

Accordingly this Treasury decision shall be effective on July 1, 1959.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

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These changes, in general, provide for the allowance of drawback of tax on imported alcohol withdrawn from the bonded premises of a distilled spirits plant under section 5131, I.R.C.; the revision of the definition of distilled spirits to conform to the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, whiskey, 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registered distillery, or fruit distillery (operated, respectively, under Part 182, 220, or 221, of this chapter) or withdrawn on or after July 1, 1959, from the bonded premises of a distilled spirits plant operated under Part 201 of this chapter.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"paid" and by striking the period after "plant" and inserting in lieu thereof ", or were withdrawn from the bonded premises of a distilled spirits plant".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. 59-4875; Filed, June 11, 1959; 8:45 a.m.]

[T.D. 6386]

PART 198—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

Miscellaneous Amendments

On April 21, 1959, a notice of proposed rule making with respect to amendment of 26 CFR Part 198 was published in the FEDERAL REGISTER (24 F.R. 3073).

In accordance with the notice, interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. No written comments having been received within the 30-day period prescribed in the notice, the amendments to 26 CFR Part 198, as published in said notice, are hereby adopted.

Because this Treasury decision implements changes made in chapter 51 of the Internal Revenue Code of 1954 by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in the law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C.

1003). Accordingly this Treasury decision shall be effective on July 1, 1959.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

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, setting 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 com-

missioner, 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. 59-4876; Filed, June 11, 1959; 8:45 a.m.]

[T.D. 6389]

PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS

Miscellaneous Amendments

On April 21, 1959, a notice of proposed rule making with respect to the amendment of the regulations in 26 CFR Part 200 was published in the FEDERAL REGISTER (24 F.R. 3073). The amendments would conform the regulations to the Internal Revenue Code of 1954, as amended by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275), and to technical changes made in other regulations pursuant to such act.

In accordance with the notice, interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. No written comments were received within the period of 30 days prescribed in the notice. However, since under section 5274 of the Internal Revenue Code, as amended, the subpoena provisions of existing law are applicable to tobacco permit proceedings (as well as alcohol permit proceedings), § 200.126 should be amended. As a result, the regulations as so published are hereby adopted, with the additional change set forth below:

1. Paragraph 20 is added to the notice amending § 200.126.

Because this Treasury decision implements Public Law 85-859, the applicable provisions of which are effective July 1, 1959, it is found that it is impracticable to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act, approved June 11, 1946. Accordingly, this Treasury decision shall become effective July 1, 1959.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

§ 200.1 [Amendment]

PARAGRAPH 1. Section 200.1 is amended by striking from the first sentence the word "basic" appearing immediately pre-

ceding 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".

§ 200.126 [Amendment]

PAR. 20. Section 200.126 is amended as follows:

(A) By deleting the first four words of the first sentence, which read "Where authorized by law," and by changing the next word from "upon" to "On", so that the sentence will begin with "On written application by a party to a proceeding"; and

(B) By adding a citation at the end of the section to read:

(49 Stat. 977, 72 Stat. 1372; 27 U.S.C. 202, 26 U.S.C. 5274)

[F.R. Doc. 59-4879; Filed, June 11, 1959; 8:45 a.m.]

PART 201—DISTILLED SPIRITS PLANTS

On April 21, 1959, a notice of proposed rule making regarding the regulations to be issued as Part 201 of Title 26 of the Code of Federal Regulations was published in the FEDERAL REGISTER (24 F.R.

3075). The proposed regulation would 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.

In accordance with the notice, interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. After consideration of all such relevant matter as was presented by interested parties regarding the rules proposed, and in order to make certain clarifying, liberalizing, and editorial changes, and to make conforming changes resulting from the changeover to the collection of distilled spirits excise taxes on the basis of a return, the regulations as so published are hereby adopted subject to the changes set forth below:

1. Section 201.11 is changed:

(A) By rewording the definition of "Plant or distilled spirits plant".

(B) By inserting after the definition of "Taxpaid spirits" the following new definition for "Taxpaid wines".

2. Section 201.29 is changed by inserting before the last sentence a new sentence to read "The adding of denaturants to spirits under this chapter does not constitute rectification."

3. Section 201.38 is changed by inserting in the second sentence, after the word "paid", the words "or determined".

4. Section 201.42 is changed:

(A) By striking in the last sentence of paragraph (a) the word "due" the second time it appears, and by inserting after the word "paid", the words "or determined"; and

(B) By inserting in paragraph (b), after the words "tax previously paid", the words "or determined".

5. Section 201.44 is changed by inserting in the first sentence, after the word "payment", the words "or determination".

6. Section 201.45 is changed:

(A) By inserting in the first sentence of paragraph (b), after the word "payment", the words "or determination";

(B) By renumbering paragraphs (b) (3), (4), and (5) as paragraphs (b) (4), (5), and (6), respectively;

(C) By inserting a new paragraph (b) (3).

(D) By rewording the newly designated paragraph (b) (4).

(E) By inserting in the newly designated paragraph (b) (6), after the word "payment", the words "or determination";

(F) By renumbering paragraphs (c) (1), (2), and (3) as paragraphs (c) (2), (3), and (4), respectively;

(G) By inserting a new paragraph (c) (1).

(H) By rewording the newly designated paragraph (c) (2).

(I) By inserting in the newly designated paragraph (c) (4), after the word "payment", the words "or determination";

(J) By striking paragraph (d) (1) in its entirety and by renumbering paragraphs (d) (2), (3), and (4) as paragraphs (d) (1), (2), and (3), respectively;

(K) By inserting in the newly designated paragraph (d) (1), after the word "payment", the words "or determination"; and

(L) By inserting in the newly designated paragraph (d) (3), after the phrase "covered by the claim," the phrase "the quantity of spirits so lost,".

7. Section 201.46 is renumbered as § 201.47 and there is inserted a new § 201.46.

8. A new section, designated § 201.48, is added, immediately following newly designated § 201.47.

9. Section 201.63 is changed by striking in the last sentence the word "part", and inserting in lieu thereof the word "chapter".

10. Section 201.73 is changed by striking in the first sentence the words "made or fermented on such premises".

11. Section 201.82 is changed by striking in the last sentence the section reference "§ 201.76", and inserting in lieu thereof the words "this part".

12. Section 201.86 is changed by rewording the first sentence to read "Where this part requires direct supervision of an operation, the proprietor may conduct such operation at any time the assigned officer is on the premises: *Provided*, That such officer has been informed of the operation and has not advised the proprietor that the operation must be deferred in order that it may be conducted in his immediate presence."

13. Section 201.87 is changed by striking the period at the end of the first sentence and adding the following phrase "or the premises of an adjacent bonded wine cellar."

14. Section 201.92 is changed by striking from the third sentence the words "the proprietor under the direct supervision of".

15. Section 201.93 is changed by adding after the first sentence a new sentence to read "Such preparation shall include the furnishing of necessary wire, straps, and covers and affixing of the same."

16. Section 201.112 is changed by striking in the last sentence the word "specific", and inserting in lieu thereof the word "limited".

17. Section 201.120 is changed by striking the period and adding the following phrase ", or by a controlled or wholly-owned subsidiary (as defined in § 201.206) of such a proprietor."

18. Section 201.132 is changed:

(A) By inserting in the next to last sentence, after the words "by paragraph (c)", the words "or paragraph (g)"; and

(B) By inserting in the next to last sentence, after the words "such information", the phrase ", if accurate and complete,".

19. Section 201.137 is changed:

(A) By striking in paragraph (f) the word "State", and inserting in lieu thereof the words "On specific request of the assistant regional commissioner, furnish a statement showing";

(B) By inserting in the parentheses in paragraph (f) (2), after the words "need not be reported", the phrase "as to subparagraphs (1) and (2)."; and

(C) By striking from the next to last sentence the phrase "or (f) (3)".

20. Section 201.142 is revised.

21. Section 201.144 is changed:

(A) By striking the phrase "If, after notice and hearing, the assistant regional commissioner finds", and inserting in lieu thereof the phrase "Whenever the assistant regional commissioner has reason to believe"; and

(B) By striking the phrase "such permit may, in whole or in part, be revoked, or be suspended for such period as the assistant regional commissioner deems proper", and inserting in lieu thereof the phrase "the assistant regional commissioner may institute proceedings for the revocation or suspension of such permit in accordance with the procedures set forth in Part 200 of this chapter."

22. Section 201.145 is changed by striking the words "and for", and inserting in lieu thereof the words "and in connection with".

23. Section 201.147 is changed by adding at the end of paragraph (f) a parenthetical phrase to read "(The capacity shall be stated as the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or (for column stills) may be represented by a statement of the diameter of the base and number of plates.)"

24. Section 201.148 is changed by striking the period in the last sentence of paragraph (c) (1) and adding the following phrase ", and the names thereof need be furnished to the assistant regional commissioner only at his request."

25. Section 201.154 is changed by striking the word "quadruplicate", and inserting in lieu thereof the word "triplicate".

26. Section 201.155 is changed by striking the figure " $\frac{1}{50}$ ", and inserting in lieu thereof the figure " $\frac{1}{100}$ ".

27. Section 201.156 is changed:

(A) By rewording the third sentence, which begins "The plat shall also", to read "The plat shall show (a) all buildings on the plant premises, (b) all basic equipment (including tanks and stills) not located in buildings, and (c) all driveways, public thoroughfares, and railroad rights-of-way contiguous to, connecting, or separating, the plant premises."; and

(B) By striking in the fifth sentence, which begins "Each pipeline", the period and adding the following proviso ": *Provided*, That, in lieu of such colors, the pipelines may be identified by symbols which permit ready identification of their uses."

28. Section 201.174 is changed:

(A) By striking in the first sentence of paragraph (a) the phrase "A plant or any part thereof", and inserting in lieu thereof the phrase "A plant, or any part thereof which is suitable for qualification as a separate plant,";

(B) By revising paragraph (b).

(C) By striking in the proviso of the first sentence of paragraph (d) the phrase "where the outgoing proprietor has executed", and inserting in lieu thereof the phrase "but in such case the outgoing proprietor shall (unless qualification bond is not required for the plant) execute"; and

(D) By rewording the last sentence of paragraph (d) to read "Products subject

to tax under the provisions of sections 5021 and 5022, I.R.C., (including partially rectified products) which are being transferred to a successor shall be tax-paid by the outgoing proprietor."

29. Section 201.191 is changed by striking in the third sentence the phrase "Each bond shall be accompanied by", and inserting in lieu thereof the phrase "The assistant regional commissioner may require, in connection with any bond on Form 2601,".

30. Section 201.206 is changed by adding after the last sentence a new sentence to read "Where bond on Form 2601 covers the operations of more than one corporation, each corporation shall be shown as principal, and the bond shall be signed for each corporation."

31. Section 201.208 is changed by inserting after paragraph (b) (2) in the chart a new subparagraph (3).

32. Section 201.214 is changed by striking the word "or" immediately preceding paragraph (d) and striking paragraph (d), and inserting in lieu thereof the two paragraphs, (d) and (e).

33. Section 201.482 is changed:

(A) By striking in the first sentence the phrase "Where spirits withdrawn from customs or internal revenue bond on payment of tax for rectification", and inserting in lieu thereof the phrase "Where spirits withdrawn from internal revenue bond on payment or determination of tax, or from customs bond on payment of tax, for rectification"; and

(B) By striking in the last sentence the words "proprietor's samples", and inserting in lieu thereof the words "proprietor samples or Government samples".

34. Section 201.483 is changed:

(A) By inserting in the first sentence, after the word "payment", the words "or determination"; and

(B) By striking from the first sentence the words "customs or internal revenue".

35. Section 201.486 is changed:

(A) By striking the words "bonded premises or customs custody", and inserting in lieu thereof the word "bond"; and

(B) By inserting, after the word "payment", the words "or determination".

36. Section 201.487 is changed by striking in the first sentence the words "customs custody or bonded premises on payment", and inserting in lieu thereof the words "bond on payment or determination".

37. Section 201.489 is changed by striking in the last sentence the words "bonded premises on payment", and inserting in lieu thereof the words "bond on payment or determination".

38. Section 201.493 is changed by inserting in the first two sentences, after the word "payment" (once in each sentence), the words "or determination".

39. Section 201.494 is revised.

40. Section 201.573 is changed:

(A) By striking from the second sentence the words "or certificates"; and

(B) By striking from the next to last sentence the words "or certificates", and striking the period and adding the following phrase ", and shall retain the remaining copy for his files."

41. Section 201.574 is revised.

42. Section 201.575 is changed:

(A) By striking the period in the first sentence and adding the following phrase and sentence "or to any bonded premises for storage pending subsequent lawful withdrawal free of tax. Where the spirits (including denatured spirits) are returned to bonded premises for storage, without distillation, the proprietor shall execute a consent of surety on Form 1533 to extend the terms of Form 2601 to cover the return and storage of such spirits."; and

(B) By inserting in the next to last sentence, after the word "distillation", the parenthetical phrase "(if any)".

43. Section 201.578 is changed:

(A) By adding after the first sentence a new sentence to read "In case of emergency, the principal on the bond may arrange the return of spirits to bonded premises without an approved application, but such spirits shall be kept separate at the bonded premises and shall not be gauged (if required) or recorded in the records and reports of the proprietor until an approved application for such return has been obtained."; and

(B) By striking the period in the third (formerly the second) sentence and adding the phrase "unless the spirits are returned before the withdrawal forms have been filed with the customs officials."; and

(C) By adding after the last sentence a new sentence to read "When spirits have been returned before the withdrawal forms were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the assigned officer who shall cancel and date the withdrawal forms and affix copies of the approved application thereto."

44. Section 201.579 is changed:

(A) By rewording the first sentence to read "The receipt and deposit of the returned spirits shall be under the direct supervision of the assigned officer who shall verify the quantity received."; and

(B) By striking in the second sentence the phrase "under the supervision of the assigned officer".

45. Section 201.580 is changed by striking from the first parentheses in the last sentence the words "or certificates".

46. Section 201.641 is changed:

(A) By striking the third sentence, which begins "Organoleptic examinations";

(B) By adding after the third (formerly the fourth) sentence, which begins "When the assistant regional commissioner finds that the", a new sentence to read "When the testing consists of an organoleptic examination, such examination shall be made only on the plant premises, or in a central laboratory of the proprietor (or central laboratory of any of its affiliated or subsidiary corporations, as defined in § 201.490, which is qualified as a proprietor of a distilled spirits plant), or, when approved by the assistant regional commissioner, in a recognized commercial laboratory."; and

(C) By striking in the fifth sentence, which begins "Samples withdrawn", the

phrase "as a laboratory standard or library sample", and inserting in lieu thereof the phrase "for beverage purposes".

47. Section 201.643 is changed by adding after paragraph (h) (but not as a part of paragraph (h)) a new sentence to read "When samples are taken, the proprietor shall indicate on his retained copy of the schedule, or on an appropriate record, the taking of the sample and the disposition thereof."

48. Section 201.646 is changed by striking in the first sentence the parenthetical phrase "(Including organoleptic examination)".

49. Section 201.652 is revised.

50. Section 201.658 is changed by striking the words "in bonded warehouses", and inserting in lieu thereof the words "under section 5234(a)(2), I.R.C."

51. Section 201.661 is changed:

(A) By striking in the first sentence the word "taxpaid", and inserting in lieu thereof the words "withdrawn from bond on payment or determination of tax";

(B) By striking the fourth sentence, which begins "Spirits bottled in bond for domestic use", and inserting in lieu thereof two sentences to read "Spirits bottled in bond for domestic use which have been removed from the premises where originally bottled (but on which the tax has not been paid or determined) may not be removed for exportation with benefit of drawback unless rebottled. Spirits originally bottled in bond for domestic use may (before payment or determination of tax) be reduced in proof and (after payment or determination of tax) be exported with benefit of drawback."; and

(C) By inserting in the next to last sentence, after the word "payment", the words "or determination"; and

(D) By striking in the last sentence the words "taxpaid and", and inserting after the word "withdrawn", the words "from bond on payment or determination of tax".

52. Section 201.664 is revised.

53. Section 201.667 is changed:

(A) By inserting after the words "may be conveyed", the letter "(a)"; and

(B) By striking the words "or between different portions", and inserting in lieu thereof the phrases "(b) from the bonded warehouse facilities of a plant to the production facilities of such plant, or (c) between different portions".

54. A new undesignated center head and new section, designated § 201.671, are added, immediately following § 201.670.

Because these regulations implement changes made in 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 effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the ef-

fective date limitation of section 4(c) of of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Accordingly these regulations shall be effective on July 1, 1959.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

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

Sec.	
201.1	General.
201.2	Territorial extent.
201.3	Effect on prior regulations.
201.4	Status of existing qualified establishments.

Subpart B—Definitions

201.11	Meaning of terms.
--------	-------------------

Subpart C—Taxes

SPIRITS

201.21	Tax.
201.22	Attachment of tax.
201.23	Lien.
201.24	Certificate of discharge of lien.
201.25	Persons liable for tax.
201.26	Time for tax determination.

RUMS OR FRUIT BRANDIES

201.27	Tax on blends of rums or fruit brandies.
--------	--

RECTIFIED PRODUCTS

201.28	Rectification tax.
201.29	Exemption from rectification tax.
201.30	Tax on cordials and liqueurs containing wine.

OCCUPATIONAL TAXES

201.31	Rectifier's special tax.
201.32	Change to higher or lower rate.
201.33	Exemption from rectifier's occupational tax.
201.34	Exemption from liquor dealer's occupational tax.
201.35	Still manufacturer.

ASSESSMENTS

201.36	Production not accounted for.
201.37	Spirits not removed from bond at end of bonding period.

Sec.			PENALTIES OF PERJURY		Subpart G—Bonds and Consents of Surety
201.38	Assessment in cases of spirits lost or destroyed in bond, or in case of unauthorized removals.	Sec.	201.96 Execution under penalties of perjury.	Sec.	201.191 General.
	WINE		Subpart E—Location and Use	201.192	Additional condition of distiller's bond.
201.39	Tax.	201.111	Restrictions as to location.	201.193	Additional conditions of bonded warehouseman's bond.
201.40	Manufacture of wine products.	201.112	Bonded warehouses not on production premises.	201.194	Corporate surety.
201.41	Increasing volume of wine.	201.113	Taxpaid bottling facilities.	201.195	Deposit of securities in lieu of corporate surety.
201.42	Increasing taxable grade of wine.	201.114	Facilities for bottling in bond.	201.196	Consents of surety.
	CLAIMS	201.115	Use of premises.	201.197	Authority to approve bonds and consents of surety.
201.43	Claims in respect of spirits lost or destroyed in bond.	201.116	Storage rooms or buildings on bonded premises.	201.198	Disapproval of bonds or consents of surety.
201.44	Claims in respect of spirits returned to bonded premises.	201.117	Continuity of premises.	201.199	Appeal to Director.
201.45	Claims relating to spirits lost or destroyed after tax determination.	201.118	Location of bonded and bottling premises.	201.200	Indemnity bond, Form 3A.
201.46	Claims relating to samples taken for the United States.	201.119	General plant premises.	201.201	Indemnity bond conditioned to stand in lieu of prior liens.
201.47	Execution of claims and supporting documents.	201.120	Denaturing facilities.	201.202	Indemnity bond in case of judicial sale.
201.48	Claims for credit of tax.		Subpart F—Qualification of Distilled Spirits Plants	201.203	Indemnity bond for changes in buildings and equipment.
	Subpart D—Administrative and Miscellaneous Provisions	201.131	General requirements for registration.	201.204	Combined operations bond, distilled spirits plant.
	AUTHORITIES OF THE DIRECTOR	201.132	Data for application for registration.	201.205	Combined operations bond, distilled spirits plant and adjacent bonded wine cellar.
201.61	Forms prescribed.	201.133	Notice of registration.	201.206	Blanket bond.
201.62	Pilot operations.	201.134	Maintenance of registration file.	201.207	Liability under combined operations and blanket bonds.
201.63	Experimental distilled spirits plants.	201.135	Powers of attorney.	201.208	Bonds and penal sums of bonds.
201.64	Application to establish experimental plants.	201.136	Operating permits.	201.209	Strengthening bonds.
201.65	Spirits produced in industrial processes.	201.137	Data for application for operating permits.		NEW OR SUPERSEDING BONDS
201.66	Other business.	201.138	Exceptions to operating permit requirements.	201.210	General.
201.67	Recovery and reuse of denatured spirits in manufacturing processes.	201.139	Issuance of operating permits.	201.211	New or superseding bond, Form 2601.
201.68	Disaster exemptions.	201.140	Duration of permits.	201.212	New or superseding bond, Form 3A.
201.69	Exemptions to meet the requirements of National Defense.	201.141	Posting of permits.		TERMINATION OF BONDS
201.70	Discontinuance of storage facilities by the Director.	201.142	Denial of permit.	201.213	Termination of bond, Form 2601.
201.71	Experimental or research operations by scientific institutions and colleges of learning.	201.143	Correction of permits.	201.214	Termination of indemnity bond, Form 3A.
	AUTHORITIES OF THE ASSISTANT REGIONAL COMMISSIONER	201.144	Suspension or revocation.	201.215	Application of surety for relief from bond.
201.72	Other businesses.	201.145	Rules of practice in permit proceedings.	201.216	Relief of surety from bond.
201.73	Removal of distilling material.	201.146	Trade names.	201.217	Release of pledged securities.
201.74	Assignment of officers.	201.147	Major equipment.	201.218	Cancellation of indemnity bond.
201.75	Hours of operation.	201.148	Organizational documents.		Subpart P—Losses After Tax Determination
201.76	Allowance of claims.	201.149	Description of plant.	201.481	Losses after tax determination.
201.77	Installation of meters, tanks, and other apparatus.	201.150	Registry of stills.		LOSSES OF SPIRITS WITHDRAWN FROM BOND FOR RECTIFICATION OR BOTTLING
201.78	Approval of qualifying documents.	201.151	Statement of title.	201.482	Allowable losses.
	AUTHORITIES OF INTERNAL REVENUE OFFICERS	201.152	Consent on Form 1602.	201.483	Application for withdrawal of spirits from bond.
201.79	Right of entry and examination.	201.153	Statement of process.	201.484	Losses by accident or disaster.
201.80	Authority to break up ground or walls.		PLAT AND PLANS	201.485	Operating losses.
201.81	Detention of containers.	201.154	General requirements.	201.486	Ineligible ingredients.
201.82	Samples for the United States.	201.155	Preparation.	201.487	Losses in manufacture of gin and vodka.
201.83	Gauging and measuring equipment.	201.156	Depiction of plant.	201.488	Tentative allowances.
	ENTRY AND EXAMINATION OF PREMISES	201.157	Flow diagrams.	201.489	Losses during short-term operations.
201.84	Premises to be kept accessible.	201.158	Certificate of accuracy.	201.490	Affiliated or subsidiary corporation.
201.85	Furnishing facilities and assistance.	201.159	Revised plats and plans.	201.491	Claims and supporting data.
	CUSTODY AND SUPERVISION		CHANGES AFTER ORIGINAL QUALIFICATION	201.492	Inventories.
201.86	Supervision of operations.	201.160	Application for amended registration.	201.493	Applicability of loss provisions.
201.87	Storage rooms or buildings.	201.161	Automatic termination of permits.	201.494	Gauge of spirits.
201.88	Proprietor's schedule of operations.	201.162	Change in name of proprietor.	201.495	Records.
201.89	Denaturation of spirits.	201.163	Change of trade name.		Subpart S—Voluntary Destruction
201.90	Gauging.	201.164	Change in proprietorship.	201.561	General.
201.91	Commercial gauging.	201.165	Adoption of plat and plans.	201.562	Application, Form 1577.
	GOVERNMENT LOCKS AND SEALS	201.166	Continuing partnerships.	201.563	Claims.
201.92	Government locks and seals.	201.167	Change in location.		Subpart T—Return of Spirits to Bonded Premises
201.93	Preparation for Government locks and seals.	201.168	Changes in premises.	201.571	Return of taxpaid spirits to bonded premises.
201.94	Removal of Government locks and seals.	201.169	Change in operations.	201.572	Application for return of taxpaid spirits.
	SEALED CONVEYANCES FOR TRANSPORTING IN BOND	201.170	Change in process.	201.573	Receipt of returned taxpaid spirits.
201.95	Sealed conveyances.	201.171	Changes in construction and use of buildings and equipment.	201.574	Return of recovered denatured spirits for redenaturation.
		201.172	Change of title.	201.575	Return of spirits (including denatured spirits) withdrawn free of tax.
		201.173	Encumbrance.		
			OPERATIONS BY ALTERNATING PROPRIETORS		
		201.174	Procedure for alternating proprietors.		
			ALTERNATE OPERATIONS		
		201.175	Alternating bottling facilities between bonded and bottling premises.		
			PERMANENT DISCONTINUANCE OF BUSINESS		
		201.176	Notice of permanent discontinuance.		

RETURN OF SPIRITS WITHDRAWN WITHOUT
PAYMENT OF TAX

- Sec.
201.576 General.
201.577 Application for return of spirits withdrawn without payment of tax.
201.578 Responsibility for return of spirits.
201.579 Receipt of spirits at plant.
201.580 Disposition of forms.

ABANDONED SPIRITS

- 201.581 Abandoned spirits.

Subpart V—Samples

- 201.641 Samples for analysis or testing.
201.642 Samples of denatured spirits.
201.643 Schedule of samples.
201.644 Taking of samples.
201.645 Disposition of samples.
201.646 Taxable samples.
201.647 Label.

Subpart W—Other Provisions Relating to
Plants

CONSTRUCTION AND EQUIPMENT

- 201.651 Construction and equipment.
201.652 Signs.
201.653 Identification of structures, areas, apparatus, and equipment.

OPERATIONS

- 201.654 Addition of burnt sugar or caramel to rum.
201.655 Redistillation.
201.656 Mingling of spirits distilled at 190 degrees or more of proof.
201.657 Mingling of heterogeneous spirits for immediate removal to bottling premises.
201.658 Consolidation of packaged spirits.
201.659 Blending of beverage rums.
201.660 Blending of rums on bottling premises.
201.661 Bottling in bond of spirits for exportation with benefit of drawback.
201.662 Restamping and marking taxpaid spirits for export.
201.663 Transfers between bonded premises.
201.664 Withdrawal of spirits to bottling premises.
201.665 Export transactions.
201.666 Taxpaid spirits on bonded premises.
201.667 Conveyance of untaxed spirits within a plant.

LOSSES

- 201.668 Allowable losses.

STATUS OF SPIRITS ON JULY 1, 1959

- 201.669 Status of spirits on July 1, 1959.

FORM 27B SUPPLEMENTAL

- 201.670 Form 27B Supplemental.

FORM 1440

- 201.671 Copy of Forms 1440 furnished assigned officer.

AUTHORITY: §§ 201.1 to 201.671 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, cer-

tificate), 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, or bottling of spirits, or for rectification, or for 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 semi-trailer, 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.

Taxpaid wines. Wines 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 re-fermented). 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. Voluntary 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 brands.**

In addition to the tax imposed by section 5001, I.R.C., a tax is imposed by sec-

tion 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 adding of denaturants to spirits under this chapter does not constitute 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 TAXES

§ 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 prin-

cial 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 removals.

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 or determined 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, 1333; 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 on the blended wine under its new taxable grade and the tax previously paid or determined 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 dif-

ference between the wine tax due on the product under its new taxable grade and the tax previously paid or determined on the wines used therein.

(72 Stat. 1328, 1331; 26 U.S.C. 5021, 5041)

CLAIMS

§ 201.43 Claims in respect of 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 of spirits returned to bonded premises.

Claims for refund, relating to spirits which have been withdrawn from bonded premises on payment or determination 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 or determination 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 determination of the tax; (4) the date of payment of the tax (if claim is for refund) or of assessment of the tax (if claim is for abatement); (5) the serial number of the approved application, Form 1577; and (6) whether the claim covers tax on spirits withdrawn from bond by the claimant on payment or determination 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 determination of the tax; (2) the date of payment of tax (if claim is for refund) or of assessment of the tax (if claim is for abatement); (3) 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 (4) whether the claim covers tax on spirits withdrawn from bond by the claimant on payment or determination 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) A statement as to whether the claim covers tax on spirits withdrawn from bond by the claimant on payment or determination 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;

(2) 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;

(3) In the case of loss in the manufacture of gin or vodka provided for in § 201.487 the period covered by the claim, the quantity of spirits so lost, 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 Claims relating to samples taken for the United States.

Claims for refund of tax, relating to samples of spirits taken by internal revenue officers, after payment or determination of tax, as provided in § 201.82, shall be filed on Form 843 (original only) with the assistant regional commissioner, and shall set forth the following:

(a) Quantity of spirits taken as samples;

(b) Amount of tax for which the claim is filed;

(c) Name, number, and address of the plant from which the samples were taken;

(d) The date, or dates, of Form 1669 covering the removal of the samples.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.47 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)

§ 201.48 Claims for credit of tax.

Wherever it is provided in this part that a claim may be filed for refund of a tax, the claimant may (except in the case of claims for refund of rectifier's special tax as provided in § 201.32) file with the assistant regional commissioner a claim for allowance of credit of such tax. Claims for credit of tax may be filed after determination and before payment of the tax. A claim for credit shall be submitted, in duplicate, and shall contain the same information, be filed within the same period, and be executed in the same manner, as required for a like claim for refund; Form 843 will not be used. The claimant may not anticipate allow-

ance of a credit or make an adjusting entry in a tax return pending action on the claim. When written notification of allowance of credit is received from the assistant regional commissioner, the claimant shall make an adjusting entry and explanatory statement (specifically identifying the notification of allowance of credit) in the next distilled spirits tax return (or returns) to the extent necessary to exhaust the credit.

(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 chapter (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 commis-

sioner, 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—

(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 this part.

(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 may conduct such operation at any time the assigned officer is on the premises: *Provided*, That such officer has been informed of the operation and has not advised the proprietor that the operation must be deferred in order that it may be conducted in his immediate presence. 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 or the premises of an adjacent bonded wine cellar. 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 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. Such preparation shall include the furnishing of necessary wire, straps, and all covers and affixing of the same.

(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 limited 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, or by a controlled or wholly-owned subsidiary (as defined in § 201.206) of such a proprietor.

(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) or paragraph (g) is on file with the assistant regional commissioner, such information, if accurate and complete, 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) On specific request of the assistant regional commissioner, furnish a statement showing 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 as to subparagraphs (1) and (2)), 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) 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.

If, on examination of an application for an operating permit (or on the basis of inquiry or investigation with respect thereto) the assistant regional commissioner has reason to believe 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, the assistant regional commissioner may institute proceedings for the denial of the application in accordance with the procedures set forth in Part 200 of this chapter.

(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.

Whenever the assistant regional commissioner has reason to believe 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; the assistant regional commissioner may institute proceedings for the revocation or suspension of such permit in accordance with the procedures set forth in Part 200 of this chapter.

(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 in connection with 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). (The capacity shall be stated as the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or (for column stills) may be represented by a statement of the diameter of the base and number of plates.)

(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 paragraph (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, and the names thereof need be furnished to the assistant regional commissioner only at his request.

(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 triplicate, 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 $\frac{1}{100}$ 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 blue-print 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 show (a) all buildings on the plant premises, (b) all basic equipment (including tanks and stills) not located in buildings, and (c) all driveways, public thoroughfares, and railroad rights-of-way contiguous to, connecting, or separating the plant 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: *Provided*, That in lieu of such colors, the pipelines may be identified by symbols which permit ready identification of their uses. 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 pipelines 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 dia-

gram 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 which is suitable for qualification as a separate plant, 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*. Distilling materials and unfinished spirits in any production facilities to be alternated shall be processed to completion by the outgoing proprietor unless transferred to the incoming proprietor. All finished spirits shall be marked and removed by the outgoing proprietor in the name in which produced, before production gauge is made of any spirits by the incoming proprietor. Denatured spirits shall be

removed from production facilities by the outgoing proprietor unless transferred to the incoming proprietor or retained in tanks under Government lock. Where denatured spirits are to be retained in tanks, the outgoing proprietor shall execute 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, but in such case the outgoing proprietor shall (unless qualification bond is not required for the plant) execute 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) which are being transferred to a successor shall be taxpaid by the outgoing proprietor.

(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 materials, 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. The assistant regional commissioner may require, in connection with any bond on Form 2601, 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 appli-

cant 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.S.C. 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. Where bond on Form 2601 covers the operations of more than one corporation, each corporation shall be shown as principal, and the bond shall be signed for each corporation.

(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
(3) Limited—to storage of denatured spirits, denaturation of spirits, and storage of not to exceed 100,000 proof gallons of spirits prior to denaturation.	The amount of tax on spirits stored on such premises and in transit thereto.	5,000	100,000
(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
(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

Bond	Penal sum		
(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.	
	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. 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, (d) on applica-

tion of the distiller if he is the owner in fee, unencumbered, of the property covered by the bond or (e) on application of the distiller 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

§ 201.481 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

§ 201.482 Allowable losses.

Where spirits withdrawn from internal revenue bond on payment or determination of tax, or from customs 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 samples or Government 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)

§ 201.483 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 or determination of tax directly from 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)

§ 201.484 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 §§ 201.483 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—

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)

The maximum allowable loss in proof gallons is—

2 percent of completions.
480 proof gallons plus 1 percent of excess over 24,000.
1,440 proof gallons plus 0.6 percent of excess over 120,000.
4,320 proof gallons plus 0.3 percent of excess over 600,000.
9,720 proof gallons plus 0.2 percent of excess over 2,400,000.

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)

§ 201.486 Ineligible ingredients.

When alcoholic ingredients (such as spirits and wines and alcoholic flavoring and blending materials) other than spirits withdrawn from bond by the proprietor of the bottling premises on payment or determination 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 withdrew the spirits from bond on payment or determination 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 of 365 days. Where the bottling facilities are qualified and operated alternately for bottling spirits in bond and bottling spirits after withdrawal from bond on payment or determination 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

§ 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 or determination 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 or determination 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 spirits are gauged to determine (a) losses as provided by § 201.484, (b) losses as provided by § 201.485 which occur before dumping, (c) quantities to be dumped for rectification or bottling on or after July 1, 1959, when the spirits were withdrawn from bond before such date, or (d) quantities entered into or removed from the closed system, as provided in § 201.487, such gauge shall be made by the proprietor by weight and proof unless the assistant regional commissioner approves another method of gauging.

(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:

- The kind and quantity of alcoholic flavoring materials removed from the bottling premises and the identity of the consignee.
- The kind and quantity of spirits lost by theft.
- The kind and quantity of spirits removed from the bottling premises as samples.
- 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 proprietor 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 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 attached, to the assistant regional commissioner, and shall retain the remaining copy for his files. 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 and articles containing denatured alcohol to denaturing plants shall be applicable to the return of recovered denatured spirits and articles containing denatured spirits to the denaturing facilities of distilled spirits plants.

(72 Stat. 1372; 26 U.S.C. 5273)

§ 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, or to any bonded premises for storage pending subsequent lawful withdrawal free of tax. Where the spirits (including denatured spirits) are returned to bonded premises for storage, without distillation, the proprietor shall execute a consent of surety on Form 1533 to extend the terms of Form 2601 to cover the return and storage of such 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 (if any) 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. In case of emergency, the principal on the bond may arrange the return of spirits to bonded premises without an approved

application, but such spirits shall be kept separate at the bonded premises and shall not be gauged (if required) or recorded in the records and reports of the proprietor until an approved application for such return has been obtained. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the spirits are returned before the withdrawal forms have been filed with the customs officials. 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. When spirits have been returned before the withdrawal forms were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the assigned officer who shall cancel and date the withdrawal forms and affix copies of the approved application thereto.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 201.579 Receipt of spirits at plant.

The receipt and deposit of the returned spirits shall be under the direct supervision of the assigned officer who shall verify the quantity received. In the case of spirits in bulk containers the proprietor shall gauge the spirits 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 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. 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. Where the testing consists of an organoleptic examination, such examinations shall be made only on the plant premises, or in a central laboratory of the proprietor (or central laboratory of any of its affiliated or subsidiary corporations, as defined in § 201.490, which is qualified as a proprietor of a distilled spirits plant), or, when approved by the assistant regional commissioner, in a recognized commercial laboratory. Samples withdrawn free of tax shall not be used for the development of blends, for beverage purposes, 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 author-

ized 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.

When samples are taken the proprietor shall indicate on his retained copy of the schedule, or on an appropriate record, the taking of the sample and the disposition thereof.

(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 shown 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 in-

ternal 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, 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 arrange-

ment, 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 plant number, and (c) the designation of the kind of business, or businesses (distiller, bonded warehouseman, rectifier, and/or bottler), in which engaged, except that in lieu of the foregoing designations, designations which have obtained public and commercial significance, such as industrial alcohol plant, registered distillery, or rectifying plant, as appropriate, may be used.

(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 under section 5234(a)(2), I.R.C.

(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 withdrawn from bond on payment or determination of tax 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 (but on which the tax has not been paid or determined) may not be removed for exportation with benefit of drawback unless rebottled. Spirits originally bottled in bond for domestic use may (before payment or determination of tax) be reduced in proof and (after payment or determination of tax) be exported with benefit of drawback. 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 or determination 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 withdrawn from bond on payment or determination of tax 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 make application for such withdrawal on Form 2608. When an alternating proprietor has been authorized pursuant to § 201.174 to commence operations of bottling premises at a specified future time, he may apply for the withdrawal of spirits from bond on Form 2608 in anticipation of such commencement of operations, but spirits so applied for will not be eligible for loss allowance unless such spirits are withdrawn directly from bond and unless such spirits are received on his bottling premises during the time he is authorized to operate such 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 untaxed spirits within a plant.

Spirits on which the tax has not been paid or determined may be conveyed (a) from the production facilities of a plant to the bonded warehouse facilities of such plant, (b) from the bonded warehouse facilities of a plant to the production facilities of such plant, or (c) 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, substantially 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)

FORM 1440

§ 201.671 Copy of Forms 1440 furnished assigned officer.

In every instance where Form 1440 is required under this chapter, sufficient

copies thereof shall be prepared by the proprietor in order that the assigned officer shall be furnished one copy for his files.

[F.R. Doc. 59-4880; Filed, June 11, 1959; 8:45 a.m.]

[T.D. 6387]

PART 231—TAXPAID WINE BOTTLING HOUSES

Miscellaneous Amendments

On April 21, 1959, a notice of proposed rule making with respect to the amendment of 26 CFR Part 231 was published in the FEDERAL REGISTER (24 F.R. 3101). No objections having been received within the 30-day period prescribed in the notice, the regulations, as so published, are hereby adopted.

Because this Treasury decision implements changes made in chapter 51 of the Internal Revenue Code of 1954 by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act, approved June 11, 1946. Accordingly, this Treasury decision shall be effective on July 1, 1959.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

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 tax-paid 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.

(68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 59-4877; Filed, June 11, 1959; 8:45 a.m.]

[T.D. 6384]

PART 245—BEER

Miscellaneous Amendments

On April 21, 1959, a notice of proposed rule making with respect to the amendments of 26 CFR Part 245 was published in the FEDERAL REGISTER (24 F.R. 3101).

In accordance with the notice interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. Consideration was given to all such relevant matter as was presented by interested parties regarding the rules proposed.

It has been determined administratively to further amend these regulations by deleting the provisions relating to default in payment of the tax on beer since such provisions will be included in a separate document covering temporary regulations establishing a semimonthly return system which will become effective on June 24, 1959. Further changes in the regulations are proposed in order to simplify the procedure with respect to refund of, or credit for, tax paid on beer removed from the market, by eliminating the requirement for an application covering such removal from the market and substituting a requirement for a notice of intention.