, Love Field; Elev., 485'; Fac. Class, ILS; Ident., IDAL; Procedure No. ILS-13, Amdt. 6; Eff. Date, 9 May 59; Sup. Amdt. No. 5; Dated, 16 Aug. 58

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Detroit LFR	LOM	Direct	2000	T-dn	300–1	300–1	200–½
Salem VOR	LOM	Direct	2000	C-dn	400–1	500–1	500–1½
Carleton VOR	LOM	Direct	2000	S-dn-3L	200–½	200–½	200–½
Milan Int	LOM	Direct	2000	S-dn-3R*	400–1	400–1	400–1
YIP LOM	LOM	Direct	2000	A-dn	600–2	600–2	600–2
Park Int	LOM	Direct	2000				
Flat Rock Int	LOM	Direct	2000				
Rockwood Int	LOM	Direct	2000				

Radar transitions to final approach crs authorized. Aircraft will be released for final approach without procedure turn on inbnd final approach crs at least 3.0 mi from LOM. Refer to Willow Run Radar procedure if detailed information on sector altitudes is desired.
Procedure turn East side of crs, 212° Outbnd, 032° Inbnd, 2000′ within 10 miles.
Minimum altitude at G.S. int inbnd, 2000′.
Altitude of G.S. and distance to approach end of rny at LOM, 2016′—4.3 mi; at LMM, 870′—0.5 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make right turn, climb to 2300′, proceed to Park Int via R-264 Windsor VOR or, as directed by ATC, make right 180° turn, climb to 2300′ and proceed to Flat Rock Int via SE crs of DTW LFR.
MAJOR CHANGES: Transitions deleted and added.
*Crs and distance, OM to Runway 3R, 040°—4.6 mi.

City, Detroit; State, Mich.; Airport Name, Detroit Metropolitan Wayne County; Elev., 639′; Fac. Class, ILS; Ident., I-DTW; Procedure No. ILS-3L-R, Amdt. 3; Eff. Date, 9 May 59; Supt. Amdt. No. 2 (ILS portion of Comb. ILS-ADF); Dated, 3 May 56

Chatham RBn	NE crs ILS	095–14.5	1900	T-dn	300–1	300–1	200–½
Paterson RBn	NE crs ILS (Final)	161–7.5	1800	C-dn	600–1	600–1	600–1½
Teterboro LMM	OM (Final)	Direct	1800	S-dn-22*	300–¾	300–¾	300–¾
Newark LFR	NE crs ILS	058–2.1	1800	A-dn	600–2	600–2	600–2
Int NW crs LGA LFR and NE crs ILS	OM (Final)	Direct	1800				

Radar vectors may be used to effect above transitions.
Radar transitions:
058 090 within 20 mi 2500′.
090 058 within 20 mi 2000′.
S quad EWR-LFR within 15 mi 1500′.
Procedure turn W side NE crs, 037° outbnd, 217° inbnd, 1800′ within 10 miles.
Minimum altitude at G.S. int inbnd, 1800′.
Altitude of G.S. and distance to appr end of Rny at OM 1763—6.1; at MM 210—0.6.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make climbing right turn to 2000′ direct to Chatham RBn or, as directed by ATC, climb to 1500′ on SW crs ILS to the outer compass locator serving Runway 4.
Rnwy 4 or, as directed by ATC, make climbing right turn to 2000′ direct to Chatham RBn.
CAUTION: 50′ hangar row 200′ east of approach light lane between MM and end of Rnwy 22.
CAUTION: Procedure turn accomplished over Teterboro LMM, Teterboro OM, and Newark OM at approximately same geographic location and signals are simultaneously keyed to indicate one OM serving two ILS systems.
*600–1 required when glide path inoperative.

City, Newark; State, N.J.; Airport Name, Newark; Elev., 18′; Fac. Class, ILS; Ident., ARK; Procedure No. ILS-22, Amdt. 2; Eff. Date, 9 May 59; Sup. Amdt. No. 1; Dated, 7 May 58

Fremont FM-HW	Hayward HW	Direct	2600	T-dn*	300–1	300–1	200–½
Oak LFR	Hayward HW	Direct	3500	C-dn	500–1	600–1	600–1½
OAK VOR	Hayward HW	Direct	3500	S-dn-27R	200–½	200–½	200–½
Bay Point FM**	Hayward HW	Direct	6000	S-dn-27L#	400–1	400–1	400–1
Altamont Int**	Hayward HW	Direct	5000	A-dn	600–2	600–2	600–2
Decoto Int	Hayward HW	Direct	2600				
Sunol Int	Hayward HW (Final)	Direct	***5000				
SFO LOM	Fremont FM-HW	Direct	4000				
AGW VOR	Fremont FM-HW	Direct	3500				
Altamont Int	Fremont FM-HW	Direct	5000				
NUQ LFR	Fremont FM-HW	Direct	3500				

Radar vectoring to the localizer final approach crs will be in accordance with procedures approved for a surveillance approach.
Procedure turn ##S side E crs, 095° Outbnd, 275° Inbnd, 3500′ within 10 mi of HWD HW. Beyond 10 mi NA.
Procedure turn on OAK LFR, OAK VOR, Bay Point FM and Altamont Int transitions only. Upon completion of procedure turn and transition to localizer crs inbnd, descent on glide slope to cross Hayward HW at 2590′ is authorized.
Minimum altitude at glide slope int inbnd 2600′.
Altitude of glide slope and distance to approach end of runway at HWD HW, 2590′—8.2 mi. at OM, 1320′—4.1; at MM, 230′—0.6.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2000′ in a one-minute right turn holding pattern on either the NW crs of the OAK LFR (124° inbnd, 304° outbnd, all turns W side of crs), or R-300 OAK TVOR (120° inbnd, 300° outbnd, all turns W side of crs.).
Missed approaches must cross OAK LFR or VOR at not above 1500′.
*300–1 required for takeoff on Runway 33.
**These transitions authorized day on top only, unless radar vectoring is utilized.
***Descent on glide slope to cross Hayward HW at 2590′ is authorized.
#Crs and distance, OM to Rwy 27L, 274°—4.1 mi.
##All turns to be made on the S side of crs; high terrain to North.

City, Oakland; State, Calif.; Airport Name, Metropolitan Oakland International; Elev., 5′; Fac. Class, ILS; Ident., OAK; Procedure No. ILS-27R/L, Amdt. 13; Eff. Date, 9 May 59; Sup. Amdt. No. 12; Dated, 1 Feb. 58

6. The radar procedures prescribed in § 609.500 are amended to read in part:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				Precision approach			
North quad. Washington LFR	Radar site	Within 25 mi	1800	T-dn-31, 13	300-1	300-1	300-1
E, S, and W quad. Washington LFR	Radar site	Within 25 mi	1600	C-dn-31, 13	600-1	600-1	600-1½
All quadrants (exclusive of danger and prohibited areas).	Radar site	Within 40 mi	2500	S-dn-31	400-1	400-1	400-1
				A-dn-31, 13	NA	NA	NA
				Surveillance approach			
				T-dn-31, 13	300-1	300-1	300-1
				C-dn-31, 13	600-1	600-1	600-1½
				S-dn-31	600-1	600-1	600-1½
				A-dn-31, 13	N	NA	NA

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 1500' and proceed direct to Springfield RBn or via HRN R-151 to Springfield Int.

City, Fort Belvoir; State, Va.; Airport Name, Davison U.S. Army Airfield, Elev., 55'; Fac. Class, Davison; Ident., Radar; Procedure No. 1, Amdt. Orig.; Eff. Date, 9 May 59

These procedures shall become effective on the dates indicated on the procedures.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354(a). Interpret or apply sec. 307, 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on April 14, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-3300; Filed, Apr. 20, 1959; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

[P.P.C. 637, Revised]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Japanese Beetle

ADMINISTRATIVE INSTRUCTIONS DESIGNATING REGULATED AREAS UNDER JAPANESE BEETLE QUARANTINE

Pursuant to § 301.48-2 of the regulations supplemental to notice of quarantine No. 48 relating to the Japanese beetle (7 CFR 301.48-2, 23 F.R. 8719), under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162), the administrative instructions in 7 CFR 301.48-2a (23 F.R. 8721) are hereby revised to read:

§ 301.48-2a Administrative instructions designating regulated areas under the Japanese beetle quarantine.

Infestations of the Japanese beetle have been determined to exist, in the quarantined States and District and in the counties, and other minor civil divisions, and parts thereof in such States, listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such localities because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. Accordingly, such States and District, and such counties, and other minor civil divisions, and parts thereof, are hereby designated as Japanese beetle regulated areas within the meaning of the provisions in this subpart:

Connecticut. The entire State.

Delaware. The entire State.

District of Columbia. The entire District.

Maine. County of York; towns of Auburn and Lewiston, in Androscoggin County; towns of Cape Elizabeth, Gorham, Gray, New Gloucester, Raymond, Scarboro, and Standish, and cities of Portland, South Portland, Westbrook, and Windham, in Cumberland County; city of Waterville, in Kennebec County; and city of Brewer, in Penobscot County.

Maryland. The entire State.

Massachusetts. The entire State.

New Hampshire. Counties of Belknap, Cheshire, Hillsboro, Merrimack, Rockingham, Strafford, and Sullivan; towns of Brookfield, Eaton, Effingham, Freedom, Madison, Moultonboro, Ossipee, Sandwich, Tamworth, Tuftonboro, Wakefield, and Wolfeboro, in Carroll County; towns of Alexandria, Ashland, Bridgewater, Bristol, Canaan, Dorchester, Enfield, Grafton, Groton, Hanover, Hebron, Holderness, Lebanon, Lyme, Orange, and Plymouth, in Grafton County.

New Jersey. The entire State.

New York. Counties of Albany, Bronx, Broome, Cayuga, Chemung, Chenango, Columbia, Cortland, Delaware, Dutchess, Fulton, Greene, Kings, Madison, Monroe, Montgomery, Nassau, New York, Oneida, Onondaga, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, and Westchester; towns of Red House and Salamanca, and cities of Olean and Salamanca, in Cattaraugus County; towns of Amherst, Cheektowaga, and Tonowanda, and cities of Buffalo and Lackawanna, in Erie County; towns of Columbia, Danube, Fairfield, Frankfort, German Flats, Herkimer, Litchfield, Little Falls, Manheim, Newport, Salisbury, Schuyler, Stark, Warren, and Winfield, and city of Little Falls, in Herkimer County; town of Watertown and city of Watertown in Jefferson County; town of Mount Morris, and village of Mount Morris, in Livingston County; town of Manchester, in Ontario County; towns of Granby, Hannibal, Mexico, Minetto, New Haven, Oswego, Palermo, Schroeppel, Scriba, and Volney, and cities of Fulton and Oswego, in Oswego County; towns of Caton, Corning, Erwin, Hornby, and Hornellsville, and cities of Corning and Hornell, in Steuben County.

North Carolina. Counties of Alamance, Beaufort, Bertie, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Chowan, Craven, Cumberland, Currituck, Dare, Davidson, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Henderson, Hertford, Hyde, Johnston, Jones, Lenoir, Martin, McDowell, Mecklenburg, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Rockingham, Rowan, Sampson, Transylvania, Tyrrell, Vance, Wake, Warren, Washington, Watauga, Wayne, and Wilson; township of Beaver Dam and city of Canton, in Haywood County.

Ohio. Counties of Ashtabula, Athens, Belmont, Carroll, Columbiana, Coshocton, Cuyahoga, Gallia, Geauga, Guernsey, Harrison, Holmes, Jefferson, Lake, Lawrence, Mahoning, Medina, Meigs, Monroe, Morgan, Muskingum, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, Washington, and Wayne; township of Marion, city of Columbus and

villages of Bexley, Grandview, Grandview Heights, Hanford, Marble Cliff, Upper Arlington, and Whitehall, in Franklin County; townships of Bowling Green, Eden, Fallsburg, Franklin, Granville, Hanover, Hopewell, Licking, Madison, Mary Ann, Newark, Newton, Perry and Washington, and cities of Granville and Newark, in Licking County; townships of Amherst, Avon, Avon Lake, Black River, Columbia, Elyria, Sheffield, and Ridgeville and city of Elyria, in Lorain County; townships of Adams, Springfield, Sylvania, and Washington and cities of Sylvania and Toledo, in Lucas County; township of Madison and city of Mansfield, in Richland County.

Pennsylvania. The entire State.

Rhode Island. The entire State.

Vermont. Counties of Addison, Bennington, Chittenden, Orange, Rutland, Windham, and Windsor.

Virginia. Counties of Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Botetourt, Brunswick, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dinwiddie, Elizabeth City, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Gloucester, Goochland, Grayson, Greene, Greensville, Hanover, Halifax, Henrico, Henry, Highland, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Montgomery, Nansemond, Nelson, New Kent, Norfolk, Northampton, Northumberland, Nottoway, Orange, Page, Patrick, Pittsylvania, Powatan, Prince Edward, Prince George, Prince William, Princess Anne, Pulaski, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Shenandoah, Smyth, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warren, Warwick, Westmoreland, Wythe, and York; magisterial districts of Glade Springs and Holston, in Washington County; and cities of Alexandria, Buena Vista, Charlottesville, Clifton Forge, Colonial Heights, Covington, Danville, Falls Church, Fredericksburg, Galax, Hampton, Harrisonburg, Hopewell, Lynchburg, Martinsville, Newport News, Norfolk, Petersburg, Portsmouth, Radford, Richmond, Roanoke, South Norfolk, Staunton, Suffolk, Virginia Beach, Warwick, Waynesboro, Williamsburg, and Winchester.

West Virginia. Counties of Barbour, Berkeley, Braxton, Brooke, Calhoun, Clay, Doddridge, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Monongalia, Monroe, Morgan, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wetzel, Wirt, and Wood; city of Huntington, in Cabell County; city of Montgomery, in Fayette County; city of Logan, in Logan County; city of Williamson, in Mingo County; city of Beckley, in Raleigh County; town of Ceredo and city of Kenova, in Wayne County; and city of Pineville, in Wyoming County.

This revision shall become effective May 15, 1959, when it shall supersede P.P.C. 637, 7 CFR 301.48–2a, 23 F.R. 8721, which became effective December 8, 1958.

The purpose of this revision is to add to the regulated area the following:

Person County, North Carolina; Lawrence County, additional parts of Licking, Lorain, and Lucas counties, the remaining unregulated areas in Athens, Coshocton, Gallia, Holmes, and Meigs counties, in Ohio; Addison, Chittenden, and Orange counties in Vermont; Appomattox, Augusta, Bath, Buckingham, Carroll, Charlotte, Craig, Floyd, Giles, Grayson, Halifax, Highland, Mecklenburg, Patrick, Prince Edward, Rockbridge, Rockingham, and Smyth counties, and the independent cities of Buena Vista, Covington, Galax, Harrisonburg, Staunton, Warwick, and Waynesboro, in Virginia; and Jackson, Pendleton, and Pocahontas counties, and the remaining unregulated areas in Greenbrier, Mason, Mercer, Monroe, and Summers counties in West Virginia.

This revision imposes restrictions supplementing Japanese beetle quarantine regulations already effective. It must be made effective promptly in order to carry out the purposes of the regulations. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the revision are impracticable and contrary to the public interest, and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 9, 37 Stat. 318; 7 U.S.C. 162. Interprets or applies sec. 8, 37 Stat. 318, as amended; 7 U.S.C. 161)

Done at Washington, D.C., this 16th day of April 1959.

[SEAL] E. D. BURGESS,
Director,
Plant Pest Control Division.

[F.R. Doc. 59-3332; Filed, Apr. 20, 1959; 8:50 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

SUBCHAPTER A—MARKETING ORDERS

PART 927—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

Miscellaneous Amendments

Pursuant to provisions of § 927.36 of the order, as amended (7 CFR Part 927; 22 F.R. 4643), regulating the handling of milk in the New York-New Jersey marketing area, and of the Administrative Procedure Act (5 U.S.C. 1001 et seq.), a public meeting was held at New York, New York, on February 17, 1959, to consider proposals for the amendment of the rules and regulations heretofore issued (7 CFR § 927.101 et seq.), pursuant to said order. Notice of said public meeting was issued on December 19, 1958, and published in the FEDERAL REGISTER on January 8, 1959 (24 F.R. 215), and a supplemental notice of meeting was issued on January 21, 1959, and published in the FEDERAL REGISTER on January 30, 1959 (24 F.R. 679).

After due consideration of the data, views, and arguments presented by interested parties at such public meeting, the rules and regulations heretofore amended are hereby further amended, subject to the approval of the Secretary of Agriculture, to read as follows:

Amend § 927.125 to read as follows:

§ 927.125 Fluid milk products.

"Fluid milk products" means (a) fluid skim milk in consumer packages or in dispenser units or in bulk delivered to an outlet which is engaged in the marketing or packaging of bulk fluid skim milk and (b) products which meet the definition of milk as set forth in § 927.105, but to which are added ingredients other than those derived from milk, such ingredients not to exceed 4.0 percent. The addition of water as such at any plant shall not be considered the addition of a non-milk ingredient for purposes of this definition. This definition shall not be deemed to include products other than fluid skim milk that are included in other definitions.

§ 927.151 [Amendment]

Amend § 927.151 by changing the last sentence to read as follows: "Deduct any remaining butterfat in opening inventories or received in the form of packaged cultured or flavored milk drinks of less than 3.0 percent or more than 5.0 percent butterfat from plant loss, a quantity of such butterfat not to exceed 4.0 percent of the butterfat received in such form to be classified as Class II and Class III in the same proportion as butterfat leaving the plant in such form is classified, and the balance to be classified as Class II."

§ 927.154 [Amendment]

Amend § 927.154 by deleting paragraph (j).

§ 927.161 [Amendment]

Amend § 927.161 by adding the following proviso: *"Provided,* That if butterfat in opening inventories or received in the form of packaged sour cream exceeds the butterfat leaving the plant or inclosing inventories at the plant in the form of packaged sour cream, a quantity of the butterfat deducted from plant loss not exceeding the butterfat in such excess and not exceeding 4.0 percent of the butterfat received in the form of packaged sour cream shall be classified as Class II and Class III in the same proportion as is butterfat in packaged sour cream leaving the plant."

Insert a new section between §§ 927.163 and 927.164 to read as follows:

§ 927.163a Frozen cream—step 1a.

Deduct remaining butterfat in the opening inventories or received in the form of frozen cream pro rata from classes of butterfat leaving the plant or in the closing inventories at the plant in the form of flavored milk drinks containing more than 5.0 percent butterfat.

§ 927.171 [Amendment]

Amend § 927.171 by adding the following proviso: *"Provided,* That if butterfat in opening inventories or received in the form of packaged cream or half and half exceeds the butterfat leaving the plant or in closing inventories at the plant in the form of packaged cream or half and half, respectively, a quantity of the butterfat deducted from plant loss not exceeding the butterfat in such excess and not exceeding 4.0 percent of the butterfat received in the form of packaged cream or half and half shall be classified as Class II and Class III in the same proportion as is butterfat in packaged cream or half and half, respectively, leaving the plant."

§ 927.176 [Amendment]

Amend § 927.176 by (1) changing paragraph (c) to read as follows:

(c) Cream, except that set forth in paragraph (t) of this section, 2.5 percent

and (2) adding new paragraph (t) as follows:

(t) Cream containing not less than 75 percent butterfat, 3.5 percent;

§ 927.202 [Amendment]

Amend § 927.202(f) by changing that part prior to the first proviso to read as follows:

(f) After the assignments pursuant to (b), (c), (d), and (e) of this section, at the option of the handler or handlers involved, butterfat in pooled milk from other plants or from producers reported by a cooperative may be assigned to any of the remaining classes of butterfat received in the form of milk.

§ 927.220 [Amendment]

Amend § 927.220 by inserting the following sentence immediately after the first sentence: "At the time of making an audit, the market administrator shall reclassify closing inventories for the month into the class in which most butterfat is reported classified during the following month in the event that, in the market administrator's judgment based on the report and other available information for the following month, there will not be sufficient butterfat available in the classification reported by the handler."

§ 927.230 [Amendment]

Amend § 927.230 by changing provisions for the average test of milk shipped from a plant or received from another plant to read as follows: "Average test of all milk received at the shipping plant from farmers except that if the classification of such milk shipments is assigned pursuant to § 927.202 to milk received from another plant or from farmers reported by a cooperative, the test shall be the average test of milk received from farmers at such other plant or reported by the coooperative."

§ 927.231 [Amendment]

Amend § 927.231 by eliminating the line in the table reading "Milk, 40-quart can, 85.00," and by amending the following line to read: "Milk, quart, 2.15."

§ 927.261 [Amendment]

Amend § 927.261 by changing the last sentence to read as follows: "Such by-products shall include but not be limited to fluid skim milk obtained from the separator (other than that defined as a fluid milk product), condensed by-products, powdered by-products, or rinsings."

Issued at New York, New York, this 19th day of March 1959.

C. J. BLANFORD,
Market Administrator.

It is hereby determined that it is unnecessary and impracticable to defer the effective date of the above tentative amendment 30 days or more after publication in the FEDERAL REGISTER in that (1) a copy of said tentative amendment was mailed on or about March 19, 1959, to all handlers operating pool plants, thus affording such handlers a reasonable time to prepare for the effective date here specified, and (2) the said tentative amendment is required by provisions of the said order to be effective on the first of the month following its approval.

Accordingly, the said tentative amendment is hereby approved this 16th day of April 1959 to be effective on and after May 1, 1959.

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

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-3294; Filed, Apr. 20, 1959; 8:45 a.m.]

[Lemon Reg. 787, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), 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 handling of such lemons 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 amendment until 30 days after publication hereof 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 amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(ii) of § 953.894 (Lemon Regulation 787; 24 F.R. 2803) are hereby amended to read as follows:

(ii) District 2: 318,060 cartons.

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

Dated: April 16, 1959.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-3330; Filed, Apr. 20, 1959; 8:50 a.m.]

[Lime Order 7]

PART 1001—LIMES GROWN IN FLORIDA

Quality and Size Regulation

§ 1001.307 Lime Order 7.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 101, as amended (7 CFR Part 1001), regulating the handling of limes grown in Florida, 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 recommendations of the Florida Lime Administrative Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, 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 regulation until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when the information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than April 22, 1959. Shipments of designated varieties of Florida limes are currently regulated pursuant to Lime Order 6, as amended, and unless sooner modified or terminated, will continue to be so regulated until April 30, 1959; determinations as to the need for, and extent of, continued regulation of Florida lime shipments must await the development of the crop and the availability of information on the demand for such fruit; the recommendations and supporting information for regulation of lime shipments subsequent to April 21, 1959, and in the manner herein provided, were promptly submitted to the Department after an open meeting of the Florida Lime Administrative Committee on April 14, 1959, held to consider recommendations for regulation; the provisions of this regulation are identical with the aforesaid recommendations of the committee, and information concerning such provisions has been disseminated among handlers of Florida limes; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective as hereinafter set forth; and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) During the period beginning at 12:01 a.m., e.s.t., April 22,

1959, and ending at 12:01 a.m., e.s.t., April 1, 1960, no handler shall handle:

(i) Any limes of the group known as true limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 grade for Persian (Tahiti) limes, except as to color;

(ii) Any limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties), grown in the production area, which do not grade at least U.S. Combination, Mixed Color grade; or

(iii) Any limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties), grown in the production area, which are smaller than 1⅞ inches in diameter: *Provided,* That not to exceed 5 percent, by count, of the limes in any container may fail to meet this requirement.

(2) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Persian (Tahiti) Limes (§§ 51.1000–51.1016 of this title).

(c) *Termination of Lime Order 6, as amended.* Lime Order 6, as amended (23 F.R. 4252, 5298, 8048, 9670) is hereby terminated at 12:01 a.m., e.s.t., April 22, 1959.

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

Dated: April 17, 1959.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-3370; Filed, Apr. 20, 1959; 8:52 a.m.]

SUBCHAPTER B—PROHIBITIONS OF IMPORTED COMMODITIES

[Lime Reg. 3]

PART 1069—LIMES

Importation

§ 1069.3 Lime Regulation No. 3.

(a) On and after the effective time of this regulation, the importation into the United States of any lot of limes which in the aggregate exceeds 250 pounds, net weight, is prohibited unless:

(1) Such limes of the group known as true limes (also known as Mexican, West Indian, and Key Limes and by other synonyms) meet the requirements of at least the U.S. No. 2 grade for Persian (Tahiti) limes, except as to color;

(2) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) meet the requirements of at least the U.S. Combination, Mixed Color grade;

(3) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) are of a size not smaller than 1⅞ inches in diameter: *Provided,* That not to exceed 5 percent, by count, of the limes in any container may fail to meet this requirement; and

(4) Each such importation is made in conformance with the General Regulation (7 CFR Part 1060) applicable to the importation of listed commodities and the requirements of this regulation: *Provided,* That the provisions of § 1060.4 (e) of the General Regulations shall not apply.

(b) The Federal Inspection Service is hereby designated to perform, through inspectors authorized or licensed by such Service, the inspection and certification prescribed in § 1060.3 *Eligible imports* of the aforesaid General Regulations. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of limes should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the limes will be imported:

Ports	Office	Advance notice
All Texas points.	W. T. McNabb, Jeffers Building, P.O. Box 111, Harlingen, Tex. (telephone, Garfield 3-1240).	1 day.
All Arizona points.	R. H. Bertelson, Room 202 Trust Building, 305 American Avenue, P.O. Box 1646, Nogales, Ariz. (telephone, Atwater 7-2902).	1 day.
All California points.	Carley D. Williams, 294 Wholesale Terminal Building, 784 South Central Avenue, Los Angeles 21, Calif. (telephone, Madison 2-8756).	3 days.
All other points.	E. E. Conklin, Chief, Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, Washington 25, D.C. (telephone, Republic 7-4142, Ext. 5870).	3 days.

(c) Terms relating to grade and diameter shall, when used herein, have the same meaning as is given to the respective term in the United States Standards for Persian (Tahiti) Limes (§§ 51.1000 to 51.1016 of this title; 23 F.R. 4446) and all other terms shall have the same meaning as is given to the respective term in the General Regulations. Copies of the aforesaid standards may be obtained upon request to any office of the Federal or Federal-State Inspection Service of this Department.

(d) Termination of Lime Regulation No. 2, as amended: Lime Regulation No. 2, as amended (7 CFR 1069.2; 23 F.R. 1654, 5341, 8049, 9670), is hereby terminated at the effective time hereof.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this regulation beyond that hereinafter specified (5 U.S.C. 1001 et seq.) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), which makes such regulation necessary; (b) such regulation imposes the same restrictions on imports of limes as the grade, size, and quality restrictions applicable to the shipment of limes grown in Florida under Lime Order 7 issued pursuant to 7 CFR Part 1001; (c) compliance with this import regulation will not require any special preparation which cannot be completed by the effective time hereof; (d) notice hereof in excess of three days, the minimum that is prescribed by said section 8e, is given with respect to this import regulation; and (e) such notice is hereby determined, under the circumstances, to be reasonable.

(Sec. 401, 68 Stat. 907, as amended; 7 U.S.C. 608e–1)

Dated April 17, 1959, to become effective, at 12:01 a.m., e.s.t., April 26, 1959.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-3371; Filed, Apr. 20, 1959; 8:52 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 78—BRUCELLOSIS IN DOMESTIC ANIMALS

Subpart D—Designation of Modified Certified Brucellosis-Free Areas, Public Stockyards, and Slaughtering Establishments

MISCELLANEOUS AMENDMENTS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the act of May 29, 1884, as amended, sections 1 and 2 of the act of February 2, 1903, as amended, and section 3 of the act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 is hereby amended as follows:

1. Paragraph (s), relating to Arkansas, is amended by adding Van Buren County in proper alphabetical order.

2. Paragraph (t), relating to California, is amended by adding Colusa County in proper alphabetical order.

3. Paragraph (u), relating to Colorado, is amended by adding Garfield and Pitkin Counties in proper alphabetical order.

4. Paragraph (w), relating to Georgia, is amended by adding Meriwether, Polk, and Troup Counties in proper alphabetical order.

5. Paragraph (x), relating to Idaho, is amended by adding Canyon and Idaho Counties in proper alphabetical order.

6. Paragraph (y), relating to Illinois, is amended by adding Lee County in proper alphabetical order.

7. Paragraph (z), relating to Indiana, is amended by adding Lake County in proper alphabetical order.

8. Paragraph (dd), relating to Maryland, is amended by adding Saint Marys County in proper alphabetical order.

9. Paragraph (gg), relating to Missouri, is amended by adding Pettis County in proper alphabetical order.

10. Paragraph (hh), relating to Montana, is amended by removing Stillwater County.

11. Paragraph (ii), relating to Nebraska, is amended by adding Franklin County in proper alphabetical order.

12. Paragraph (jj), relating to Nevada, is amended by adding Humboldt and Lander Counties in proper alphabetical order.

13. Paragraph (ll), relating to North Dakota, is amended by removing Adams County.

14. Paragraph (oo), relating to South Carolina, is amended by adding Greenwood County in proper alphabetical order.

15. Paragraph (pp), relating to South Dakota, is amended by adding Grant County in proper alphabetical order.

16. Paragraph (qq), relating to Tennessee, is amended by adding Cheatham, Dickson, Grundy and Henderson Counties in proper alphabetical order.

17. Paragraph (tt), relating to Virginia, is amended by adding Rockingham, Surry, and Sussex Counties in proper alphabetical order.

18. Paragraph (vv), relating to Wyoming, is amended by adding Weston County in proper alphabetical order.

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The amendment deletes Stillwater County in Montana and Adams County in North Dakota from the list of areas designated as modified certified brucellosis-free areas, because it has been determined that such counties no longer come within the definition of § 78.1(i), and adds certain additional areas which have been determined to come within such definition.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 13, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 125; 9 CFR 78.16)

Done at Washington, D.C., this 16th day of April 1959.

[SEAL] R. J. ANDERSON,
Director, Animal Disease Eradication Division, Agricultural Research Service.

[F.R. Doc. 59-3333; Filed, Apr. 20, 1959; 8:50 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7201]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Independent Salmon Canneries, Inc., and Bernard D. Oxenberg

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Payment or acceptance of commission, brokerage, or other compensation under 2(c): § 13.800 *Buyers' agents;* § 13.817 *Cutting brokerage fees;* § 13.820 *Direct buyers.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 2, 38 Stat. 730, as amended; 15 U.S.C. 13) [Cease and desist order, Independent Salmon Canneries, Inc., et al., Seattle, Wash., Docket 7201, March 24, 1959]

In the Matter of Independent Salmon Canneries, Inc., a Corporation, and Bernard D. Oxenberg, Individually and as an Officer of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging packers of salmon and other sea food products in Seattle, Wash., acting also as primary brokers for other packers, with violating the brokerage section of the Clayton Act by such practices as granting certain buyers or their agents reductions in price which were offset in whole or in part by a reduction of the field broker's commission, and granting price concessions which reflected brokerage on direct sales.

After a hearing at which default of respondents was entered of record, the hearing examiner made his initial decision and order to cease and desist which became on March 24 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Independent Salmon Canneries, Inc., a corporation, and its officers, and Bernard D. Oxenberg, individually and as an officer of respondent corporation, and respondents' agents, repersentatives, or employees, directly or through any corporate or other device, in connection with the sale of seafood products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

1. Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of seafood products to such buyer for his own account.

2. Paying, granting, or passing on, either directly or indirectly to any buyer or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, brokerage earned or received by respondents on sales made for their packer-principals, by allowing to buyers lower prices which reflect all or any part of such brokerage, or by granting them allowances or rebates which are in lieu of brokerage, or by any other method or means.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the above-named respondents shall, with in sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: March 24, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-3305; Filed, Apr. 20, 1959; 8:46 a.m.]

[Docket 7294]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Eastern Metal Products Corp. et al.

Subpart—*Advertising falsely or misleadingly:* § 13.110 *Indorsements, approval, and testimonials;* § 13.155 *Prices:* Exaggerated as regular and customary; fictitious marking. Subpart—*Claiming or using indorsements or testimonials falsely or misleadingly:* § 13.330 *Claiming or using indorsements or testimonials falsely or misleadingly.* Subpart—*Furnishing means and instrumentalities of misrepresentation or deception:* § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1056 *Preticketing merchandise misleadingly.* Subpart—*Misbranding or mislabeling:* § 13.1280 *Price.* Subpart—*Misrepresenting oneself and goods*—Prices: § 13.1811 *Fictitious preticketing.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Eastern Metal Products Corporation et al., Tuckahoe, N.Y., Docket 7294, March 24, 1959]

In the Matter of Eastern Metal Products Corporation, a Corporation, and Arnold Troy and Seymour Troy, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging distributors of electrical appliances, including irons, cooker-fryers, skillet-casseroles, in Tuckahoe, N.Y., with representing falsely in advertising material disseminated to customers for use in resale, in newspaper advertising, on attached tags and labels, and on cartons packaging its products,

that exaggerated prices were the regular retail prices for the products; by use of the Good Housekeeping Seal of Approval, that its products had been approved and guaranteed by Good Housekeeping Magazine and advertised therein; and through use of the name "General Electric" that the products were manufactured by the General Electric Company.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on March 24 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Respondents Eastern Metal Products Corporation, a corporation, and its officers, and Arnold Troy and Seymour Troy, individually and as officers of said corporation, and Respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of electrical appliances, including irons, cooker-fryers, or skillet-casseroles, or other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or indirectly that any price is the retail selling price of their products which is in excess of the price at which their products are regularly and customarily sold at retail;

2. Using the Good Housekeeping Seal of Approval in connection with their merchandise; or representing in any manner that their merchandise has been awarded said Seal of Approval, or that their merchandise has been approved by any other group or organization, unless such is the fact: *Provided, however*, That this prohibition shall not be construed as prohibiting a truthful statement that a part of an article of merchandise has been approved by a group or organization, when such part is clearly and conspicuously identified;

3. Using the name of any company in connection with merchandise which has not been manufactured in its entirety by said company, or representing, directly or indirectly, that merchandise not manufactured in its entirety by a specified company, was so manufactured: *Provided, however*, That this prohibition shall not be construed as prohibiting a truthful statement that a part of an article of merchandise has been manufactured by a specific company when such part is clearly and conspicuously identified;

4. Providing retailers or distributors of their products with preticketed articles of merchandise or price lists or advertising or promotional material through or by which said retailers or distributors are enabled to mislead and deceive the purchasing public with respect to the matters set out in paragraph 1 herein.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That Respondents Eastern Metal Products Corporation, a corporation, and Arnold Troy and Seymour Troy, individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: March 24, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-3306; Filed, Apr. 20, 1959; 8:46 a.m.]

[Docket 7322]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Morton Etelson

Subpart—*Advertising falsely or misleadingly:* § 13.285 *Value.* Subpart—*Misrepresenting oneself and goods*—Goods: § 13.1775 *Value.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1852 *Formal regulatory and statutory requirements:* Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Morton Etelson trading as Morton Etelson, New York, N.Y., Docket 7322, March 26, 1959]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in New York City with violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements, and by making in advertising representations that certain fur products had a "wholesale market value" of a stated price without maintaining adequate records as a basis for such claims.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on March 26 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Morton Etelson, an individual, trading as Morton Etelson, or under any other name, and his agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution, of fur products in commerce, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur products contain or are composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part, of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in the fur product.

2. Setting forth on invoices information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

3. Failing to set forth on invoices the item number or mark assigned to fur products as required under the aforesaid rules and regulations.

C. Setting forth pricing claims and representations in advertising unless respondent maintains full and adequate records disclosing the facts upon which such claims and representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form

in which he has complied with the order to cease and desist.

Issued: March 26, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-3307; Filed, Apr. 20, 1959; 8:47 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tolerances for Residues of Chlortetracycline

A petition was filed with the Food and Drug Administration by the American Cyanamid Company, 30 Rockefeller Plaza, New York 20, New York, requesting the establishment of tolerances for residues of chlortetracycline in or on fish (vertebrate) and any cuts therefrom, oysters (shucked), scallops (shucked), shrimp (peeled), shrimp (unpeeled), each in uncooked form. Tolerances to permit application of chlortetracycline to certain of these seafood products are not being established in this order because they are products of plant processing rather than raw agricultural commodities.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which tolerances are being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerance established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 120.7(g)), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (23 F.R. 6403) are amended by changing § 120.117 to read as follows:

§ 120.117 Tolerances for residues of chlortetracycline.

Tolerances are established for residues of chlortetracycline as follows:

(a) 7 parts per million in or on uncooked poultry. This tolerance level shall not be exceeded in any part of the poultry.

(b) 5 parts per million in or on fish (vertebrate), scallops (shucked), shrimp (unpeeled), from application for retardation of spoilage to whole, headed, or gutted fish (vertebrate); scallops (shucked); shrimp (unpeeled); each in fresh, uncooked, unfrozen form.

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by this order, specify with particularity the provisions of the order deemed objectionable and reasonable grounds for the objections, and request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: April 14, 1959.

[SEAL] GEO. P. LARRICK, *Commissioner of Food and Drugs.*

[F.R. Doc. 59-3308; Filed, Apr. 20, 1959; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER F—PERSONNEL

PART 581—PERSONNEL REVIEW BOARDS

Army Discharge Review Board

In § 581.2, revise paragraphs (d)(2) and (e) to read as follows:

§ 581.2 Army Discharge Review Board.

* * * * *

(d) *Application for review.* * * *

(2) The request will be made on DD Form 293 (Application for Review of Discharge or Separation from the Armed Forces of the United States) which may be requisitioned through normal publications supply channels. The request will state in brief the full name, service number, and grade and organization or assignment at date of discharge of the person whose discharge or dismissal is in question; the date and place of discharge; the type and nature of the discharge or dismissal; the basis of the claim for review; what corrective action is desired of the board; whether the applicant desires to appear personally before the board; whether the applicant desires to be represented by counsel before the board and, if so, the name and address of counsel so designated; and the address to which all correspondence in connection with the review is to be sent.

* * * * *

(e) *Convening of board.* (1) The board will be convened at the call of its president in Washington, D.C., at the time and place indicated by him, and will recess or adjourn at his order. In the event of the absence or incapacity of the president, the next senior member will serve as acting president for all purposes.

(2) The board will assemble in open or closed session for the consideration and determination of cases presented to it. Cases in which no request for hearing is made by the applicant will be considered in closed session on the basis of all documentary evidence presented to the board; that is, any briefs submitted by or on behalf of the applicant.

[C 1, AR 15-180, 2 April 1959] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interprets or applies sec. 301, 58 Stat. 286, as amended; 38 U.S.C. 693h)

R. V. LEE, *Major General, U.S. Army, The Adjutant General.*

[F.R. Doc. 59-3297; Filed, Apr. 20, 1959; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

[CGFR 59-4]

Chapter I—Coast Guard, Department of the Treasury

PART 1—GENERAL PROVISIONS

Subpart 1.25—Fees and Charges for Copying, Certifying, or Searching Records and for Duplicate Documents and Certificates

CERTIFICATE OF SEAMAN'S SERVICE

By virtue of the authority described with the regulation below, the following amendment to § 1.25-65(e) is prescribed and shall become effective upon the date of publication of this document in the FEDERAL REGISTER:

§ 1.25-65 Duplicate merchant marine documents or certificates.

* * * * *

(e) *Certificate of seaman's service (Form CG-723).* The fee for furnishing a merchant seaman with a chronological record of service on Form CG-723, in lieu of issuing individual certificates of discharge on Form CG-718A or in lieu of making duplicate service entries in a seaman's continuous discharge book, as authorized by 46 CFR 154.07, is $0.35 for the first entry and $0.10 for each additional entry requested at the same time. (See 46 CFR 12.02-23(b).)

(Sec. 7, 49 Stat. 1936, as amended, sec. 501, 65 Stat. 290, 46 U.S.C. 689, 5 U.S.C. 140)

Dated: April 7, 1959.

[SEAL] A. C. RICHMOND, *Vice Admiral, U.S. Coast Guard, Commandant.*

Approved: April 15, 1959.

A. GILMORE FLUES, *Acting Secretary of the Treasury.*

[F.R. Doc. 59-3319; Filed, Apr. 20, 1959; 8:48 a.m.]

PART 19—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

Chronological Record of Seaman's Previous Employment

CROSS REFERENCE: For amendment of § 19.07, see Title 46, Part 154, F.R. Doc. 59-3318, *infra*.

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

[CGFR 59-4a]

PART 154—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS [1]

Chronological Record of Seaman's Previous Employment

By virtue of the authority vested in me as Commandant, United States Coast Guard, by an order of the Acting Secretary of the Treasury dated January 23, 1951, identified as CGFR 51-1 (16 F.R. 731), and sec. 1, 64 Stat. 1120 (46 U.S.C., note preceding 1), the cross reference following § 154.07, as well as 33 CFR 19.07, is amended to read as follows:

§ 154.07 Chronological record of seaman's previous employment.

* * * * *

CROSS REFERENCE: See 33 CFR 1.25-65 for the fee for this record.

Dated: April 7, 1959.

(Sec. 1, 64 Stat. 1120; 46 U.S.C., note prec. 1)

[SEAL] A. C. RICHMOND,
Vice Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 59-3318; Filed, Apr. 20, 1959; 8:48 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Substances Generally Recognized as Safe; Spices, Seasonings, Essential Oils, Oleoresins, and Natural Extractives

There was published in the FEDERAL REGISTER of December 9, 1958 (23 F.R. 9516), as a portion of the notice of proposed rule making cited, under the caption "Exemption of Certain Food Additives from the Requirement of Tolerances," a section containing a proposed listing of substances that are generally recognized as safe, within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act. The Commissioner of Food and Drugs, on his own initiative, and under the authority of that act (secs. 409, 701 (a), 72 Stat. 1785; 52 Stat. 1055; 21 U.S.C. 348, 371(a)), delegated to him by the Secretary of Health, Education, and Welfare (22 F.R. 1045; 23 F.R. 9500), proposes to add to the list of substances above referred to, the following:

§ 121.100 Substances that are generally recognized as safe.

SPICES AND OTHER NATURAL SEASONINGS AND FLAVORINGS (LEAVES, ROOTS, BARKS, BERRIES, ETC.)

Common name	*Botanical name of plant source*
Allspice	Pimenta officinalis.
Anise	Pimpinella anisum.
Basil:	
Sweet basil	Ocimum basilicum.
Bush basil	Ocimum minimum.
Bay	Laurus nobilis.
Capers	Capparis spinosa.
Caraway	Carum Carvi.
Caraway, black (black cumin)	Nigella sativa.
Cardamon	Elettaria cardamomum.
Cassia	Cinnamomum cassia.
Cassia (India)	Cinnamomum tamala.
Cassia (Padang)	Cinnamomum burmani.
Cayenne pepper (capsicum, red pepper).	Capsicum frutescens or capsicum anuum vars. conoides and longum.
Celery seed	Apium graveolens.
Chives	Allium schoenoprasum.
Cinchona bark, red	Cinchona succirubra and hybrids.
Cinchona bark, yellow	Cinchona calisaya.
Cinchona bark, yellow	Cinchona Ledgeriana.
Cinnamon (Ceylon)	Cinnamomum zeylanicum.
Cinnamon (Chinese)	Cinnamomum cassia.
Cinnamon (Saigon)	Cinnamomum loureirii Nees.
Clary (Clary sage)	Salvia sclarea.
Cloves	Eugenia caryophyllata.
Coriander	Coriandrum sativum.
Cumin	Cuminum cyminum.
Cumin, black (black caraway)	Nigella sativa.
Dill	Anethum graveolens.
Fennel, common	Foeniculum vulgare.
Fennel, sweet (finochio, florence fennel).	Foeniculum vulgare var. dulce.
Fenugreek	Trigonella foenum-graecum.
Garlic	Allium sativum.
Ginger	Zingiber officinale.
Grains of paradise	Amomum melegueta.
Horseradish	Armoracia lapathifolia.
Lavender	Lavandula officinalis.
Licorice (glycyrrhiza)	Glycyrrhiza glabra.
Mace	Myristica fragrans.
Marjoram, pot	Majorana onites.
Marjoram, sweet	Majorana hortensis.
Mustard, black, or mustard, brown	Brassica juncea or Brassica nigra.
Mustard, white, or mustard, yellow	Brassica alba.
Nutmeg	Myristica fragrans.
Oregano (oreganum, Mexican oregano, Mexican sage, origan).	Lippia species.
Paprika	Capsicum anuum.
Parsley	Petroselinum crispum latifolium.
Pepper, black	Piper nigrum.
Pepper, white	Piper nigrum.
Peppermint	Mentha piperita.
Poppy seed	Papaver somniferum.
Pot marigold (calendula)	Calendula officinalis.
Rosemary	Rosemarinus officinalis.
Rue	Ruta graveolens.
Saffron	Crocus sativus.
Sage	Salvia officinalis.
Savory:	
Summer savory	Satureia hortensis.
Winter savory	Satureia montana.
Sesame	Sesamum indicum.
Spearmint	Mentha spicata.
Star anise (truestar anise)	Illicium verum.
Tarragon	Artemisia dracunculus.
Thyme	Thymus vulgaris.
Tumeric	Curcuma longa.
Vanilla	Vanilla planifolia or Vanilla tahitensis.
Zedoary turmeric	Curcuma zedoaria.

ESSENTIAL OILS, OLEORESINS (SOLVENT-FREE), AND NATURAL EXTRACTIVES (INCLUDING DISTILLATES)

Common name	*Botanical name of plant source*
Allspice	Pimenta officinalis.
Angelica root	Angelica archangelica.

[1] This is also codified as 33 CFR Part 19.

ESSENTIAL OILS, OLEORESINS (SOLVENT-FREE), AND NATURAL EXTRACTIVES (INCLUDING DISTILLATES)—Continued

Common name	*Botanical name of plant source*
Angelica seed	Angelica archangelica.
Angelica stem	Angelica archangelica.
Angostura (cusparia root)	Galipea officinalis.
Anise	Pimpinella anisum.
Asafoetida	Ferula asa-foetida, Ferula rubricaulis, Ferula foetida.
Balsam Peru (Peruvian balsam)	Myroxylon Pereirae.
Basil	Ocium basilicum.
Bay leaves	Laurus nobilis.
Bay leaves	Pimenta acris.
Birch, sweet	Botula lenta.
Bitter almond (free from prussic acid)	Prunus amygdalus amara.
Bois de rose (Cayenne linaloe)	Aniba panurensis.
Capsicum	Capsicum frutescens and Capsicum amara.
Caraway	Carum Carvi.
Cardamon (Cardamon seed)	Elettaria cardamomum.
Carob bean (St. John's bread)	Ceratonia siliqua.
Cascarilla bark	Croton eluteria.
Cassia bark	Cinnamomum cassia.
Celery seed	Apium graveolens.
Chamomile flowers:	
Hungarian	Matricaria chamomilla.
Roman, English	Anthemis nobilis.
Cherry (wild) bark	Prunus serotina.
Chicory	Chicorium intybus.
Cinnamon bark	Cinnamomum zeylanicum.
Cinnamon leaf:	
Ceylon cinnamon leaf	Cinnamomum zeylanicum.
Chinese cinnamon leaf	Cinnamomum cassia.
Saigon cinnamon leaf	Cinnamomum loureirii.
Citronella	Cymbopogon nardus.
Citrus peels	Citrus species.
Clary sage	Salvia sclarea.
Clove (clove bud)	Eugenia caryophyllata.
Clove leaf	
Clove stem	
Coca, decocainized	Erythroxylum coca.
Coffee	Coffea species.
Coriander	Coriandrum sativum.
Cumin	Cuminum cyminum.
Dill	Anethum graveolens.
Estragole (esdragol)	Artemisia dracunculus.
Estragon (tarragon)	Artemisia dracunculus.
Fennel, sweet	Foeniculum vulgare var. dulce.
Fenugreek	Trigonella foenum-graecum.
Garlic	Allium sativum.
Geranium—East Indian (palmarosa)	Cymbopogon martini.
Ginger	Zingiber officinale.
Grapefruit	Citrus paradisi.
Guava	Psidium species.
Hoarhound	Marrubium vulgare.
Hops	Humulus lupulus.
Jasmine	Jasminum officinale grandiflorum, Jasminum species.
Juniper (derived from juniper berries)	Juniperus communis.
Kola (cola) nut	Cola species, especially Cola acuminata.
Laurel leaves	Laurus nobilis.
Lavender	Lavandula officinalis.
Lavandin	Hybrids between Lavandula officinalis and Lavandula latifolia.
Lemon	Citrus limon.

ESSENTIAL OILS, OLEORESINS (SOLVENT-FREE), AND NATURAL EXTRACTIVES (INCLUDING DISTILLATES)—Continued

Common name	*Botanical name of plant source*
Lemon grass	Cymbopogon citratus and Cymbopogon flexuosus.
Licorice (glycyrrhiza)	Glycyrrhiza glabra.
Licorice (glycyrrhiza) root	
Lime	Citrus aurantifolia.
Mace	Myristica fragrans.
Mandarin (tangerine)	Citrus reticulata.
Marjoram (sweet marjoram)	Majorana hortensis.
Mate	Ilex paraguariensis.
Mustard	Brassica species.
Naringin (glucoside from grapefruit)	Citrus paradisi.
Neroli (bigardia), orange flower, bitter orange flowers.	Citrus aurantium or Citrus bigardia.
Nutmeg	Myristica fragrans.
Onion	Allium cepa.
Orange leaf	Citrus sinensis.
Orange (bitter) peel, Curacao peel	Citrus aurantium.
Orange (sweet), sweet orange	Citrus sinensis.
Origanum	Origanum species.
Orris root	Iris florentina, Iris germanica, Iris pallida.
Orris (concrete, liquid)	
Palmarosa (geranium—East Indian)	Cymbopogon martini (Andropogon schoenanthus).
Paprika	Capsicum anuum.
Parsley	Petroselinum crispum, Petroselinum hortense.
Pepper (black)	Piper nigrum.
Pepper (white)	
Peppermint	Mentha piperita.
Petitgrain	Citrus aurantium, Citrus vulgaris.
Petitgrain lemon	Citrus limon.
Petitgrain mandarin (tangerine)	Citrus reticulata.
Pimenta	Pimenta officinalis.
Pimenta leaf	
Pipsissewa leaves	Chimaphila umbellata.
Pomegranate	Punica granatum.
Prickly ash bark	Xanthoxylum americanum and Xanthoxylum clava-heraclis.
Quinine	Cinchona species.
Rose absolute	Rosa centifolia, Rosa gallica.
Rose (otto of roses, attar of roses)	Rosa damascena, Rosa gallica.
Rose-geranium	Pelargonium graveolens.
Rosemary	Rosmarinus officinalis.
Rue	Ruta graveolens.
Saffron	Crocus sativus.
Sage	Salvia officinalis.
Schinus molle (California peppertree)	Schinus molle.
Spanish-sage	Salvia bicolor.
Spearmint	Mentha spicata.
Spike-lavender	Lavandula latifolia (spica).
Tangerine (mandarin)	Citrus reticulata.
Tea	Camellia sinensis (thea sinensis) species.
Thyme	Thymus vulgaris and Thymus zygis var. gracilis.
Thyme (white)	Thymus albus.
Tuberose	Polianthus tuberosa.
Turmeric	Curcuma longa.
Vanilla	Vanilla planifolia.
Violet leaves absolute	Violaceae species.
Wild cherry bark	Prunus serotina.
Wintergreen (betula, checkerberry, gaultheria, sweet birch), methyl salicylate.	Betula lenta and Gaultheria procumbens.
Ylang-ylang (cananga)	Cananga odorata.

ESSENTIAL OILS, OLEORESINS (SOLVENT-FREE), AND NATURAL EXTRACTIVES (INCLUDING DISTILLATES)—Continued

Common name	Botanical name of plant source
Zedoary bark	Curcuma zedoaria.
	Derivation
Cognac, white and green	Ethyl oenanthate.
Musk (Tonquin musk)	Moschus moschiferus.
Musk (zibetha musk)	Fiber zibethicus, Viverra civetta, Viverra zibetha.

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written comments on the proposal or any portion thereof. Such comments should be filed in triplicate.

Dated: April 13, 1959.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 59-3273; Filed, Apr. 20, 1959; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice of Hearing on Proposed Regulations

Proposed regulations under subchapter S, chapter 1 of the Internal Revenue Code of 1954, relating to election of certain small business corporations as to taxable status, were published in the FEDERAL REGISTER Thursday, March 12, 1959. One or more interested parties have submitted comments and suggestions pertaining to the proposed regulations, and have requested an opportunity to comment orally at a public hearing on the proposed regulations.

A public hearing on the proposed regulations will be held on Thursday, May 7, 1959, at 10:00 a.m., e.d.s.t., in Room 3313, Internal Revenue Building, Twelfth and Constitution Avenue NW., Washington, D.C. Persons who plan to attend the hearing are requested to so notify the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., by May 4, 1959.

[SEAL] MAURICE LEWIS,
Director, Technical Planning Division, Internal Revenue Service.

[F.R. Doc. 59-3316; Filed, Apr. 20, 1959; 8:48 a.m.]

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice of Hearing on Proposed Regulations

Proposed amendment of the regulations under section 61 of the Internal Revenue Code of 1954, relating to tax treatment of patronage dividends received from cooperative associations, was published in the FEDERAL REGISTER for Wednesday, March 11, 1959. One or more interested parties have submitted comments and suggestions pertaining to the proposed regulations, and have requested an opportunity to comment orally at a public hearing on the proposed regulations.

A public hearing on the proposed regulations will be held on Wednesday, May 6, 1959, at 10:00 a.m., e.d.s.t., in Room 3313, Internal Revenue Building, Twelfth and Constitution Avenue NW., Washington, D.C. Persons who plan to attend the hearing are requested to so notify the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., by May 1, 1959.

[SEAL] MAURICE LEWIS,
Director, Technical Planning Division, Internal Revenue Service.

[F.R. Doc. 59-3317; Filed, Apr. 20, 1959; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 12852; FCC 59-360]

INTERNATIONAL FIXED PUBLIC RADIO-COMMUNICATION SERVICE IN PUERTO RICO AND VIRGIN ISLANDS

Notice of Proposed Rule Making

In the matter of amendment of Part 2 of the Commission's rules and regulations to provide for the assignment of frequencies in the 952-960 Mc band to stations in the International Fixed Public Radio-communication Service in Puerto Rico and the Virgin Islands; Docket No. 12852.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. All America Cables and Radio, Inc. and Radio Corporation of Puerto Rico have petitioned the Commission to amend § 2.104(a)(5) of the Commission's rules as proposed herein.

3. All America Cables and Radio, Inc. and Radio Corporation of Puerto Rico are presently authorized to use 154.17 Mc and 161.545 Mc, respectively, for fixed public radiocommunications between St. Thomas V.I. and San Juan, P.R. In order to establish a VHF radiotelephone link between the British island of St. Kitts in the Leeward group and the U.S. island of St. Croix, located between St. Kitts and San Juan, with circuit extensions to St. Thomas, San Juan, and beyond, All America Cables and Radio, Inc. proposes to substitute 959 Mc for 154.17 Mc at St. Thomas and Radio Corporation of Puerto Rico proposes to substitute 943 Mc for 161.545 Mc at San Juan for the St. Thomas-San Juan circuit. All America Cables and Radio, Inc. also plans to establish a public VHF radiotelephone service to Philipsburg, St. Maarten, N.W.I. via St. Thomas relay. This VHF service is intended to replace the high frequency sky wave radiotelephone service between San Juan and Philipsburg now being provided by Radio Corporation of Puerto Rico.

4. The petitioners cite the following reasons why they believe the requested amendment of the Commission's Rules is in the public interest:

a. The proposed St. Croix-St. Kitts link will connect with an International Aeradio (Caribbean) Ltd. system (now under construction) extending through the Lesser Antilles to Barbados and Trinidad.

b. The transfer of the St. Maarten public radiotelephone service to VHF is desirable.

c. The transfer of the St. Thomas-San Juan circuit to the microwave region is desirable because additional bandwidth will be available for expansion.

5. The Commission's Fifth Report and Order in Docket No. 12404 authorized the assignment of frequencies in the 942-952 Mc band to the International Fixed Public Radiocommunication Services in the Territories only. However, the petition states that it is technically and economically impracticable to operate the San Juan-St. Thomas circuit in both directions using a common transmitting and receiving site within the 942-952 Mc band.

6. In this connection, all references to "Territories" contained in the Commission's Fifth Report and Order in Docket No. 12404, adopted February 18, 1959, were intended to include Alaska, Hawaii and all U.S. Possessions. Therefore, it is hereby proposed to change the term

"Territories only" appearing in Amendment 2–36 to the Commission's Part 2 Table of Frequency Allocations (column 9 in the 942–952 Mc band) to "Alaska, Hawaii and U.S. Possessions".

7. The 952–960 Mc band is presently allocated to non-Government Operational Fixed and International Control stations. However, there are no outstanding Commission authorizations for such stations in this band outside the continental U.S.

8. In view of the foregoing, the Commission proposes to amend Part 2 of its rules and regulations as set forth below in accordance with authority contained in section 303 (c), (f) and (r) of the Communications Act of 1934, as amended. Although the instant petition requests the amendment of Part 2 so as to provide for the assignment of frequencies in the 952–960 Mc band to the International Fixed Public Services in the "territories only," the Commission believes the area should be limited to Puerto Rico and the Virgin Islands where the petition states that a specific requirement exists.

9. Any interested party who is of the opinion that the proposed amendments set forth below should not be adopted may file with the Commission on or before May 18, 1959, written data, views or arguments setting forth his comments. Comments in support of the proposed amendments may also be filed on or before this date. Comments in reply to the original comments may be filed within ten days from the last day for filing said original data, views or arguments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

10. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: April 15, 1959.

Released: April 16, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Amendments to Part 2 *Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.*

In the Table of Frequency Allocations, § 2.104(a)(5), change the entries in the band 942–960 Mc in column 9. The amended portion of the table will then read as follows:

Band Mc	Service	Class of Station	Frequency	Nature of services of stations
7	8	9	10	11
942–952 (NG13) (NG101)	Fixed.	a. AM broadcast STL. b. FM broadcast STL (NG14). c. International aeronautical fixed (Alaska, Hawaii and U.S. Possessions only). d. International fixed public (Alaska, Hawaii and U.S. Possessions only). e. Television STL (audio only).	---	
952–960 (NG15)	Fixed.	a. International fixed public (Puerto Rico and the Virgin Islands only). b. International control. c. Operational fixed.	---	

[F.R. Doc. 59–3321; Filed, Apr. 20, 1959; 8:49 a.m.]

NOTICES

DEPARTMENT OF COMMERCE

Federal Maritime Board

[Docket No. 851]

GULF AND SOUTH ATLANTIC HAVANA STEAMSHIP CONFERENCE

Notice of Investigation, Hearing and Consolidation of Proceedings

In the matter of approval of Article 1 of Freighting Agreement (G–13) of Gulf and South Atlantic Havana Steamship Conference (Agreement No. 4188).

On April 3, 1959, the Federal Maritime Board entered the following order:

Whereas, Compania Naviera Cubamar, S.A., Lykes Bros. Steamship Co., Inc., Ward-Garcia, S.A., Standard Fruit and Steamship Company, United Fruit Company, and West India Fruit and Steamship Co., Inc., are parties to a certain Agreement No. FMB 4188 approved by the Federal Maritime Board pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814), and pursuant to that agreement act jointly as the Gulf and South Atlantic Havana Steamship Conference for the purpose of jointly establishing, regulating and maintaining among their membership uniform practices relating to rates and for other purposes, and

Whereas, said Gulf and South Atlantic Havana Steamship Conference adopted and submitted to shippers for acceptance a 1959 Freighting Agreement (No. G–13) providing for the first time for the application of the provisions of such agreement to "That portion of the carriage between Gulf and South Atlantic ports of the United States and the Cuban ports hereinabove described in respect of all cargo originating at or from any inland port or place and moving via or exported by way of any river or inland waterway terminating at, touching, or flowing through any Gulf or South Atlantic port of the United States", (the quoted language will be referred to herein as "the new provision") and

Whereas, the new provision appears to constitute a new section 15 agreement requiring approval by the Board before being effectuated, and

Whereas, the new provision may be unjustly discriminatory, unfair, or operate to the detriment of the commerce of the United States within the meaning of section 15 of the Shipping Act, 1916, and may result in violation of sections 14, 15, 16, and 17 of said Act, and

Whereas, by order of January 12, 1959 as amended by order of February 19, 1959 the Board ordered the Gulf and South Atlantic Havana Steamship Conference and the members thereof to cease and desist from effectuating the new provision, which is a part of Article 1 of their 1959 Freighting Agreement, and upon its own motion, entered upon an investigation and hearing to determine whether the new provision (1) constitutes a new section 15 agreement and/or (2) would be unjustly discriminatory, unfair, or operate to the detriment of the commerce of the United States, within the meaning

of section 15 of the Shipping Act, 1916, or would be in violation of sections 14, 16, or 17 of said Act, which proceeding has been assigned Docket No. 849, and

Whereas, said Amended Order of February 19, 1959 was published in the FEDERAL REGISTER on March 5, 1959 (25 F.R. 1662), and

Whereas, the members of said conference have filed for and have requested approval of Article 1 of their 1959 Freighting Agreement No. G–13 (including but not confined to the new provision) pursuant to section 15 of the Shipping Act, 1916, and have further requested if the Board decides to institute and conduct an investigation or proceeding to determine whether approval should be given that the proceeding be consolidated with Docket No. 849, and

Whereas, the question as to whether the whole of Article 1 of the 1959 Freighting Agreement No. G–13 is an agreement within the purview of section 15 of the 1916 Act and should be approved, encompasses one of the issues in the amended order in Docket no. 849,

Now therefore, pursuant to sections 14, 15, 16, 17, and 22 of the Shipping Act, 1916, as amended:

It is ordered, That that Board, upon its own motion, enter upon an investigation and hearing to determine whether (1) the whole of Article 1 of the 1959 Freighting Agreement No. G–13 of the Gulf and South Atlantic Havana, Steamship Conference constitutes a new section 15 agreement and/or (2) would be unjustly discriminatory, unfair, or operate to the detriment of the commerce of the United States, within the meaning of section 15 of the Shipping Act, 1916, or would be in violation of sections 14, 16, or 17 of said Act, and/or (3) should be approved pursuant to section 15 of said Act, and

It is further ordered, That this proceeding be consolidated with Docket No. 849, and

It is further ordered, That Compania Naviera Cubamar, S.A., Lykes Bros. Steamship Co., Inc., Ward-Garcia, S.A., Standard Fruit and Steamship Company, United Fruit Company, and West India Fruit and Steamship Co., Inc., and the Gulf and South Atlantic Havana Steamship Conference, be, and they are hereby made respondents in this proceeding, and

It is further ordered, That a copy of this order be served upon each of the respondents, and that notice of such order and hearing herein ordered be published in the FEDERAL REGISTER.

Pursuant to the above order, notice is hereby given that the hearing herein ordered will be heard with Docket No. 849, before an examiner of the Board's Hearing Examiners' Office at a date and place to be determined and announced by the Chief Examiner. The hearing will be conducted in accordance with the Board's rules of practice and procedure, and a recommended decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies), having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Board promptly and file petitions for leave to intervene in accordance with Rule 5(n) (46 CFR 201.74) of said rules.

Dated: April 15, 1959.

By order of the Federal Maritime Board.

[SEAL] GEO. A. VIEHMANN,
Assistant Secretary.

[F.R. Doc. 59–3296; Filed, Apr. 20, 1959; 8:45 a.m.]

MYSTIC TERMINAL CO. AND BOSTON MARINE TERMINAL CORP.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8395, between The Mystic Terminal Company and the Boston Marine Terminal Corp., covers an arrangement whereby the Boston Marine Terminal Corp., will take over, manage and perform exclusively the services of checking, clerking, watching, stevedoring, carloading, and truckloading on the terminal facilities of The Mystic Terminal Company, namely, Mystic Pier No. 1, Hoosac Pier No. 1, Hoosac Grain Elevator and property located in vicinity of Hoosac Pier No. 1, all in Charlestown, Mass.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to this agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: April 16, 1959.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F.R. Doc. 59–3320; Filed, Apr. 20, 1959; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Order No. 2839]

VIRGIN ISLANDS

Designation of the Commissioner of Finance To Act as Governor

APRIL 14, 1959.

SECTION 1. *Designation.* In the case of a vacancy in the offices, or the disability or temporary absence, of both the Governor and the Government Secretary of the Virgin Islands, the Commissioner of Finance of the Virgin Islands shall act as Governor, and he shall have all the powers of the Governor for so long as such condition continues.

SEC. 2. *Revocation.* Order No. 2801 (20 F.R. 6752) is revoked.

(Sec. 15, act of July 22, 1954, 68 Stat. 497, 504; 48 U.S.C.A. sec. 1596)

FRED A. SEATON,
Secretary of the Interior.

[F.R. Doc. 59–3311; Filed, Apr. 20, 1959; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

STATEMENT OF ORGANIZATION AND DELEGATIONS OF AUTHORITY

Miscellaneous Amendments to Surplus Property Utilization Program

1. Section 2–248 of Part 2 of the Statement of Organization and Delegations of Authority is hereby amended to read as follows:

Section 2–248.10 *Organization.* There shall be in the Office of Field Administration, under the direction and supervision of the Director, Office of Field Administration, a Division of Surplus Property Utilization.

Section 2–248.20 *Assignment of responsibilities.* (a) The Chief of the Division of Surplus Property Utilization, under the direction and supervision of the Director, Office of Field Administration, shall be responsible for:

(1) Carrying out the functions, duties, and responsibilities vested in the Secretary of Health, Education, and Welfare by sections 203(j), 203(k) and 203(n) of the Federal Property and Administrative Services Act of 1949, as amended, and by Federal Civil Defense Administration Delegation 5 (21 F.R. 6721) as the same may be amended from time to time, in conformance with the rules, regulations, and circulars issued, and criteria established, by the Federal Civil Defense Administrator to the extent that they affect such functions, duties, and responsibilities (hereinafter called the Program) of the Secretary of Health, Education, and Welfare; and

(2) The organization, integration, coordination, evaluation and direction of the Program.

(b) The Division, in carrying out the functions, duties, and responsibilities of the Secretary as set forth in (a)(1) above shall:

(1) Develop, with the approval of the Director of the Office of Field Administration, the policy and planning of all aspects of the Program;

(2) Maintain liaison with the General Services Administration, and the Federal Civil Defense Administration, and other interested Federal and State agencies, instrumentalities, organizations, and representatives, in connection with all aspects of the Program;

(3) Develop and promulgate, with the approval of the Director of the Office of Field Administration, instructions and

procedures relative to the operation of the Program;

(4) Prepare for submission by the Secretary to the Senate and to the House of Representatives the reports required to be made by section 203(o) of the Act.

Section 2-248.30 *Delegation of authority.* The Director of Field Administration and the Chief of the Division of Surplus Property Utilization are authorized to make determinations and allocations for educational, public health, and civil defense purposes as authorized by section 203(j) of the Act and Federal Civil Defense Administration Delegation 5, take such action as may be necessary in connection with the assignment, disposal, and utilization of surplus property for educational and public health purposes pursuant to section 203(k) of the Act, and enter into cooperative agreements pursuant to section 203(n) of the Act, except that any action which is required to be taken by the Secretary shall be prepared and submitted for the Secretary's approval.

2. Section 2-249 of Part 2 of the Statement of Organization and Delegations of Authority is hereby amended by striking out in section 2-249.10(a)(1) and section 2-249.10(a)(3) the figure "$150,000" and substituting therefor the figure "$500,000".

3. Section 2-249.20 is hereby amended by striking out the figure "$150,000", wherever it appears therein and substituting therefor the figure "$500,000."

4. Section 2-249.30 is hereby amended by substituting in section 2-249.30(i)(1) the figure "$100,000" in lieu of the figure "$25,000" and by adding a new paragraph (h) and a new paragraph (i) to read as follows:

(h) Each Regional Property Coordinator, with respect to the States within the jurisdiction of his region, is authorized, consistent with the policies and procedures set forth in applicable regulations of the Department, to approve amendments by State Agencies for Surplus Property to their State plans of operations: *Provided, however,* That such authority shall not apply except with respect to a plan which has previously been approved by the Department: *And provided, further,* That such authority shall not include the authority to disapprove a State plan, in whole or in part.

(i) Each Regional Property Coordinator, with respect to the States within the jurisdiction of his region, is authorized, consistent with the policies and procedures of the Department, to enter into cooperative agreements, under section 203(n) of the Act, with State Agencies for Surplus Property of such States, either individually or collectively.

Dated: April 15, 1959.

ARTHUR S. FLEMMING,
Secretary.

[F.R. Doc. 59-3309; Filed, Apr. 20, 1959; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12310, FCC 59M-487]

ENTERTAINMENT AND AMUSEMENTS OF OHIO, INC.

Order Scheduling Hearing

In re application of Entertainment and Amusements of Ohio, Inc., Solvay, New York, Docket No. 12310, File No. BP-10988, for construction permit.

It is ordered, This 15th day of April 1959, that J. D. Bond will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 15, 1959, in Washington, D.C.

Released: April 16, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3322; Filed, Apr. 20, 1959; 8:49 a.m.]

[Docket No. 12782, FCC 59M-482]

STUDY OF RADIO AND TELEVISION NETWORK BROADCASTING

Order for Appearance of Witnesses

It is ordered, This 15th day of April, 1959, in furtherance of the inquiry in the above-entitled proceeding which has been scheduled to commence in the Offices of the Commission, Washington, D.C., at 10:00 a.m., Monday, May 4, 1959, that Columbia Broadcasting System, Inc., National Broadcasting Company, Inc., and American Broadcasting Company, and each of them, shall appear and attend at the time and place aforementioned and give evidence and supply information and data concerning the subjects and matters set forth in the order of the Commission adopted February 26, 1959 (FCC 59-166; Mimeo. No. 69484); and that the oral testimony to be presented by the said three organizations on the occasion will be concerned with the identification, authentication and explanation of certain exhibits, documents, and other papers relevant to the inquiry.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3323; Filed, Apr. 20, 1959; 8:49 a.m.]

[Docket No. 12824, FCC 59M-488]

INTER-CITIES BROADCASTING CO.

Order Scheduling Hearing

In re application of Theodore A. Kolasa, Henry J. Kolasa, Mitchell A. Kolasa and Alphonse R. Deresz, d/b as Inter-Cities Broadcasting Company, Livonia, Michigan, Docket No. 12824, File No. BP-10991, for construction permit for a new standard broadcast station.

It is ordered, This 15th day of April 1959, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 3, 1959, in Washington, D.C.

Released: April 16, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3324; Filed, Apr. 20, 1959; 8:49 a.m.]

[Docket Nos. 12829, 12830; FCC 59M-484]

ELECTRONICS RESEARCH, INC. OF EVANSVILLE (WROA) AND LIONEL B. DE VILLE

Order Scheduling Hearing

In re applications of Electronics Research, Inc. of Evansville (WROA), Gulfport, Mississippi, Docket No. 12829, File No. BP-11807; Lionel B. De Ville, Franklin, Louisiana, Docket No. 12830, File No. BP-11908; for construction permits.

It is ordered, This 15th day of April 1959, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 11, 1959, in Washington, D.C.

Released: April 16, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3325; Filed, Apr. 20, 1959; 8:49 a.m.]

[Docket Nos. 12831, 12832; FCC 59M-479]

NORTH SHORE BROADCASTING CO., INC., AND SUBURBANAIRE, INC.

Order Scheduling Hearing

In re applications of North Shore Broadcasting Co., Inc., Wauwatosa, Wisconsin, Docket No. 12831, File No. BP-11768; Suburbanaire, Inc., West Allis, Wisconsin, Docket No. 12832, File No. BP-12511; for construction permits.

It is ordered, This 15th day of April 1959, that Basil P. Cooper will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 10, 1959, in Washington, D.C.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3326; Filed, Apr. 20, 1959; 8:49 a.m.]

[Docket No. 12827, FCC 59M-489]

ROLLINS BROADCASTING, INC.

Order Scheduling Hearing

In re application of Rollins Broadcasting, Inc., St. Louis, Missouri, Docket No. 12827, File No. BMP-8310, for additional time to construct changed nighttime facilities for radio station KATZ, St. Louis, Missouri.

It is ordered, This 15th day of April 1959, that Annie Neal Huntting will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 9, 1959, in Washington, D.C.

Released: April 16, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3327; Filed, Apr. 20, 1959; 8:49 a.m.]

[Docket No. 12835, FCC 59M-480]

CITY OF TROY, MICHIGAN

Order Scheduling Hearing

In re application of City of Troy, Michigan, Docket No. 12835, File No. 19276-PL-P/L-59, for authorization in the local government radio service.

It is ordered, This 15th day of April 1959, that Herbert Sharfman will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on May 20, 1959, in Washington, D.C.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3328; Filed, Apr. 20, 1959; 8:49 a.m.]

[FCC 59-362]

TV REPEATER OPERATION IN VHF BAND

Recommendation of Amendment to Communications Act To Permit Licensing

APRIL 14, 1959.

The Commission is recommending that Congress amend the Communications Act to permit it to license qualifying TV "repeater" stations in the VHF band under certain conditions and, if that is done, to allow up to one year of time for existing "booster" and "repeater" operations to conform with certain requirements necessary to prevent interference to other broadcast and nonbroadcast services.

Pending Congress's consideration of this recommendation, the Commission is extending from June 30 to September 30 the general period of grace for such operations.

Specifically, the Commission seeks amendment of section 319(d) to enable it to consider licensing such stations engaged solely in rebroadcasting TV programs if they were constructed on or before January 1, 1959; also amendment of section 318 to clarify the statutory requirements concerning radio operators of equipment used for this purpose.

The Commission's study of the interference problem posed by the use of repeaters in the VHF band indicates potential interference to other VHF repeaters, to the reception of programs of regular VHF television stations, to FM broadcast, and to nonbroadcast services, such as public safety (police and forestry) services using frequencies between TV Channels 4 and 5, and to the operation of the aerial navigation services employing radio fan markers on 75 Mc, also between Channels 4 and 5.

Taking all of these considerations into account, the Commission believes that the following minimum requirements should be imposed upon the operation of VHF repeaters:

Transmission of the rebroadcast signals on a channel other than the channel on which the signal is received.

Maximum power output limited to no more than 1 watt.

Facilities for on and off remote control.

The designation of a person responsible for required periodic checks and other related functions.

The selection of transmitting frequency, appropriate minimum mileage separation from co-channel transmitters of regular television broadcast stations (still to be determined) and such other operating conditions as may be needed to insure reasonable protection to regular broadcast and nonbroadcast services.

Require repeaters to obtain consent of stations whose signals they rebroadcast, pursuant to Section 325(a) of the Act.

Further, the Commission feels that in order to minimize any possible hazard to aerial navigation it is desirable to take early steps toward the elimination of the operations on Channels 4 and 5 of VHF repeaters or boosters which retransmit on the same channel as the incoming signal. The object would be to eliminate the possibility of such a VHF repeater receiving, amplifying and transmitting signals of aerial fan markers operating on 75 Mc, with the possible result that an aircraft pilot might be misled as to his true position. While the possibilities of this occurring appear relatively remote, and while it would require a combination of circumstances in addition to the retransmission of the fan marker signal to create a serious hazard, the Commission believes that the earliest possible elimination from Channels 4 and 5 of VHF repeaters which transmit on the incoming frequency is highly desirable.

In numerous small communities and outlying areas beyond the direct range of TV broadcast stations, TV programs are made available to local residents by means of small low-powered repeating devices. Located at favorable reception points on hills and mountains, they pick up TV signals from distant stations, amplify and retransmit them to nearby home receivers which are unable to obtain satisfactory direct reception.

Hitherto, cognizant of the potential interference of such operation, the Commission has confined the authorization of repeater devices to "translators" operating in the UHF band. UHF translators offer several distinct advantages, both as to the limitation of interference and as to the range of useful service of good grade.

Prior to and during lengthy Commission proceedings devoted to a study of conditions under which it might be desirable to authorize repeaters in the VHF band, numerous VHF boosters and repeaters have been installed, without FCC authorization. The Commission has direct knowledge of over 300, and it has been estimated that the total number is substantially greater. In December 1958 the Commission announced the conclusion, to which it had come at that time, that the advantages of UHF translators so outweighed the considerations favoring the authorization of VHF repeaters that it would be in the public interest to confine repeaters to the UHF band.

Since that time, however, the Commission has had the matter under continuing review, and has received additional field data which indicate that, under certain conditions, VHF repeater operation may be conducted with less actual interference than had previously been calculated. Aware of the useful purpose served by these devices, and taking into account the investments made in those which have been installed, the Commission is now of the opinion that, if the Communications Act is appropriately amended, VHF repeaters could be licensed under conditions which will insure due protection to other users of the radio spectrum including aerial navigation services.

The present language of section 319 prohibits the Commission from licensing broadcast facilities which were constructed without a prior permit from the Commission. Section 318 now requires practically all radio transmitters to be operated by licensed operators.

Adopted: April 13, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3329; Filed, April 20, 1959; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-16921]

LONE STAR PRODUCING CO.

Notice of Application and Date of Hearing

APRIL 8, 1959.

Take notice that on November 7, 1958, Lone Star Producing Company (Applicant) filed in Docket No. G-16921 an application pursuant to section 7(b) of the Natural Gas Act for authorization to abandon certain sales of natural gas to Lone Star Gas Company from properties in the East Panhandle Field, Wheeler County, Texas, all as more fully set forth in the application which is on file with

the Commission and open to public inspection.

The subject sales are covered by three contracts dated January 1, 1943, on file as Lone Star Producing Company FPC Gas Rate Schedule Nos. 13, 22 and 33, and a contract dated April 24, 1952, on file as Lone Star Producing Company FPC Gas Rate Schedule No. 46. Authorization for these sales, among others, was granted to Applicant by order issued June 27, 1955, in Docket No. G–5917.

Applicant states that the properties involved have become entirely depleted and are no longer productive of natural gas, that continuation of sales therefrom is impossible and that it is proposed to plug and abandon the wells located thereon.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on May 5, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

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 May 1, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–3301; Filed, Apr. 20, 1959; 8:46 a.m.]

[Docket Nos. G–16395, G–17232]

SAM L. BEWLEY AND DEAN B. KNIGHT, PANHANDLE EASTERN PIPE LINE CO.

Notice of Application and Date of Hearing

APRIL 14, 1959.

Take notice that the above Applicants have filed applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing them to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications which are on file with the Commission and open to public inspection.

In Docket No. G–16395, Sam L. Bewley (Bewley) and Dean B. Knight (Knight) filed an application on September 24, 1958, as amended December 17, 1958, for a certificate of public convenience and necessity covering their proposed sale of natural gas to Panhandle Eastern Pipe Line Company (Panhandle) under a contract dated August 5, 1958, between Bewley and Knight, as sellers, and Panhandle, as buyer. Bewley and Knight also request authority to install the necessary field facilities to effectuate the proposed delivery to Panhandle. These facilities consist of field lines and a compressor station (up to 600 hp), including dehydration equipment, at an estimated cost of $75,000 to be financed from investment of personal funds and bank loans.

Bewley and Knight have no gas production of their own. The gas covered by the above contract is produced from the D. H. Thompson and Covey "A" Leases, Pratt County, Kansas, by Prime Drilling Company, who will then sell it to Bewley and Knight on a "percentage sales" basis as defined in § 154.91(e) of the Commission's rules.

In Docket No. G–17232, Panhandle on December 12, 1958, filed an application for a certificate of public convenience and necessity authorizing the operation of certain existing facilities in Pratt County, Kansas, in order to purchase and receive natural gas from Bewley and Knight. Panhandle's facilities, consisting of a tap located on its 26-inch transmission pipeline, together with 2,697 feet of 4-inch lateral supply pipeline extending northerly from said tap to a meter station, were originally installed at a cost of $12,775 in order to purchase and receive natural gas produced by National Cooperative Refining Corporation (National) under a sale authorized by the Commission in Docket No. G–11482. The source of the gas sold by National to Panhandle has become depleted and the well has been plugged and abandoned.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on May 27, 1959 at 9:30 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

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 May 14, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–3302; Filed, Apr. 20, 1959; 8:46 a.m.]

[Docket Nos. G–17095, G–17237]

MIDWEST NATURAL GAS CORP. AND TEXAS EASTERN TRANSMISSION CORP.

Notice of Postponement of Hearing

APRIL 15, 1959.

Upon consideration of the request filed April 13, 1959, by Texas Eastern Transmission Corporation for postponement of the hearing now scheduled for April 21, 1959 in the above-designated matters;

The hearing now scheduled for April 21, 1959 is hereby postponed to a date to be hereafter fixed by further notice.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–3303; Filed, Apr. 20, 1959; 8:46 a.m.]

[Docket No. G–17097]

CITY OF BARDSTOWN, KENTUCKY

Notice of Postponement of Hearing

APRIL 14, 1959.

Upon consideration of the motion filed April 9, 1959, by Counsel for Louisville Gas and Electric Company for postponement of the hearing now scheduled for May 4, 1959 in the above-designated matter;

The hearing now scheduled for May 4, 1959 is hereby postponed to May 14, 1959, at 10:00 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–3304; Filed, Apr. 20, 1959; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70–3782]

SOUTHERN ELECTRIC GENERATING CO. ET AL.

Notice of Proposed Issuance and Sale of Principal Amount of First Mortgage Bonds, Execution of Power Contract and Assignment Thereof as Security for Such Bonds

APRIL 14, 1959.

In the matter of Southern Electric Generating Company, Alabama Power Company, Georgia Power Company, File No. 70–3782.

Notice is hereby given that Alabama Power Company ("Alabama") and Georgia Power Company ("Georgia"), exempt holding companies and public utility subsidiaries of The Southern Company ("Southern"), a registered holding company, and Southern Electric Generating Company ("SEGCO"), a direct subsidiary of Alabama and Georgia and an indirect subsidiary of Southern, have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b), 12(b), 12(f) and 12(g) of the Act and Rule 50 thereunder as applicable to the proposed transactions which are summarized as follows:

SEGCO proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $25,000,000 principal amount of First Mortgage Bonds, __ percent Series due 1992. The interest rate (to be a multiple of ⅛ of 1 percent and the price to be paid SEGCO (to be not less than 99 percent nor more than 102¾ percent of the principal amount thereof and accrued interest) will be determined by the competitive bidding. The bonds will be issued under an original Indenture to be dated as of June 1, 1959, between SEGCO and The First National City Bank of New York, as Trustee.

The proposed bonds represent an initial issue of First Mortgage Bonds by SEGCO in connection with financing the cost of constructing a steam-electric generating station on the Coosa River in Alabama, which will consist of four turbo-generators with an aggregate capability of approximately 1,000,000 Kw, together with related facilities estimated to cost $161,000,000. The first unit of the station is expected to be in commercial operation in May of 1960, the second in July of 1960, the third in the summer of 1961 and the fourth in the summer of 1962.

The proposed bonds will rank equally as to security with subsequent bonds that may be issued under the indenture and will, in the opinion of SEGCO's counsel, be a direct lien on substantially all of SEGCO's fixed property and franchise with certain contingent exceptions. The bonds will also be secured by an agreement dated as of January 27, 1959 ("power contract") between SEGCO, Alabama, and Georgia pursuant to which Alabama and Georgia each agrees, among other things, to purchase one-half of the electric capacity available from the station and to make payments therefor to SEGCO in amounts sufficient to meet all of its costs, expenses and taxes, including a 6 percent return on the net investment in plant. The contract further provides that, beginning with January 1, 1961, or with the date the first unit is available for commercial operation, whichever is earlier, Alabama and Georgia will make payments to SEGCO, whether or not SEGCO has any power and energy available, of amounts sufficient to provide SEGCO with funds which, together with all other available funds, will be sufficient to enable SEGCO to pay, when due, all its operating and other expenses and taxes, the interest payments on all construction fund bonds outstanding under the mortgage and its obligations under the sinking fund and renewal and replacement provisions of the mortgage relations to such bonds.

SEGCO proposes to deposit the proceeds from the present sale of bonds in a construction fund provided for under the mortgage and to withdraw such funds against expenditures made and obligations incurred on account of the cost of acquisition or construction and completion of the initial plant, including the payment of $4,000,000 of outstanding short-term bank loans incurred for such purposes. It is estimated that the proceeds from the proposed sale of bonds, together with $18,000,000 received by SEGCO in February 1959 from the sale of shares of its common stock to Alabama and Georgia, will be sufficient to finance construction expenditures of SEGCO during 1959, estimated at about $60,000,000, except for short-term bank borrowings of $24,500,000 in the fourth quarter of the year.

The fees and expenses incurred and to be incurred in connection with the proposed transactions are to be supplied by amendment.

According to the filing, (1) the Alabama Public Service Commission has jurisdiction over the proposed issuance and sale of the bonds and also over the power contract; a copy of the order entered in respect thereof is to be supplied by amendment, (2) the power contract is subject to the jurisdiction of the Federal Power Commission and has been filed with that Commission as a rate schedule under section 205(c) of the Federal Power Act and (3) except as aforesaid, the proposed transactions are not subject to the jurisdiction of any State or Federal commission other than this Commission.

Notice is further given that any interested person may, not later than April 30, 1959, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration which he desires to controvert, or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date the application-declaration as filed, or as it may be hereafter amended may be granted and permitted to become effective as provided by Rule 23 promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided by Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-3313; Filed, Apr. 20, 1959, 8:48 a.m.]

[File No. 70-3789]

POTOMAC EDISON CO. ET AL.

Notice of Filing of Joint Application-Declaration Regarding Proposals by Registered Holding Companies To Acquire Additional Capital Stocks To Be Issued by Subsidiaries

APRIL 15, 1959.

In the matter of the Potomac Edison Company, Northern Virginia Power Company, Potomac Light and Power Company, South Penn Power Company, The West Penn Electric Company, File No. 70-3789.

Notice is hereby given that The West Penn Electric Company ("West Penn Electric"), a registered holding company, and its subsidiary The Potomac Edison Company ("Potomac Edison"), a registered holding company and a public utility company, and three public utility subsidiaries of Potomac Edison, i.e., Northern Virginia Power Company ("Northern Virginia"), Potomac Light and Power Company ("Potomac Light"), and South Penn Power Company ("South Penn"), have filed with this Commission a joint application-declaration and an amendment thereto, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), regarding proposals by Northern Virginia, Potomac Light and South Penn to issue and sell additional shares of capital stock, and by Potomac Edison to acquire such additional shares of its subsidiaries' stocks. The joint application-declaration designates sections 6, 7, 9, 10 and 12 of the Act, and Rules 43, 44 and 50 (a)(3) and (a)(4) promulgated thereunder, as applicable to the proposed transactions.

All interested persons are referred to the joint application-declaration on file at the office of the Commission for a statement of the transactions therein proposed, which are summarized as follows:

Northern Virginia proposes to issue and sell 4,000 additional shares of its authorized but unissued $100 par value capital stock; and Potomac Edison proposes to acquire for cash, at par, or an aggregate of $400,000, such additional shares.

Potomac Light proposes to issue and sell 6,000 additional shares of its authorized but unissued $100 par value capital stock; and Potomac Edison proposes to acquire for cash, at par, or an aggregate of $600,000, such additional shares.

South Penn proposes to issue and sell 40,000 additional shares of its authorized but unissued no par capital stock having a stated value of $5 per share; and Potomac Edison proposes to acquire for cash, at the stated value, or an aggregate of $200,000, such additional shares.

Potomac Edison owns, and has pledged under the indenture securing its outstanding bonds, all of the outstanding shares of the capital stocks of Northern Virginia, Potomac Light and South Penn. The proposed issuances, sales, and acquisitions by Potomac Edison are to be

made, from time to time prior to December 31, 1959, and as acquired the additional shares are to be pledged under the indenture securing its outstanding bonds. The proceeds received by the respective companies from the issue and sale of their capital stocks are to be used for necessary property additions and improvements.

Since the proposed acquisitions by Potomac Edison are considered to be indirect acquisitions by West Penn Electric, it has joined in the application-declaration.

The fees and expenses to be incurred in connection with the proposed transactions are estimated by the companies to aggregate $2,275, including $1,200 Federal stamp tax and $300 legal fees.

The joint application-declaration states that the State Corporation Commission of Virginia has jurisdiction over the transactions proposed by Northern Virginia; that the Pennsylvania Public Utility Commission has jurisdiction over the transactions proposed by South Penn; that the Public Service Commission of West Virginia has or asserts jurisdiction over the proposed acquisition by Potomac Edison of the capital stocks of its subsidiaries and that orders of those commissions authorizing the proposed transactions will be supplied by amendments to the joint application-declaration.

Notice is further given that any interested person, not later than April 29, 1959, may request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact and law which he desires to controvert, or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date the Commission may grant and permit to become effective the joint application-declaration, as filed or as it may be amended, as provided by Rule 23 promulgated under the Act, or the Commission may grant exemption from its Rules under the Act or take such other action as it deems appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-3314; Filed, Apr. 20, 1959; 8:48 a.m.]

[File No. 812-1223]

COLONIAL FUND, INC., AND BOND INVESTMENT TRUST OF AMERICA

Notice of Application for Order Exempting Transactions Between Affiliates

APRIL 15, 1959.

Notice is hereby given that The Colonial Fund, Inc. ("Colonial") and The Bond Investment Trust of America ("Bond"), also referred to as Applicants, both open-end management investment companies, have filed a joint application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting the transactions summarized below from the provisions of section 17(a) of the Act.

All the assets of Bond will be exchanged for the shares of stock of Colonial on the basis of the respective net asset values of the shares of Colonial and Bond on the effective date of the exchange, which is expected to be April 30, 1959. Colonial will assume the liabilities of Bond in accordance with the terms and conditions contained in the proposed Agreement and Plan of Reorganization which will be submitted to and will be subject to the approval of a majority of the shares of Bond.

Colonial and Bond have the same investment adviser and principal underwriter, substantially the same officers, and two of the three trustees of Bond are two of the seven directors of Colonial. Colonial's portfolio consists of common stocks, preferred stocks and debt securities. As at March 26, 1959, debt securities comprised approximately 21 percent of the investment portfolio of Colonial and 100 percent of the investment portfolio of Bond. If all of the assets of Bond had been transferred to Colonial as at that date, debt securities would have comprised approximately 25 percent of Colonial's portfolio.

The per share unrealized appreciation of Bond as at March 26, 1959 was equivalent to about $1.27 and for Colonial about $2.60 or a difference of $1.33. If all of the assets of Bond had been transferred to Colonial on March 26, 1959, the per share unrealized appreciation accruing to Bond shareholders would have increased to about $1.32 per share and the unrealized appreciation accruing to the Colonial shareholders would have decreased to about $2.48 per share. The managements of Bond and Colonial have considered any possible disadvantages to their shareholders with respect to the difference of the unrealized appreciation of the two companies but believe that the advantages to their shareholders resulting from the transactions more than outweigh any possible disadvantages.

Applicants represent that the terms of the proposed transactions, including the consideration to be paid or received are reasonable and fair and do not involve any overreaching on the part of any person concerned. They also represent that the proposed transactions are consistent with the policy of Colonial, and will be consistent with the policy of Bond after its shareholders have approved the transaction and reported to the Commission, as recited in their respective registration statements and reports filed and that the proposed transactions are consistent with the general policy and purposes of the Act.

Generally speaking, section 17(a) of the Act prohibits an affiliated person of a registered investment company from purchasing from, or selling to, such registered investment company, any security, with certain exemptions, unless the Commission upon application pursuant to section 17(b) of the Act, grants an exemption from section 17(a) of the Act. The Commission shall grant such application after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its Registration Statement and reports filed under the Act, and is consistent with the general purposes of the Act.

Applicants believe they are not directly or indirectly affiliated within the meaning of section 17(a) of the Act. However, because of the possibility that they might be considered to be under common control and therefore affiliates as defined in the Act, and in order to remove any doubt as to the legality of the proposed transactions under section 17(a), they request that such transactions be exempted therefrom pursuant to the provisions of section 17(b) of the Act.

Notice is further given that any interested person may, not later than April 28, 1959, at 2:00 p.m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the application, as amended, may be granted as provided in Rule O-5 of the rules and regulations promulgated under the Act.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-3315; Filed, Apr. 20, 1959; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 16, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35368: *Commodity rates from, to, and between points east of the Rocky Mountains.* Filed by Illinois Freight Association, Agent (No. 52), for interested rail carriers. Rates on various commodities, in carloads, as more fully described in exhibit to the application.

Territory: From, to, and between points in the United States east of the

Rocky Mountains included in Docket 28300, *Class Rate Investigation, 1939*, 281 I.C.C. 213.

Grounds for relief: Short-line distance formulas and restoration of rate levels disrupted by different percentages increases under Ex Parte No. 206.

Tariffs: Supplement 2 to Illinois Freight Association tariff I.C.C. 917 and other schedules listed in exhibits 2 through 25 of the application.

FSA No. 35369: *T.O.F.C. service—Titanium pigments—St. Louis, Mo., group to eastern points.* Filed by The Wabash Railroad Company, Agent (No. 30), for interested rail carriers. Rates on titanium pigments, loaded in or on trailers and transported on flat cars from St. Louis, Mo., and points grouped therewith and taking same rates to points in Delaware, Maryland, New Jersey, New York, and Pennsylvania, named in the schedule listed below.

Grounds for relief: Motor truck competition.

Tariff: Supplement 4 to Wabash Railroad Company tariff I.C.C. 7882.

FSA No. 35370: *Caustic soda—Northern points to Rome, Ga.* Filed by O. E. Schultz, Agent (ER No. 2491), for interested rail carriers. Rates on caustic soda (sodium hydroxide), liquid, tank-car loads from Detroit, Mich., Niagara Falls, N.Y., Barberton, Ohio, Belle, W.Va., and other specified points in Michigan, New York, Ohio, and West Virginia to Rome, Ga.

Grounds for relief: Market competition at Rome with Evans City, Ala.

Tariff: Supplement 119 to Trunk Line Territory Tariff Bureau tariff I.C.C. A–1079.

FSA No. 35371: *Caustic soda—Northern points to Lowland, Tenn.* Filed by O. E. Schultz, Agent (ER No. 2490), for interested rail carriers. Rates on caustic soda (sodium hydroxide), liquid, tank-car loads from Detroit, Mich., Niagara Falls, N.Y., Barberton, Ohio, Natrium, W. Va., and other specified points in Michigan, New York, Ohio, and West Virginia to Lowland, Tenn.

Grounds for relief: Market competition at Lowland with Saltville, Va.

Tariff: Supplement 119 to Trunk Line Territory Tariff Bureau tariff I.C.C. A–1079.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-3312; Filed, Apr. 20, 1959; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—APRIL

A numerical list of the parts of the Code of Federal Regulations affected by documents published to date during April. Proposed rules, as opposed to final actions, are identified as such.

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PART II

FEDERAL REGISTER

VOLUME 24 NUMBER 77

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Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

[T. D. 6373]

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Interim Regulations

The purpose of this Treasury decision is to provide interim regulations for the proper administration of the Internal Revenue Code of 1954 (herein referred to as "the Code"), as amended by section 201 of the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1313) (herein referred to as "the act").

Subpart Q—Interim Regulations

Sec.

AUTHORITY: §§ 170.371 to 170.374 issued under sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

§ 170.371 Existing regulations prescribed as interim regulations.

All regulations (including all Treasury decisions) prescribed by, or under authority duly delegated by, the Secretary of the Treasury, or jointly by the Secretary and the Commissioner of Internal Revenue, or by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, or jointly by the Commissioner of Internal Revenue and the Commissioner of Customs with the approval of the Secretary of the Treasury, applicable under any provision of law in effect on June 30, 1959, to the extent such provision of law is repealed by section 201 of the act, are, insofar as any such regulation is not inconsistent with the Code as amended by section 201 of the act, hereby prescribed under and made applicable to the provisions of the Code, as amended by the act, corresponding to the provision of law so repealed. Such regulations shall, on July 1, 1959, become effective as regulations under the various provisions of the Code as amended by section 201 of the act, until superseded by regulations issued pursuant to chapter 51 of the Code as amended by such act.

§ 170.372 Applicability of instructions or rules in effect on June 30, 1959.

All instructions and interpretative rulings in effect, with respect to chapter 51 of the Code or with respect to regulations issued pursuant thereto, as of June 30, 1959, shall, to the extent that such instructions or rulings are not inconsistent with chapter 51 of the Code, as amended by section 201 of the act or with regulations in effect after such date, continue in effect on and after July 1, 1959, and be applied as instructions and rulings pursuant to the applicable provisions of the Code as so amended or pursuant to the applicable provisions of regulations in effect on and after July 1, 1959, as the case may be.

§ 170.373 Regulations to be followed.

(a) *Continuation of same businesses.* Any person who, on June 30, 1959, was subject to regulations which, under § 170.371, are prescribed and made applicable on and after July 1, 1959, shall be subject to the provisions of such regulations as prescribed and made applicable which correspond to the provisions of regulations to which he was subject on June 30, 1959, to the extent that such regulations are not superseded as provided in § 170.371.

(b) *New businesses.* Any person who, on or after July 1, 1959, intends to commence a new business or operation which is required to be qualified under section 5171, I.R.C., shall conduct such business or operation in conformity with the regulations in Part 182, 216, 220, 221, 225, 230, or 235 of this chapter, as the case may be, which would have been applicable to such business or operation on June 30, 1959, to the extent that such regulations are not superseded as provided in § 170.371.

§ 170.374 Meaning of terms.

The terms "distilled spirits plant", "bonded premises", and "bottling premises", as they appear in this section, shall have the meanings ascribed in section 5002(a) (1), (2), and (3), I.R.C., respectively. Any references, in the regulations prescribed and made applicable by this subpart, to industrial alcohol plants, registered distilleries, fruit distilleries, internal revenue bonded warehouses, industrial alcohol bonded warehouses, distillery denaturing bonded warehouses, and industrial alcohol denaturing plants shall, for the purpose of this subpart, be treated as references to the corresponding facilities of the bonded premises of a distilled spirits plant, and references to the proprietor of any such premises shall be treated as references to the proprietor of the bonded premises of a distilled spirits plant. Similarly, any references in the regulations prescribed and made applicable by this subpart to taxpaid bottling houses and rectifying plants shall, for the purpose of this subpart, be treated as references to the corresponding facilities of the bottling premises of distilled spirits plants, and references to the proprietors of such taxpaid bottling house and rectifying plant shall be treated as references to the proprietors of bottling premises of distilled spirits plants.

Because this Treasury decision merely provides for the continuance of existing rules pending further action, it is hereby found that it is unnecessary to issue this Treasury decision with notice and public

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procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of said act. This Treasury decision shall become effective on July 1, 1959.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: April 16, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 59-3340; Filed, Apr. 20, 1959; 8:51 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 170]

MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

The purpose of this Treasury decision is to provide interim regulations implementing section 201 of the Excise Tax Technical Changes Act of 1958 (Pub. Law 85-859), with respect to the distribution and use of tax-free and specially denatured spirits.

PARAGRAPH 1. The following new subpart, Subpart M, is added to Part 170:

Subpart M—Qualification of Dealers in and Users of Specially Denatured Spirits

Sec.

AUTHORITY: §§ 170.221 to 170.236 issued under sec. 7805, I.R.C., 68A Stat. 917; 26 U.S.C. 7805. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 170.221 Scope of subpart.

This subpart provides interim procedures under sections 5271 and 5272, I.R.C., as amended by the Excise Tax Technical Changes Act of 1958 (Pub. Law 85-859), to permit persons to procure, deal in, or use specially denatured spirits or recover denatured spirits or articles on and after July 1, 1959.

DEFINITIONS

§ 170.222 Meaning of terms.

When used in this subpart and in forms prescribed under this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner.

Completely denatured spirits or completely denatured alcohol. Denatured spirits in which the denaturants are of such a nature that the denatured spirits may be sold and used within certain limitations without permit and bond.

Denatured spirits or denatured alcohol. Spirits to which denaturants have been added pursuant to authorized formulas.

Industrial use permit. The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to engage in the activities described therein.

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

Recover or recovery. The salvaging after use in manufacturing of specially denatured spirits, completely denatured spirits without all of their original denaturants, or articles containing denatured spirits if such articles made with specially denatured spirits do not contain all of their original ingredients or if such articles made with completely denatured spirits do not contain all of the original denaturants of the completely denatured spirits.

Recovered article. An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured spirits salvaged without all of the denaturants for completely denatured spirits.

Recovered denatured spirits. Denatured spirits (except completely denatured spirits with all of the original denaturants remaining therein) which have been recovered.

Region. An internal revenue region.

Regional commissioner. A regional commissioner of internal revenue.

Specially denatured spirits or specially denatured alcohol. Denatured spirits in which the denaturants are of such a nature that the product may be used in a greater number of specified arts and industries than completely denatured spirits, but, except as provided by law, may be sold, possessed, and used only pursuant to permit and bond.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

Withdrawal permit. The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to withdraw specially denatured spirits, as specified therein, from the premises of a distilled plant or bonded dealer.

PERMIT TO DEAL IN OR USE SPECIALLY DENATURED SPIRITS

§ 170.223 Application for bonded dealer permit.

Every person, except a proprietor of a distilled spirits plant who sells denatured spirits stored at his plant premises, desiring to deal in specially denatured spirits after June 30, 1959, shall make application on Form 1474 for an industrial use permit. Such application and necessary supporting documents, as required in this subpart, shall be filed with the assistant regional commissioner. All data, written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Such application shall be accompanied by the application for a withdrawal permit, Form 1477, required by § 170.231.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.224 Application for permit to use specially denatured spirits or to recover denatured spirits or articles.

Every person desiring to use specially denatured spirits and every person desiring to recover denatured spirits or articles after June 30, 1959, shall make application on Form 1479 for an industrial use permit. Such application and necessary supporting documents as required by this subpart shall be filed with the assistant regional commissioner. All data, written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Such application shall be ac-

companied by the application for a withdrawal permit, Form 1485, required by § 170.232.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.225 Data for application, Forms 1474 and 1479.

Each application on Form 1474 or 1479 shall include, as applicable, the following information:

(a) Serial number and purpose for which filed.

(b) Name and principal business address of applicant.

(c) Location of the dealer's or user's premises, if different from the business address.

(d) Statement as to the type of business organization and of the persons interested in the business, supported by the items of information listed in § 170.227.

(e) Statement of operations showing the estimated maximum quantity of gallons of specially denatured spirits to be on hand, in transit, and unaccounted for at any one time and, in the case of users, a general statement as to the intended use to be made of the specially denatured spirits, and whether recovery, restoration, and denaturation processes will be used, and, if so, the estimated number of gallons of recovered denatured spirits or recovered articles to be on hand at any one time.

(f) Listing of equipment to be used in manufacturing, packaging, and recovery processes, including processing tanks, storage tanks, bottling facilities, and equipment for the recovery, restoration (including the serial number, kind, capacity, name and address of owner, and intended use of distilling apparatus), and redenaturation of denatured spirits by users, and the size and complete description of the specially denatured spirits storeroom or storage tanks.

(g) Trade names (see § 170.226).

(h) List of the offices, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the applicant or to sign his name.

(i) State whether any of the persons whose names and addresses are required to be furnished under the provisions of §§ 170.227(a)(8) and 170.227(c) has (1) ever been convicted of a felony or misdemeanor under Federal or State law, (2) ever been arrested or charged with any violation of State or Federal law (convictions or arrests or charges for traffic violations need not be reported if such violations are not felonies), or (3) ever applied for, held, or been connected with a permit issued under Federal law to manufacture, distribute, sell, or use spirits or products containing spirits, whether or not for beverage use, or held any financial interest in any business covered by any such permit, and, if so, give the number and classification of such permit, the period of operation thereunder, and state in detail whether such permit was ever suspended, revoked, annulled, or otherwise terminated. Where any of the information required by this section is on file with the assistant regional commissioner, the applicant may, by incorporation by reference thereto, state that such information is a part of the application for an industrial use permit. The applicant shall, when so required by the assistant regional commissioner, furnish as part of his application for an industrial use permit such additional information as may be necessary for the assistant regional commissioner to determine whether the applicant is entitled to the permit.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.226 Trade names.

Where a trade name is to be used by an applicant, he shall list such trade name on Form 1474 or Form 1479, and the the offices where such name is registered, supported by copies of any certificate or other document filed or issued in respect of such name.

§ 170.227 Organizational documents.

The supporting information required by paragraph (d) of § 170.225 includes, as applicable:

(a) *Corporate documents.* (1) Certified true copy of articles of incorporation and any amendments thereto.

(2) Certified true copy of the corporate charter or a certificate of corporate existence or incorporation.

(3) Certified true copy of certificate authorizing the corporation to operate in the State where the premises are located (if other than that in which incorporated).

(4) Certified extracts or digests of minutes of meetings of stockholders, showing election of directors.

(5) Certified true copy of bylaws.

(6) Certified extracts or digests of minutes of meetings of board of directors, showing election of officers.

(7) Certified extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation.

(8) Names and addresses of officers and directors.

(9) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders.

(b) *Articles of partnership.* True copy of the articles of partnership or association, if any, or certificates of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or other legal entity, and the nature and amount 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. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary.

(2) In the case of an individual owner or partnership, name and address of every person interested in the business, whether such interest appears in the name of the interested party or in the name of another for him.

§ 170.228 Powers of attorney.

An applicant or permittee shall execute and file with the assistant regional commissioner a Form 1534, in accordance with the instructions on the form, for every person authorized to sign or to act on his behalf. (Not required for persons whose authority is furnished in accordance with § 170.225.)

§ 170.229 Permits.

A permittee qualified to deal in or use specially denatured spirits on June 30, 1959, who has filed an application, Form 1474 or Form 1479, in accordance with § 170.223 or § 170.224, as the case may be, may continue to operate after that date under his permit in force on June 30, 1959, until final action is taken by the assistant regional commissioner on such application. Nonpermittees filing such applications shall not deal in or use specially denatured spirits until they are in possession of a valid permit on Form 1476 or Form 1481, issued in accordance with the applicable provisions of Part 182 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.230 Bond requirements.

Every permittee filing an application on Form 1474 or Form 1479 shall file a new bond in accordance with the procedure prescribed therefor in Part 182 of this chapter or a consent of surety, Form 1533, extending the terms of the bond in force on June 30, 1959, to cover spirits on hand, in transit, or unaccounted for on and after July 1, 1959. The Form 1533 shall properly identify the bond affected thereby and contain the following statement of purpose:

> To continue in effect the terms and conditions of said bond (including all extensions or limitations of such terms and conditions previously consented to and approved) to cover specially denatured spirits on hand, in transit, or unaccounted for on and after July 1, 1959.

Every nonpermittee filing an application on Form 1474 or Form 1479 for an industrial use permit shall file bond, where required, in accordance with the procedure prescribed therefor in Part 182 of this chapter.

(72 Stat. 1372; 26 U.S.C. 5272)

WITHDRAWAL PERMITS

§ 170.231 Application for withdrawal permit by a bonded dealer.

A bonded dealer desiring to procure specially denatured spirits, on or after July 1, 1959, shall file application on Form 1477 with the assistant regional commissioner for a withdrawal permit. The application shall show the date and the estimated quantity of specially denatured spirits necessary to carry on the business during a period of one year.

§ 170.232 Application for withdrawal permit by a user.

A user desiring to procure specially denatured spirits on or after July 1, 1959, shall file an application on Form 1485 with the assistant regional commissioner for a withdrawal permit. The applica-

tion shall show the total quantity of each formula of specially denatured spirits (by kind) to be withdrawn during a period of one year, and the total quantity of each such formula it is desired to withdraw during any one calendar month. The total quantity to be withdrawn during a year shall not be more than is sufficient to meet the bona fide business needs of the applicant. The total quantity of any formula to be withdrawn during any calendar month should not be more than one-twelfth of the annual requirements. Where the applicant desires to withdraw more than one-twelfth of his annual requirements during any month, he should state his needs and furnish sufficient information for the assistant regional commissioner to determine whether such withdrawals should be authorized. A permittee may, if he so desires, file applications for more than one withdrawal permit and have his monthly and annual total withdrawals divided among such permits. The assistant regional commissioner may approve or disapprove the application in whole or in part.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.233 Withdrawal permits.

A bonded dealer or user who has a valid withdrawal permit, Form 1477 or Form 1485, as the case may be, on June 30, 1959, and who has filed application in accordance with § 170.231 or § 170.232, may continue to withdraw specially denatured spirits after that date under his permit in force on June 30, 1959, until final action is taken on such application. Unless the bonded dealer or user has filed application on Form 1477 or Form 1485, as the case may be, prior to July 1, 1959, he shall not make any further withdrawals on or after such date and shall return his withdrawal permit to the assistant regional commissioner for cancellation. If applications for withdrawal permits filed pursuant to §§ 170.231 and 170.232 by persons who did not possess valid withdrawal permits on June 30, 1959, are approved, the assistant regional commissioner shall issue a withdrawal permit in accordance with the applicable provisions of Part 182 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

UNITED STATES OR GOVERNMENTAL AGENCY

§ 170.234 Application by United States or governmental agency for permit to procure specially denatured spirits.

Where specially denatured spirits are to be withdrawn by the United States or any governmental agency thereof on and after July 1, 1959, an application shall be filed on Form 1486 for a permit. Form 1486 shall be executed in duplicate, signed by the head of the department or independent bureau or agency to which such specially denatured spirits are to be shipped, or by some person duly authorized by such head of a department or independent bureau or agency and forwarded to the Director. Evidence of authority to sign for the head of a department or independent bureau or agency shall be furnished the Director. No bond is required to be filed.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.235 Permit, Form 1486.

A Governmental agency having a valid permit, Form 1486, on June 30, 1959, and which has filed an application in accordance with § 170.234 may continue to withdraw specially denatured spirits after that date under its permit in force on June 30, 1959, until final action is taken by the Director on such application. Governmental agencies which do not have a valid permit, Form 1486, on June 30, 1959, may not withdraw specially denatured spirits until a permit has been issued to them in accordance with the applicable provisions of Part 182 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

REGULATORY REQUIREMENTS

§ 170.236 Other provisions applicable.

All of the provisions of Parts 182 and 216 of this chapter, to the extent that they are not inconsistent with or superseded by the provisions of this subpart, with respect to the withdrawal, storage, use, and disposition of specially denatured spirits, the recovery of denatured spirits or articles, and the records and reports required with respect thereto, are hereby made applicable to transactions on and after July 1, 1959.

PAR. 2. The following new subpart, Subpart N, is added:

Subpart N—Qualification of Users of Tax-Free Spirits

Sec.

AUTHORITY: §§ 150.251 to 170.266 issued under sec. 7805, I.R.C., 68A Stat. 917; 26 U.S.C. 7805. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 170.251 Scope of subpart.

This subpart provides interim procedures under sections 5271 and 5272, I.R.C., as amended by the Excise Tax Technical Changes Act of 1958 (Pub. Law 85–859), to permit persons to procure or use tax-free spirits on and after July 1, 1959, and to provide additional uses of tax-free spirits authorized by section 5214(a)(3), I.R.C., as amended by such act.

DEFINITIONS

§ 170.252 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner.

Industrial use permit. The document issued pursuant to section 5271(a), I.R.C. authorizing the person named therein to engage in the activities described therein.

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

Region. An internal revenue region.

Regional commissioner. A regional commissioner of internal revenue.

Spirits or distilled spirits. The substance known as ethyl alcohol, ethanol, or spirits of wine, having a proof of 190 degrees or more when withdrawn from bond, including all subsequent dilutions thereof, from whatever source or by whatever process produced.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

Withdrawal permit. The document issued pursuant to section 5271(a), I.R.C. authorizing the person named therein to withdraw tax-free spirits, as specified therein, from the premises of a distilled spirits plant.

PERMIT TO USE TAX-FREE SPIRITS

§ 170.253 Application for permit to use tax-free spirits.

Every person desiring to use tax-free spirits on and after July 1, 1959, shall make application on Form 2600 for an industrial use permit. Such application and necessary supporting documents as required by this subpart shall be filed with the assistant regional commissioner. All data, written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Such application shall be accompanied by the application for a withdrawal permit, Form 1450, required by § 170.264.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.254 Data for application.

Each application on Form 2600 shall include the following information:

(a) Serial number and purpose for which filed.

(b) Name and principal business address of applicant.

(c) Location, or locations, where tax-free spirits are to be used, if different from the business address.

(d) Statement as to the type of business organization and of the persons interested in the business, supported by the items of information listed in § 170.256.

(e) Statement showing the specific manner in which, or purposes for which, tax-free spirits will be used and the estimated maximum quantity, in proof gallons, which will be on hand, in transit, and unaccounted for at any one time.

(f) Listing of the size, description, and location of storage facilities and of equipment for the recovery and restoration of spirits (including the serial number, kind, capacity, name and address of owner, and intended use of distilling apparatus).

(g) Trade names (see § 170.255).

(h) List of the offices, the incumbents of which are authorized by the articles of incorporation, the bylaws, or the board of directors to act on behalf of the applicant or to sign his name.

(i) State whether any of the persons whose names and addresses are required to be furnished under the provisions of §§ 170.256(a)(8) and 170.256(c) has (1) ever been convicted of a felony or misdemeanor under Federal or State law, relating to intoxicating liquor, (2) ever been arrested or charged with any violation of State or Federal law relating to intoxicating liquor, or (3) ever applied for, held, or been connected with a permit, issued under Federal law, to manufacture, distribute, sell, or use spirits or products containing spirits, whether or not for beverage use, or held any financial interest in any business covered by any such permit, and, if so, give the number and classification of such permit, the period of operation thereunder, and state in detail whether such permit was ever suspended, revoked, annulled, or otherwise terminated. Where any of the information required by this section is on file with the assistant regional commissioner, the applicant may, by incorporation by reference thereto, state that such information is a part of the application for an industrial use permit. The applicant shall, when so required by the assistant regional commissioner, furnish as a part of his application for an industrial use permit such additional information as may be necessary for the assistant regional commissioner to determine whether the applicant is entitled to the permit.

§ 170.255 Trade names.

Where a trade name is to be used by an applicant or permittee, he shall list such trade name on Form 2600 and the offices where such name is registered, supported by copies of any certificate or other document filed or issued in respect of such name.

§ 170.256 Organizational documents.

The supporting information required by paragraph (d) of § 170.254 includes, as applicable:

(a) *Corporate documents.* (1) Certified true copy of articles of incorporation and any amendments thereto.

(2) Certified true copy of the corporate charter or a certificate of corporate existence or incorporation.

(3) Certified true copy of certificate authorizing the corporation to operate in the State where the premises are located (if other than that in which incorporated).

(4) Certified extracts or digests of minutes of meetings of stockholders, showing election of directors.

(5) Certified true copy of bylaws.

(6) Certified extracts or digests of minutes of meetings of board of directors, showing election of officers.

(7) Certified extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation.

(8) Names and addresses of officers and directors.

(9) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders.

(b) *Articles of partnership.* True copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or legal entity, and the nature and amount 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. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary.

(2) In the case of an individual owner or partnership, name and address of every person interested in the business, whether such interest appears in the name of the interested party or in the name of another for him.

§ 170.257 Powers of attorney.

An applicant or permittee shall execute and file with the assistant regional commissioner a Form 1534, in accordance with the instructions on the form, for every person authorized to sign or to act on his behalf. (Not required for the persons whose authority is furnished in accordance with § 170.254.)

§ 170.258 Permit to use tax-free spirits.

A permittee qualified on June 30, 1959, who files an application, Form 2600, in accordance with § 170.253 may continue to operate after that date under his permit in force on June 30, 1959, until final action is taken by the assistant regional commissioner on such application. Nonpermittees filing such applications shall not use tax-free spirits until they are in possession of a valid permit on Form 1447 issued in accordance with the applicable provisions of Part 182 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.259 Bond requirements.

Every permittee filing an application on Form 2600 shall file a new bond in accordance with the procedure prescribed therefor in Part 182 of this chapter or a consent of surety, Form 1533, extending the terms of the bond in force on June 30, 1959, to cover spirits on hand, in transit, or unaccounted for on and after July 1, 1959. The Form 1533 shall properly identify the bond affected thereby and contain the following statement of purpose:

> To continue in effect the terms and conditions of said bond (including all extensions or limitations of such terms and conditions previously consented to and approved) to cover tax-free spirits on hand, in transit, or unaccounted for on and after July 1, 1959.

Every nonpermittee filing an application on Form 2600 for an industrial use permit shall file bond, where required, in accordance with the procedure prescribed therefor in Part 182 of this chapter.

(72 Stat. 1372; 26 U.S.C. 5272)

AUTHORIZED USES OF TAX-FREE SPIRITS

§ 170.260 General.

In addition to the purposes provided for in Part 182 of this chapter, spirits may be withdrawn free of tax for the purposes provided for in §§ 170.261 to 170.263.

§ 170.261 Hospitals, blood banks, and sanitariums.

Tax-free spirits may be withdrawn by blood banks for use therein. The use of tax-free spirits at hospitals, blood banks, and sanitariums includes making any analysis or test at such hospital, blood bank, or sanitarium. Medicines made with tax-free spirits may not be sold, except that a separate charge may be made for such medicines compounded on the hospital premises for use of patients on the premises. The restrictions as to sale or removal of tax-free spirits or resulting products from the permit premises, contained in Part 182 of this chapter, shall apply to hospitals, blood banks, and sanitariums.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 170.262 Educational organizations exempt from Federal income tax.

Tax-free spirits may be withdrawn for the use of any educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on and which is exempt from Federal income tax under section 501(a), I.R.C. Tax-free spirits withdrawn by such educational organizations shall be used only for scientific, medicinal, and mechanical purposes. The restrictions

as to sale or removal of tax-free spirits or resulting products from the permit premises contained in Part 182 of this chapter shall apply to educational organizations under this section.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 170.263 Pathological laboratories.

Pathological laboratories, other than such laboratories which are a part of a hospital or sanitarium, may withdraw tax-free spirits only if engaged exclusively in making analyses or tests for hospitals or sanitariums. Such independent pathological laboratories may not obtain tax-free spirits if tests or analyses are made for doctors or dentists in their private practice or for any other purpose than as provided in this section. The restrictions as to sale or removal of tax-free spirits or resulting products from the permit premises contained in Part 182 of this chapter shall apply to pathological laboratories under this section.

WITHDRAWAL PERMITS

§ 170.264 Application for withdrawal permit.

Every person desiring to withdraw tax-free spirits on or after July 1, 1959, shall file an application on Form 1450 with the assistant regional commissioner for a withdrawal permit. The application, Form 1450, shall show the total quantity, in proof gallons, of tax-free spirits to be withdrawn during a period of one year, and the total quantity, in proof gallons, to be withdrawn during any one calendar month. The total quantity to be withdrawn during a year shall not be more than is sufficient to meet the bona fide needs of the applicant. The total quantity to be withdrawn during any calendar month should not be more than one-twelfth of the annual requirements. Where the applicant desires to withdraw more than one-twelfth of his annual requirements during any month, he shall state his needs and furnish sufficient information for the assistant regional commissioner to determine whether such withdrawals should be authorized. An applicant or permittee may, if he so desires, file application for more than one withdrawal permit and have his monthly and annual total withdrawals divided among such permits. The assistant regional commissioner may approve or disapprove the application in whole or in part.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.265 Withdrawal permits.

A permittee holding a withdrawal permit on June 30, 1959, who has filed an application, Form 1450, in accordance with § 170.264 may continue to withdraw tax-free spirits after that date under his withdrawal permit in force on June 30, 1959, until final action is taken by the assistant regional commissioner on such application. Unless an application is filed as provided in this subpart, no withdrawals shall be made after June 30, 1959, and the withdrawal permit in the possession of the permittee shall be returned to the assistant regional commissioner for cancellation. The provisions of Part 182 of this chapter governing the issuance of permits are hereby made applicable to permits issued pursuant to applications filed on Form 1450 by persons who are not in possession of withdrawal permits on June 30, 1959.

(72 Stat. 1370; 26 U.S.C. 5271)

UNITED STATES OR GOVERNMENTAL AGENCY

§ 170.266 Application by United States or Governmental agency for permit to procure tax-free spirits.

Where tax-free spirits are to be withdrawn by the United States or any Governmental agency thereof after June 30, 1959, an application shall be filed on Form 1444 for a withdrawal permit. Form 1444 shall be executed in duplicate, signed by the head of the department or independent bureau or agency to which such tax-free spirits are to be shipped, or by some person duly authorized by such head of a department or independent bureau or agency and shall be forwarded to the Director. Evidence of authority to sign for the head of a department or independent bureau or agency shall be furnished the Director. No bond is required to be filed.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.267 Permit, Form 1444.

A Governmental agency having a valid permit, Form 1444, on June 30, 1959, and which has filed an application in accordance with § 170.266 may continue to withdraw tax-free spirits after that date under its permit in force on June 30, 1959, until final action is taken by the Director on such application. Governmental agencies which do not have a valid permit, Form 1444, on June 30, may not withdraw tax-free spirits until a permit has been issued to them in accordance with the applicable procedure prescribed in Part 182 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

REGULATORY REQUIREMENTS

§ 170.268 Other provisions applicable.

All of the provisions of Part 182 of this chapter, to the extent that they are not inconsistent with or superseded by the provisions of this subpart, with respect to the withdrawal, storage, use, and disposition of tax-free spirits (alcohol), and the records and reports in connection therewith, are hereby made applicable to such transactions on and after July 1, 1959.

[F.R. Doc. 59-3347; Filed, Apr. 20, 1959; 8:52 a.m.]

[26 CFR (1954) Part 197]

DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

The purpose of this Treasury decision is to amend 26 CFR Part 197 in order that the provisions of Public Law 85-859 relating thereto may be made effective.

These changes, in general, provide for the allowance of drawback of tax on imported alcohol withdrawn from the bonded premises of a distilled spirits plant under section 5131, I.R.C.; the revision of the definition of distilled spirits to conform to the provisions of section 5002, I.R.C.; the determination of special tax on the basis of "use" rather than "withdrawals"; and the provision that taxes may be paid or "determined".

Pursuant to the above, it is proposed to amend 26 CFR Part 197 as follows:

§ 197.1 [Amendment]

PARAGRAPH 1. Section 197.1 is amended by striking "domestic" in the second sentence.

PAR. 2. Section 197.10 is renumbered § 197.9 and is amended to read:

§ 197.9 Distilled spirits.

Distilled spirits shall mean that substance known as ethyl alcohol, ethanol, spirits, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, rum, gin, and vodka, produced at an industrial alcohol plant, registered distillery, or fruit distillery (operated, respectively, under Part 182, 220, or 221, of this chapter) or withdrawn on or after July 1, 1959, from the bonded premises of a distilled spirits plant operated under Part 201 of this chapter.

§ 197.10 [Renumbered]

PAR. 3. Section 197.9 is renumbered § 197.10.

PAR. 4. Section 197.11 is amended to read:

§ 197.11 Filed.

Subject to the provisions of §§ 301.7502 through 301.7503-1 of this chapter, a claim for drawback shall be deemed to have been "filed" when it is delivered to the office of the proper assistant regional commissioner, and by that office received.

§ 197.17 [Amendment]

PAR. 5. Section 197.17 is amended by striking "withdrawals" where it appears and inserting "use" in lieu thereof.

§ 197.25 [Amendment]

PAR. 6. Section 197.25 is amended by striking "withdrawals" where it appears and inserting "use" in lieu thereof.

§ 197.109 [Amendment]

PAR. 7. Section 197.109(b) is amended by inserting "or determined" after "paid" and by striking the period after "plant" and inserting in lieu thereof ", or were withdrawn from the bonded premises of a distilled spirits plant".

PAR. 8. Section 197.117 is amended to read:

§ 197.117 Account of distilled spirits recovered in the manufacture of products eligible for drawback.

Each claim will be accompanied by a summary statement showing in proof gallons the quantity of all recovered distilled spirits on hand at the beginning of the period, quantity in process beginning of the period, quantity recovered during the period, quantity used not subject to drawback, quantity in process at the end of the period, and the quantity remaining on hand at the end of the period. Any discrepancy between the amount of recovered distilled spirits on hand at the end of the period as disclosed by actual inventory and the amount shown by the manufacturer's records must be reported in the summary with an explanation of the cause thereof. Distilled spirits recovered from dregs or marc of percolation or extraction of products eligible for drawback may be reused only in the manufacture of nonbeverage products. Such recovered distilled spirits are not eligible for drawback and shall not be used in the manufacture of intermediate products.

(72 Stat. 1330; 26 U.S.C. 5025)

[F.R. Doc. 59-3343; Filed, Apr. 20, 1959; 8:51 a.m.]

[26 CFR (1954) Part 198]

PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any date, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

In order to implement certain provisions of the Internal Revenue Code of 1954, as amended by Public Law 85-859, as they relate to volatile fruit-flavor concentrates, 26 CFR Part 198 is amended as follows:

PARAGRAPH 1. Section 198.25, and the headnote thereto, is amended to read:

§ 198.25 Restrictions as to location.

A concentrate plant shall not be established in any dwelling house, or in any shed, yard, or enclosure connected with any dwelling house, or on board any vessel or boat, or in any building or on any premises where the effective administration of this part will be hindered, or (except as provided in § 198.26) on premises where any other business is carried on.

PAR. 2. Section 198.26 is amended to read:

§ 198.26 Use of premises.

The premises and equipment of a concentrate plant shall be used only for the business stated in the approved application for registration. Where the proprietor desires to use such premises and equipment, or any portion thereof, for any other business other than that of a manufacturer of concentrates (and activities incident thereto), he shall submit to the Director, through the assistant regional commissioner, a written application, in triplicate, settting forth the type of business he desires to conduct, the buildings and equipment he proposes to use, and the relationship, if any, of such business to concentrate plant operations. The application shall not be approved until the Director has determined that the carrying on of such business will not jeopardize the revenue, hinder effective administration of this part, or be contrary to law. Such other business may not be carried on until the application has been approved by the assistant regional commissioner.

§§ 198.10, 198.55, 198.56, 198.59–198.61, 198.66, 198.95, 198.111, 198.114, 198.127, 198.128, 198.135, 198.136, 198.141, 198.142, 198.144, 198.147, 198.170 [Amendment]

PAR. 3. Wherever the words "notice" or "notices" appear in §§ 198.10, 198.55, 198.56, 198.59, 198.60, 198.61, 198.66, 198.95, 198.111, 198.114, 198.127, 198.128, 198.135, 198.136, 198.141, 198.142, 198.144, 198.147, and 198.170, including the headnotes of such sections, such words are amended to read "application" or "applications", as applicable.

§ 198.110 [Amendment]

PAR. 4. Section 198.110 is amended by striking the phrase, "written notice must be given to the assistant regional commissioner, and in the form prescribed in this subpart", and inserting in lieu thereof the phrase, "the proprietor shall comply with the requirements of this subpart."

PAR. 5. Section 198.165, and the headnote thereto, is amended to read:

§ 198.165 Suspension of business.

Any proprietor desiring to suspend operations for an indefinite period or for a definite period exceeding 15 days, shall give written notice to the assistant regional commissioner stating when operations are to be suspended. When operations are to be resumed the proprietor shall give written notice to the assistant regional commissioner stating when operations will commence.

[F.R. Doc. 59-3341; Filed, Apr. 20, 1959; 8:51 a.m.]

[26 CFR (1954) Part 200]

RULES OF PRACTICE IN PERMIT PROCEEDINGS

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 49 Stat. 977; 26 U.S.C. 7805, 27 U.S.C. 201, et seq.).

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

In order to conform the regulations to the Internal Revenue Code of 1954, as amended by the Excise Tax Technical Changes Act of 1958, and with technical changes made in related regulations pursuant to such Act, 26 CFR Part 200 is amended as follows:

§ 200.1 [Amendment]

PARAGRAPH 1. Section 200.1 is amended by striking from the first sentence the word "basic" appearing immediately preceding the words "permits under the Internal Revenue Code".

PAR. 2. Section 200.5 is amended to read as follows:

§ 200.5 Meaning of terms.

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

PAR. 3. A new section, designated § 200.9a and reading as follows, is inserted immediately following § 200.9:

§ 200.9a CFR.

"CFR" shall mean the Code of Federal Regulations.

§ 200.12 [Amendment]

PAR. 4. Section 200.12 is amended by striking the phrase ", Alcohol and Tobacco Tax Division", immediately following the word "Director" in the headnote and the first time that it appears in the text.

PAR. 5. Section 200.17 is amended to read as follows:

§ 200.17 Permit.

(a) *Basic permit.* "Basic permit" shall mean the document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

(b) *Container permit.* "Container permit" shall mean the document issued pursuant to section 5301, I.R.C., authorizing the person named therein to engage in a designated business or activity described therein.

(c) *Industrial use permit.* "Industrial use permit" shall mean a document issued pursuant to section 5271(a), I.R.C., authorizing a person named therein to use distilled spirits free of tax, deal in or use specially denatured spirits free of tax, or recover specially or completely denatured spirits, as described therein.

(d) *Operating permit.* "Operating permit" shall mean the document issued pursuant to section 5171(b), I.R.C., authorizing the person named therein to engage in the business described therein.

(e) *Tobacco permit.* "Tobacco permit" shall mean the document issued pursuant to section 5713(a), I.R.C., authorizing the person named therein to engage in the business described therein.

(f) *Withdrawal permit.* "Withdrawal permit" shall mean the document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to withdraw tax-free spirits or specially denatured spirits, as specified therein.

PAR. 6. Section 200.19 is amended to read as follows:

§ 200.19 Person.

"Person" shall mean an individual, trust, estate, partnership, association, company, or corporation.

PAR. 7. A new section, designated § 200.23 and reading as follows, is added immediately following § 200.22:

§ 200.23 U.S.C.

"U.S.C." shall mean the United States Code.

§ 200.45 [Amendment]

PAR 8. Section 200.45 is amended by striking the headnote and inserting a new headnote reading "basic permits", and by striking from the text the letters "FAA" immediately following the words "any of the conditions of his", and inserting in lieu thereof the word "basic".

PAR. 9. Section 200.48 is amended to read as follows:

§ 200.48 Operating, industrial use, and withdrawal permits.

Whenever the assistant regional commissioner has reason to believe that any person who has an operating, industrial use, or withdrawal permit—

(a) Has not in good faith complied with the provisions of chapter 51, I.R.C., or regulations issued thereunder; or

(b) Has violated the conditions of such permit; or

(c) Has made any false statement as to any material fact in his application therefor; or

(d) Has failed to disclose any material information required to be furnished; or

(e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor or has been convicted of any offense under Title 26, U.S.C., punishable as a felony or of any conspiracy to commit such offense; or

(f) Is (in the case of any person who has a permit to procure or use distilled spirits free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale, or to procure, deal in, or use specially denatured distilled spirits) by reason of his operations, no longer warranted in procuring or using the distilled spirits or specially denatured distilled spirits authorized by his permit; or

(g) Has, in the case of any person who has a permit to procure, deal in, or use specially denatured distilled spirits, manufactured articles which do not correspond to the descriptions and limitation prescribed by law and regulations; or

(h) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years;

he may issue a citation for the revocation or suspension of such permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 200.49 [Amendment]

PAR. 10. Section 200.49 is amended by striking the headnote and inserting in lieu thereof the words "Applications for basic and container permits", and by inserting, immediately following the words "(including a renewal application) for a", the words "basic or container".

PAR. 11. Two new sections, designated §§ 200.49a and 200.49b and reading as follows, are added immediately following section 200.49:

§ 200.49a Applications for operating, industrial use, and withdrawal permits.

If, on examination of an application (including a renewal application) for an operating, industrial use, or withdrawal permit, the assistant regional commissioner has reason to believe—

(a) In case of an application to withdraw and use distilled spirits free of tax, the applicant is not authorized by law or regulations issued pursuant thereto to withdraw or use such distilled spirits; or

(b) The applicant (including in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with chapter 51, I.R.C., or regulations issued thereunder; or

(c) The applicant has failed to disclose any material information required, or has made any false statement as to any material fact, in connection with his application; or

(d) The premises on which the applicant proposes to conduct the business are not adequate to protect the revenue;

he may issue a citation for the contemplated disapproval of the application.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 200.49b Applications for tobacco permits.

If, on examination of an application for a tobacco permit provided for in section 5713, I.R.C., the assistant regional commissioner has reason to believe—

(a) The premises on which it is proposed to conduct the business are not adequate to protect the revenue; or

(b) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner), is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with chapter 52, I.R.C., or has failed to disclose any material information required or made any material false statement in the application;

he may issue a citation for the contemplated disapproval of the application.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 200.55 [Amendment]

PAR. 12. The first sentence of § 200.55 is amended by striking all of paragraph (c) therefrom and inserting in lieu thereof the following, "(c) the nature of the hearing. Such citation will also specify the time and place set for the hearing or give notice that such time and place will be set by a separate order which shall be issued by the assistant regional commissioner within 30 days of the date of issuance of the citation".

§ 200.56 [Amendment]

PAR. 13. Section 200.56 is amended:

(A) By striking paragraph (a) in its entirety and by renumbering paragraphs (b) and (c) as paragraphs (a) and (b), respectively; and

(B) By striking the word "other" from the newly designated paragraph (a).

§ 200.57 [Amendment]

PAR. 14. The first sentence of § 200.57 is amended by striking "1430", therefrom.

PAR. 15. Section 200.58 is amended to read as follows:

§ 200.58 Designated place of hearing.

The designated place of hearing shall be such as meets the convenience and necessity of the parties.

§ 200.71 [Amendment]

PAR. 16. Section 200.71 is amended by striking the word "basic" immediately following the words "for the suspension, revocation or annulment of a".

§ 200.110 [Amendment]

PAR. 17. Section 200.110 is amended by striking from the first sentence thereof the parenthetical phrase "(and, in the case of alcohol permits, shall)",

and by striking the word "basic" from the last sentence.

PAR. 18. Section 200.117 is amended to read as follows:

§ 200.117 **Permit privileges, exceptions.**

Pending final determination of any timely appeal in revocation, suspension, annulment, or renewal application proceeding to the Director, the permit involved shall continue in force and effect except that, in the case of industrial use permits, any time after a citation has been issued withdrawals of tax-free spirits or specially denatured spirits by such permittee may, in the discretion of the assistant regional commissioner or Director, be restricted to the quantity which, together with the quantity then on hand, is necessary to carry on legitimate operations under such permit. The assistant regional commissioner may, in restricting the permittee to his legitimate needs, refuse to issue any withdrawal permit.

§ 200.119 [Amendment]

PAR. 19. The headnote of § 200.119 is amended by striking the letters "FAA" and inserting in lieu thereof the word "basic".

[F.R. Doc. 59-3344; Filed, Apr. 20, 1959; 8:51 a.m.]

[26 CFR (1954) Part 201]

DISTILLED SPIRITS PLANTS

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

In order to implement certain of the provisions of chapter 51 of the Internal Revenue Code of 1954 as amended by section 201 of the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1313) which are applicable to distilled spirits plants, the following regulations are hereby prescribed as Part 201 of Title 26 of the Code of Federal Regulations:

Preamble. 1. The regulations in this part shall supersede regulations in this chapter to the extent set forth in § 201.3.

2. These regulations shall not affect any act done (except as provided in paragraph 3) or any liability or right accruing or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.

3. The regulations in this part shall be effective on July 1, 1959. Any act done prior to such date to qualify a plant under this part, or otherwise provide for the orderly administration of this part, shall be subject to these regulations and shall have the same effect as if done on July 1, 1959.

Subpart A—Scope

Subpart B—Definitions

Subpart C—Taxes

Subpart D—Administrative and Miscellaneous Provisions

Subpart E—Location and Use

Subpart F—Qualification of Distilled Spirits Plants

AUTHORITY: §§ 201.1 to 201.670 issued under sec. 7805, 68A Stat. 917; 26 U.S.C. 7805. Statutory provisions interpreted or applied are cited to text in parentheses.

Subpart A—Scope

§ 201.1 General.

The regulations in this part relate to the location, construction, equipment, arrangement, qualification, and operation (including activities incident thereto) of distilled spirits plants.

§201.2 Territorial extent.

This part applies to the several States of the United States, the Territory of Hawaii, and the District of Columbia.

(68A Stat. 911; 26 U.S.C. 7701)

§ 201.3 Effect on prior regulations.

The provisions of Subparts E, F, G, P, S, T, and V supersede all provisions of prior regulations in Parts 182, 216, 220, 221, 225, 230, and 235 of this chapter which pertain to the matters covered in such subparts. The provisions of Subpart B shall be applicable only to terms used in this part and in forms prescribed under this part. The provisions of Subparts A, C, D, and W supersede provisions of prior regulations in Parts 182, 216, 220, 221, 225, 230, and 235 of this chapter only with respect to such matters as are expressly provided for in such subparts.

§ 201.4 Status of existing qualified establishments.

Notwithstanding any other provision of this part, the assistant regional commissioner may approve the location, construction, arrangement, and method of operation of any establishment (subject to this part) which was qualified to operate on June 30, 1959, if such location, construction, arrangement, and method of operation were duly authorized on

such date and if he deems that adequate security to the revenue will be afforded thereby. All establishments constructed and all changes approved after June 30, 1959, shall conform with the applicable requirements of this part.

(72 Stat. 1353; 26 U.S.C. 5178)

Subpart B—Definitions

§ 201.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Application for registration. The application required under section 5171 (a), I.R.C.

Approved containers. Portable containers, capable of secure closure, of wood, metal, or glass, or of such other material as the Director finds to be equally durable and suitable, except liquor bottles as defined in Part 175 of this chapter unless specifically included; pipelines and bulk conveyances unless specifically excluded; and tanks where specifically included.

Assigned officer. The internal revenue officer assigned to duties at the plant.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner.

Basic permit. The document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

Bonded premises. The premises of a distilled spirits plant, or part thereof, as described in the application for registration, on which operations relating to the production, storage, denaturation, or bottling of spirits prior to payment or determination of tax are authorized to be conducted.

Bonded warehouse. The part of the bonded premises, as described in the application for registration, in which spirits are authorized to be stored after entry for deposit in storage and prior to payment or determination of the internal revenue tax or withdrawal as provided in section 5214 or 7510, I.R.C.

Bottler. A proprietor of a distilled spirits plant qualified under this part to bottle taxpaid spirits or taxpaid spirits and wines.

Bottling-in-bond department. The part of the bonded premises in which spirits are bottled in bond under section 5233, I.R.C.

Bottling premises. The premises of a distilled spirits plant, or part thereof, as described in the application for registration, on which operations relating to the rectification or bottling of spirits or wines on which the tax has been paid or determined are authorized to be conducted.

Bulk container. Any approved container of five gallons or more.

Bulk conveyance. Any tank car, tank truck, tank ship, tank barge, or other similar container approved by the Director, authorized for the conveyance of spirits (including denatured spirits), in bulk.

Carrier. Any person, company, corporation, or organization, including a proprietor, owner, consignor, consignee, or bailee, who transports distilled spirits (including denatured spirits) in any manner for himself or others.

CFR. The Code of Federal Regulations.

Commissioner. The Commissioner of Internal Revenue.

Completions. The spirits products bottled and cased or otherwise packaged or placed in approved containers for removal from the bottling premises.

Denatured or denaturing material. A material authorized under Parts 212 and 216 of this chapter to be added to spirits to render such spirits unfit for beverage or human internal medicinal use.

Denatured spirits or denatured alcohol. Spirits to which denaturants have been added pursuant to formulas prescribed in Parts 212 and 216 of this chapter.

Denaturing facilities. The facilities of the bonded premises in which the denaturation of spirits is authorized to be conducted.

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

Distillery. A distilled spirits plant, or part thereof, as described in the application for registration, authorized for the production of spirits.

Distilling material. Any alcoholic material intended for use in the original production of spirits.

District director. A district director of internal revenue.

Executed under penalties of perjury. Signed with the declaration "I declare under the penalties of perjury that this ---------- (insert type of document, such as, statement, report, claim, certificate), including the documents submitted in support thereof, has been, examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Export or exportation. A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country.

Fermenting material. Any material which is to be subjected to a process of fermentation to produce distilling material.

Fiduciary. A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

Fiscal year. The period from July 1 of one calendar year through June 30 of the following year.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Heads and tails. Distillates containing substantial quantities of fusel oil or aldehydes.

In bond. When used with respect to spirits (including denatured spirits) refers to such spirits possessed under bond to secure the payment of the internal revenue tax thereon and in respect to which the tax thereon has not been determined as provided in this chapter, and includes such spirits on the bonded premises of a distilled spirits plant, in transit between such premises, in transit from customs custody to such premises, and such spirits withdrawn without payment of tax under section 5214, I.R.C., and with respect to which relief from liability has not yet occurred under the provisions of section 5005(e)(2), I.R.C.

Industrial use. As applied to spirits, shall have the meaning ascribed in 27 CFR Part 2.

Intermediate product. Any product manufactured pursuant to an approved formula (for example vermouth, blended whisky, compound gin, or flavors) not intended for sale as such but for use in the manufacture of a rectified product.

Internal revenue officer. An officer or employee of the Internal Revenue Service duly authorized to perform any function relating to the administration or enforcement of this part.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquor bottle. A liquor bottle as defined in Part 175 of this chapter.

Nonindustrial use. As applied to spirits, shall have the meaning ascribed in 27 CFR Part 2.

Operating permit. The document issued pursuant to section 5171(b), I.R.C., authorizing the person named therein to engage in the business or operation described therein.

Package. Any cask, barrel, drum, or similar approved container.

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

Plant or distilled spirits plant. An establishment qualified under this part for the production, bonded storage, rectification, or bottling of spirits, or any combination of such operations.

Plant number. The number assigned to a distilled spirits plant by the assistant regional commissioner, preceded by the abbreviation of the State in which the plant is located and the letters DSP; for example, "DSP–Md–17".

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof of distillation. The composite proof of the spirits at the time the production gauge is made, or, if the spirits had been reduced in proof prior to the production gauge, the proof of the spirits prior to such reduction, unless the spirits are subsequently redistilled at a higher proof than the proof prior to reduction.

Proof gallon. A gallon at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of .7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person qualified under this part to operate a distilled spirits plant.

Rectification. Any act constituting engaging in the business of rectifying.

Rectifier. Every person who rectifies, purifies, or refines distilled spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing from mash, wort, wash, or any other substance, through continuous closed vessels and pipes, until the production thereof is complete), and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any material, manufacture any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, rum, gin, wine, spirits, cordials, or wine bitters, or any other name, shall be regarded as a rectifier, and as being engaged in the business of rectifying.

Rectifying facilities. The facilities of the bottling premises qualified under this part for the rectification of taxpaid spirits or wines.

Region. An internal revenue region.

Regional commissioner. A regional commissioner of internal revenue.

Sealed conveyance. A conveyance, secured by Government seals or other devices approved by the Director, for the transportation of packages of spirits in bond.

Season. The period from January 1 through June 30 is the spring season and the period from July 1 through December 31 is the fall season.

Secretary. The Secretary of the Treasury.

Spirits or distilled spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka, but not denatured spirits unless specifically stated.

Stillage. The residue of distilling material after distillation.

Tank truck. A tank-equipped semitrailer, trailer, or truck conforming to the requirements of this part.

Tax-determined or determined. When used with respect to the tax on any distilled spirits to be withdrawn from bond on determination of tax, shall mean that all things (other than packaging, marking, and stamping incident to removal) required by law and this chapter to be done before such spirits may be removed from the bonded premises have been completed.

Tax gallon. The unit of measure of spirits for the imposition of tax under section 5001, I.R.C. When spirits are 100 degrees of proof or more, the tax is determined on a proof gallon basis. When spirits are less than 100 degrees of proof, the tax is determined on a wine gallon basis.

Taxpaid bottling facilities. The facilities of the bottling premises qualified under this part for the bottling or packaging of taxpaid spirits or taxpaid spirits and wines, but not qualified for rectification.

Taxpaid spirits. Spirits on which the tax has been determined.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

Transfer in bond. The removal of spirits from one bonded premises to another bonded premises pursuant to this part.

Unfinished spirits. Spirits in the production system prior to production gauge.

U.S.C. The United States Code.

Wine spirits. As authorized for use in wine production by section 5373, I.R.C., means brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from fresh or dried fruit, or their residues, or the wine or wine residues therefrom (except that where, in the production of natural wine, sugar has been used, the wine or the residuum thereof may not be used, if the unfermented sugars therein have been refermented). Such wine spirits shall not be reduced with water from the distillation proof, nor be distilled at less than 140 degrees of proof (except that commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees of proof, shall be deemed wine spirits).

Subpart C—Taxes

Spirits

§ 201.21 Tax.

A tax is imposed by section 5001, I.R.C., on all spirits in bond or produced in or imported into the United States at the rate prescribed in such section 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 gallon or wine gallon. Wines containing more than 24 percent of alcohol by volume are taxed as spirits, and all products of distillation, by whatever name known, which contain spirits, on which the tax imposed by law has not been paid, are considered and taxed as spirits.

(72 Stat. 1314; 26 U.S.C. 5001)

§ 201.22 Attachment of tax.

Under the provisions of section 5001 (b), I.R.C., the tax attaches to 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.

(72 Stat. 1314; 26 U.S.C. 5001)

§ 201.23 Lien.

(a) *General.* Except as set forth in paragraph (b), the tax on the spirits becomes under the law (section 5004, I.R.C.) a first lien on the spirits distilled, on the distillery used for producing the spirits, and stills, vessels, and fixtures therein, the lot or tract of land on which such distillery is situated, and on any building thereon, from the time the spirits come into existence as such. In the case of a plant producing spirits, the premises subject to lien comprise the bonded premises of such plant, any building containing any part of the bonded premises, and land on which such building is situated as described in the application for registration.

(b) *Exception during term of bond.* No lien attaches to any lot or tract of land, distillery, building, or distilling apparatus, described in paragraph (a), by reason of distilling done during any period included within the term of an indemnity bond given as provided in § 201.200.

(c) *Conditions under which extinguished.* Section 5004, I.R.C., sets forth the conditions under which such first lien on the spirits and first lien on the other property described in paragraph (a) shall be terminated or discharged.

(72 Stat. 1317; 26 U.S.C. 5004)

§ 201.24 Certificate of discharge of lien.

Any person claiming any interest in the property subject to lien under section 5004(b)(1), I.R.C., may apply to the assistant regional commissioner for a duly acknowledged certificate to the effect that such lien is discharged and, if the assistant regional commissioner determines that such lien is extinguished, he shall issue such certificate, and any such certificate may be recorded.

(72 Stat. 1317; 26 U.S.C. 5004)

§ 201.25 Persons liable for tax.

(a) *Distilling.* Section 5005, I.R.C., provides that the distiller of spirits is liable for the tax thereon and that every proprietor or possessor of, and any person in any manner interested in the use of any still, distilling apparatus, or distillery, shall be jointly and severally liable for the tax on distilled spirits produced therefrom: *Provided,* That a person, not an officer or director of a corporate proprietor, owning or having the right of control of not more than 10 percent of any class of stock of such proprietor, is not liable by reason of such stock ownership or control: *Provided further,* That when spirits are transferred in bond persons so liable for the tax are relieved of such liability if (1) the proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other and (2) no person so liable for the tax on the spirits transferred retains any interest in such spirits. The provisions of this paragraph shall apply to spirits transferred in bond, whether such transfers occurred prior to, or on, or after July 1, 1959, but shall not apply in any case in which the tax was paid or determined prior to such date.

(b) *Storage on bonded premises.* Section 5005(c), I.R.C., provides that every person operating bonded premises shall be liable for the tax on all spirits while the spirits are stored on such premises, and on all spirits which are in transit to such premises (from the time of removal from the transferor's bonded premises) pursuant to application made by him. Such liability for the tax continues until the spirits are transferred or withdrawn from bonded premises as authorized by law, or until such liability for tax is relieved under the provisions of section 5008(a), I.R.C. Claims for relief from liability for spirits lost on bonded premises are provided for in § 201.43. Vol-

untary destruction of spirits in bond is provided for in Subpart S.

(c) *Withdrawals without payment of tax.* Pursuant to section 5005(e), I.R.C., any person who withdraws spirits from the bonded premises of a plant without payment of tax, as provided in section 5214, I.R.C., shall be liable for the tax on such spirits from the time of such withdrawal. Such persons shall be relieved of any such liability at the time, as the case may be, the spirits are exported, deposited in a foreign-trade zone, used in production of wine, deposited in a customs manufacturing bonded warehouse, or laden as supplies upon or used in the maintenance or repair of certain vessels or aircraft, as provided by law.

(d) *Withdrawals free of tax.* Persons liable for tax under paragraph (a) are relieved of such liability as to spirits withdrawn free of tax under this chapter at the time such spirits are so withdrawn from bonded premises.

(72 Stat. 1318; 26 U.S.C. 5005)

§ 201.26 Time for tax determination.

The tax on spirits in bond shall be determined when the spirits are withdrawn therefrom, and in the case of spirits withdrawn from bonded premises, upon completion of the gauge for determination of tax and before withdrawal from such premises. In any case, such tax shall be determined (except as to spirits (a) of 190 degrees or more of proof, (b) denatured spirits, or (c) spirits which on July 26, 1936, were 8 years of age or older and which were in bonded warehouses on that date) as to spirits entered for deposit in storage in internal revenue bond, within 20 years from the date of original entry for such deposit.

(72 Stat. 1320; 26 U.S.C. 5006)

RUMS OR FRUIT BRANDIES

§ 201.27 Tax on blends of rums or fruit brandies.

In addition to the tax imposed by section 5001, I.R.C., a tax is imposed by section 5023, I.R.C., at the rate prescribed therein on each proof gallon and at a proportionate rate on fractions thereof, in the case of rums or fruit brandies mixed or blended on bonded premises pursuant to section 5234(c), I.R.C., and withdrawn from bonded premises, except that the tax does not apply where such spirits (a) have been aged in wood at least 2 years at the time of their first blending or mixing, or (b) are withdrawn free of tax or without payment of tax as provided in section 5214 or 7510, I.R.C.

(72 Stat. 1328, 1367; 26 U.S.C. 5023, 5234)

RECTIFIED PRODUCTS

§ 201.28 Rectification tax.

A tax is imposed by section 5021, I.R.C., at the rate prescribed therein, on each proof gallon and a proportionate tax at a like rate on all fractional parts thereof (in addition to the other taxes imposed by chapter 51, I.R.C.) on spirits and wines which are rectified, purified, or refined in such manner, and on all mixtures produced in such manner, that the person so rectifying, purifying, refining, or mixing the same is a rectifier (as defined in section 5082, I.R.C.): *Provided,* That a rectifier shall not twice be required to pay such tax because of separate acts of rectification of a lot of spirits or wines, pursuant to an approved formula, between the time the spirits or wines are received on bottling premises and the time they are removed therefrom. Transfers from one proprietor to another (including transfers between alternate proprietors) are deemed to be removals from bottling premises for the purpose of this section. If products which have been subjected to taxable rectification are in process at the time of discontinuance of business or at the time of transfer between proprietors (including transfers between alternate proprietors) the tax shall be paid by the outgoing proprietor, and if such products are subjected to further taxable rectification by another proprietor the tax shall again be paid.

(72 Stat. 1328, 1338; 26 U.S.C. 5021, 5082)

§ 201.29 Exemption from rectification tax.

The rectification tax imposed by section 5021, I.R.C., does not apply in the case of—

(a) Absolute alcohol produced on bonded premises from high-proof distilled spirits by the extraction of water pursuant to the provisions of this chapter;

(b) Gin produced on bonded premises in the course of original and continuous distillation over juniper berries and other natural aromatics;

(c) Gin produced on bottling premises by redistillation of pure spirits over juniper berries and other natural aromatics in the manner authorized on bonded premises;

(d) Vodka (as defined in 27 CFR Part 5) produced on bonded premises in the course of original and continuous distillation or other original and continuous processing, including processing through any material which will not remain incorporated with such spirits when the production thereof is complete;

(e) Vodka produced on bottling premises of plants from pure spirits in the manner authorized on bonded premises;

(f) Spirits purified or refined on bonded premises in the course of original and continuous distillation or other original and continuous processing, through any material which does not remain incorporated with such spirits when the production thereof is complete;

(g) Spirits (including denatured spirits) redistilled on bonded premises;

(h) Mixed or blended wines, when mixed or blended for the sole purpose of perfecting such wines in accordance with recognized commercial standards, as provided in this chapter;

(i) Wines of the same kind and taxable grade mixed together to facilitate handling, as provided in this chapter;

(j) Wines subjected to preserving, filtering, or clarifying treatment, as provided in this chapter;

(k) Cordials or liqueurs, on which a tax is imposed by section 5022, I.R.C.;

(l) Blends made exclusively of two or more straight whiskies aged in wood for a period of not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water, and if not reduced below 80 proof, as provided in this chapter;

(m) Blends made exclusively of two or more pure fruit brandies distilled from the same kind of fruit, or of two or more rums, aged in wood for a period of not less than two years and without the addition of coloring or flavoring matter (other than caramel) or any other substance than pure water, and if not reduced below 80 proof, as provided in this chapter;

(n) Spirits distilled at 190 degrees or more of proof (with or without reduction subsequent to distillation) mingled on bonded premises;

(o) Spirits mingled on bonded premises, or in the course of removal therefrom, for redistillation, storage, or any other purpose, incident to the requirements of National defense;

(p) Heterogeneous spirits mingled in bulk gauging tanks on bonded premises for immediate removal to bottling premises, exclusively for use in taxable rectification, or in blends of straight whiskies, fruit brandies, or rums, as prescribed in this chapter;

(q) Mixtures or blends, made on bonded premises, of fruit brandies distilled from the same kind of fruit at not more than 170 degrees of proof, or of beverage rums, mixed or blended for the sole purpose of perfecting such brandies or rums according to commercial standards, as provided in this chapter;

(r) Mingled homogeneous spirits;

(s) Spirits mingled on bonded premises for immediate redistillation, immediate denaturation, or immediate removal from such premises free of tax under section 5214(a) (1), (2), or (3), or section 7510, I.R.C.;

(t) Spirits mingled on bonded premises for further storage in bond, as provided in section 5234(a)(2), I.R.C., and this chapter;

(u) Commercial brandy or rum by reason of the addition of caramel on bonded premises, as provided in this chapter;

(v) Spirits from which only extraneous insoluble materials have been removed, or in which only minor changes in the soluble color or soluble solids have been made, as provided in this chapter;

(w) Wines or distilled spirits used by apothecaries exclusively in the preparation or making up of medicines unfit for use for beverage purposes;

(x) Distilled spirits on which the tax has been paid or determined and recovered by a manufacturer from dregs or marc of percolation or extraction, or from medicines, medicinal preparations, food products, flavors, or flavoring extracts, which do not meet the manufacturer's standards, if such recovered distilled spirits are used by such manufacturer in the manufacture of medicines, medicinal preparations, food products, flavors, or flavoring extracts which are unfit for use for beverage purposes.

The exemption of products from the rectification tax by reason of the acts enumerated in this section does not exempt such products from the rectification tax if such products are otherwise subjected

to an act of taxable rectification. The provisions of this section are not intended to supersede any other provisions of this chapter not specifically inconsistent therewith.

(68A Stat. 900, 72 Stat. 1328, 1338, 1356, 1362, 1365, 1367, 1381; 26 U.S.C. 7510, 5021, 5022, 5023, 5025, 5082, 5201, 5214, 5223, 5234, 5363)

§ 201.30 Tax on cordials and liqueurs containing wine.

A tax is imposed by section 5022, I.R.C., at the rate imposed therein on each wine gallon, and at a proportionate rate on fractions thereof, in lieu of rectification tax, on all liqueurs, cordials, or similar compounds produced in the United States and not produced for sale as wine, wine specialties, or cocktails, which contain more than 2½ percent by volume of wine of an alcoholic content in excess of 14 percent by volume. "Liqueurs, cordials, or similar compounds" shall mean those products which contain not less than 2½ percent by weight of sweetening material and possess the taste, aroma, and characteristics generally attributed to liqueurs and cordials.

(72 Stat. 1328; 26 U.S.C. 5022)

OCCUPATIONAL

§ 201.31 Rectifier's special tax.

Every person engaging in business as a rectifier, within the meaning of the term as defined in subpart B, shall file Form 11 with the district director and pay special tax at the applicable rate prescribed in section 5081, I.R.C. The tax is imposed as of the first day of July in each year, or on commencing such business. In the former case the tax is reckoned for one year and in the latter case it is reckoned proportionately from the first day of the month in which the liability to special tax commenced and to and including the 30th day of June following. Section 5142, I.R.C., provides that no person shall engage in or carry on the business of a rectifier until he has paid the special tax therefor. The stamp issued as a receipt for the payment of the special tax is required by section 6806(a), I.R.C., to be conspicuously placed and kept in the rectifier's place of business.

(68A Stat. 831, 846, 72 Stat. 1338, 1346, 1347; 26 U.S.C. 6806, 7011, 5081, 5082, 5142, 5143)

§ 201.32 Change to higher or lower rate.

A rectifier who has paid the special tax as a rectifier of less than 20,000 proof gallons and who exceeds that quantity shall immediately file with the district director an amended Form 11 and pay the special tax as a rectifier of 20,000 proof gallons or more. The rectifier may submit the stamp representing the special tax paid at the lower rate to the district director with a claim on Form 843 for refund of such tax. A rectifier who has paid special tax at the higher rate, but actually rectifies less than 20,000 proof gallons of spirits or wines during the year, may file an amended Form 11 with the district director, pay the special tax as a rectifier of less than 20,000 proof gallons, and submit the stamp representing the special tax paid at the higher rate with a claim on Form 843 for refund of such tax.

(68A Stat. 791, 830, 72 Stat. 1338; 26 U.S.C. 6402, 6805, 5081)

§ 201.33 Exemption from rectifier's occupational tax.

Payment of the rectifier's occupational tax imposed by section 5081, I.R.C., is not required by reason of the operations, or the employment of processes, or the manufacture of products, described in § 201.29 as not requiring payment of the rectification tax imposed under section 5021, I.R.C., except as to those described in § 201.29 (c), (e), (h) (on other than bonded wine cellar premises), (k), (l), and (m).

(72 Stat. 1328; 1387; 26 U.S.C. 5025, 5391)

§ 201.34 Exemption from liquor dealer's occupational tax.

(a) *Exemption of proprietor.* No proprietor of a plant shall be required to pay special tax as a wholesale or retail dealer in liquors on account of the sale at his principal business office as designated in writing to the assistant regional commissioner, or at his plant, of spirits or wines which, at the time of sale, are stored at his plant or had been removed from such plant to a taxpaid storeroom the operations of which are integrated with the operations of such plant and which is contiguous or adjacent to, or in the immediate vicinity of, such plant. However, no such proprietor shall have more than one place of sale, as to each plant, that shall be exempt from special tax under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere by the proprietor, it will be presumed that the exemption is claimed at the plant where the spirits or wines are stored. If the proprietor wishes to be exempt from payment of special tax for sales at his principal business office rather than for sales at his plant, he shall notify the assistant regional commissioner of the region in which the plant is located of his intention. Such notice shall be in writing, on letter size paper and shall be submitted in triplicate. On approval, two copies of the notice will be returned to the proprietor, one to be filed at the plant and the other to be filed at the principal office, and the original will be retained by the assistant regional commissioner. Where the exemption is claimed for a place other than the plant, special tax shall be paid at the plant if sales are made thereat.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 201.35 Still manufacturer.

Special occupational tax as a still manufacturer and a commodity tax for each still or condenser manufactured is imposed by section 5101, I.R.C., on certain persons who manufacture stills or condensers to be used in distilling. Provisions in respect of the occupational and commodity taxes imposed on manufacturers of stills or condensers are contained in Part 196 of this chapter.

(72 Stat. 1339; 26 U.S.C. 5101)

ASSESSMENTS

§ 201.36 Production not accounted for.

Where the assistant regional commissioner finds that a distiller has not accounted for all spirits produced by him, assessment shall be made for the tax on the difference between the quantity reported and the quantity found to have been actually produced.

(72 Stat. 1320; 26 U.S.C. 5006)

§ 201.37 Spirits not removed from bond at end of bonding period.

Where the proprietor of a bonded warehouse fails to file application for the withdrawal of spirits and withdraw the spirits within the time prescribed by § 201.26, the assigned officer will determine the tax on the spirits and forward a report to the assistant regional commissioner in order that the tax may be assessed.

(72 Stat. 1320; 26 U.S.C. 5006)

§ 201.38 Assessment in cases of spirits lost or destroyed in bond, or in cases of unauthorized removal.

Where spirits (including denatured spirits) in bond are lost or destroyed (except spirits in respect of which the tax is not collectible by reason of the provisions of section 5008 (a) or (f), I.R.C.) and the proprietor or other person liable for the tax on the spirits fails to file a claim for remission as provided in § 201.43(a) or when such claim is denied, the tax thereon shall be assessed. In any case where spirits in bond, on which the tax has not been paid as provided by this chapter, are removed from bonded premises other than as authorized by law, the tax shall be assessed. Tax shall also be assessed in the circumstances described in section 5006(b), I.R.C., with respect to casks or packages of spirits deposited in storage in bond or spirits filled on bonded premises into casks or packages after entry and deposit, when the tax is not paid upon the demand of the assistant regional commissioner.

(72 Stat. 1320, 1323; 26 U.S.C. 5006, 5008)

WINE

§ 201.39 Tax.

A tax is imposed by section 5041, I.R.C., on wines (including imitation, substandard, or artificial wine, and compounds sold as wine) produced in or imported into the United States. Proprietors may, as provided in §§ 201.40, 201.41, and 201.42, become liable for wine taxes in connection with (a) the manufacture of wine products, (b) an increase in the volume of wine, or (c) a change in the taxable grade of wine.

(72 Stat. 1331; 26 U.S.C. 5041)

§ 201.40 Manufacture of wine products.

(a) *Vermouth.* Vermouth made on bottling premises is subject to the rectification tax, and the wine tax imposed by section 5041, I.R.C.

(b) *Carbonated and sparkling wine.* Wines carbonated on bottling premises by secondary fermentation (bulk or bottle process) or artificially carbonated on bottling premises with carbon dioxide are subject to the rectification tax and the wine tax imposed by section 5041, I.R.C., on sparkling wine or artificially carbonated wine, as the case may be.

(c) *Distinct products.* Where the rectifying, mixing, compounding, or

blending of wine results in the manufacture of a distinct product, such as aperitif or effervescent wine, the rectification tax, and the wine tax at the rate imposed by section 5041, I.R.C., shall be paid.

(72 Stat. 1328, 1331; 26 U.S.C. 5021, 5041)

§ 201.41 Increasing volume of wine.

Where the volume of wine is increased by the addition of any material the resultant product is subject to the rectification tax on the entire quantity, and wine tax on the additional gallonage: *Provided*, That if the wine is so treated as to convert it into a distinct product other than wine and it is not sold as wine, no additional wine tax is due.

(72 Stat. 1328, 1338; 26 U.S.C. 5021, 5041)

§ 201.42 Increasing taxable grade of wine.

(a) *Blended wines.* Where the taxable grade of any wine is increased by blending with other wines, additional wine tax shall be paid, regardless of whether the blended wine is subject to the rectification tax or exempt from such tax. The additional wine tax due is the difference between the wine tax due on the blended wine under its new taxable grade and the tax previously paid on the wines used for such blending.

(b) *Compounded wines.* Except as provided in § 201.30, the product of any rectifying, mixing, or compounding of wine with distilled spirits is subject to the rectification tax imposed by section 5021, I.R.C., and where such processing results in an increase in the taxable grade of a product taxable as wine, additional wine tax shall be paid on the difference between the wine tax due on the product under its new taxable grade and the tax previously paid on the wines used therein.

(72 Stat. 1328, 1331; 26 U.S.C. 5021, 5041)

CLAIMS

§ 201.43 Claims in respect to spirits lost or destroyed in bond.

(a) *Claims for remission.* Claims for remission of tax under this part, relating to the destruction or loss of spirits in bond, shall be filed on letter size paper (original only) with the assistant regional commissioner, and shall set forth the following:

(1) Identification (including serial numbers if any) and location of the container or containers from which the spirits were lost, or removed for destruction;

(2) Quantity of spirits lost or destroyed from each container, and the total quantity of spirits covered by the claim;

(3) Total amount of tax for which the claim is filed;

(4) Name, number, and address of the plant from which withdrawn without payment of tax or removed for transfer in bond (if claim involves spirits so withdrawn or removed) and date and purpose of such withdrawal or removal;

(5) Date of the loss or destruction (or, if not known, date of discovery), the cause or nature thereof, and all the facts relative thereto;

(6) Name of the carrier, where a loss in transit is involved;

(7) If lost by theft, facts establishing that the loss did not occur as the result of any negligence, connivance, collusion, or fraud on the part of the proprietor of the plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(8) In the case of a loss by theft, whether the claimant is indemnified or recompensed in respect of the tax on the spirits lost, and if so, the amount and nature of such indemnity or recompense and the actual value of the spirits, less the tax;

(9) In the case of voluntary destruction, the claim shall be supported by a copy of Form 1577.

(b) *Claim for abatement or refund.* Claims for abatement of an assessment, or for refund of tax which has been paid, in the case of spirits lost or destroyed in bond shall be filed on Form 843 (original only) with the assistant regional commissioner and shall set forth the information called for in the case of claims for remission filed under paragraph (a) and, in addition thereto, shall set forth (1) the date of assessment or payment of the tax with respect to which abatement or refund is claimed, and (2) the name, plant number, and the address of the plant where the tax was paid or assessed (or name and address and capacity of any other person who paid or was assessed the tax, if the tax was not paid by or assessed against a proprietor).

(c) *Supporting documents.* Claims referred to in paragraphs (a) and (b) shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss or destruction, and in the case of such claims pertaining to spirits lost while being transferred by carrier, by a copy of the bill of lading.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.44 Claims in respect to spirits returned to bonded premises.

Claims for refund, relating to spirits which have been withdrawn from bonded premises on payment of tax and which are returned thereto under section 5215, I.R.C., as provided in Subpart T, shall be filed on Form 843 (original only) with the assistant regional commissioner, and shall set forth the following:

(a) Quantity of spirits so returned;

(b) Amount of tax for which the claim is filed;

(c) Name, number, and address of the plant from which the spirits were so withdrawn, the date of such withdrawal, and purpose for which withdrawn;

(d) Name, address, and plant number of the plant to which the spirits were returned, and the date of such return;

(e) A statement as to whether or not the spirits were returned in the same bulk container in which withdrawn from bonded premises before any processing thereof and before the removal of any spirits therefrom (other than samples for testing or analysis);

(f) The reason for such return and all facts relating thereto.

There shall be attached to such claim a copy of the approved application provided for in § 201.573, and a copy of the assigned officer's gauge report of returned spirits. Such claims shall be filed by the proprietor of the plant to which the spirits were returned and within six months of the date of the return, and the spirits on which refund is claimed must not have been withdrawn from bonded premises more than six months prior to the date of return to bonded premises. If such claim is allowed, refund (without interest) will be made.

(72 Stat. 1323, 1364; 26 U.S.C. 5008, 5215)

§ 201.45 Claims relating to spirits lost or destroyed after tax determination.

(a) *Claims for losses after tax determination and prior to completion of physical removal from bonded premises.* Claims for abatement or refund of tax under this part, relating to losses of spirits occurring on bonded premises after tax determination but prior to physical removal from such premises, shall be prepared and filed as provided in, and contain the information called for under, § 201.43(b) and be supported by documents as provided under § 201.43(c). Such claims shall further state whether the lot of spirits in which the loss occurred was being withdrawn for rectification or bottling, and if so, the name, number, and address of the bottling premises.

(b) *Claims relating to spirits withdrawn for rectification or bottling and voluntarily destroyed.* Claims for abatement or refund of tax under this part, in the case of spirits withdrawn on payment of tax from bond to bottling premises for rectification or bottling and voluntarily destroyed under the provisions of Subpart S, as unsuitable for the purpose for which intended to be used, shall be filed with the assistant regional commissioner on Form 843 (original only) by the proprietor of the bottling premises who withdrew the spirits. Such claims shall contain the information required under § 201.43(a) (1), (2), and (3), and in addition, shall state (1) the name, number, and address of plant from which withdrawn; (2) date of destruction, reason therefor, and all facts relative thereto; (3) the date of payment of the tax (or of assessment if the tax was assessed but not paid); (4) the serial number of the approved application, Form 1577; and (5) whether the claim covers tax on spirits withdrawn from bond by the claimant on payment of tax for removal to bottling premises for rectification or bottling, and whether the spirits covered by the claim were destroyed before bottling or casing or other packaging of such spirits for removal from his bottling premises.

(c) *Claims relating to losses of spirits, withdrawn for rectification or bottling, by reason of accident, flood, fire, or other disaster.* Claims for abatement or refund of tax under this part, relating to spirits withdrawn for rectification or bottling and lost due to accident, flood, fire, or other disaster, shall be filed with the assistant regional commissioner on Form 843 (original only) by the proprietor who withdrew the spirits. The claim shall contain the information required under § 201.43(a) (1), (2), (3), (5), and (6) and, in addition, shall state

(1) the date of payment of tax; (2) whether or not the claimant is indemnified or recompensed for the tax, and if so, the extent and nature of such indemnification or recompense; and (3) whether the claim covers tax on spirits withdrawn from bond by the claimant on payment of tax for removal to bottling premises for rectification or bottling and whether the spirits covered by the claim were lost before bottling or casing or other packaging of such spirits for removal from his bottling premises. Supporting statements as provided in § 201.484 shall be submitted with such claims.

(d) *Claims for losses occurring in rectifying, packaging, bottling and casing operations.* Claims for refund of tax under this part, relating to spirits lost by reason of, or incident to, authorized rectifying, packaging, bottling, or casing operations (including losses by leakage or evaporation occurring during removal from bond to the bottling premises and pending rectification or bottling) as provided for in Subpart P, shall be filed with the assistant regional commissioner on Form 843 (original only) and shall set forth the following:

(1) The section of Subpart P providing for the claim;

(2) A statement as to whether the claim covers tax on spirits withdrawn from bond by the claimant on payment of tax for removal to bottling premises for rectification or bottling and whether the spirits covered by the claim were lost before bottling or casing or other packaging of such spirits for removal from his bottling premises;

(3) In the case of loss by reason of authorized rectifying, packaging, bottling, or casing operations as provided for in § 201.482, the period covered by the claim, and the quantity of spirits so lost not in excess of the limitation contained in § 201.485;

(4) In the case of loss in the manufacture of gin or vodka provided for in § 201.487, the period covered by the claim, and whether the loss occurred in the process of manufacture in a closed system approved by the assistant regional commissioner.

Claims described in this paragraph shall be supported by Form 2611.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.46 Execution of claims and supporting documents.

All claims filed under this part shall (a) show the name, address, and capacity of the claimant, (b) be signed by the claimant or his duly authorized agent, and (c) be executed under the penalties of perjury as provided in § 201.96. Forms, supporting statements, and any other documents required by this part to be submitted with a claim shall be attached to such claim and shall be deemed to be a part thereof. The assistant regional commissioner may require the submission of additional evidence in support of any claim filed under this part when deemed necessary for proper action on the claim.

(72 Stat. 1323; 26 U.S.C. 5008)

Subpart D—Administrative and Miscellaneous Provisions

AUTHORITIES OF THE DIRECTOR

§ 201.61 Forms prescribed.

The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished, as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

(72 Stat. 1361; 26 U.S.C. 5207)

§ 201.62 Pilot operations.

The Director may waive any regulatory provisions of chapter 51, I.R.C., and of these regulations, for temporary pilot or experimental operations for the purpose of facilitating the development and testing of improved methods of governmental supervision (necessary for the protection of the revenue) over plants. For this purpose, the Director may, with the approval of the proprietor thereof, designate any plant for such operations. The provision of law and regulations waived and the period of time during which such waiver shall continue shall be stated in writing by the Director. The provisions of this section shall not be construed as authority to waive the filing of any bond or the payment of any tax provided for in chapter 51, I.R.C.

(72 Stat. 1395; 26 U.S.C. 5554)

§ 201.63 Experimental distilled spirits plants.

The Director may authorize the establishment and operation of experimental plants for specific and limited periods of time solely for experimentation in, or development of—

(a) Sources of materials from which spirits may be produced;

(b) Processes by which spirits may be produced or refined; or

(c) Industrial uses of spirits.

The Director may waive any provision of chapter 51, I.R.C., and of this part (other than section 5312, I.R.C., this section, and § 201.64) to the extent he deems necessary to effectuate the purposes of section 5312(b), I.R.C., except that he may not waive the payment of any tax on spirits removed from such plant.

(72 Stat. 1375; 26 U.S.C. 5312)

§ 201.64 Application to establish experimental plants.

Any person desiring to establish an experimental plant shall make written application, in triplicate, to the Director, through the assistant regional commissioner, and obtain the Director's approval of the proposed establishment. The applicant shall file with such application a bond in such form and penal sum as required by the Director. Such application shall state the nature, extent, and purpose of the operations to be conducted and describe the processes and equipment, the location of the plant (including the proximity to other premises or operations subject to the provisions of chapter 51, I.R.C., and the security measures to be provided. The Director may require the submission of such additional information as he deems necessary. The assistant regional commissioner shall not permit operations until he has found that the plant conforms to the specifications set forth in the application, as approved, and the applicant has complied with provisions of chapter 51, I.R.C., and this part not specifically waived by the Director.

(72 Stat. 1375; 26 U.S.C. 5312)

§ 201.65 Spirits produced in industrial processes.

Persons producing spirits in industrial processes (including spirits produced as a by-product in connection with chemical or other processes) are distillers and are required to qualify under the provisions of chapter 51, I.R.C., and this part. Where nonpotable chemical mixtures containing spirits are produced (a) for transfer to the bonded premises of a distilled spirits plant for completion of processing (distilling), or (b) as a by-product (which would require expensive and complex equipment for the recovery of spirits therefrom) (1) which is destroyed on the premises where produced, or (2) which contains not more than 10 percent of spirits and will not be further processed for the purification or removal of the spirits and which the Director finds is as nonpotable as completely denatured spirits and the recovery of spirits therefrom would be at least as difficult as the recovery of spirits from completely denatured spirits, the Director may waive any provision of chapter 51, I.R.C., or this chapter, with respect to the production of such mixture, including any provision relating to qualification. Where the producer of such nonpotable mixtures desires to secure a waiver of any of such provisions he shall file an application therefor with the Director through the assistant regional commissioner. The application shall set out the name and address of the producer, the chemical composition and source of the nonpotable mixture, and the approximate percentages of the chemicals and of the spirits in the mixture, the method of operation proposed, and, if applicable, the bonded premises whereat the mixture will be processed, and such other information as the Director may require. If the Director finds that the waiver of the requirements, or any of them, will not jeopardize the revenue and will not unduly hinder supervision of the operations, he may approve the application under such terms and conditions as he deems advisable, and subject to the furnishing of any bond which he deems necessary.

(72 Stat. 1356; 26 U.S.C. 5201)

§ 201.66 Other business.

The Director may authorize the carrying on of such other businesses (not specifically prohibited by section 5601(a)(6), I.R.C.) on premises of plants (except in the rooms or buildings on bonded premises authorized for use for the storage of spirits in casks, packages, cases, or similar portable containers) as he finds will not jeopardize the revenue, hinder effective administration of this chapter, or be contrary to law. Such authorization shall designate the premises (i.e.,

bonded, bottling, or general) on which such other business is authorized to be conducted.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.67 Recovery and reuse of denatured spirits in manufacturing processes.

The following persons are not, by reason of the activities listed below, subject to the provisions of this part but they shall comply with the provisions of this chapter relating to the use and recovery of spirits or denatured spirits:

(a) Manufacturers who use denatured spirits, or articles or substances containing denatured spirits in a process wherein any part or all of the spirits, including denatured spirits, are recovered.

(b) Manufacturers who use denatured spirits in the production of chemicals which do not contain spirits but which are used on the permit premises in the manufacture of other chemicals resulting in spirits as a by-product.

(c) Manufacturers who use chemicals or substances which do not contain spirits or denatured spirits (but which were manufactured with specially denatured spirits) in a process resulting in spirits as a by-product.

(72 Stat. 1372; 26 U.S.C. 5273)

§ 201.68 Disaster exemptions.

The Director may, whenever he finds that it is necessary or desirable, by reason of disaster, temporarily exempt the proprietor of any plant from any provision of the internal revenue laws and this part relating to spirits, except those requiring the payment of tax on spirits, to the extent he may deem necessary or desirable.

(72 Stat. 1397; 26 U.S.C. 5562)

§ 201.69 Exemptions to meet the requirements of National defense.

The Director may temporarily exempt proprietors from any provision of the internal revenue laws or this part relating to spirits except those requiring payment of tax thereon whenever in his judgment it is expedient to do so to meet the requirements of the National defense.

(72 Stat. 1397; 26 U.S.C. 5561)

§ 201.70 Discontinuance of storage facilities by the Director.

When the Director finds that any facilities for the storage of spirits on bonded premises are unsafe or unfit for use, or the spirits contained therein are subject to great loss or wastage, he may require the discontinuance of the use of such facilities and require the spirits contained therein to be transferred to such other storage facilities as he may designate. Such transfer shall be made at such time and under such supervision as the Director may require and the expense of the transfer shall be paid by the owner or the warehouseman of the spirits. Whenever the owner of such spirits or the warehouseman 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 Director, such spirits may be seized and sold in the same manner as goods sold on 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 shall be paid over to the owner of such spirits.

(72 Stat. 1369; 26 U.S.C. 5236)

§ 201.71 Experimental or research operations by scientific institutions and colleges of learning.

(a) *General.* The Director may authorize any scientific university, college of learning, or institution of scientific research to produce, receive, blend, treat, test, and store spirits, without payment of tax, for experimental or research use but not for consumption (other than organoleptic tests) or sale, in such quantities as may be reasonably necessary for such purposes. The Director may waive any provision of chapter 51, I.R.C., or this chapter (other than section 5312, I.R.C., and this section) to the extent he deems necessary to effectuate the purposes of section 5312(a), I.R.C., except he may not waive the payment of any tax on distilled spirits removed from any such university, college, or institution.

(b) *Qualification.* Any university, college, or institution desiring to conduct any of the experimental or research operations listed in the preceding paragraph shall make written application, in triplicate, to the Director, through the assistant regional commissioner, and obtain the Director's approval of the proposed operations. The applicant shall file with such application a bond in such form and penal sum as required by the Director. The application shall state the nature, extent, and purpose of the operations to be conducted and describe the processes and equipment, the location at which operations will be conducted (including identification of the building or buildings, or the portions thereof to be used), and the security measures to be provided. The Director may require such additional information as he deems necessary. Operations shall not be commenced until authorized by the Director.

(c) *Records.* Reports concerning the operations need not be submitted unless required by the Director, but records of the quantities of spirits produced, received, and used each day shall be made and retained for inspection by internal revenue officers.

(d) *Discontinuance of operations.* When operations authorized by the Director are discontinued, all remaining spirits shall be disposed of by destruction. Notice of the proposed destruction shall be given to the assistant regional commissioner at least 5 days in advance of the destruction. When these spirits have been destroyed notice of the discontinuance of operations shall be given to the assistant regional commissioner.

(72 Stat. 1375; 26 U.S.C. 5312)

AUTHORITIES OF THE ASSISTANT REGIONAL COMMISSIONER

§ 201.72 Other businesses.

Application to conduct at a plant (except in the rooms or buildings on bonded premises authorized for use for the storage of spirits in casks, packages, cases, or similar containers) a type of business other than that of a distiller, bonded warehouseman, rectifier, or bottler may be approved by the assistant regional commissioner if the Director has, as provided in § 201.66, authorized the carrying on of a business of the type proposed, unless the assistant regional commissioner finds that there are particular conditions in respect of the applicant's plant that would cause the carrying on of such business to be a danger to the revenue or a hindrance to the effective administration of this chapter.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.73 Removal of distilling material.

The assistant regional commissioner may, on receipt of an application therefor, authorize the removal from bonded premises of mash, wort, or wash made or fermented on such premises—

(a) To plant premises, other than bonded premises, for use in such businesses as may be authorized under § 201.72;

(b) To other premises for use in processes of manufacture not involving the production of (1) vinegar by the vaporizing process, (2) spirits, or (3) alcoholic beverages; or

(c) For destruction;

if he deems that such removal and use, or method of destruction, will not constitute a jeopardy to the revenue. The proprietor shall record the quantity and alcoholic content of the mash, wort, or wash removed or destroyed. The person receiving any such mash, wort, or wash shall record the quantities (and alcoholic content) received and used or disposed of, and maintain such records on the premises where such material is used; reports of such operations need not be submitted unless required by the assistant regional commissioner. Operations authorized by this section shall be under such supervision as the assistant regional commissioner may direct.

(72 Stat. 1365; 26 U.S.C. 5222)

§ 201.74 Assignment of officers.

The assistant regional commissioner shall assign such number of internal revenue officers to plants as he deems necessary to maintain supervision of operations conducted on such premises.

(72 Stat. 1357, 1395; 26 U.S.C. 5202, 5553)

§ 201.75 Hours of operation.

All operations at a plant requiring direct supervision by an assigned officer shall be conducted during an eight-hour work day between 7:00 a.m. and 5:00 p.m. unless, pursuant to the proprietor's application specifying the reasons for requesting extension or change of hours of operation, the assistant regional commissioner authorizes the performance and supervision of such operations during other hours. The assistant regional commissioner, in administering this provision, shall not restrict such operation or function to a greater extent than did the provisions of internal revenue law and regulations on June 30, 1959.

(72 Stat. 1356; 26 U.S.C. 5201)

§ 201.76 Allowance of claims.

The assistant regional commissioner is authorized to allow claims for remission, abatement, credit, and refund of tax, and for redemption of stamps, filed under the provisions of this part and to credit, without claim, the tax on samples taken as provided in § 201.82 for use by the United States.

(68A Stat. 830, 72 Stat. 1323; 26 U.S.C. 6805, 5008)

§ 201.77 Installation of meters, tanks, and other apparatus.

The assistant regional commissioner is authorized to require the proprietor to install meters, tanks, pipes, or any other apparatus which the assistant regional commissioner deems advisable for the purpose of protecting the revenue.

(72 Stat. 1395; 26 U.S.C. 5552)

§ 201.78 Approval of qualifying documents.

The assistant regional commissioner is authorized to approve, except as otherwise provided in this part, all qualifying documents required by this part.

(72 Stat. 1349, 1352, 1353, 1394; 26 U.S.C. 5171, 5172, 5173, 5174, 5551)

AUTHORITIES OF INTERNAL REVENUE OFFICERS

§ 201.79 Right of entry and examination.

Any internal revenue officer may at all times, as well by night as by day, enter any plant, or any other premises where distilled spirits are produced or rectified, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any internal revenue officer, having demanded admittance, and having declared his name and office, is not admitted into such premises by the proprietor or other person having charge thereof, he may at all times, use such force as is necessary for him to gain entry to such premises.

(72 Stat. 1357; 26 U.S.C. 5203)

§ 201.80 Authority to break up ground or walls.

Any internal revenue officer, and any person acting in his aid, may break up the ground on any part of a plant or any other premises where spirits are produced or rectified, or any ground adjoining or near to such plant or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any spirits, mash, wort, or beer, or other liquor, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(72 Stat. 1357; 26 U.S.C. 5203)

§ 201.81 Detention of containers.

Any internal revenue officer may detain any container containing, or supposed to contain, spirits when he has reason to believe that the tax imposed by law on such spirits has not been paid or determined as required by law or this chapter, or that such container is being removed in violation of law or this chapter, and every such container 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 72 hours without process of law or intervention of the assistant regional commissioner.

(72 Stat. 1375; 26 U.S.C. 5311)

§ 201.82 Samples for the United States.

Any internal revenue officer is authorized to take samples of spirits (including denatured spirits) for analysis, testing, or other determinations to ascertain whether the provisions of law and regulations are being complied with. The tax paid on such samples removed from the premises of a plant may be refunded or credited as provided in § 201.76.

(72 Stat. 1323, 1356, 1357; 26 U.S.C. 5008, 5201, 5203)

§ 201.83 Gauging and measuring equipment.

All gauging and measuring equipment and means required by this chapter to be furnished by the proprietor for the purpose of ascertaining the quantity, alcoholic content, gravity, and producing capacity of any materials, denaturants, mash, wort, or beer, or the quantity and alcoholic content of spirits (including denatured spirits), shall be maintained by the proprietor in accurate and readily usable condition. The assigned officer may disapprove the use of any such equipment or means if he finds it would be insufficiently accurate and the proprietor shall promptly provide accurate equipment or means in lieu of the disapproved facilities.

(72 Stat. 1320, 1358; 26 U.S.C. 5006, 5204)

ENTRY AND EXAMINATION OF PREMISES

§ 201.84 Premises to be kept accessible.

The proprietor shall furnish the assistant regional commissioner as many keys to such of the proprietor's locks on doors, gates, or other openings to and within the premises of the plant as the assistant regional commissioner may require for internal revenue officers to gain access to the premises and any structures thereon, and such premises shall always be kept accessible to any internal revenue officer having such keys.

(72 Stat. 1357; 26 U.S.C. 5203)

§ 201.85 Furnishing facilities and assistance.

On the demand of any internal revenue officer or agent, the proprietor shall furnish the necessary facilities and assistance to enable the officer or agent to gauge the spirits in any container or to examine any apparatus, equipment, containers, or materials on the plant premises. The proprietor shall also, on demand of such officer or agent, open all doors, and open for examination all containers not under the control of the internal revenue officer in charge.

(72 Stat. 1357; 26 U.S.C. 5203)

CUSTODY AND SUPERVISION

§ 201.86 Supervision of operations.

Where this part requires direct supervision of an operation, the proprietor shall not conduct such operation unless the assigned officer is present on the bonded premises, has been informed of the proposed operation, and is available for supervision of the operation. Where this part requires general supervision of an operation, the assigned officer is not required to be present on the plant premises; however, operations requiring general supervision under this part shall not be performed after regular business hours unless the proprietor has given notice thereof in writing to the assigned officer.

(72 Stat. 1357; 26 U.S.C. 5203)

§ 201.87 Storage rooms or buildings.

Storage rooms or buildings provided on bonded premises for the storage of spirits in casks, packages, cases, or similar portable approved containers shall be in the joint custody of the assigned officer and the proprietor, shall be locked with Government locks, and shall not be unlocked or remain unlocked except when such officer is on the plant premises. Deposits of spirits in, or removals of spirits from, such room or building in such portable containers shall be under direct supervision of assigned officers.

(72 Stat. 1357; 26 U.S.C. 5202)

§ 201.88 Proprietor's schedule of operations.

The proprietor of each plant qualified for the production or bonded storage of spirits shall furnish the assigned officer a written schedule of operations. The schedule shall be given at least one day in advance of the operations and shall show, for the period covered by the schedule, all activities related to such production and storage (including denaturation and bottling in bond) which the provisions of this chapter require to be conducted under supervision of an internal revenue officer or require his presence.

(72 Stat. 1356, 1357; 26 U.S.C. 5201, 5202)

§ 201.89 Denaturation of spirits.

Denaturation of spirits shall be conducted under the direct supervision of an assigned officer, or be controlled by such other methods, which may include the use of meters or other devices affording equal protection to the revenue, as the Director may approve.

(72 Stat. 1357; 26 U.S.C. 5202)

§ 201.90 Gauging.

The gauge of spirits shall be made by the proprietor unless required by this chapter to be made by an assigned officer.

(72 Stat. 1357, 1358; 26 U.S.C. 5202, 5204)

§ 201.91 Commercial gauging.

The assistant regional commissioner may, pursuant to application by the proprietor, permit the weighing and proofing of specific packages of spirits on bonded premises for purposes such as obtaining data on storage conditions or the results of special production procedures. Applications for permission to do such work shall contain sufficient information to enable the assistant regional commissioner to evaluate the merits of the request. When such applications are approved the proprietor shall in each instance, before beginning the operation, inform the assigned officer of the time and place where the work will be done.

GOVERNMENT LOCKS AND SEALS

§ 201.92 Government locks and seals.

The assistant regional commissioner shall supply all Government locks and seals to be used at plants. The keys to all Government locks shall remain at all times in the custody of an assigned officer, who will open and close all such locks. Government seals will be affixed by the proprietor under the direct supervision of an assigned officer. The assigned officer may lock or require the sealing of any equipment (including tanks) on plant premises.

(72 Stat. 1353, 1357; 26 U.S.C. 5178, 5202)

§ 201.93 Preparation for Government locks and seals.

The proprietor shall equip for locking, or prepare for sealing, all buildings, rooms, and equipment on which Government locks or seals are required under this chapter.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.94 Removal of Government locks and seals.

Government locks and seals shall not be removed without authorization of the assigned officer or the assistant regional commissioner except as provided in this chapter.

(72 Stat. 1357; 26 U.S.C. 5202)

SEALED CONVEYANCES FOR TRANSPORTING IN BOND

§ 201.95 Sealed conveyances.

A conveyance to be used as a sealed conveyance, shall be constructed in such a manner that all openings may be closed and secured by Government seals, or other devices approved by the Director, in order that access cannot be gained without showing evidence of tampering. The Government seals, or other approved devices for securing the conveyance, shall be attached as soon as the conveyance is loaded for shipment.

(72 Stat. 1360; 26 U.S.C. 5206)

PENALTIES OF PERJURY

§ 201.96 Execution under penalties of perjury.

When a return, form, or other document called for under this part is required by this part or in the instructions on or with the return, form, or other document to be executed under penalties of perjury, it shall be signed by the proprietor, or other duly authorized person, under a statement that it is executed under the penalties of perjury, as defined in Subpart B.

(68A Stat. 749; 26 U.S.C. 6065)

Subpart E—Location and Use

§ 201.111 Restrictions as to location.

Plants shall not be located in any dwelling house, or in any shed, yard, or enclosure connected with any dwelling house, or on board any vessel or boat, or on premises where beer or wine is produced, or liquors of any description are retailed, or (except as provided in § 201.115) on premises where any other business is carried on.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.112 Bonded warehouses not on production premises.

A bonded warehouse, other than one established on bonded premises of a plant qualified for production of spirits, or one contiguous to a distillery operated by the bonded warehouseman, may be established only if the need therefor is clearly shown and the prospective needs of the warehouseman will be for the bonded storage of not less than 250,000 wine gallons of spirits: *Provided*, That where commercial bonded warehouse facilities are not available in an area and it is impractical to have a warehouse of such capacity, the Director may approve the establishment of a warehouse without regard to the minimum storage requirements. The application for registration to establish a warehouse under the provisions of this section shall be accompanied by a separate written application, in triplicate, setting forth the necessity for the establishment of the warehouse, showing the approximate quantity of spirits that will be received, stored, and withdrawn annually, the probable number of depositors of spirits, and the approximate number of persons to be served from the warehouse, together with any other data or documents indicating the prospective volume of business or need for establishment. The application for registration shall not be approved if the proposed location of the warehouse would constitute a jeopardy to the revenue, satisfactory evidence of the need for establishment of the warehouse has not been submitted, or the prospective volume of business would be insufficient to warrant the expense of supervision by internal revenue officers. The proprietor of a bonded warehouse established for a specific purpose, such as, for bulk storage only, for package storage only, or for bulk storage and denaturing only, shall not, in any manner, expand or change such activity to include any other type of operation until, pursuant to written application to make such change, he has obtained the approval of the Director.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.113 Taxpaid bottling facilities.

Facilities for the bottling or packaging of taxpaid spirits or taxpaid spirits and wines (other than on bottling premises qualified for rectification) may be established only by (a) the proprietor of a plant qualified for the production or bonded storage of spirits, or (b) a State or political subdivision thereof. Only one such bottling facility may be established by the proprietor in conjunction with each such plant.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.114 Facilities for bottling in bond.

Facilities for the bottling in bond of spirits may be established only in a separate room or building on bonded premises by a proprietor of a plant qualified under this part to store spirits on such bonded premises in casks, packages, cases, or similar portable approved containers.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.115 Use of premises.

No business or operation shall be conducted on the premises of a plant other than those authorized to be carried on or conducted by the notice of registration of such plant.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.116 Storage rooms or buildings on bonded premises.

Facilities for the storage on bonded premises of distilled spirits in casks, packages, cases, or similar portable approved containers shall be established in a room or building used exclusively for the storage, bottling, or packaging of spirits, and activities related thereto.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.117 Continuity of premises.

The continuity of the plant shall be unbroken except for separations by public waterways, thoroughfares, or carrier rights-of-way: *Provided*, That where all parts of the plant premises are in the same general location the Director may authorize the assistant regional commissioner to approve the registration of a plant where there are other separations of plant premises if the assistant regional commissioner finds that the separated areas can be supervised economically and effectively, and the Director finds that the revenue will not be jeopardized thereby.

§ 201.118 Location of bonded and bottling premises.

Bottling premises shall not be located on the bonded premises of a plant. Where bonded premises and bottling premises are located in the same building, doors and other openings affording intercommunication between such premises shall be permitted only where the assistant regional commissioner finds that the revenue will not be jeopardized thereby. Such doors and other openings shall be equipped for locking.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.119 General plant premises.

General premises (i.e., other than bonded premises or bottling premises) may be included as a part of a plant when so described in the notice of registration. Such general premises may not be used for any of the operations

required to be conducted on bonded or bottling premises. Business offices and service facilities may be included as a part of such general premises and such premises may be utilized for the conduct of such other business as may be authorized for such premises under the provisions of section 5178(b), I.R.C.

§ 201.120 Denaturing facilities.

Facilities for denaturing spirits may be established only on the bonded premises of a plant operated by a proprietor who is authorized to produce spirits.

(72 Stat. 1369; 26 U.S.C. 5241)

Subpart F—Qualification of Distilled Spirits Plants

§ 201.131 General requirements for registration.

A person shall not engage in the business of a distiller, bonded warehouseman, rectifier, or bottler of distilled spirits, unless he has made application for and has received notice of registration of his plant with respect to such business as provided in this part. Application for registration shall be made on Form 2607 to the assistant regional commissioner. Each application shall be executed under penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application or incorporated by reference shall be deemed to be a part thereof. The assistant regional commissioner may, in any instance where the outstanding notice of registration is inadequate or incorrect in any respect, require by registered or certified mail the filing of an application on Form 2607 to amend the notice of registration, specifying the respects in which amendment is required. Within 60 days after the receipt of such notice, the proprietor shall file such application.

(72 Stat. 1349; 26 U.S.C. 5171, 5172)

§ 201.132 Data for application for registration.

Application on Form 2607 shall be prepared in accordance with the headings on the form, and instructions thereon and issued in respect thereto, and shall include the following:

(a) Serial number and statement of purpose for which filed.

(b) Name and principal business address of the applicant, and the location of the plant if different from the business address.

(c) Statement of the type of business organization and of the persons interested in the business, supported by the items of information listed in § 201.148.

(d) Statement of the business or businesses to be conducted.

(e) List of applicant's operating and basic permits, and of the qualification bonds (including those filed with the application) with the name of the surety or sureties for each bond.

(f) List of the offices, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the proprietor or to sign his name.

(g) Plat and plans (see §§ 201.154–201.159).

(h) Description of the plant (see § 201.149).

(i) List of major equipment (see § 201.147).

(j) As applicable, the following:

(1) With respect to the business of a distiller:

(i) Statement of maximum proof gallons that will be (*a*) produced during a period of 15 days and (*b*) in transit to the bonded premises. (Not required if the qualification bond is in the maximum sum.)

(ii) Statement of daily producing capacity in proof gallons.

(iii) Statement of process (see § 201.153).

(iv) Statement whether denaturing operations will be conducted.

(v) Statement of title to the bonded premises and interest in the equipment used for the production of spirits, accompanied where required by consent on Form 1602 (see §§ 201.151–152).

(2) With respect to the business of a bonded warehouseman:

(i) Statement of the maximum proof gallons that will be stored on, and in transit to, the bonded premises. (Not required if the qualification bond is in the maximum sum.)

(ii) Description of the system of storage, and statement of storage capacity (bulk, packages, and cases).

(iii) Statement whether denaturing and/or bottling-in-bond operations will be conducted.

(3) With respect to the business of a rectifier, a statement of the maximum tax the rectifier will be liable to pay under sections 5021 and 5022, I.R.C., in a 30-day period. (Not required if the qualification bond is in the maximum sum.)

(4) With respect to the business of bottling after tax determination, a statement of the name, address, and registry number of a plant qualified by the applicant for production or bonded warehousing. (Not required if the applicant is a State or political subdivision thereof, or if the plant being registered is so qualified or qualified for rectification.)

(5) With respect to any other business to be conducted on the plant premises, as provided by Subpart D, a description of such business, a list of the buildings and/or equipment to be used, and a statement as to the relationship, if any, of such business to distilled spirits operations at the plant.

Where any of the information required by paragraph (c) is on file with the assistant regional commissioner, such information may, by incorporation by reference thereto by the applicant, be made a part of the application for registration. The applicant shall, when so required by the assistant regional commissioner, furnish as a part of his application for registration such additional information as may be necessary for the assistant regional commissioner to determine whether the application for registration should be approved.

(72 Stat. 1349; 26 U.S.C. 5171, 5172)

§ 201.133 Notice of registration.

The application for registration, when approved, shall constitute the notice of registration of the plant. A plant shall not be registered or reregistered under this subpart until the applicant has complied with all requirements of law and regulations relating to the qualification of the business or businesses in which the applicant intends to engage. A plant shall not be operated unless the proprietor has a valid notice of registration covering the businesses and operations to be conducted at such plant. In any instance where a bond is required to be given or a permit is required to be obtained with respect to a business or operation before notice of registration of the plant may be received with respect thereto, the notice of registration shall not be valid with respect to such business or operation in the event that such bond or permit is no longer in effect and an application for reregistration shall be filed and notice of registration again obtained before thereafter engaging in such business or operation at such plant.

(72 Stat. 1349; 26 U.S.C. 5171, 5172)

§ 201.134 Maintenance of registration file.

The proprietor shall maintain his registration file in looseleaf form in complete and current condition, readily available at the plant for inspection by internal revenue officers.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.135 Powers of attorney.

The proprietor shall execute and file with the assistant regional commissioner a Form 1534, in accordance with the instructions on the form, for every person authorized to sign or to act on behalf of the proprietor. (Not required for persons whose authority is furnished in the application for registration.)

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.136 Operating permits.

Except as provided in § 201.138, every person required to file an application for registration under § 201.131 shall make application for and obtain an operating permit before commencing any of the following operations:

(a) Distilling for industrial use.

(b) Bonded warehousing of spirits for industrial use.

(c) Denaturing spirits.

(d) Bonded warehousing of spirits (without bottling) for nonindustrial use.

(e) Bottling or packaging of spirits for industrial use.

(f) Any other distilling, warehousing, or bottling operation not required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203, 204).

Application for such operating permit shall be made on Form 2603 to the assistant regional commissioner.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 201.137 Data for application for operating permits.

Each application on Form 2603 shall be executed under the penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Applications on Form 2603 shall be prepared in

accordance with the headings on the form, and instructions thereon and issued in respect thereto, and shall include the following:

(a) Name and principal business address of the applicant.

(b) Plant address, if different from the business address.

(c) Description of the operation to be conducted for which an operating permit must be obtained.

(d) Statement of type of business organization and of the persons interested in the business, supported by the items of information listed in § 201.148.

(e) Trade names (see § 201.146).

(f) State whether any of the persons whose names and addresses are required to be furnished under the provisions of § 201.148 (a) (8) and (c) has—(1) ever been convicted of a felony or misdemeanor under Federal or State law, (2) ever been arrested or charged with any violation of State or Federal law (convictions or arrests or charges for traffic violations need not be reported if such violations are not felonies), or (3) ever applied for, held, or been connected with a permit, issued under Federal law, to manufacture, distribute, sell, or use spirits or products containing spirits, whether or not for beverage use, or held any financial interest in any business covered by any such permit, and, if so, give the number and classification of such permit, the period of operation thereunder, and state in detail whether such permit was ever suspended, revoked, annulled, or otherwise terminated.

Where any of the information required by paragraph (d) or paragraph (f) (3) is on file with the assistant regional commissioner, the applicant may, by incorporation by reference thereto, state that such information is made a part of the application for an operating permit. The applicant shall, when so required by the assistant regional commissioner, furnish as a part of his application for an operating permit such additional information as may be necessary for the assistant regional commissioner to determine whether the applicant is entitled to the permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 201.138 Exceptions to operating permit requirements.

The provisions of § 201.136 shall not apply to any agency of a State or political subdivision thereof, or to any officer or employee of any such agency acting for such agency.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 201.139 Issuance of operating permits.

Only one operating permit will be issued for a plant. Such operating permit shall designate the businesses or operations permitted thereby (including limitations with respect thereto). All of the provisions of this part relating to the performance of the operations covered by the permit shall be deemed to be included in the provisions and conditions of the permit, the same as if set out therein.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 201.140 Duration of permits.

Operating permits are continuing, unless automatically terminated by the terms thereof, suspended or revoked as provided in § 201.144, or voluntarily surrendered. The provisions of § 201.161 shall be deemed to be a part of the terms and conditions of all operating permits issued pursuant to this part.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.141 Posting of permits.

Operating permits shall be kept posted available for inspection at the plant.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 201.142 Denial of permit.

Any application for an operating permit may be disapproved and the permit denied if the assistant regional commissioner, after notice and opportunity for hearing, finds that—

(a) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with chapter 51, I.R.C., or regulations issued thereunder; or

(b) The applicant has failed to disclose any material information required, or has made any false statement as to any material fact, in connection with his application; or

(c) The premises on which the applicant proposes to conduct the business are not adequate to protect the revenue.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.143 Correction of permits.

Where an error in an operating permit is discovered, the proprietor shall, on demand of the assistant regional commissioner, immediately return the permit for correction.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.144 Suspension or revocation.

If, after notice and hearing, the assistant regional commissioner finds that any person holding a permit issued under this subpart—

(a) Has not in good faith complied with the provisions of chapter 51, I.R.C., or regulations issued thereunder; or

(b) Has violated the conditions of such permit; or

(c) Has made any false statement as to any material fact in his application therefor; or

(d) Has failed to disclose any material information required to be furnished; or

(e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor or has been convicted of any offense under Title 26, U.S.C., punishable as a felony or of any conspiracy to commit such offense; or

(f) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years;

such permit may, in whole or in part, be revoked, or be suspended for such period as the assistant regional commissioner deems proper.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.145 Rules of practice in permit proceedings.

The regulations in Part 200 of this chapter are made applicable to the procedure and practice in connection with the disapproval of any application for an operating permit required by this subpart, and for the suspension, revocation, and annulment of such permit.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.146 Trade names.

Where a trade name is to be used in connection with the operations of a plant for which an operating permit is required, the proprietor shall list such trade name on Form 2603 (showing the business operation or operations in which such trade name will be used), and the offices where such name is registered, supported by copies of any certificate or other document filed or issued in respect to such name. Where any distilling, warehousing, or bottling operation is required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203, 204), regulations issued under such Act govern the approval and use of trade names in connection with such operations. Operations shall not be conducted under a trade name until the proprietor is in possession of an operating or basic permit covering the use of such name.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.147 Major equipment.

The following items of major equipment, if on the plant premises, shall be described in the application for registration:

(a) Mash tubs and cookers (serial number and capacity).

(b) Fermenters (serial number and capacity).

(c) Tanks used in the production, storage, denaturation, rectification, bottling, and measurement of spirits (designated use (or uses), serial number, capacity, and method of gauging or measurement).

(d) Permanently installed scales and other measuring equipment (including meters).

(e) Bottling lines (list separately as to use and serial number).

(f) Stills (serial number, kind, capacity, and intended use).

(g) Other items of fixed equipment used in the production, storage, rectification and/or bottling of spirits, if valued at $5,000 or more (description and use).

The description shall show, as to each item of equipment, the location thereof in the plant, and the premises (bonded or bottling) and the facility (production, storage, denaturation, or bottling on bonded premises, and rectification or bottling on bottling premises) in which it is to be used. Where any equipment is to be used in two or more facilities, it shall be identified as for multiple use, and its use in each facility shall be shown.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.148 Organizational documents.

The supporting information required by paragraph (c) of § 201.132, and para-

graph (d) of § 201.137, includes, as applicable:

(a) *Corporate documents.* (1) Certified true copy of articles of incorporation and any amendments thereto.

(2) Certified true copy of the corporate charter or a certificate of corporate existence or incorporation.

(3) Certified true copy of certificate authorizing the corporation to operate in the State where the plant is located (if other than that in which incorporated).

(4) Certified extracts or digests of minutes of meetings of stockholders, showing election of directors.

(5) Certified true copy of bylaws.

(6) Certified extracts or digests of minutes of meetings of board of directors, showing election of officers.

(7) Certified extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation.

(8) Names and addresses of officers and directors.

(9) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders.

(b) *Articles of partnership.* True copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or other legal entity, and the nature and amount 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. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary.

(2) In the case of an individual owner or partnership, name and address of every person interested in the plant, whether such interest appears in the name of the interested party or in the name of another for him.

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5271)

§ 201.149 Description of plant.

The application for registration shall include a description of each tract of land comprising the plant, clearly indicating the bonded premises, the bottling premises, and any other premises to be included as part of the plant. In the case of a plant producing spirits, where the premises subject to lien under section 5004(b), I.R.C., are not coextensive with the bonded premises, the tract of land on which any building containing any part of the bonded premises is situated shall also be described. The description of each tract of land subject to lien under section 5004(b), I.R.C., shall be by courses and distances, in feet and inches (or hundredths of feet), with the particularity required in conveyances of real estate. If any area (or areas) of the plant is to be alternated between bonded and bottling premises, as provided in § 201.175, each such area shall be described, and shall be identified by number or letter. The description of denaturing facilities (and equipment) shall show the manner of segregation of such facilities from other facilities which prevents contamination of undenatured spirits. Each building and outside tank shall be described (location, size, construction, arrangement, and means of protection and security), referring to each by its designated number or letter, and use. If a plant consists of a room or floor of a building, a description of the building in which the room or floor is situated and its location therein shall be given.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.150 Registry of stills.

The provisions of Part 196 of this chapter are applicable to stills located on plant premises. The listing of stills for distilling in the application for registration, and the approval of the application for registration, shall constitute registration of such stills.

(72 Stat. 1349, 1355; 26 U.S.C. 5172, 5179)

§ 201.151 Statement of title.

The application for registration shall include a statement setting forth the name and address of the owner in fee of the lot or tract of land subject to lien under section 5004(b)(1), I.R.C., the buildings thereon, and the equipment used for the production of spirits. If the applicant is not the owner in fee of such property, or if such property is encumbered by mortgage or other lien, the application for registration shall be accompanied by a consent on Form 1602, as provided in § 201.152, unless indemnity bond on Form 3A is filed, as provided in § 201.200.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.152 Consent on Form 1602.

Consents on Form 1602, where required by this subpart, shall be executed by the owner (if other than the proprietor) of property subject to lien under section 5004(b)(1), I.R.C., and by any mortgagee, judgment creditor, or other person having a lien on such property, duly acknowledging that the property may be used for the purpose of distilling spirits, subject to the provisions of law, and expressly stipulating that the lien of the United States, for taxes on distilled spirits produced thereon and penalties relating thereto, shall have priority of such mortgage, judgment, or other encumbrance, and that in the case of the forfeiture of such property, or any part thereof, the title to the same shall vest in the United States, discharged from such mortgage, judgment, or other encumbrance.

(72 Stat. 1349; 26 U.S.C. 5172, 5173)

§ 201.153 Statement of process.

The statement of process in the application for registration shall set forth a step-by-step description of the process employed to produce spirits, commencing with the treating, mashing, or fermenting of the raw materials or substances and continuing through each step of the distilling, redistilling, purifying and refining processes to the production gauge, and showing the kind and approximate quantity of each material or substance used in producing, purifying, or refining each type of spirits.

(72 Stat. 1349; 26 U.S.C. 5172)

PLAT AND PLANS

§ 201.154 General requirements.

The proprietor shall submit, as part of his application for registration, a plat of the premises and plans, in quadruplicate, as required by this subpart.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.155 Preparation.

Each plat and floor plan shall be drawn to a scale of not less than 1/50 inch per foot and shall show the cardinal points of the compass. Each sheet of the drawings shall—

(a) Bear a distinctive title;

(b) Be numbered in consecutive order, the first sheet being designated number 1; and

(c) Have a clear margin of not less than 1 inch on each side and have outside measurements of 15 by 20 inches: *Provided,* That the assistant regional commissioner may authorize the use of larger sheets if they can be satisfactorily filed.

Plats and plans shall be submitted on tracing cloth, sensitized linen, or blueprint paper, and may be original drawings, or, if clear and distinct, reproductions made by lithoprint, ditto, or ozalid processes. The Director may approve other materials and methods which he finds are equally acceptable.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.156 Depiction of plant.

The plat shall show the boundaries of the plant, and delineate separately the portions thereof comprising the bonded premises, the bottling premises, and any other premises to be included as a part of the plant, in feet and inches (or hundredths of feet). The delineation of these premises shall agree with the description given in the application for registration. The plat shall also show all buildings, enclosed areas, and outside tanks on the plant premises, and all driveways, public thoroughfares, and railroad rights-of-way contiguous thereto, connecting therewith, or separating the premises. Each building, enclosed area, and outside tank shall be identified. Each pipeline for the conveyance of spirits to and from the premises of the plant, and between bonded and bottling premises, shall be shown on the plat in blue, and each pipeline for the conveyance of denatured spirits to and from the premises of the plant shall be shown on the plat in green. The purpose for which such pipelines are used and the points of origin and termination shall be indicated on the plat. Where premises on which spirits, wines, or beer are manufactured, stored, or sold are contiguous to a plant, the plat shall show the relative location of the plant and such contiguous premises, and all pipelines and other connections between them (public utility pipe-

lines and similar connections excepted). The outline of such contiguous premises and of the plant shall be shown in contrasting colors. Where a plant consists of less than an entire building, the plat shall show the building, and the land on which such building is situated. Where a plant consists of, or includes, one or more floors or rooms of a building that is not wholly included in the plant, the floors or rooms so used shall be shown on a floor plan. Each floor plan shall show the location and dimensions of the floors or rooms, the means of ingress and egress, and, insofar as required on plats by this section, pipelines and contiguous premises. Where construction of floors or rooms is identical, a typical plan of such floors or rooms will be acceptable. Where the floor plan shows the entire plant and includes all the information required by a plat, such plan may be accepted in lieu of a plat.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.157 Flow diagrams.

Flow diagrams (plans) shall be submitted reflecting the production processes on bonded premises. The flow diagram shall show major equipment (identified as to use) in its relative operating sequence, with essential connecting pipelines (appropriately identified by color) and valves. The flow diagram shall include the entire closed distilling system. Minor equipment (such as pumps, pressure regulators, rotometers) need not be shown. The direction of flow through the pipelines shall be indicated by arrows.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.158 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, substantially as follows:

(Name of proprietor)

(Distilled spirits plant No.)

(Address)

Accuracy certified by:

(Name and capacity—for the proprietor)

Sheet No. ----------, Date ------

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.159 Revised plats and plans.

Any revised plat or plan sheet shall bear the same number as the sheet superseded, but shall be given a new date. Any additional plat or plan sheet shall be given a new number in consecutive order, or shall be otherwise numbered and lettered in such manner as will permit the filing of the plat or plan in proper sequence.

(72 Stat. 1349; 26 U.S.C. 5172)

CHANGES AFTER ORIGINAL QUALIFICATION

§ 201.160 Application for amended registration.

Where there is a change with respect to the information shown in the notice of registration, the proprietor shall submit, within 10 days of such change (except as otherwise provided in this subpart), an application on Form 2607 for amended registration. Such application shall set forth, on sheets appropriately numbered or otherwise identified, the information necessary to make the notice of registration accurate and current. Where the change affects only pages or parts of pages of the notice of registration, such complete pages shall be submitted as will enable the replacement of the pages affected and maintenance of the file as provided in § 201.134.

(72 Stat. 1349; 26 U.S.C. 5171, 5172)

§ 201.161 Automatic termination of permits.

(a) *Permits not transferable.* Operating permits issued under this part shall not be transferred. In the event of the lease, sale, or other transfer of such a permit, the permit shall thereupon automatically terminate.

(b) *Corporations.* In the case of a corporation holding an operating permit under this part, if actual or legal control of the permittee corporation changes, directly or indirectly, whether by reason of change in stock ownership or control (in the permittee corporation or in any other corporation), by operation of law, or in any other manner, the permittee shall, within 10 days of such change, give written notice thereof, executed under the penalties of perjury, to the assistant regional commissioner; such permit may remain in effect with respect to the operation covered thereby until the expiration of 30 days after such change, whereupon such permit shall automatically terminate: *Provided,* That if within such 30-day period an application for a new permit covering such operation is made, then the outstanding operating permit may remain in effect with respect to the continuation of the operation covered thereby until final action is taken on such application. When such final action is taken, such outstanding operating permit shall thereupon automatically terminate.

(c) *Basic permits.* The termination of basic permits is governed by the provisions of 27 CFR Part 1.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.162 Change in name of proprietor.

Where there is to be a change in the individual, firm, or corporate name, the proprietor shall file application to amend the registration and to amend the operating and/or basic permit. In addition, he shall furnish consent of surety on Form 1533 or new bond or bonds covering the use of the new name, and shall conform the sign to the provisions of § 201.652. Operations may not be conducted under the new name prior to approval of the amended registration and issuance of the amended permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5271)

§ 201.163 Change of trade name.

Where there is to be a change in, or addition of, a trade name, the proprietor shall file application to amend his operating and/or basic permit; a new bond or consent of surety will not be required. Operations may not be conducted under the new trade name prior to issuance of the amended permit.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.164 Change in proprietorship.

(a) *General.* Where there is a change in the proprietorship of a plant qualified under this part, the outgoing proprietor shall comply with the requirements of § 201.176, and the successor shall, before commencing operations, apply for and obtain the required permits, file the required bonds, and file application for and receive notice of registration of the plant in the same manner as a person qualifying as the proprietor of a new plant, except that he may adopt the plats and plans of the predecessor by incorporation by reference thereto on Form 2607. Spirits may be transferred from an outgoing proprietor of a plant to a successor in the manner provided in § 201.174.

(b) *Fiduciary.* If the successor to the proprietorship of a plant is an administrator, executor, receiver, trustee, assignee or other fiduciary, he shall comply with the provisions of paragraph (a) except that he may, in lieu of filing a new bond, furnish consent of surety extending the terms of his predecessor's bond, and he may also incorporate by reference in his application for registration on Form 2607 any pertinent information contained in his predecessor's notice of registration. The fiduciary shall furnish a certified copy of the order of the court or other pertinent document showing his qualification as such fiduciary. The effective dates of the qualifying documents filed by the fiduciary shall be the effective date of the court order, or the date specified therein for him to assume control. If the fiduciary was not appointed by a court, the date of his assuming control shall coincide with the effective date of the qualifying documents filed by him.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.165 Adoption of plat and plans.

The adoption by a successor of the plat and plans of his predecessor shall be in the form of a certificate to be made a part of the application for registration, in which shall be set forth the identity of the plant and of the predecessor, a description (by sheet number and title) of each plat or plan sheet adopted, and a certification that the adopted plat and plans accurately depict the premises.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.166 Continuing partnerships.

Where, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the plant under the prior qualification of the partnership, provided a consent of surety, wherein the surety and the surviving partner agree to remain liable on the bond given on Form 2601, is filed. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall qualify in his own name from the

date of acquisition, as provided in § 201.164(a). The rule set forth in this section shall also apply where there is more than one surviving partner.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.167 Change in location.

Where there is a change in the location of the plant, the proprietor shall file applications to amend the registration of his plant and his operating and/or basic permit, new plat and plans, and either a new bond or a consent of surety on Form 1533. Operations of the plant may not be commenced at the new location prior to approval of the amended registration and issuance of the amended permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5173, 5271)

§ 201.168 Changes in premises.

Where bonded premises, bottling premises, or any other premises included as a part of the plant are to be extended or curtailed, the proprietor shall file an application to amend the registration of his plant (including amended plat and plans). Facilities to be included by extension or to be excluded by curtailment shall not, prior to approval of the amended registration, be used for other than previously approved purposes.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.169 Change in operations.

Where the proprietor proposes to conduct a new business or operation involving spirits, he shall file applications to amend the registration of his plant and his operating and/or basic permit. If he desires to engage, on the plant premises, in a business, other than the business of a distiller, bonded warehouseman, rectifier, or bottler, he shall submit application to amend the registration of his plant to include the information required under § 201.132(j)(5). The additional operation or business may not be carried on prior to approval of the amended registration and (if required) issuance of the amended permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5271)

§ 201.170 Change in process.

Where the proprietor desires to produce a new product or make a change in a production process, on bonded premises, which would affect the designation, or substantially affect the character of his product, he shall file an application to amend the registration of his plant to include the amended or new statement of process. The new or changed process may not be used prior to approval of the amended registration.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.171 Changes in construction and use of buildings and equipment.

Where a material change is to be made (a) in the buildings or facilities of a plant (other than extension or curtailment of premises covered by § 201.168), (b) in the use of any portion of a plant, or (c) with respect to plant equipment, which affects the accuracy of the notice of registration (including the plat and plans), the proprietor shall, before making such change, secure approval thereof, pursuant to a written application, in triplicate, submitted to the assistant regional commissioner through the assigned officer, if any. The application shall describe the proposed change specifically and in detail. The proprietor may be required to submit drawings, photographs, or diagrams of the proposed change. The change shall be made under the supervision of an internal revenue officer, if the assistant regional commissioner considers such supervision necessary. The change shall be reflected in the next amendment of the notice of registration (including the plat and plans), unless the assistant regional commissioner requires the immediate filing of an application for amendment. All changes not affecting the accuracy of the notice of registration (including plat and plans) may be made on approval of the assigned officer. The proprietor may make emergency repairs without prior notification to the assigned officer, but where such emergency repairs are made, the proprietor shall promptly notify such officer and file with him a report thereof in triplicate.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.172 Change of title.

Where there is a change in the title to any property subject to lien under section 5004(b)(1), I.R.C., the proprietor shall, before continuing operations, file an application to amend the registration of his plant, and, where required by this part, a consent on Form 1602 or, in lieu thereof, an indemnity bond on Form 3A. In addition, the assistant regional commissioner may require the proprietor to file a consent of surety on Form 1533 or a new qualification bond.

(72 Stat. 1349; 26 U.S.C. 5172, 5173)

§ 201.173 Encumbrance.

Where any of the property subject to lien under section 5004(b)(1), I.R.C., becomes encumbered by any judgment, or other lien, the proprietor shall thereupon file (a) an application to amend the registration of his plant, (b) a consent on Form 1602 or an indemnity bond on Form 3A (if such bond in sufficient penal sum is not on file), and (c) consent of surety on Form 1533 or a new qualification bond: *Provided*, That where such property is to be voluntarily subjected to an encumbrance, the documents shall be filed and approved before the property is encumbered.

(72 Stat. 1349; 26 U.S.C. 5172, 5173)

OPERATIONS BY ALTERNATING PROPRIETORS

§ 201.174 Procedure for alternating proprietors.

(a) *General.* A plant or any part thereof may be operated alternately by proprietors who have filed and received approval of the necessary bonds and applications for registration, and have otherwise qualified under the provisions of this subpart. Where operations by alternating proprietors are limited to parts of the plant, the notice of registration shall describe the areas or facilities, or combination thereof, which will be alternated, and shall be accompanied by special plats designating the parts of the plant which are to be alternated. A special plat shall be submitted for each arrangement, other than that reflected by the basic plat, under which the premises will be operated. Once such qualifying documents have been approved, and initial operations have been conducted thereunder, the plant, or parts thereof, may be alternated pursuant to approval by the assigned officer of the proprietors' applications on Form 2610. Any transfer of spirits from the outgoing proprietor to the incoming proprietor shall be indicated on Form 2610 filed by each proprietor. Operation of production facilities on bonded premises by an alternating proprietor shall be for one or more calendar days.

(b) *Production facilities.* Where production facilities on bonded premises are to be alternated between proprietors, operations thereon shall be completed by the outgoing proprietor, and all spirits removed therefrom, prior to the change in proprietorship: *Provided*, That (1) distilling materials, unfinished spirits, and denatured spirits may be transferred to the incoming proprietor, or (2) denatured spirits may be retained in tanks, under Government lock, if the outgoing proprietor has executed a consent of surety on Form 1533 to continue liability on the qualification bond for the tax on such spirits retained in the facilities, notwithstanding the change in proprietorship.

(c) *Bonded warehousing facilities.* Spirits contained in any bonded warehousing facility to be alternated shall be transferred to the incoming proprietor on Form 236 (accompanying forms not required). The outgoing proprietor shall execute a consent of surety on Form 1533 to continue in effect the qualification bond whenever operation of the facility is to be resumed by him following suspension of operations by an alternate proprietor.

(d) *Bottling premises.* Operations on bottling premises shall be completely finished and all spirits and wines removed from such premises prior to the change in proprietorship: *Provided*, That (1) spirits and wines on hand, including those in the process of rectification, may be transferred to the incoming proprietor, or (2) the spirits and wines may be retained, under lock, where the outgoing proprietor has executed a consent of surety on Form 1533 to continue the liability on the qualification bond for the tax on such spirits and wines retained on the premises, notwithstanding the change in proprietorship. Products subject to tax under the provisions of sections 5021 and 5022, I.R.C. (including partially rectified products) shall be tax-paid by the outgoing proprietor prior to their transfer to a successor.

(e) *Records.* Each proprietor shall maintain separate records and submit separate reports. In the case of spirits in bonded warehousing facilities, the deposit records for the outgoing proprietor shall be used for the incoming proprietor. All transfers of distilling materals, spirits, and wines shall be reflected in the records of each proprietor.

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5271)

ALTERNATE OPERATIONS

§ 201.175 Alternating bottling facilities between bonded and bottling premises.

Bottling facilities may be used either for the bottling in bond of spirits or for the rectification and bottling, or bottling, of taxpaid spirits where the proprietor has filed, and the assistant regional commissioner has approved, (a) an application for registration, Form 2607, to cover such operation, and (b) a special plat to designate the premises which are to be alternated. When areas of the bottling facilities are to be alternated, the proprietor shall file a drawing or diagram clearly depicting all rooms, tanks, and spirit lines which are susceptible to alternation, in their relative operating sequence; all such rooms and equipment shall be individually identified by number or letter. Once such qualifying documents have been approved, the bottling facilities or parts thereof (identified by the numbers or letters shown on the drawing or diagram) may be alternated pursuant to approval by the assigned officer of the proprietor's application on Form 2610, after all in-bond spirits, or taxpaid spirits and other ingredients used in rectifying processes (if any), as the case may be, are removed from the premises or part thereof to be alternated in opposite status.

(72 Stat. 1349; 26 U.S.C. 5172)

PERMANENT DISCONTINUANCE OF BUSINESS

§ 201.176 Notice of permanent discontinuance.

Where the proprietor permanently discontinues any or all of the businesses listed in his notice of registration, he shall, after completion of the operations, file a Form 2607 to cover such discontinuance. Form 2607 shall be accompanied (a) by all permits issued to the proprietor under this subpart covering the discontinued operations, and by his request that such permits be canceled; (b) by the proprietor's written statement disclosing, as applicable, whether (1) all spirits (including denatured spirits), indicia bottles, strip stamps, and other pertinent items have been lawfully disposed of, (2) any spirits (including denatured spirits), indicia bottles, or strip stamps are in transit to the premises, (3) all approved applications for transfer of spirits (including denatured spirits) to the premises have been secured and returned to the assistant regional commissioner for cancellation; and (c) by pertinent monthly reports covering the discontinued operations (each such report shall be marked "Final Report").

(72 Stat. 1349; 26 U.S.C. 5172, 5271)

Subpart G—Bonds and Consents of Surety

§ 201.191 General.

Every person intending to commence or to continue the business of a distiller, bonded warehouseman, or rectifier, shall file bond, Form 2601, as prescribed in this subpart, with the assistant regional commissioner, at the time of filing the original application for registration of his plant, and at such other times as are required by this part. Such bond shall be conditioned that he shall faithfully comply with all provisions of law and regulations relating to the duties and business of a distiller, bonded warehouseman, or rectifier, as the case may be (including the payment of taxes imposed by chapter 51, I.R.C.), and shall pay all penalties incurred or fines imposed on him for violation of any such provisions. Each bond shall be accompanied by a statement, executed under the penalties of perjury, as to whether the principal or any person owning, controlling, or actively participating in the management of the business of the principal has been convicted of or has compromised any offense set forth in § 201.198(a) or has been convicted of any offense set forth in § 201.198(b). In the event the above statement contains an affirmative answer, the applicant shall submit a statement describing in detail the circumstances surrounding such conviction or compromise. Once every four years, and as provided in § 201.210, a new bond, Form 2601, shall be executed and filed in accordance with the provisions of this subpart. No person shall commence or continue the business of a distiller, bonded warehouseman, or rectifier, unless he has a valid bond, Form 2601 (and consent of surety, if necessary), as required in respect of such business by this part.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.192 Additional condition of distiller's bond.

In addition to the requirements of § 201.191, the distiller's bond shall be conditioned that he shall not suffer the property, or any part thereof, subject to lien under section 5004(b)(1), I.R.C., to be encumbered by any lien during the time in which he shall carry on such business, except that this condition shall not apply during the term of an indemnity bond given under the provisions of § 201.200.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.193 Additional conditions of bonded warehouseman's bond.

In addition to the requirements of § 201.191, the bonded warehouseman's bond shall be conditioned—

(a) On the withdrawal of spirits from storage on bonded premises within the time prescribed for the determination of tax under section 5006(a)(2), I.R.C., and

(b) On payment of the tax now or hereafter in force, except as otherwise provided by law, on all spirits withdrawn from storage on bonded premises.

(72 Stat. 1349; 26 U.C.S. 5173)

§ 201.194 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in Treasury Department Form 356—Revised. Powers of attorney and other evidence of appointment of agents and officers to execute bonds or to consent to changes in the terms of bonds on behalf of corporate sureties are required to be filed with, and passed on by, the Commissioner of Accounts, Surety Bonds Branch, Treasury Department.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 201.195 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR Part 225.

(61 Stat. 650; 6 U.S.C. 15)

§ 201.196 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

§ 201.197 Authority to approve bonds and consents of surety.

Assistant regional commissioners are authorized to approve all bonds and consents of surety required by this part.

§ 201.198 Disapproval of bonds or consents of surety.

The assistant regional commissioner may disapprove any bond or consent of surety submitted in respect to the business of a distiller, bonded warehouseman, or rectifier, if the principal or any person owning, controlling, or actively participating in the management of the business of the principal shall have been previously 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 spirits, wines, or beer, or if such an offense shall have been compromised with the person on 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 spirits, wine, beer, or other intoxicating liquor.

Further, no bond of a distiller shall be approved unless the assistant regional commissioner is satisfied that the situation of the land and building which will constitute his bonded premises (as described in his application for registration, Form 2607, is not such as would enable the distiller to defraud the United States, and unless: (1) The distiller is the owner in fee, unencumbered by any mortgage, judgment, or other lien, of the lot or tract of land subject to lien under section 5004(b)(1), I.R.C.; or (2) the distiller files a consent, Form 1602, of the owner of the fee, and of any mortgagee, judgment creditor, or other person having a lien thereon, in accordance with the provisions of §§ 201.151 and 201.152; or (3) the distiller files an indemnity bond, Form 3A, in accordance with the provisions of § 201.200.

(72 Stat. 1349, 1394; 26 U.S.C. 5173, 5551)

§ 201.199 Appeal to Director.

Where a bond or consent of surety is disapproved by the assistant regional commissioner, the person giving the bond may appeal from such disapproval to the Director, who will hear such appeal. The decision of the Director shall be final.

(72 Stat. 1394; 26 U.S.C. 5551)

§ 201.200 Indemnity bond, Form 3A.

A proprietor of a plant qualified for the production of spirits may furnish bond on Form 3A to stand in lieu of future liens imposed under section 5004(b)(1), I.R.C., and no lien shall attach to any lot or tract of land, distillery, building, or distilling apparatus by reason of distilling done during any period included within the term of any such bond. Where an indemnity bond has been furnished on Form 3A in respect of a plant, the requirements of this part relating to the filing of consents on Forms 1602 and bonds on Forms 1617 are not applicable in respect to such plant.

(72 Stat. 1317, 1349; 26 U.S.C. 5004, 5173)

§ 201.201 Indemnity bond conditioned to stand in lieu of prior liens.

Where a lien is imposed on the distiller's property under section 5004(b)(1), I.R.C., or where any similar lien has been imposed under prior provisions of internal revenue law, the distiller may, pursuant to application to, and approval by, the assistant regional commissioner, file consent, Form 2602, to further condition the bond, Form 3A, furnished under the provisions of § 201.200, to stand in lieu of such lien or liens and to indemnify the United States for the payment of all taxes and penalties which otherwise could be asserted against such property by reason of such lien or liens. When a consent on Form 2602 has been accepted and approved by the assistant regional commissioner, such lien or liens shall be held to be extinguished. The assistant regional commissioner will not accept or approve such consent, Form 2602, if there is any pending litigation or outstanding assessment with respect to such taxes or penalties, or if he has knowledge of any circumstances indicating that such consent is tendered with intent to evade payment or defeat collection of any tax or penalty.

(72 Stat. 1317, 1349; 26 U.S.C. 5004, 5173)

§ 201.202 Indemnity bond in case of judicial sale.

Where any distillery is sold at judicial or other sale in favor of the United States, an indemnity bond on Form 3A, in lieu of consent on Form 1602, may be taken by the assistant regional commissioner, and the person giving such bond may be allowed to operate such distillery during the existence of the right of redemption from such sale, on complying with all the other provisions of law and of this part.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.203 Indemnity bond for changes in buildings and equipment.

Where buildings on the bonded premises of a plant, or on premises which have been eliminated from the bonded premises, are to be demolished or altered in such a manner as to decrease the value of the property, and a lien for taxes exists on such property under section 5004(b)(1), I.R.C., or where distilling equipment or apparatus on which a lien exists under section 5004(b)(1), I.R.C., is to be removed permanently, without adding property that will become a fixture in law of an equal or greater value than the property to be demolished, altered, or removed, the proprietor shall file with the assistant regional commissioner an indemnity bond on Form 1617. Such bond shall be in a penal sum equal to the appraised value of the property to be demolished, altered, or removed, or equal to the excess in value of the property to be demolished, altered, or removed over the value of the property to be substituted therefor: *Provided*, That no indemnity bond Form 1617 will be required if such appraised value or difference in value, as the case may be, is less than $5,000: *And provided further*, That no indemnity bond on Form 1617 will be required to cover the removal of equipment from the bonded premises of one plant to the bonded premises of another plant, if the two premises are controlled by the same interests. The appraisal shall be at the expense of the proprietor unless waived by the assistant regional commissioner or unless made by internal revenue officers.

(72 Stat. 1317, 1349; 26 U.S.C. 5004, 5173)

§ 201.204 Combined operations bond—distilled spirits plant.

Any proprietor who would otherwise be required to give more than one of the bonds listed in § 201.208 (a), (b), and (c), shall, in lieu thereof (except as provided in §§ 201.205 and 201.206), give a single bond on Form 2601. Bonds given under this section shall contain the terms and conditions of the bonds in lieu of which they are given.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.205 Combined operations bond—distilled spirits plant and adjacent bonded wine cellar.

Any person intending to commence or continue business as proprietor of a bonded wine cellar, under the provisions of Part 240 of this chapter, and of an adjacent plant qualified for the production of spirits shall, in lieu of such of the bonds listed in § 201.208 (a), (b), and (c), as would otherwise be required for his plant, and the bonded wine cellar bond required under the provisions of the first sentence of section 5354, I.R.C., give a single bond on Form 2601 to cover all such operations. Bonds given under this section shall contain the terms and conditions of the bonds in lieu of which they are given.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.206 Blanket bond.

Any person (including, in the case of a corporation, controlled or wholly owned subsidiaries) operating more than one plant in a region may give a blanket bond on Form 2601 covering the operation of any two or more of such plants, and any bonded wine cellars which are adjacent to such plants and which otherwise could be covered by a combined operations bond. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting shares is owned by the parent corporation. Bonds given under this section shall be in lieu of the bonds listed in § 201.208 (a), (b), (c), and (d), as the case may be, and shall contain the terms and conditions of such bonds.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.207 Liability under combined operations and blanket bonds.

The total amount of any combined operations or blanket bond shall be available for the satisfaction of any liability incurred under the terms or conditions of such bond.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.208 Bonds and penal sums of bonds.

The bonds, and the penal sums thereof, required by this subpart, are as follows:

Bond	Penal sum		
	Basis	Minimum	Maximum
(a) Distiller's, Form 2601	The amount of tax on spirits produced in his distillery during a period of 15 days.	$5,000	$100,000
(b) Bonded Warehouseman's, Form 2601:			
(1) General	The amount of tax on spirits stored on such premises and in transit thereto.	5,000	200,000
(2) Limited to storage of not over 500 wooden packages, and to a total of not over 50,000 proof gallons.	The amount of tax on spirits stored on such premises and in transit thereto.	5,000	50,000
(c) Rectifier's, Form 2601	The amount of tax the rectifier will be liable to pay in a period of 30 days under sections 5021 and 5022, I.R.C.	1,000	100,000

Bond	Penal sum		
	Basis	Minimum	Maximum
(d) Combined Operations, Form 2601:			
(1) Distiller and bonded warehouseman.	Sum of penal sums of bonds in lieu of which given.	$10,000	$200,000
(2) Distiller and rectifier	Sum of penal sums of bonds in lieu of which given.	6,000	200,000
(3) Bonded warehouseman and rectifier.	Sum of penal sums of bonds in lieu of which given.	6,000	250,000
(4) Distiller, bonded warehouseman, and rectifier.	Sum of penal sums of bonds in lieu of which given.	11,000	250,000
(5) Distiller and bonded wine cellar.	Sum of penal sums of bonds in lieu of which given.	6,000	150,000
(6) Distiller, bonded warehouseman, and bonded wine cellar.	Sum of penal sums of bonds in lieu of which given.	11,000	250,000
(7) Distiller, rectifier, and bonded wine cellar.	Sum of penal sums of bonds in lieu of which given.	7,000	250,000
(8) Distiller, bonded warehouseman, rectifier, and bonded wine cellar.	Sum of penal sums of bonds in lieu of which given.	12,000	300,000
(e) Blanket bond, Form 2601	The penal sum shall be calculated in accordance with the following table:		

Total penal sums as determined under (a), (b), (c), and (d)	Requirements for penal sum of blanket bond
Not over $300,000	100 percent.
Over $300,000 but not over $600,000	$300,000 plus 70 percent of excess over $300,000.
Over $600,000 but not over $1,000,000	$510,000 plus 50 percent of excess over $600,000.
Over $1,000,000 but not over $2,000,000.	$710,000 plus 35 percent of excess over $1,000,000.
Over $2,000,000	$1,060,000 plus 25 percent of excess over $2,000,000.

Bond	Penal sum		
	Basis	Minimum	Maximum
(f) Indemnity, Form 3A	Appraised value of property		$300,000
(g) Indemnity, Form 1617	Decrease in value of property	$5,000	300,000

(68A Stat. 847, 72 Stat. 1349, 1352; 26 U.S.C. 7102, 5173, 5174, 5175)

§ 201.209 Strengthening bonds.

In all cases where the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

(72 Stat. 1349, 1352, 1394; 26 U.S.C. 5173, 5174, 5551)

NEW OR SUPERSEDING BONDS

§ 201.210 General.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the assistant regional commissioner, be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 201.215, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business or operations to which such bond relates, he shall, except as may be provided in § 201.212, file a valid superseding bond to be effective on or before the date specified in the surety's notice. New or superseding bonds shall show the current date of execution and the effective date.

(72 Stat. 1349, 1352, 1353, 1394; 26 U.S.C. 5173, 5174, 5175, 5176, 5551)

§ 201.211 New or superseding bond, Form 2601.

Where any bond on Form 2601 is not renewed, as required in § 201.191, or where a new or superseding bond, Form 2601, is not given as required in § 201.210, the principal shall discontinue forthwith the business to which such bond relates.

(72 Stat. 1349, 1352, 1353; 26 U.S.C. 5173, 5174, 5175, 5176)

§ 201.212 New or superseding bond, Form 3A.

Where a new or superseding bond, Form 3A, is not given as required in § 201.210, the principal shall discontinue forthwith the business of a distiller unless he is the owner in fee, unencumbered, of the property covered by the bond, or he files the consent of the owner or encumbrancer on Form 1602, as required in § 201.152.

(72 Stat. 1317, 1349, 1353; 26 U.S.C. 5004, 5173, 5176)

TERMINATION OF BONDS

§ 201.213 Termination of bond, Form 2601.

Bond, Form 2601, is a quadrennial bond and, therefore, on expiration of the four-year period for which it is given automatically terminates as to any spirits and/or wines which are produced, rectified, deposited, or in transit to the bonded premises or bonded wine cellar, as the case may be, wholly subsequent to such period. Such bonds may also be terminated as to future production, rectification, or deposits, as the case may be, prior to the expiration of the four-year period for which given (a) pursuant to application of the surety as provided in § 201.215, (b) on approval of a superseding bond, or (c) on discontinuance of business by the principal.

(72 Stat. 1349, 1352, 1353; 26 U.S.C. 5173, 5175, 5176)

§ 201.214 Termination of indemnity bond, Form 3A.

Indemnity bonds (Form 3A) run for an indefinite period. Such bonds may be terminated as to liability for future operations of the distillery, (a) pursuant to application by the surety as provided in § 201.215, (b) on approval of a superseding bond, (c) on discontinuance of business by the principal, or (d) if the distillery is the owner in fee, unencumbered, of the property covered by the bond or if he files the consent of the owner or encumbrancer on Form 1602, as required in § 201.152.

(72 Stat. 1317, 1349, 1353; 26 U.S.C. 5004, 5173, 5176)

§ 201.215 Application of surety for relief from bond.

A surety on any bond given on Form 2601 or 3A may at any time in writing notify the principal and the assistant regional commissioner in whose office the bond is on file that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 90 days after the date the notice is received by the assistant regional 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 statement, executed under the penalties of perjury, that such power of attorney is on file with the Commissioner of Accounts, Surety Bonds Branch, Treasury Department. The surety shall also file with the assistant regional commissioner an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 201.216.

(72 Stat. 1349, 1352, 1353; 26 U.S.C. 5173, 5174, 5175, 5176)

§ 201.216 Relief of surety from bond.

(a) *Bond, Form 2601.* Where a bond, Form 2601, has automatically expired, as

provided in § 201.213, or where the surety has filed application for relief from liability, as provided in § 201.215, and a new or superseding bond has been filed, the surety shall be relieved of future liability with respect to production, rectification, and deposits wholly subsequent to the effective date of the new or superseding bond. Notwithstanding such relief, the surety shall remain liable for the tax on all distilled spirits or wines produced or rectified, or for other liabilities incurred, during the term of the bond. Where a new or superseding bond is not filed the surety shall, in addition to the continuing liabilities above specified, remain liable under the bond for all spirits or wines on hand or in transit to the bonded premises or bonded wine cellar, as the case may be, on the date of expiration, or the date named in the notice, as the case may be, until all such spirits or wines have been lawfully disposed of, or a new bond has been filed by the principal covering the same.

(b) *Bond, Form 3A.* Where the surety on a bond given on Form 3A has applied for relief from liability under the provisions of § 201.215, the surety shall be relieved from liability for all spirits produced wholly subsequent to the date specified in the notice, or the effective date of a superseding bond, if one is given. Notwithstanding such relief, the surety shall remain liable for all distilled spirits produced while such bond was in force and effect and, if a consent on Form 2602 has been accepted, on all spirits produced on the premises prior to the effective date of the bond, until it is established to the satisfaction of the assistant regional commissioner that such spirits have been taxpaid or that the producer thereof has been relieved from liability for payment of such tax under the provisions of chapter 51, I.R.C.

(c) *Bond, Form 1617.* The surety on a bond given on Form 1617 shall be relieved from his liability when the bond has been canceled as provided for in § 201.218.

(72 Stat. 1317, 1349, 1353; 26 U.S.C. 5004, 5173, 5176)

§ 201.217 Release of pledged securities.

Securities of the United States, pledged and deposited as provided in § 201.195, shall be released only in accordance with the provisions of 31 CFR Part 225. Such securities will not be released by the assistant regional commissioner until liability under the bond for which they were pledged has been terminated. When the assistant regional commissioner is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the assistant regional commissioner may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

§ 201.218 Cancellation of indemnity bond.

Any indemnity bond will be canceled by the assistant regional commissioner, on application by the principal or surety, if he determines that the liability for which such bond was given has ceased to exist. Liability under any bond on Form 1617, given under the provisions of this part or under any other prior provisions of law or regulation, will be deemed to have ceased to exist: (a) When a superseding bond is approved; (b) when the proprietor furnishes a consent, Form 2602, on an indemnity bond, Form 3A, as provided in § 201.201; or (c) when it is established to the satisfaction of the assistant regional commissioner that all spirits produced, while the property covering which the indemnity bond was filed formed a part of the distillery premises and equipment, have been taxpaid or that the producer thereof has been relieved from liability for payment of such tax under the provisions of chapter 51, I.R.C.

(72 Stat. 1317, 1349, 1353; 26 U.S.C. 5004, 5173, 5176)

Subpart P—Losses After Tax Determination

§ 201.431 Losses after tax determination.

In the case of spirits lost after determination of tax and prior to completion of physical removal from bonded premises, the tax thereon may, pursuant to claim filed in accordance with subpart C, be abated, remitted, or, without interest, refunded to the proprietor of the bonded premises where the loss occurred, provided the tax would not, by reason of the provisions of section 5008(a)(1), I.R.C., have been collectible if such loss had occurred on bonded premises prior to determination of tax. The loss shall not be allowable if it occurred after the expiration of the bonding period unless it occurred in the course of physical removal of the spirits immediately after such time. This section is not applicable to any loss allowable under any other provision of this subpart or which, except for the limitations of § 201.485, would be so allowable.

(72 Stat. 1323; 26 U.S.C. 5008)

LOSSES OF SPIRITS WITHDRAWN FROM BOND FOR RECTIFICATION OR BOTTLING

§ 201.432 Allowable losses.

Where spirits withdrawn from customs or internal revenue bond on payment of tax for rectification or bottling are lost before the completion of the bottling and casing or other packaging of such spirits for removal from the bottling premises of the plant to which removed from bond, the tax imposed on such spirits under section 5001(a)(1), I.R.C., may be abated, remitted, or, without interest, refunded to the proprietor who so withdrew the spirits for removal to his bottling premises, if it is established to the satisfaction of the assistant regional commissioner that—

(a) Such loss occurred (1) by reason of accident while being removed from bond to bottling premises, or (2) by reason of flood, fire, or other disaster, or

(b) Such loss occurred by reason of, and was incident to, authorized rectifying, packaging, bottling, or casing operations (including losses by leakage or evaporation occurring during removal from bond to the bottling premises, and during storage on bottling premises pending rectification or bottling).

Abatement, remission, or refund of tax shall not be made in respect of the losses described in this section to the extent that the claimant is indemnified or recompensed for the tax, and in the case of the losses described under paragraph (b) of this section, abatement, remission, or refund shall not be made in excess of the limitations set forth in this subpart. No allowance is made in section 5008(c), I.R.C., in respect to loss of spirits by theft. Spirits lost by theft in transit to, or while on, bottling premises shall be reflected as losses by theft in the records and reports prepared by the proprietor but shall be excluded from the quantities for which claims are filed pursuant to section 5008(c), I.R.C. Spirits used up in bona fide analysis and testing on bottling premises shall be considered as lost by reason of, and incident to, authorized operations, within the meaning of this section. Spirits removed as samples from the bottling premises before completion of bottling and casing or other packaging of such spirits for removal from the bottling premises shall be reflected as proprietor's samples in the records and reports prepared by the proprietor, and shall be excluded from the quantities for which claims are filed pursuant to section 5008(c), I.R.C.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.433 Application for withdrawal of spirits from bond.

A proprietor of bottling premises is not eligible to obtain abatement, remission, or refund in respect to the losses of spirits described in § 201.482 unless he withdrew the spirits on payment of tax directly from customs or internal revenue bond to his bottling premises. When spirits are to be so withdrawn from internal revenue bond the proprietor of the bottling premises shall prepare and submit Form 2608 as provided in Subpart W. Withdrawals of spirits from customs custody on payment of the internal revenue tax shall be in accordance with the applicable customs regulations.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.434 Losses by accident or disaster.

Where spirits are lost by reason of the conditions stated in § 201.482(a), the proprietor shall, as soon as possible after the loss occurs, report the loss to the assigned officer and determine the actual quantity lost, and record such loss in his records. Claims covering any such losses which occur in transit shall be supported, where possible, with a copy of the bill of lading, and by affidavits of agents of the carrier or of other persons having personal knowledge of the loss. Claims covering other such losses shall be supported by affidavits of persons having personal knowledge of the loss. Where the spirits lost contained ineligible ingredients, the provisions of § 201.486 shall apply. Where any loss covered by this section occurs during removal from bonded premises or customs custody to bottling premises, the proprietor shall

show in the records maintained the actual quantity received at the bottling premises.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.485 Operating losses.

Losses of spirits by reason of the conditions stated in § 201.482(b) may be computed and claimed by the proprietor and tentatively allowed as provided in §§ 201.488 and 201.489, but shall be adjusted and finally allowed on a fiscal year basis. Such losses of spirits (except losses incurred in the manufacture of gin and vodka in a closed system which are provided for in § 201.487) shall be allowed in an amount no greater than the excess of losses over gains and not to a greater extent than is set forth below:

If total completions during the fiscal year in proof gallons are—	*The maximum allowable loss in proof gallons is—*
Not over 24,000	2 percent of completions.
Over 24,000 but not over 120,000	480 proof gallons plus 1 percent of excess over 24,000.
Over 120,000 but not over 600,000	1,440 proof gallons plus 0.6 percent of excess over 120,000.
Over 600,000 but not over 2,400,000	4,320 proof gallons plus 0.3 percent of excess over 600,000.
Over 2,400,000	9,720 proof gallons plus 0.2 percent of excess over 2,400,000.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.486 Ineligible ingredients.

When alcoholic ingredients (such as spirits and wines and alcoholic flavoring and blending materials) other than spirits withdrawn from bonded premises or customs custody by the proprietor of the bottling premises on payment of tax for removal to his premises for rectification or bottling, are used by him in the manufacture of spirits products, the loss otherwise allowable shall be reduced in a ratio equal to the ratio of the total proof gallons of such other alcoholic ingredients used, to the total proof gallons of all alcoholic ingredients used in the finished products.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.487 Losses in manufacture of gin and vodka.

Where gin or vodka is manufactured on bottling premises by the proprietor who withdraw the spirits from customs custody or bonded premises on payment of tax, in a closed system (approved as such by the assistant regional commissioner), in a manner similar to that authorized for bonded premises, the proprietor may be allowed actual determined losses of spirits incurred in such manufacture in addition to being allowed the losses otherwise allowable under this subpart. The proprietor shall record the quantities of spirits entered into the closed system and the quantity of the products removed therefrom.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.488 Tentative allowances.

The proprietor may at any time during a fiscal year make claim for tentative allowance of his operating losses, as described in §§ 201.485 and 201.487, from the beginning of the fiscal year through the close of any calendar month thereof, except June. In order to determine the maximum tentative allowable operating loss through the end of any month (within the limitations of § 201.485), (a) the total completions from the beginning of the fiscal year to the end of such month shall be projected at that rate for the full year, (b) the loss which would be allowable for the fiscal year on the basis of the projected completions shall be computed, and (c) such loss shall then be reduced by a quantity attributable to the fractional part of the fiscal year remaining. No claim for tentative allowance shall include any amount previously claimed. Each claim for tentative allowance filed, as provided in this section, shall be plainly marked, "Tentative Claim".

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.489 Losses during short-term operations.

Losses allowable to any proprietor under the provisions of § 201.485 shall not exceed the quantity which would be allowed by a tentative estimate constructed in accordance with the provisions of § 201.488 for the portion of the fiscal year that such proprietor was qualified to operate the plant. Each alternating proprietor shall, when not considered as one proprietor under § 201.490, show in his claim the exact number of days (or calendar months, if complete) he was qualified to operate the bottling premises during the period covered by the claim. The maximum amount of loss allowance shall be limited to an amount proportionate to that which would have been allowed for the full fiscal year at the rate of loss and the rate of completions prevailing in his operation during the pertinent period. Where the period of qualification is other than a calendar month or months, computations shall be based on the exact number of days involved and on a year or 365 days. Where the bottling facilities are qualified and operated alternately for bottling spirits in bond and bottling spirits after withdrawal from bonded premises on payment of tax, the bottling premises, for purposes of computing loss allowances, shall be considered to have remained qualified throughout any periods during which operations were temporarily suspended for bottling-in-bond activities.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.490 Affiliated or subsidiary corporation.

Where a corporation and any of its affiliated or subsidiary corporations are qualified for successive operations at the same bottling premises, the several corporations may make a joint application to the assistant regional commissioner for permission to be treated as one proprietor for the purpose of computing the quantities of spirits lost through the various causes described in §§ 201.482 and 201.487, and filing claims for abatement, remission, or refund of tax thereon. The application shall contain or be verified by a written declaration that it is executed under the penalties of perjury and shall set forth the names of the corporations, including affiliates and subsidiaries, making the application, their relationship, the purpose of the application, and the name of the corporation in which reports and claims shall be filed. Any changes in the facts or conditions set forth in the approved application shall necessitate the filing of a new application and approval thereof. As used in this section "affiliated or subsidiary corporations" means corporations of "an affiliated group" as defined in section 1504, I.R.C., and parent and subsidiary corporations where the parent corporation owns stock representing more than 50 percent of the total combined voting power of all classes of stock of the subsidiary corporation entitled to vote (not including stock which is entitled to vote only on default of payment of dividends or other special circumstances).

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.491 Claims and supporting data.

Any claim filed under § 201.45(d) shall be accompanied and supported by Form 2611 to cover the computation of the losses described in §§ 201.485 and 201.487, as applicable. The final claim for operational losses, as described in §§ 201.485 and 201.487, shall be filed within 6 months from the close of the fiscal year. Any claim filed under § 201.45(c) to cover losses described in § 201.484 shall be filed within 6 months from the date of the loss.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.492 Inventories.

Any proprietor intending to file claim under § 201.45(d) shall before beginning business on the first business day of the first period for which he intends to file claim, and at the close of the last business day of each period for which any such claim is to be filed, take an inventory of all alcoholic ingredients that have been dumped for use in the production of spirits products and which are in process (i.e., those which are not "completions" as defined in § 201.11). The proprietor shall show, in the record of such inventory, the contents of each container in proof gallons, and as to each container, whether the contents are (a) spirits withdrawn by him from bond directly to his bottling premises for rectification or bottling, as provided in this part, or which are otherwise eligible for loss allowance by reason of the provisions of section 5008(c)(5), I.R.C., (b) other spirits (not applicable to the July 1, 1959, inventory), (c) wines which have been dumped for use in the manufacture of distilled spirits products, or (d) a mixture of such spirits or wines with each other, or with alcoholic flavoring or

blending ingredients. The record of any inventory taken, under this section, for the first business day of the first period for which a proprietor intends to file a claim shall show as to paragraphs (c) and (d) of this section the proof gallons of each component comprising the contents of each container. The proprietor shall record in similar detail the quantities of alcoholic ingredients on hand which are not in process. The proprietor shall, at least three days in advance, advise the assigned officer of the date and time he will take any inventory under this section. The proprietor shall not commence business on July 1, 1959, until the inventory required on that date has been verified by an internal revenue officer.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.493 Applicability of loss provisions.

The provisions of this subpart relating to allowance of loss of spirits withdrawn from bond for rectification or bottling apply in respect of spirits withdrawn from bond on payment of tax on or after July 1, 1959. Such provisions shall also apply in respect of losses occurring on and after July 1, 1959, and after dumping for rectification or bottling, of spirits withdrawn from bond prior to July 1, 1959, and such spirits shall be considered as having been withdrawn from bond on payment of tax by the proprietor of the bottling premises at which the spirits are, or have been, dumped for rectification or bottling. Distilled spirits on bottling premises on July 1, 1959, which were withdrawn from bond before that date, and which were not dumped for rectification or bottling before that date, are not eligible for loss allowance on losses occurring before such dumping, and shall be maintained in a separate account. Likewise, distilled spirits withdrawn from bond before July 1, 1959, which are brought onto bottling premises on or after that date, are not eligible for loss allowance on losses occurring before such dumping, and such spirits shall also be maintained in a separate account until dumped.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.494 Gauge of spirits.

Where containers are gauged to determine losses as provided by § 201.484, or to determine losses as provided by § 201.485 which occur before dumping, such gauge shall be made by the proprietor by weight and proof unless the assistant regional commissioner approves another method of gauging. Where spirits withdrawn from bond before July 1, 1959, are to be dumped for rectification or bottling on or after such date, the proprietor shall gauge such spirits by weight and proof at time of dumping. Spirits entered into or removed from the closed system, as provided in § 201.487, shall be gauged by the proprietor by weight and proof.

(72 Stat. 1358; 26 U.S.C. 5204)

§ 201.495 Records.

Proprietors of bottling premises shall, in addition to the other applicable records required by this chapter, keep such records as are necessary to support the statement of losses at bottling premises, Form 2611, and to enable internal revenue officers to verify claims for refund on losses provided for in section 5008(c), I.R.C. Such records shall accurately and clearly reflect the following:

(a) The kind and quantity of alcoholic flavoring materials removed from the bottling premises and the identity of the consignee.

(b) The kind and quantity of spirits lost by theft.

(c) The kind and quantity of spirits removed from the bottling premises as samples.

(d) The actual quantity of spirits received where losses, as described in § 201.484, occur prior to receipt of the spirits on bottling premises.

(e) The details of each inventory taken under § 201.492, including the date and time taken. Where such inventory is taken by a person other than the proprietor, each sheet thereof shall contain the name and title of such person.

(72 Stat. 1323; 26 U.S.C. 5008)

Subpart S—Voluntary Destruction

§ 201.561 General.

The tax liability on distilled spirits (including denatured spirits) terminates, or if the tax has been paid it may be refunded, when such spirits are voluntarily destroyed in accordance with this subpart—

(a) By the proprietor or other persons liable for the tax while the spirits are in bond, or

(b) By the proprietor who withdrew the spirits on payment or determination of tax on or after July 1, 1959, for rectification or bottling if the spirits (before the completion of bottling and casing or other packaging for removal from the bottling premises to which removed from bond) are found by him to be unsuitable for the purpose for which intended. A corporation and any of its affiliated or subsidiary corporations who conduct successive operations at the same bottling premises may qualify, as provided in § 201.490, to be treated as one proprietor for the purposes of this subpart. This paragraph does not apply to any tax other than the distilled spirits tax imposed under section 5001(a)(1), I.R.C., and applies only in respect of tax on the quantity actually destroyed.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.562 Application, Form 1577.

Application for destruction of spirits (including denatured spirits) shall be filed by the proprietor of a plant on Form 1577 with the assigned officer or, if none is regularly assigned, the assistant regional commissioner. If the proprietor desires to destroy spirits in bond at some place other than on bonded premises, the assistant regional commissioner may require that the spirits be moved to a more convenient location. The quantity of spirits to be destroyed shall be determined by an assigned officer, who shall supervise the destruction thereof and prepare his report on Form 1577; denatured spirits may, at the discretion of the approving officer, be destroyed without supervision.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.563 Claims.

Claims for refund of tax on spirits voluntarily destroyed under this subpart shall be filed pursuant to the provisions of § 201.45(b). Where spirits destroyed on bottling premises contain alcoholic ingredients which were not withdrawn by the prorietor from bonded premises on tax determination, such ingredients shall not be included in any claim for refund. The quantity of all spirits and alcoholic ingredients destroyed on bottling premises shall be reported on Form 2611. All claims under this subpart must be filed within 6 months from the date of destruction.

(72 Stat. 1323; 26 U.S.C. 5008)

Subpart T—Return of Spirits to Bonded Premises

§ 201.571 Return of taxpaid spirits to bonded premises.

Subject to the provisions of this subpart, spirits withdrawn from bonded premises on payment or determination of tax in bulk containers on or after July 1, 1959, may be returned to bonded premises, if such spirits have been found to be unsuitable for the purpose for which intended to be used before any processing thereof and before removal of any spirits (other than samples for testing or analysis) from the original container in which such spirits were withdrawn. In the case of spirits withdrawn by pipeline, the tank into which the spirits were originally deposited shall be considered the original container, and such spirits may be returned by pipeline or by other approved containers. The returned spirits shall be immediately redistilled or denatured or mingled under the following conditions:

(a) If distilled at 190 degrees or more of proof, mingled with other spirits in bond which were so distilled;

(b) If eligible for denaturation, mingled with other eligible spirits for immediate denaturation;

(c) If eligible to be removed from bond for an authorized tax-free purpose, mingled with other eligible spirits to be immediately so removed; or

(d) If to be redistilled at the same or at another plant, mingled with other spirits for immediate redistillation.

All provisions of chapter 51, I.R.C., and this chapter, applicable to spirits in internal revenue bond shall be applicable to spirits returned to bonded premises under this section on such return.

(72 Stat. 1364; 26 U.S.C. 5215)

§ 201.572 Application for return of taxpaid spirits.

Application shall be prepared on Form 2612 by the proprietor of the bonded premises and submitted to the assistant regional commissioner for approval of the return of spirits under the provisions of § 201.571. On receipt from the assistant regional commissioner of the approved application, the proprietor shall

make arrangements for the shipment of the spirits to his bonded premises.

(72 Stat. 1364; 26 U.S.C. 5215)

§ 201.573 Receipt of returned taxpaid spirits.

On receipt of taxpaid spirits eligible for return to bonded premises, the proprietor shall gauge the spirits in the presence of the assigned officer. The proprietor shall then scalp and attach to one copy of Form 2612 any internal revenue stamps or certificates attached to the containers. The proprietor shall execute his receipt for the spirits and report of gauge on all copies of the approved Form 2612 and deliver all the copies to the assigned officer who shall, on execution of his verification of the receipt and gauge of the spirits on the form, return two copies to the proprietor. The assigned officer shall forward the copy of Form 2612, with the scalped stamps or certificates attached, to the assistant regional commissioner. The proprietor shall retain one copy of Form 2612 for his files and shall attach one copy to his claim for refund, Form 843, as provided by § 201.44.

(72 Stat. 1364; 26 U.S.C. 5215)

§ 201.574 Return of recovered denatured spirits for redenaturation.

The provisions of Part 182 of this chapter relating to the return of recovered denatured alcohol to denaturing plants shall be applicable to the return of recovered denatured spirits to the denaturing facilities of distilled spirits plants.

(72 Stat. 1372; 26 U.S.C. 5375)

§ 201.575 Return of spirits (including denatured spirits) withdrawn free of tax.

Spirits (including denatured spirits) withdrawn free of tax under the provisions of section 5214 and section 7510, I.R.C., and recovered denatured spirits may, under the applicable provisions of this chapter, be returned for redistillation to bonded premises of any plant authorized to produce spirits. On receipt of such spirits the proprietor shall gauge the spirits and prepare a report thereof on Form 1440, in duplicate, and, except in the case of denatured spirits, the assigned officer shall verify the report. The proprietor shall retain the original of Form 1440 and deliver the copy to the assigned officer. Spirits recovered by the redistillation of denatured spirits (including recovered denatured spirits) may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. All spirits redistilled under the provisions of this section shall, subject to the provisions of this section, be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this chapter and chapter 51, I.R.C., applicable to the original production of distilled spirits, shall be applicable thereto. The receipt and distillation of such spirits shall be recorded in the appropriate records and reports of the proprietor. Nothing in this section shall be construed as affecting any provision of law or regulations relating to the labeling, marking, branding, or identification of distilled spirits.

(72 Stat. 1365; 26 U.S.C. 5223)

RETURN OF SPIRITS WITHDRAWN WITHOUT PAYMENT OF TAX

§ 201.576 General.

On application of the proprietor of a plant, spirits which have been lawfully withdrawn without payment of tax under the provisions of this chapter for exportation, or for deposit in a manufacturing bonded warehouse—class six, or for deposit in a foreign-trade zone, or for use on vessels and aircraft may, for good cause, be returned—

(a) To the bonded premises of any plant authorized to produce distilled spirits, for redistillation; or

(b) To the bonded premises from which withdrawn, for storage pending subsequent removal for lawful purposes:

Provided, That such spirits are returned before they are exported, deposited in a manufacturing bonded warehouse—class six, deposited in a foreign-trade zone, or laden as supplies upon or used on vessels or aircraft, as the case may be.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 201.577 Application for return of spirits withdrawn without payment of tax.

Where a proprietor of a plant desires to return spirits to his plant as provided in § 201.576, he shall submit a written application, in quintuplicate, to the assistant regional commissioner for the region in which his plant is located, for approval of the return of the spirits. The application shall show—

(a) Name, address, and plant number of the plant to which the spirits are to be returned.

(b) Name, address, and plant number of the plant which packaged or bottled the spirits.

(c) Name, address, and plant number of the plant from which the spirits were withdrawn.

(d) Name and address of the principal on the bond under which the spirits were withdrawn.

(e) Date withdrawn, with the form and serial number under which withdrawn.

(f) Present location of spirits to be returned.

(g) Kind of spirits to be returned.

(h) Number, kind, and serial numbers of the containers to be returned. In case of bottled spirits, the number and size of bottles in each case.

(i) Total quantity in proof gallons of spirits to be returned.

(j) Reason for return of spirits.

(k) Disposition to be made of returned spirits, i.e., redistillation or return to bonded storage.

The application shall be executed under the penalties of perjury. On approval of the application the assistant regional commissioner shall forward the original and two copies to the assigned officer and return two copies to the proprietor, who, in turn, shall deliver them to the exporter.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 201.578 Responsibility for return of spirits.

The principal on the bond under which the spirits were withdrawn without payment of tax shall be responsible for arranging the return of the spirits to the plant authorized to receive them. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return. The customs officer shall, if he finds that the spirits are eligible for return under § 201.576, accept the approved application as authority for the return of the spirits to the plant noted on the application and shall mark each copy of the withdrawal form "Canceled", note the date thereon, affix a copy of the approved application to each set of canceled withdrawal papers, return both sets to such principal, and, where the spirits are in his custody, release them for return. The canceled sets of withdrawal forms, with attachments, shall be delivered by such principal or his agent to the assigned officer at the plant.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 201.579 Receipt of spirits at plant.

The assigned officer shall supervise the receipt and deposit of the returned spirits and shall verify the quantity received. In the case of spirits in bulk containers the proprietor shall gauge the spirits under the supervision of the assigned officer and prepare and deliver his report of gauge on Form 1520, in triplicate, to the officer. The proprietor shall also scalp the export stamps and attach them to one copy of Form 1520, and deliver Form 1520 to the assigned officer. In the case of bottled spirits, the proprietor shall prepare and deliver to the assigned officer a report of the spirits received on Form 1520, in triplicate. All export marks shall be effaced from the containers by the proprietor. Spirits returned for redistillation shall be disposed of and accounted for in accordance with the provisions of § 201.575. All spirits returned to bonded storage shall be recorded in the appropriate records and reports of the proprietor, and may be withdrawn for any purpose authorized in chapter 51, I.R.C.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 201.580 Disposition of forms.

After the spirits have been gauged, and on receipt of the Form 1520 from the proprietor, the assigned officer shall endorse, on each copy of the approved application to return the spirits, the date received and the total amount in proof gallons, and affix his signature and title. He shall then forward the original withdrawal form, with attachments, to the assistant regional commissioner designated on the withdrawal form, the original of the endorsed application, with Form 1520 (and scalped stamps or certificates, if any) to the assistant regional commissioner of his region, a copy of the endorsed application to the proprietor of the plant from which the spirits were withdrawn, deliver the copy of the withdrawal form (with attachments) and a copy of Form 1520 to the proprietor of the receiving plant, and retain a copy

of the endorsed application and Form 1520 for his files.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

ABANDONED SPIRITS

§ 201.581 Abandoned spirits.

Spirits abandoned to the United States may be sold, without payment of the internal revenue tax, to a proprietor of a plant for denaturation, or for redistillation and denaturation, if such plant is authorized to denature or redistill and denature spirits. Such spirits shall be kept apart from all other spirits (including denatured spirits) until denatured. The receipt, gauge, handling, and recordkeeping provisions of § 201.575 are applicable to such spirits.

(72 Stat. 1370; 26 U.S.C. 5243)

Subpart V—Samples

§ 201.641 Samples for analysis or testing.

Subject to the conditions prescribed in this subpart, the proprietor may withdraw, free of tax, from the closed distilling system or from containers on bonded premises, samples of spirits in the minimum size and number necessary for the conduct of his business: *Provided*, That the size of such samples shall not exceed one quart unless the assistant regional commissioner has approved the taking of larger samples. Such samples shall be used exclusively for testing or laboratory analysis. Organoleptic examinations made as a part of such testing shall be made only on the plant premises. When the assistant regional commissioner finds that the number or size of samples withdrawn is excessive, he shall so advise the proprietor and inform him as to the number and size of samples which may be withdrawn free of tax. Samples withdrawn free of tax shall not be used for the development of blends, as a laboratory standard or library sample, for testing the stability or suitability of newly developed materials used in the manufacture of items such as containers, closures, pipes, or hoses, and shall not be furnished to salesmen or dealers or used for advertising or soliciting purposes (including sales promotion purposes and "consumer preference" tests); where spirits are sold subject to approval as to quality a sample may be furnished the purchaser. When the assistant regional commissioner finds that any samples withdrawn were in excess of the minimum size and number necessary or that any samples were used or disposed of in any manner not authorized by this part, he shall proceed to collect the tax thereon.

(72 Stat. 1314, 1362, 1382; 26 U.S.C. 5001, 5214, 5373)

§ 201.642 Samples of denatured spirits.

The proprietor may take such samples of denatured spirits as may be necessary for the conduct of his business. In addition, the proprietor may furnish samples of specially denatured spirits to dealers in and users of specially denatured spirits in advance of sales and to such users and to applicants or prospective applicants for permits to use specially denatured spirits for experimental purposes or for use in preparing samples of a finished product for submission to the Director. Samples for these purposes, in excess of one quart, shall be furnished only pursuant to a permit on Form 1512 issued to the consignee. Form 1473 shall be prepared to cover shipment of samples of a size in excess of one quart, and will show the permit number of the Form 1512.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 201.643 Schedule of samples.

The proprietor shall furnish the internal revenue officer a schedule of all samples to be taken on bonded premises by means other than mechanical sampling devices. The schedule (either separate or a part of the schedule of operations) shall be prepared for such period of time as the proprietor may accurately forecast his sampling operations and shall be furnished at least one day in advance of the taking of any samples. When unanticipated samples are needed, the schedule may be appropriately supplemented. The schedule shall provide—

(a) The name of the proprietor and the plant number;

(b) The kind of spirits or formula number of denatured spirits;

(c) The place from which the sample is to be removed, or serial number of the package and the name and plant number of the packaging proprietor if other than the one taking the sample;

(d) The purpose for which the sample is to be taken;

(e) The size of the sample;

(f) Whether or not the sample is taxable;

(g) If the sample is to be analyzed or tested at other than the immediate or contiguous premises of the proprietor, the name and address of the laboratory or purchaser to which the sample is to be sent; and

(h) The approximate time the sample will be taken.

(72 Stat. 1362; 1382; 26 U.S.C. 5214, 5373)

§ 201.644 Taking of samples.

Samples shall be taken from the closed distilling system by means of mechanical sampling devices installed as provided in this chapter, unless it is show that the installation of mechanical sampling devices is not justified and the necessary samples can be taken at times that will not require increased supervision by internal revenue officers. Such mechanical sampling devices may be used for the taking of samples from storage tanks. Samples taken by means other than mechanical sampling devices shall be taken under the direct supervision of the assigned officer.

(72 Stat. 1362; 1382; 26 U.S.C. 5214, 5373)

§ 201.645 Disposition of samples.

Remnants or residues of samples of spirits withdrawn free of tax, remaining after analysis or testing shall not be accumulated beyond a reasonable time. They shall be destroyed or returned to vessels in the distilling system containing similar spirits.

(72 Stat. 1362, 1382; 26 U.S.C. 5214, 5373)

§ 201.646 Taxable samples.

Samples taken of spirits in bond which are used for purposes other than testing or laboratory analysis (including organoleptic examination), and samples withdrawn free of tax in excess of any limitations, as provided in § 201.641, are taxable. The tax shall be paid as provided in this chapter. The proprietor of bonded premises shall keep a daily record of all taxable samples removed as provided in this chapter.

(72 Stat. 1362, 1382; 26 U.S.C. 5214, 5373)

§ 201.647 Label.

On the container of each sample of spirits, except denatured spirits or a sample solely for testing and immediate disposal at the location where taken or at the operator's control position, the proprietor shall affix a label showing the following information:

(a) The word "sample";

(b) The kind of spirits;

(c) The place from which the sample was removed, and the identity of the package where applicable;

(d) The purpose for which the sample was removed;

(e) The size of the sample;

(f) Whether taxable or free of tax, if taxable, the proof gallon content to the fourth decimal place;

(g) If the sample is to be removed to other than the immediate or contiguous premises of the proprietor, the name and address of the laboratory or purchaser to which the sample is to be sent;

(h) The name of the proprietor and the plant number;

(i) The signature of the person who removed the sample; and

(j) The date the sample was taken.

Each sample of denatured spirits withdrawn from the premises of the distilled spirits plant shall be labeled as a sample and shall show the name, address, and plant number of the proprietor, the name and address of the person to whom sent, the words "Specially Denatured Spirits" or "Specially Denatured Alcohol", followed by the formula number and the quantity.

(72 Stat. 1362, 1382; 26 U.S.C. 5214, 5373)

Subpart W—Other Provisions Relating to Plants

CONSTRUCTION AND EQUIPMENT

§ 201.651 Construction and equipment.

Where, under this chapter, any requirement pertaining to the arrangement, construction, equipment, or protection of facilities for the production of spirits, bonded warehousing of spirits, bottling in bond of spirits, denaturing of spirits, rectification of spirits, or tax-paid bottling of spirits, is prescribed, such facilities on plant premises shall be arranged, constructed, equipped, and protected in that manner or shall be arranged, constructed, equipped, and protected in another manner which affords equal or greater protection to the revenue, and as much or more facility for inspection and supervision by internal revenue officers, provided such other manner has been approved by the Director.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.652 Signs.

Each plant shall be identified by a sign placed conspicuously on the outside front

or entrance thereof and exhibiting in readily legible and durable characters (a) the name of the proprietor, (b) the designation of the kind of business, or businesses (distiller, bonded warehouseman, rectifier, and/or bottler), in which engaged, and (c) the plant number. Where a plant identification, such as industrial alcohol plant, registered distillery, or rectifying plant, is appropriate, the sign may include such further identification.

(72 Stat. 1355; 26 U.S.C. 5180)

§ 201.653 Identification of structures, areas, apparatus, and equipment.

Each room or enclosed area where spirits or wines, distilling or fermenting materials, or containers are held, and each building, within the plant, shall be appropriately designated as to use. Each tank or receptacle for spirits or wine shall be marked to show its serial number, capacity, and use. Where tanks or receptacles are used for multiple purposes, such uses shall be indicated. Each still shall be numbered and marked to show its use. All other major equipment used for processing or containing spirits or wine, or distilling or fermenting material, and all other tanks, shall be identified as to use unless the intended use thereof is readily apparent.

(72 Stat. 1353; 26 U.S.C. 5178)

OPERATIONS

§ 201.654 Addition of burnt sugar or caramel to rum.

The provisions of this chapter relating to the addition of caramel to brandy in bond shall be applicable to the addition of caramel to rum in bond.

(72 Stat. 1329; 26 U.S.C. 5025)

§ 201.655 Redistillation.

The processing of distilled spirits, subsequent to production gauge, in the manufacture of vodka in the production facilities of a plant shall be treated for the purposes of sections 5025(d), 5215, and 5223 (a) and (d), I.R.C., as redistillation of the spirits.

(72 Stat. 1365; 26 U.S.C. 5223)

§ 201.656 Mingling of spirits distilled at 190 degrees or more of proof.

Any spirits distilled at 190 degrees or more of proof, whether or not subsequently reduced, may be mingled in bonded warehouses. Where such spirits are contained in packages, the procedures of this chapter applicable to the consolidation of neutral spirits shall be applicable to such mingling.

(72 Stat. 1367; 26 U.S.C. 5234)

§ 201.657 Mingling of heterogeneous spirits for immediate removal to bottling premises.

Heterogeneous spirits may be mingled in bulk gauging tanks in bonded warehouses for determination of the tax imposed by section 5001, I.R.C., if such spirits are to be immediately removed to bottling premises for use exclusively in taxable rectification or in rectification under section 5025(f), I.R.C. The quantity of each component comprising the mixture shall be determined by the proprietor in order to provide a statement of composition. When the mingled spirits are transferred to bottling premises (whether on the same or another plant premises), the proprietor shall forward to the proprietor of the bottling premises such information regarding the composition of the mingled spirits as is necessary for determining the proper use of the spirits and the labeling of the finished product. The proprietor of the bonded premises shall note on the withdrawal form that the spirits are for use only in taxable rectification, or, if applicable, are eligible for rectification under section 5025(f), I.R.C.

(72 Stat. 1329, 1367; 26 U.S.C. 5025, 5234)

§ 201.658 Consolidation of packaged spirits.

The provisions of Subpart K of Part 170 of this chapter, relating to the consolidation of packaged spirits for further storage in bond, pursuant to section 210(a)(2) of the Excise Tax Technical Changes Act of 1958 (Public Law 85–859) are hereby made applicable to the consolidation of packaged spirits in bonded warehouses.

(72 Stat. 1329, 1368; 26 U.S.C. 5025, 5234)

§ 201.659 Blending of beverage rums.

The provisions of this chapter relating to the blending of beverage brandies in bond, except the provisions relative to brandy-blending departments, shall be applicable to the blending of beverage rums in bond.

(72 Stat. 1328, 1368; 26 U.S.C. 5023, 5234)

§ 201.660 Blending of rums on bottling premises.

The rectification tax imposed by section 5021, I.R.C., does not attach to blends of two or more rums blended on bottling premises in the same manner and under the same conditions provided in this chapter for the blending of brandies exempt from such tax.

(72 Stat. 1328; 26 U.S.C. 5023)

§ 201.661 Bottling in bond of spirits for exportation with benefit of drawback.

Spirits bottled in bond for export may be taxpaid and exported with benefit of drawback. In such case, the export strip stamp affixed to each bottle shall be legibly overprinted in the center thereof with the word "Drawback", by means of a rubber stamp or other suitable method. Spirits originally bottled for domestic use may be restamped with export strip stamps overprinted as required above and relabeled or marked in such manner as will comply with the requirements for export spirits, provided they have not been removed from the premises where originally bottled. Spirits bottled in bond for domestic use which have been removed from the premises where originally bottled, or bottled-in-bond spirits that are to be reduced in proof, may not be removed taxpaid for exportation with benefit of drawback unless rebottled. The Government side of the case containing spirits so stamped shall, in addition to other marks required by this chapter, be marked "Drawback" and such spirits stored in bond shall be kept separate and apart from other export spirits and domestic spirits and they shall be appropriately identified on Forms 1515 and 1620. After payment of the tax the spirits shall be removed to export storage, unless the spirits are to be shipped immediately for exportation. The provisions of Part 252 of this chapter shall apply to the export storage, removal therefrom, and exportation of bottled-in-bond spirits taxpaid and withdrawn for export with benefit of drawback.

(72 Stat. 1336, 1359; 26 U.S.C. 5062, 5205)

§ 201.662 Restamping and marking taxpaid spirits for export.

Taxpaid spirits originally bottled for domestic use may be exported with benefit of drawback, without rebottling, if such spirits have been restamped and marked especially for export at the plant where originally bottled and before removal therefrom. Such restamping may consist of legibly overprinting in the center of the red strip stamp affixed to each bottle the word "Export" by means of a rubber stamp or other suitable method. The bottles shall be labeled, and the cases marked, in accordance with the provisions of Part 252 of this chapter.

(72 Stat. 1336, 1359; 26 U.S.C. 5062, 5205)

§ 201.663 Transfers between bonded premises.

Where spirits of 190 degrees or more of proof for industrial use, or denatured spirits, are to be transferred in bond, the provisions of Part 182 of this chapter relating to transfers in bond shall be applicable, except (a) the proprietor desiring to receive such spirits or denatured spirits shall in lieu of the procedures relating to Form 1436, Form 1463, or Form 1464, as the case may be, make application on Form 2609, (b) the consignor proprietor shall in all cases prepare Form 1473 to cover transfer of denatured spirits, and (c) the consignor proprietor shall prepare two additional copies of Form 1440 to cover transfer of spirits, and deliver them to the assigned officer in order that he may retain one for his files and forward the other to the assigned officer at the consignee's plant. Where any other spirits are to be transferred in bond, such transfer shall be pursuant to approved Form 236, and in accordance with the applicable provisions of Part 225 of this chapter.

(72 Stat. 1362; 26 U.S.C. 5212)

§ 201.664 Withdrawal of spirits to bottling premises.

Where spirits are to be withdrawn from internal revenue bond by the proprietor of bottling premises, for rectification or bottling, he shall prepare an application for such withdrawal on Form 2608 and shall submit a copy to the assigned officer at his plant, and forward the original to the proprietor of the bonded premises from which the spirits are to be withdrawn on payment of tax. The proprietor of the bonded premises shall submit the Form 2608 to the assigned officer with the application for taxpayment. When the spirits are released, the assigned officer shall note

such release on Form 2608, and attach the form to a copy of the withdrawal form for forwarding to the proprietor of the bottling premises. Spirits withdrawn on or after July 1, 1959, from internal revenue bond, for rectification or bottling, otherwise than as provided in this section, are not eligible for loss allowances under the provisions of section 5008 (b) (2) and (c), I.R.C.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.665 Export transactions.

On and after July 1, 1959, the withdrawal of spirits without payment of tax by the proprietor of a plant for exportation, or for use on vessels and aircraft, or for transfer to and deposit in a foreign-trade zone, and the withdrawal by such proprietor of specially denatured spirits free of tax for exportation or for transfer to and deposit in a foreign-trade zone, shall be under the proprietor's bond, Form 2601. The withdrawal of spirits for the above purposes by persons other than the proprietor of a plant shall continue to be made under the bonds required by this chapter. The cancellation and crediting of bonds shall be in accordance with the applicable provisions of Part 225 of this chapter.

(72 Stat. 1352; 26 U.S.C. 5175)

§ 201.666 Taxpaid spirits on bonded premises.

Except in the case of—

(a) Spirits in the process of prompt removal from bonded premises on payment or determination of the tax; or

(b) Spirits which have been bottled in bond under section 5233, I.R.C., and which are returned to bonded premises for rebottling, relabeling, or restamping in accordance with the provisions of section 5233(d), I.R.C.; or

(c) Spirits returned to bonded premises in accordance with the provisions of section 5215, I.R.C.; or

(d) Spirits, held on bonded premises, on which the tax has become payable by operation of law, but on which the tax has not been paid;

no spirits on which the tax has been paid or determined shall be stored or allowed to remain on the bonded premises of a plant. Spirits on which the tax has been paid or determined may be conveyed within a plant across bonded premises: *Provided,* That such spirits are not stored or allowed to remain on the bonded premises and are kept separate and apart from spirits on which the tax has not been paid or determined.

(72 Stat. 1404; 26 U.S.C. 5612)

§ 201.667 Conveyance of untaxpaid spirits within a plant.

Spirits on which the tax has not been paid or determined may be conveyed from the production facilities of a plant to the bonded warehouse facilities of such plant, or between different portions of the bonded warehouse facilities of the same plant, across any other premises of such plant or (by uninterrupted transportation) over any public thoroughfare: *Provided,* That, (a) such spirits are not stored or allowed to remain on any premises of such plant other than bonded premises, (b) such spirits are kept completely separate and apart from spirits on which the tax has been paid or determined, (c) a description of the means and route of such conveyance and of the facilities between which such spirits will be conveyed has been submitted to and approved by the assistant regional commission, and (d) consent of surety on bond, Form 2601, has been furnished by the proprietor, on Form 1533, extending the terms of such bond to cover such conveyance of such spirits.

(72 Stat. 1356, 1398; 26 U.S.C. 5201, 5601)

LOSSES

§ 201.668 Allowable losses.

The provisions of Part 225 of this chapter relating to losses (including losses by theft) of spirits in bond shall be applicable in respect to spirits (including denatured spirits) lost or destroyed in bond.

(72 Stat. 1323; 26 U.S.C. 5008)

STATUS OF SPIRITS ON JULY 1, 1959

§ 201.669 Status of spirits on July 1, 1959.

(a) *Stored at an internal revenue bonded warehouse.* Any person who establishes on July 1, 1959, a plant consisting of, or containing, bonded premises which on June 30, 1959, were qualified as an internal revenue bonded warehouse shall, before commencing business on July 1, 1959, file with the assigned officer Form 236 (appropriately modified), in triplicate, covering the transfer of all spirits in the internal revenue bonded warehouse to the distilled spirits plant. Such form shall show all of the required information as to the spirits and containers except that (1) the season of production may be shown in lieu of the date of original entry for deposit, (2) the date of receipt in the warehouse need not be shown, and (3) Forms 1520 and 1619 need not be furnished. Where space on Form 236 is insufficient, supplementary sheets shall be attached. In lieu of filing Form 236, as provided by this paragraph, the proprietor may file a statement, in triplicate, signed by him or his duly authorized agent, in substantially the following form: "I certify that _____ is the duly qualified

(Name of proprietor)

proprietor of distilled spirits plant No. _____ and that such plant is successor to internal revenue bonded warehouse No. _____, qualified to operate on June 30, 1959. I acknowledge that all spirits which were on deposit in said internal revenue bonded warehouse at the close of business June 30, 1959, as reflected by the records required to be maintained in respect thereto under law and regulations in force on such date, are on deposit in bond in distilled spirits plant No. _____ at the beginning of business on July 1, 1959, and that, pursuant to section 5005(c), I.R.C., _____ is liable for the tax

(Name of proprietor)

on such spirits." On receipt of the Form 236, or the statement in lieu thereof, by the assigned officer, he shall note receipt thereon, send one copy to the assistant regional commissioner, return one copy to the proprietor, and retain the remaining copy for his files.

(b) *Stored at an industrial alcohol bonded warehouse.* Any person who establishes on July 1, 1959, a plant consisting of, or containing, bonded premises which on June 30, 1959, were qualified as an industrial alcohol bonded warehouse shall, before commencing business on July 1, 1959, file with the assigned officer Form 1440 (appropriately modified), in triplicate, covering the transfer of all spirits in such industrial alcohol bonded warehouse to the distilled spirits plant. Separate Forms 1440 shall be filed for spirits in (1) packages, (2) drums, (3) cases, (4) other portable containers, and (5) bulk. On receipt of the forms by the assigned officer, he shall note receipt thereon, send one copy to the assistant regional commissioner, return one copy to the proprietor, and retain the remaining copy for his files.

(c) *Stored at a denaturing plant.* Any person who establishes on July 1, 1959, a plant consisting of, or containing, bonded premises which on June 30, 1959, were qualified as a denaturing plant shall, before commencing business on July 1, 1959, file with the assigned officer Form 1440 (appropriately modified), in triplicate, covering the transfer of all spirits (including denatured spirits) in such denaturing plant to the distilled spirits plant. Separate Forms 1440 shall be filed for undenatured spirits and denatured spirits, and shall show the total proof gallons of undenatured spirits and the total wine gallons of denatured spirits. On receipt of the forms by the assigned officer, he shall note receipt thereon, send one copy to the assistant regional commissioner, return one to the proprietor, and retain the remaining copy for his files.

(d) *Stored at a distillery denaturing bonded warehouse.* Any person who establishes on July 1, 1959, a plant consisting of, or containing, bonded premises which on June 30, 1959, were qualified as a distillery denaturing bonded warehouse shall, before commencing business on July 1, 1959, file with the assigned officer Form 236 (appropriately modified), in triplicate, covering the transfer of all spirits (including denatured spirits) in such distillery denaturing bonded warehouse to the distilled spirits plant. Separate Forms 236 shall be filed for undenatured spirits and denatured spirits and shall show the total proof gallons of undenatured spirits and the total wine gallons of denatured spirits. On receipt of the forms by the assigned officer, he shall note receipt thereon, send one copy to the assistant regional commissioner, return one copy to the proprietor, and retain the remaining copy for his files.

(e) *Status of spirits in transit.* Where spirits may be in transit to qualified premises under internal revenue bond at the close of business June 30, 1959, the proprietor of the plant which, on July 1, 1959, is the successor to the consignee premises, shall, before commencing business on July 1, 1959, file Form 236 or Form 1440, as appropriate, containing a statement over his signature, substan-

tially as follows: "Application is made herewith for the transfer to the bonded premises of Distilled Spirits Plant No. _____ of any and all spirits which at the close of business on June 30, 1959, were in transit to _____ (insert I.R.B.W., I.A.B.W., or D.P., as applicable) _____, (No. and State) under the provisions of internal revenue law and regulations."

(72 Stat. 1318, 1362; 26 U.S.C. 5005, 5212)

FORM 27B SUPPLEMENTAL

§ 201.670 **Form 27B Supplemental.**

Every rectifier shall submit Form 27B Supplemental for each formula and process to be employed in the rectification of spirits or wines. Such statement of formula and process shall be prepared and filed as provided in Part 235 of this chapter. Where the rectifier desires to use, on or after July 1, 1959, formulas and processes approved for use prior to such date at a rectifying plant qualified by him to operate at the same general location, he shall (a) adopt such formulas and processes by the submission to the assistant regional commissioner of a statement, in quadruplicate, listing such formulas and processes, or (b) file a new Form 27B Supplemental for each formula and process to be so used.

(72 Stat. 1370; 26 U.S.C. 5251)

[F.R. Doc. 59-3348; Filed, Apr. 20, 1959; 8:52 a.m.]

[26 CFR (1954) Part 231]

TAXPAID WINE BOTTLING HOUSES

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

In order to implement certain provisions of the Internal Revenue Code of 1954, as amended by Public Law 85-859, as they relate to wine, 26 CFR (1954) Part 231 is amended as follows:

PARAGRAPH 1. Section 231.1 is amended to read as follows:

§ 231.1 **Bottling or packaging of taxpaid wine.**

The regulations in this part relate to the bottling and packaging of taxpaid United States and foreign wines, at premises other than the bottling premises of a distilled spirits plant operated under Part 201 of this chapter.

§ 231.30 **[Amendment]**

PAR. 2. Section 231.30 is amended as follows:

(A) By striking the phrase "a rectifying plant or taxpaid distilled spirits bottling house" from the first sentence, and inserting in lieu thereof the phrase "the bottling premises of a distilled spirits plant".

(B) By changing the citation at the end thereof to read:

(72 Stat. 1378, 1379, 3181; 26 U.S.C. 5352, 5356, 5364)

§ 231.41 **[Deletion]**

PAR. 3. Delete § 231.41 *Export storage.*

§ 231.41a **[Deletion]**

PAR. 4. Delete § 231.41a *Off-premises export storage.*

PAR. 5. Section 231.52 is amended to read as follows:

§ 231.52 **Occupational taxes.**

Proprietors of taxpaid wine bottling houses who sell wine must file special tax returns on Form 11, and pay special (occupational) tax as wholesale dealer in wines, or retail dealer in wines, as the case may be, as provided in Part 194 of this chapter.

(68A Stat. 846, 72 Stat. 1340, 1343, 1344, 1346; 26 U.S.C. 7011, 5111, 5112, 5121, 5122, 5142)

PAR. 6. Subpart G is amended to read as follows:

Subpart G—Wines for Export With Benefit of Drawback

§ 231.100 **General.**

Wine manufactured or produced in the United States and on which the internal revenue tax has been determined or paid may be exported from a taxpaid wine bottling house. On exportation of the wine there may be allowed a drawback equal in amount to the tax found to have been paid thereon.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 231.101 **Procedure.**

The exportation of wine, including the lading thereof for use as supplies on vessels or aircraft and the allowance of drawback thereon, shall be in accordance with the provisions of Part 252 of this chapter.

[F.R. Doc. 59-3346; Filed, Apr. 20, 1959; 8:51 a.m.]

[26 CFR (1954) Part 245]

BEER

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

In order to conform the beer regulations (26 CFR (1954) Part 245) to the applicable provisions of the Internal Revenue Code of 1954 as amended by section 201 of the Excise Tax Technical Changes Act of 1958 (Public Law No. 85-859; 72 Stat. 1313), and to make provision for the prepayment of beer taxes by brewers who are in default in such taxes under the return system, 26 CFR Part 245, Beer, is amended as follows:

§ 245.5 **[Amendment]**

PARAGRAPH 1. Section 245.5 is amended by inserting, immediately following the paragraph with the heading "Regional commissioner", the following new definition:

Removed for consumption or sale. "Removed for consumption or sale" (except when used with respect to beer removed without payment of tax as authorized by law) shall mean (a) the sale and transfer of possession of beer for consumption at the brewery or (b) any removal of beer from the brewery except that such removal shall not include any beer which is returned to the brewery on the same day such beer is removed therefrom for delivery.

(72 Stat. 1333; 26 U.S.C. 5052)

PAR. 2. Section 245.13 is amended to read as follows:

§ 245.13 **Storage of beer on which the tax has been paid or determined.**

Beer on which the tax has been paid or determined shall not be stored in the brewery except as provided in subpart S.

(72 Stat. 1334, 1335, 1389; 26 U.S.C. 5054, 5056, 5411)

§ 245.46 **[Amendment]**

PAR. 3. Section 245.46 is amended as follows:

(A) By striking, immediately following the letter "(c)", the words "sold, or"; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1388; 26 U.S.C. 5401)

§ 245.75 **[Amendment]**

PAR. 4. Section 245.75 is amended as follows:

(A) By changing the first two sentences to read "Brewers are required to pay, on or before the first day of July in each year, or before commencing operations, the special tax imposed by section 5091, I.R.C. Special taxes shall be imposed as of the first day of July in each year, or on commencing any trade or

business on which such tax is imposed."; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1346; 26 U.S.C. 5142)

PAR. 5. Section 245.76 is amended to read as follows:

§ 245.76 Special tax return.

Every person liable to special tax shall render his return on Form 11 with remittance to the district director of the district in which the business is carried on.

(72 Stat. 1346; 26 U.S.C. 5142)

PAR. 6. Section 245.78 is amended to read as follows:

§ 245.78 Exemptions from dealer's special taxes.

(a) *Brewer.* No brewer shall be required to pay special tax as a wholesale or retail dealer in beer on account of sales, at his principal business office or at his brewery, of beer which, at the time of sale, is stored at his brewery or had been removed therefrom to a taxpaid storeroom operated in connection therewith and stored therein. No exemption at a principal business office is provided unless the brewer has designated such office for the purpose, in writing, to the assistant regional commissioner. No brewer shall have more than one place of sale which is exempt under these provisions for each brewery operated by him. Except as specifically exempted by law, brewers are liable for the special taxes imposed on dealers in beer with respect to their sales of beer, regardless of whether such beer was produced by them or purchased from another brewer.

(b) *Wholesale dealer.* No wholesale dealer in beer who has paid special tax as such a dealer shall again be required to pay special tax as such dealer on account of sales of beer to wholesale or retail dealers in liquors or beer, or to limited retail dealers, consummated at the purchaser's place of business.

(72 Stat. 1340; 26 U.S.C. 5113)

§§ 245.79, 245.80, 245.81, 245.83 [Deletion]

PAR. 7. Sections 245.79, 245.80, 245.81, and 245.83 are revoked.

PAR. 8. Section 245.110 is amended to read as follows:

§ 245.110 Rate of tax.

All beer, brewed or produced, and removed for consumption or sale, is subject to the tax prescribed by section 5051, I.R.C., for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for the fractional parts of a barrel as authorized in § 245.113.

(72 Stat. 1333; 26 U.S.C. 5051, 5052)

PAR. 9. Section 245.111 is amended to read as follows:

§ 245.111 Persons liable for tax.

The tax imposed by law on beer (including beer purchased or procured by one brewer from another) shall be paid by the brewer of such beer at the brewery where produced: *Provided,* That the tax on beer transferred to a brewery from other breweries owned by the same brewer in accordance with the provisions of subpart Q shall be paid by the brewer at the brewery from which the beer is removed for consumption or sale.

(72 Stat. 1334, 1389; 26 U.S.C. 5054, 5413, 5414)

PAR. 10. Section 245.113 is amended to read as follows:

§ 245.113 Determination of tax on keg beer.

In determining the tax on beer removed in kegs, a barrel shall be regarded as being a quantity of not more than 31 gallons. The authorized fractional parts of a barrel are halves, thirds, quarters, sixths, and eighths, and beer may be removed only in kegs rated at those capacities. If any barrel or authorized fractional part of a barrel contains a quantity of beer more than two percent in excess of its rated capacity, tax shall be determined and paid on the actual quantity of beer (without benefit of any tolerance) contained in such keg. The quantities of keg beer removed subject to tax shall be computed to 5 decimal places. The sum of the quantities so computed for any one day will be reduced to 3 decimal places by dropping the numerals in the 4th and 5th decimal places and the tax shall be calculated and paid on such reduced sum.

(72 Stat. 1333; 26 U.S.C. 5051)

§ 245.116 [Amendment]

PAR. 11. Section 245.116 is amended as follows:

(A) By striking the words "sold or" (1) in the first sentence (once), (2) in the second sentence (twice), (3) in the third sentence (once), and (4) in the fifth sentence (once);

(B) By striking "§ 245.117," in the second sentence and inserting in lieu thereof "§§ 245.117 and 245.117a,";

(C) By striking the parenthetical phrase "(of the particular State or of the District of Columbia wherein the return is required to be filed)" from both places where it appears in the fifth (last) sentence, and inserting in lieu thereof the parenthetical phrase "(in the District of Columbia or of the particular State where the return is required to be filed)"; and

(D) By changing the citation at the end of the section to read:

(68A Stat. 896, 72 Stat. 1334, 1335; 26 U.S.C. 7503, 5054, 5061)

PAR. 12. A new section, designated § 245.117a, is added, immediately following § 245.117, to read as follows:

§ 245.117a Brewer in default; prepayment of tax required.

Where a check or money order tendered in payment for taxes is not paid on presentment, or where the brewer is otherwise in default in payment under § 245.116 or § 245.117, during the period of such default and until the assistant regional commissioner finds the revenue will not be jeopardized by payment of tax pursuant to such §§ 245.116 and 245.117, no beer shall be sold or transferred for consumption at the brewery or be taken from the brewery for removal for consumption or sale until the tax thereon has been paid. To so pay the tax, the brewer shall file with the district director a beer tax return, Form 2034, and remittance. The brewer shall prefix the word "Prepayment" to the title of such form and any remittance made during the period of such default shall be in cash or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or a money order as defined in § 301.6311–1 of this chapter. The return and remittance shall be filed by forwarding or delivering them to the district director before the sale and transfer of possession of the beer for consumption at the brewery or before the beer is taken from the brewery for removal for consumption or sale. For the purpose of complying with this section, the term "forwarding" shall mean deposit in the United States mail, properly addressed to the district director.

(68A Stat. 777, 72 Stat. 1335; 26 U.S.C. 6311, 5061)

§ 245.140 [Amendment]

PAR. 13. Section 245.140 is amended as follows:

(A) By adding, at the end thereof, the following new sentences: "For the purposes of this subpart, the removal from one brewery to another brewery belonging to the same brewer shall be deemed to include any removal from a brewery owned by one corporation to a brewery owned by another corporation when (a) one such corporation owns the controlling interest in the other such corporation, or (b) the controlling interest in each such corporation is owned by the same person. Satisfactory evidence of such control shall be filed with the assistant regional commissioner(s) concerned before any such transfer operations are commenced."; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1389; 26 U.S.C. 5414)

PAR. 14. Section 245.155 is amended to read as follows:

§ 245.155 Return of undelivered beer.

Undelivered beer returned to the brewery on the same day it is removed therefrom shall be returned to stock. Such beer shall not be accounted for as removed for consumption or sale until it is removed for such purpose. The brewer must show in his records the quantity of such beer returned to the brewery each day. Such records must be supported by credits against loading slips or other papers.

(72 Stat. 1333; 26 U.S.C. 5052)

§ 245.156 [Deletion]

PAR. 15. Section 245.156 is revoked.

§ 245.157 [Amendment]

PAR. 16. Section 245.157 is amended as follows:

(A) By striking the comma immediately following the word "determined" in the first sentence, and inserting in lieu thereof the phrase "(and on which

no claim for credit or refund will be filed)."; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1389; 26 U.S.C. 5411)

PAR. 17. Section 245.158 is amended to read as follows:

§ 245.158 Beer removed from market.

Beer on which the tax has been paid or determined, which has been removed from the market, may be returned to the brewery and refund or credit of tax claimed thereon in accordance with the provisions of subpart T. Such beer may be stored in the brewery but, pending its disposition, must be completely segregated from all other beer. Such beer must be identified as beer removed from the market and be accessible for inspection by internal revenue officers. The tax on any such returned beer which is again removed for consumption or sale shall be determined and paid without respect to the tax which was determined at the time of prior removal of the beer. The disposition of the beer shall be in accordance with the provisions of this part. The brewer's daily records and Form 103 shall properly reflect the receipt and disposition of such beer, and the balling thereof if used as material.

(72 Stat. 1334, 1335, 1389, 1390; 26 U.S.C. 5054, 5056, 5411, 5415)

PAR. 18. Section 245.160 is amended to read as follows:

§ 245.160 Beer removed from the market.

The tax paid by a brewer on beer produced in the United States and returned to the brewery on other than the same day it was removed therefrom may be refunded or credited to him (without interest) or, if the tax has not been paid, he may be relieved of liability therefor. Such beer shall be held in storage as provided in § 245.158. Similar refund or credit may be allowed the brewer in respect of the tax paid or determined on beer removed from the market and destroyed as provided in this subpart.

(72 Stat. 1335; 26 U.S.C. 5056)

PAR. 19. Section 245.161 is amended to read as follows:

§ 245.161 Brewer's application.

When a brewer possesses returned tax-paid beer (or beer on which the tax has been determined) in his brewery or elsewhere, which has been removed from the market and which he desires to destroy, recondition, use as material, or again remove for consumption or sale, he shall make written application, in triplicate, to the assistant regional commissioner for permission so to do: *Provided*, That such application may be submitted directly to an inspector at the brewery. The application shall contain or be verified by a written declaration that it is made under the penalties of perjury and shall set forth the following information:

(a) The number and sizes of kegs and their total equivalent in barrels; or if in cases, the number of cases, the number and size in ounces of the bottles comprising the cases and the equivalent in barrels of the total contents of the cases.

(b) The date on which the beer was removed from the market.

(c) A statement that the tax on the beer has been fully paid or determined.

(d) A notation with respect to each item or lot indicating whether the beer is to be destroyed, or whether it is to be returned for reconditioning or for use as brewing material, or whether (without such manipulation) it is again to be removed for consumption or sale.

(e) If to be destroyed, the location at which the brewer desires to accomplish destruction and, if not at the brewery, the reason for destruction elsewhere.

(72 Stat. 1335; 26 U.S.C. 5056)

§ 245.162 [Amendment]

PAR. 20. Section 245.162 is amended as follows:

(A) By inserting in the first sentence, immediately preceding the word "unless", the phrase "or its return to the stock of the racking room or bottling house,"; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1335; 26 U.S.C. 5056)

§ 245.163 [Amendment]

PAR. 21. Section 245.163 is amended as follows:

(A) By striking, in the first sentence, the words "liability may be remitted", and inserting in lieu thereof the words "brewer may be relieved of liability therefor"; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1335; 26 U.S.C. 5056)

§ 245.164 [Amendment]

PAR. 22. Section 245.164 is amended as follows:

(A) By changing the first two sentences to a single sentence reading "Claims for refund of tax shall be filed on Form 843."; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1335; 26 U.S.C. 5056)

§ 245.165 [Amendment]

PAR. 23. Section 245.165 is amended as follows:

(A) By striking, in the first sentence, the words "," under the circumstances enumerated in that section,";

(B) By striking, in the seventh sentence, the opening words "The brewer may not anticipate allowance of a credit" and inserting in lieu thereof the words "The brewer shall not anticipate allowance of a credit"; and

(C) By changing the citation at the end of the section to read:

(72 Stat. 1335; 26 U.S.C. 5056)

PAR. 24. Section 245.210 is amended to read as follows:

§ 245.210 Beer removed to contiguous distilled spirits plants.

Beer may be conveyed by pipeline without taxpayment from the brewery to the bonded premises of a distilled spirits plant which is authorized to produce distilled spirits and which is located contiguous to the brewery. The storekeeper-gauger assigned to supervise the operations of the distilled spirits plant will also supervise the removal of the beer from the brewery to such plant and the transfer of any residue, which is to be used in making cereal beverage, from such plant to the brewery. The quantity of beer conveyed to a contiguous distilled spirits plant shall be included in the brewer's daily records of both production and removals. If any residue is returned from such plant to the brewery, the brewer's daily records of cereal beverage transactions shall reflect the quantity thereof. The totals of the various quantities involved shall be appropriately reported on Form 103.

(72 Stat. 1365, 1389; 26 U.S.C. 5222, 5412)

§ 245.227 [Amendment]

PAR. 25. Section 245.227 is amended as follows:

(A) By striking, in the first sentence, the words "sold or removed for a taxable purpose", and inserting in lieu thereof the words "removed for consumption or sale"; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1335, 1395; 26 U.S.C. 5061, 5555)

§ 245.228 [Amendment]

PAR. 26. Section 245.228 is amended as follows:

(A) By striking the words "A tax return on Form 2034 is required for each day on which beer is sold or removed for a taxable purpose", and inserting in lieu thereof the words "Except when prepayment pursuant to § 245.117a is required, a tax return on Form 2034 is required for each day on which beer is removed for consumption or sale"; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1335, 1390, 1395; 26 U.S.C. 5061, 5415, 5555)

[F.R. Doc. 59-3342; Filed, Apr. 20, 1959; 8:51 a.m.]

[26 CFR (1954) Part 251]

IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal

Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

In order to implement changes made in chapter 51, Internal Revenue Code, by the enactment of Public Law 85–859, 85th Congress, and to clarify the provisions in respect of imposition of tax, the regulations in 26 CFR Part 251, "Importation of Distilled Spirits, Wines, and Beer", are amended as follows:

§ 251.8 [Deletion]

PARAGRAPH 1. Section 251.8 is deleted.

PAR. 2. Section 251.40 is amended to read as follows:

§ 251.40 Distilled spirits.

A tax is imposed by section 5001, I.R.C., on all distilled spirits in customs bonded warehouses or imported into the United States at the rate prescribed in such section 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. The tax shall be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom.

(72 Stat. 1314, 1366; 26 U.S.C. 5001, 5232)

PAR. 3. Section 251.41 is amended to read as follows:

§ 251.41 Perfumes containing distilled spirits.

Perfumes imported into the United States containing distilled spirits are subject to the internal revenue tax at the rate prescribed by section 5001, I.R.C., per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon.

(72 Stat. 1314; 26 U.S.C. 5001)

PAR. 4. Section 251.43 is amended to read as follows:

§ 251.43 Liqueurs, cordials, and similar compounds.

A tax is imposed by section 5001, I.R.C., on all liqueurs, cordials, and similar compounds, containing distilled spirits, in customs bonded warehouse or imported into the United States at the rate prescribed in such section 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 gallon or wine gallon. The tax shall be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom. Fortified or unfortified wines, containing not over 24 percent alcohol by volume, to which sweetening or flavoring materials, but no distilled spirits, have been added are not classified as liqueurs, cordials, or similar compounds, but are considered to be flavored wines only and are subject to internal revenue tax at the rates applicable to wines.

(72 Stat. 1314, 1331; 26 U.S.C. 5001, 5041)

PAR. 5. Section 251.45 is amended to read as follows:

§ 251.45 Rate of tax.

A tax is imposed by section 5051, I.R.C., on all beer imported into the United States, at the rate prescribed in such section, for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized in § 251.46. The tax on beer shall be determined at the time of importation, or, if entered into customs custody, at the time of removal from such custody.

(72 Stat. 1333, 1334, 1335; 26 U.S.C. 5051, 5054, 5061)

PAR. 6. Section 251.46 is amended to read as follows:

§ 251.46 Computation of tax.

In computing the tax on beer imported in kegs, a barrel shall be regarded as being a quantity of not more than 31 gallons. The authorized fractional parts of a barrel are halves, thirds, quarters, sixths, and eighths, and beer may be imported only in kegs rated at those capacities. If any barrel or authorized fractional part of a barrel contains a quantity of beer more than two percent in excess of its rated capacity, tax shall be computed and paid on the actual quantity of beer (without benefit of any tolerance) contained in such keg. The tax on beer in any other containers, as for example, bottled beer, will be computed on the basis of actual quantity at the rate prescribed by law.

(72 Stat. 1333; 26 U.S.C. 5051)

§ 251.47 [Deletion]

PAR. 7. Section 251.47 is deleted.

PAR. 8. Section 251.134 is amended to read as follows:

§ 251.134 Proprietors of taxpaid premises.

Importing operations conducted by proprietors of premises qualified under the provisions of this chapter shall be recorded and reported in accordance with the regulations governing the operations of each such premises.

(72 Stat. 1342, 1361, 1395; 26 U.S.C. 5114, 5207, 5555)

[F.R. Doc. 59–3345; Filed, Apr. 20, 1959; 8:51 a.m.]