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PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDMENT OF THE CONSULAR REGULATIONS

By virtue of and pursuant to the authority vested in me by section 1752 of the Revised Statutes of the United States (U. S. C., title 22, sec. 132), it is ordered that Article XIII of the Consular Regulations, as contained in Executive Order No. 7729 of October 16, 1937, be, and it is hereby, amended as follows:

1. That part of section 202 preceding paragraph numbered (1) is amended to read:

"202. *Cases in which seamen may be discharged.*—The usual cases in which American seamen are discharged, upon payment of wages, in a foreign port by consular officers, under the provisions of the statutes and the principles of maritime law, may be stated as follows:"

2. The following paragraph, numbered (11), is inserted between paragraphs numbered (10) and (12) of section 202:

"(11) When the vessel is wrecked, destroyed, lost, stranded, or condemned as unfit for service. (See also sec. 228.)"

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,

February 28, 1938.

[No. 7826]

[F. R. Doc. 38-633; Filed, March 1, 1938; 12:02 p. m.]

TREASURY DEPARTMENT.

Federal Alcohol Administration Division.

[Regulations No. 5, Amendment No. 5]

AMENDING CERTAIN PROVISIONS OF THE DISTILLED SPIRITS LABELING REGULATIONS WITH REFERENCE TO THE PROPER LABELING OF WHISKEY STORED IN REUSED COOPERAGE AND TO OTHER MATTERS

Pursuant to the provisions of Section 5 (e) of the Federal Alcohol Administration Act, as amended, Regulations No. 5,¹ Relating to Labeling and Advertising of Distilled Spirits, as amended, are further amended as follows:

1. Article II, Section 21, Class 2 (a) of said regulations is amended to read:

CLASS 2. *Whiskey.*—"Whiskey" is an alcoholic distillate from a fermented mash of grain distilled at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whiskey, and withdrawn from the cistern room of the distillery at not

more than 110° and not less than 80° proof, whether or not such proof is further reduced prior to bottling to not less than 80° proof; and also includes mixtures of the foregoing distillates for which no specific standards of identity are prescribed herein. Those types of whiskey specified in subsections (a) through (j) below shall be deemed "American type" whiskeys.

(a) "Rye whiskey", "bourbon whiskey", "wheat whiskey", "malt whiskey", or "rye malt whiskey" is whiskey which has been distilled at not exceeding 160° proof from a fermented mash of not less than 51% rye grain, corn grain, wheat grain, malted barley grain or malted rye grain, respectively, and, if produced on or after March 1, 1938, stored in charred new oak containers, and also includes mixtures of such whiskeys where the mixture consists exclusively of whiskeys of the same type. "Corn whiskey" is whiskey which has been distilled at not exceeding 160° proof from a fermented mash of not less than 80% corn grain, stored in uncharred oak containers or reused charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood, and also includes mixtures of such whiskey.

2. Article II, Section 21, Class 2 (d) of said regulations is amended to read:

(d) (1) "Straight bourbon whiskey" is straight whiskey distilled from a fermented mash of grain of which not less than 51% is corn grain.

(2) "Straight corn whiskey" is straight whiskey distilled from a fermented mash of grain of which not less than 80% is corn grain, aged for the required period in uncharred oak containers or reused charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood.

3. Article III, Section 32 (c) (10) of said regulations is amended to read:

(10) Age of whiskey and straight whiskey, respective percentages of whiskey, straight whiskey and neutral spirits, and type of cooperage, in accordance with Section 39 below: *Provided*, That no label shall bear any statement relative to age or period of storage for any American whiskey (other than corn whiskey, straight corn whiskey, blended corn whiskey and blends of straight corn whiskey) produced on and after July 1, 1936, and prior to March 1, 1938, unless such whiskey has been stored in a charred new oak container.

4. Article III, Section 34 of said regulations is amended by adding at the end thereof two subsections to read:

(d) In the case of whiskey (as defined in Article II, Section 21, Class 2) and in the case of American type whiskey, which in whole or in part, is treated, on or after March 1, 1938, with wood chips through percolation or otherwise, during distillation, rectification or storage, there shall be stated in direct

¹ 2 F. R. 2601 (DI).

² 1 F. R. 92.



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conjunction with the class and type designation the phrase "Colored and flavored with wood chips".

(e) In the case of whiskey (as defined in Article II, Section 21, Class 2) produced in the United States on or after March 1, 1938, and stored in reused cooperage, which has been distilled at not exceeding 160° proof from a fermented mash of not less than 51% rye grain, corn grain, wheat grain, malted barley grain, or malted rye grain, respectively, there shall be stated in direct conjunction with the class and type designation, in uniform lettering not greater than one-half the size of such designation, "Distilled from Rye (or Bourbon, Wheat, Malt or Rye Malt) Mash", as the case may be.

5. Article III, Section 39 (a) (1) of said regulations is amended to read:

(1) *Whiskey, rye whiskey, etc.*—In the case of the whiskeys defined in Article II, Section 21, Class 2 and Class 2 (a), if not mixed, the age of the whiskey; if mixed, the age of the youngest whiskey. The statement of age in both cases under this paragraph shall be as follows: "This whiskey is ----- (years and/or months) old".

6. Article III, Section 39 (a) of said regulations is amended by adding to the end thereof an unnumbered paragraph to read:

Notwithstanding the foregoing provisions of this subsection, in the case of whiskey (as defined in Article II, Section 21, Class 2), produced in the United States on and after March 1, 1938, and stored in reused cooperage, there shall be stated in lieu of the words " * * * is ----- (years and/or months) old", the words " * * * stored ----- (years and/or months) in reused cooperage", and in lieu of the words " * * * ----- (years and/or months) or more old", the words " * * * stored ----- (years and/or months) or more in reused cooperage".

7. Article IV, Section 46 (d) of said regulations is amended, effective May 1, 1938, to read:

(d) Whiskey (as defined in Article II, Section 21, Class 2), and American type whiskeys, imported on or after August 15, 1936, shall not be released from customs custody in bottles unless there is presented at the time of entry or at the time of request for lease, a certificate issued by a duly authorized official of the appropriate foreign government certifying:

In case of straight whiskey, (1) the class and type (such as straight whiskey, straight rye whiskey, straight bourbon whiskey, etc.) thereof, (2) the American proof at which distilled, (3) that no neutral spirits or other whiskey has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (4) the age of the whiskey, and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of whiskey and the distinctive types of whiskey, (1) the class and type (such as whiskey, rye whiskey, bourbon whiskey, etc.), (2) the American proof at which distilled, (3) that no neutral spirits has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (4) the age of the whiskey, and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of blended whiskey, (1) the class and type (such as blended whiskey, blended rye whiskey, blended bourbon whiskey, etc.), (2) the percentage of straight whiskey, or any distinctive type thereof, used in the blend, (3) the American proof at which the straight whiskey was distilled, (4) the percentage of other whiskey, if any, in the blend, (5) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled, (6) the age of the straight whiskey and the age of the other whiskey, if any, in the blend, and (7) the type of containers in which such age or ages were acquired (whether new or reused, also whether charred or uncharred).

8. Article V, Section 51 (d) of said regulations is amended, effective May 1, 1938, to read:

(d) Distilled spirits imported in bulk on or after August 15, 1936, and bottled in the United States with or without taxable rectification, shall not be labeled as whiskey (as defined in Article II, Section 21, Class 2), or as any type of American whiskey, unless the permittee authorized to bottle such distilled spirits possesses a certificate for such whiskey issued by a duly authorized official of the appropriate foreign government certifying:

In case of straight whiskey:

(1) the class and type (such as straight whiskey, straight rye whiskey, straight bourbon whiskey, etc.) thereof; (2) the American proof at which distilled; (3) that no neutral spirits or other whiskey has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; (4) the age of the whiskey; and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of whiskey and the distinctive types of whiskey: (1) the class and type (such as whiskey, rye whiskey, bourbon whiskey, etc.); (2) the American proof at which distilled; (3) that no neutral spirits has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; (4) the age of the whiskey; and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of blended whiskey: (1) the class and type (such as blended whiskey, blended rye whiskey, blended bourbon whiskey, etc.); (2) the percentage of straight whiskey, or any distinctive type thereof, used in the blend; (3) the American proof at which the straight whiskey was distilled; (4) the percentage of other whiskey, if any, in the blend; (5) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled; (6) the age of the straight whiskey and the age of the other whiskey, if any, in the blend; and (7) the type of containers in which such age or ages were acquired (whether new or reused, also whether charred or uncharred);

and unless the labels are in all particulars consistent with the facts stated in the certificate,

9. Article VIII, Section 80 of said regulations is amended to read:

Sec. 80. *Exports.*—These regulations shall not apply to distilled spirits for export.

[SEAL] W. S. ALEXANDER, *Administrator.*

Approved: February 28, 1938.

HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 38-628; Filed, March 1, 1938; 9:48 a. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

UTAH GRAZING DISTRICT NO. 5
MODIFICATION

FEBRUARY 23, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, Departmental order of May 7, 1935, establishing Utah Grazing District No. 5, is hereby

modified to include within its exterior boundaries the following-described lands:

UTAH

Salt Lake Meridian

- T. 30 S., R. 5 E.,
sec. 10;
sec. 14, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
sec. 15, lot 1, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$;
- T. 44 S., R. 6 E.,
sec. 6, lots 1 and 2;
- T. 40 S., R. 11 E., that part west of Colorado River;
- T. 28 S., R. 13 E., that part southwest of Fremont River;
- T. 29 S., R. 2 W.,
sec. 31.

Rules and regulations for the administration of grazing districts issued by the Secretary of the Interior March 2, 1936, and subsequently amended, shall be effective as to the lands embraced within this addition from and after the date of the publication of this order in the FEDERAL REGISTER.

[SEAL]

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-627; Filed, March 1, 1938; 9:33 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ACP-1938-3]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN AS AMENDED FEBRUARY 19, 1938

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- SECTION I. National and State Acreage Allotments and Goals.
 - II. County Acreage Allotments and Goals.
 - III. Farm Acreage Allotments and Goals.
 - IV. Payment for Full Performance.
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 - VI. Division of Payments and Deductions.
 - VII. Increase in Small Payments.
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 - XIII. Soil-Depleting Crops.
 - XIV. Soil-Building Practices.
 - XV. Normal Yields and Productivity Indexes.
 - XVI. Appeals.
 - XVII. State and Regional Bulletins, Instructions, and Forms.
 - XVIII. Definitions.

This bulletin revises and supplements the 1938 Agricultural Conservation Program Bulletin (ACP-1938) and Supplements Nos. 1 and 2 thereto (ACP-1938-1 and ACP-1938-2)¹ and to the extent of such revision and supplementation, but not otherwise, supersedes said bulletin and supplements.

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1938, payments and grants of aid will be made for participation in the 1938 Agricultural Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation and the extent of national participa-

¹ 2 F. R. 2640 (DI); 3 F. R. 52, 304 (DI).