with Board regulations by premarketing review of each initial and amended prospectus.

Subsequently, the Board amended § 371.25, along with the parallel provisions of our other charter rules,[2] to exclude from the 15-day waiting period certain types of amendments to the charter prospectus including, inter alia, charter price increases. The Board determined that no regulatory purpose was served by subjecting such amendments to premarketing review, since those amendments do not affect the basic legality of the charter for which an initial prospectus has been filed and cannot be the basis for rejection of an amended prospectus.

Five charter operators[3] have now jointly filed a rulemaking petition to amend § 371.25 to exclude ABC price decreases from the 15-day waiting period following the filing of an amended prospectus.[4] The petitioners argue that, since the regulations prescribe no minimum prices for ABC's, ABC price reductions can no more be the basis for rejecting an amended charter prospectus than are price increases and therefore, like price increases, they should be excluded from premarketing review. The petitioners further contend that elimination of the 15-day waiting period for ABC price decreases will reduce administrative burdens on both the Board and ABC operators and will facilitate rapid adjustment of prices, to the benefit of consumers. The petition also points out that the rulemaking petition granted by SPR–112 had been filed before adoption of the ABC rule and its text was designed principally for Inclusive Tour Charters (14 CFR Part 378) and One-stop-inclusive Tour Charters (14 CFR Part 378a), which, unlike ABC's, do have a legally prescribed minimum price. Thus, it argued, the reasons advanced by the Board in SPR–112 for exempting price increases from the 15-day waiting period would indeed not apply to price decreases of ITC's and OTC's, but they do apply to ABC price decreases. No answers to the petition were received.

The Board finds the petitioners' arguments persuasive and has decided to grant the petition. Since the price of an ABC is not a relevant factor in determining its basic legality, the Board believes that the premarketing filing and review of a prospectus amendment decreasing its price is no more necessary than if the price were increased. Furthermore, elimination of the 15-day waiting period for price reductions will enable charter operators to respond more rapidly to changes in demand and to pass on price decreases to consumers without undue delay. We have therefore determined to exclude such decreases in the same manner as we have already excluded increases from the 15-day waiting period. By the same token, the charter operator will be required to file notice with the Board of any such price reduction within five days of the reduction, just as our rules already require with respect to other prospectus amendments that are excluded from the 15-day waiting period.

Because this amendment creates no significant additional burden for any member of the public, and public benefit will be derived from putting it into effect without delay, it is found for good cause that notice and public procedure thereon are unnecessary and contrary to the public interest, and that it may be made effective immediately.

Accordingly, the Board hereby amends Part 371 of its Special Regulations (14 CFR Part 371) effective February 10, 1977, as set forth below.

Amend § 371.25(a)(3) to read as follows:

**§ 371.25 Operating authorization of charter operators.**

*  *  *  *  *

(a) * * *

(3) The 15-day waiting period specified in paragraph (a)(2) of this section shall not apply to charter price increases or decreases, changes in hotel accommodations, sightseeing arrangements, meal plans, and the order in which cities are visited, but such changes shall be filed not later than five (5) days following such change.

*  *  *  *  *

(Secs. 101 and 204, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743 (49 U.S.C. 1301, 1324).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-4329 Filed 2-9-77;8:45 am]

[Reg. SPR–125, Docket 30103, Amdt. 14]

## PART 373—STUDY GROUP CHARTERS BY DIRECT AIR CARRIERS AND STUDY GROUP CHARTERERS

### Study Group Statement Filing Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., February 4, 1977.

For the reasons set forth in SPR–124, issued contemporaneously herewith, the Civil Aeronautics Board is amending its Study Group Charter (SGC) rule (14 CFR Part 373), with respect to study group statement filing requirements, to exclude SGC price decreases from the 15-day waiting period which follows the filing of an amended study group statement.

Because this amendment creates no significant aditional burden for any member of the public, and public benefit will be derived from putting it into effect without delay, it is found for good cause that notice and public procedure thereon are unnecessary and contrary to the public interest, and that it may be made effective immediately.

Accordingly, the Board hereby amends Part 373 of its Special Regulations (14 CFR Part 373) effective February 10, 1977, as set forth below.

Amend § 373.10(b)(3) to read as follows:

**§ 373.10 Study Group Statement.**

*  *  *  *  *

(b) * * *

(3) The 15-day waiting period referenced in paragraph (b)(2) of this section shall not apply to tour price increases or decreases, changes in hotel accommodations, sightseeing arrangements, meal plans, and the order in which cities are visited, but such changes shall be filed no later than five (5) days following such change.

*  *  *  *  *

(Secs. 101, 204, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743; (49 U.S.C. 1301, 1324).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-4330 Filed 2-9-77;8:45 am]

# Title 27—Alcohol, Tobacco Products and Firearms

## CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-42]

### IMPLEMENTATION OF STATUTORY CHANGES MADE EY PUBLIC LAW 94–455

The Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1818) amended numerous obsolete sections and corrected several technical errors and omissions in subtitle E of the Internal Revenue Code of 1954. In addition the Act contains several amendments to subtitle E which are liberalizing in nature. The regulatory changes contained in this Treasury decision will implement these statutory changes.

LOSS PROVISIONS FOR SPIRITS BROUGHT INTO THE U.S. FROM PUERTO RICO AND THE VIRGIN ISLANDS

STATUTORY PROVISIONS

Under 26 U.S.C. 5232(a), spirits brought into the United States in bulk containers from Puerto Rico or the Virgin Islands may be transferred to the bonded premises of a distilled spirits plant without payment of the internal revenue tax. The proprietor of the bonded premises becomes liable for the tax as in the case of domestic spirits which are held on those bonded premises.

Section 26 U.S.C. 5008 provided for abatement or refund of tax in the case of distilled spirits: (1) Lost while in bond; (2) voluntarily destroyed while in bond; (3) voluntarily destroyed on bottling premises to which removed after

[2] SPR–111 (OTC's), SPR–112 (ABC's), SPR–113 (SGC's), and SPR–114 (ITC's), all adopted contemporaneously on September 24, 1976, 41 FR 42940, September 29, 1976.

[3] Charter Travel Corporation, Duncan Travel Service, Globus-Gateway Tours, Ltd., Brendan Tours, Inc., and GoGo International, Inc. The petition states that each petitioner "is or shortly will be" an ABC operator.

[4] A rulemaking petition substantially identical to the petition in Docket 30103 was jointly filed by seven tour operators December 22, 1976, in Docket 30251. By adopting the amendment herein, the Board is granting both rulemaking petitions.

payment or determination of tax; (4) lost (in a manner described in the law) after withdrawal from bond on payment or determination of tax and before removal from the bottling premises to which removed from bond; or (5) returned to the bonded premises of a distilled spirits plant after payment or determination of tax. In all these cases listed except situation (1), the abatement or refund is only for taxes imposed by chapter 51 of 26 U.S.C. Spirits brought into the United States from Puerto Rico or the Virgin Islands are taxed under section 26 U.S.C. 7652. As a result the provisions pertaining to refund or abatement of tax in the other four situations listed did not give relief for taxes on spirits from Puerto Rico or the Virgin Islands.

Apparently this exclusion resulted from an oversight, but Pub. L. 94-455 corrects the omission by extending to bulk spirits brought into the United States from Puerto Rico or the Virgin Islands the same loss provisions applicable to imported and domestic spirits.

REGULATORY PROVISIONS

Applicable regulations are amended to reflect the eligibility of Puerto Rican and Virgin Islands spirits for loss provisions.

Claims for losses of Puerto Rican and Virgin Islands spirits are to be filed in the usual manner for claims of domestic spirits. To insure proper accounting of operational losses, Form 2611, Statement of Losses at Bottling Premises will be prepared; and a new Form 2611 Page 3, will be attached to Form 2611 Page 1 as supplemental informaton to separately identify eligible Puerto Rican rum, other Puerto Rican spirits, and Virgin Islands spirits, from other eligible spirits.

Forms 1577—Destruction of Spirits, 2612—Taxpaid Spirits Returned to Bonded Premises, and 4738—Notice and Gauge of Spirits Returned to Bottling Premises, have been revised to indicate the eligibility of Puerto Rican and Virgin Islands spirits for abatement or refund of tax on applicable losses. In each instance, separate forms shall be prepared for Puerto Rican rum, for other Puerto Rican spirits and for Virgin Islands spirits. The separate preparation of these forms is necessary for accounting purposes. [§§ 170.124, 170.134, 170.170, 201.482, 201.491, 201.561 amended.]

LIQUOR DEALERS

The statutory changes eliminate the special tax designation for (1) retail dealers in wine; (2) retail dealers in wine and beer; (3) medicinal spirits dealers; (4) wholesale dealers in wine; and (5) wholesale dealers in wine and beer. Persons engaging in business in these categories will be classified in the primary designation of business (e.g., retail dealers in wine, retail dealers in wine and beer, and medicinal spirits dealers will be classified as retail liquor dealers). These designation changes do not affect the special tax rate.

An additional statutory change affects limited retail dealers. Limited retail dealers (e.g., fairs, civic or church groups) were limited to sales of wine and beer only and subject to special (occupational) taxes of $2.20 per month. The statutory change establishes a special tax category for limited retail dealers of spirits, wines, or beer and sets the special tax rate at $4.50 per month.

The regulations in 27 CFR Part 194 are amended to provide for these changes. [§ 194.11, 194.24, 194.26, 194.27, 194.101, 194.121, 194.211, 194.245 amended; §§ 194.128-130 revoked.]

NONBEVERAGE DRAWBACK

Statutory provisions regarding drawback of tax on spirits used in nonbeverage products were amended to delete the requirement that such spirits be produced in a domestic distillery, or withdrawn from the bonded premises of a distilled spirits plant. This amendment will permit manufacturers of nonbeverage drawback products to claim refunds of taxes on imported spirits used in nonbeverage products. The regulations in 27 CFR Part 197 are amended to make this change and to make a conforming change. [§ 197.8, 197.9, 197.109, 197.130b amended.]

MINGLING OF SPIRITS FOR CONSOLIDATION

The consolidation of packages of spirits for further storage in bond could be accomplished for spirits within 8 years of the date of original entry for deposit. The amended statutory provisions provide that such consolidation may be accomplished within 20 years of the date of original entry. Therefore, applicable sections in 27 CFR Part 201 are amended to conform to this change. [§ 201.301 amended.]

FILTRATION OF SPIRITS FOR EXPORTATION

Section 26 U.S.C. 5025 was amended to extend the exemption from rectification tax to distilled spirits subjected to filtration or other physical treatments prior to exportation. The change will permit distilled spirits plant proprietors to filter and stabilize spirits destined for exportation in a manner similar to spirits entered for bottling in bond and pursuant to 27 CFR 201.324. The regulations in 27 CFR Part 201 are amended accordingly. [§ 201.29 amended; § 201.314 added.]

WITHDRAWAL OF SPIRITS FROM BOND UNDER 26 U.S.C. 5174(a)(2)

Section 26 U.S.C. 5174(a)(2) was amended to provide for the withdrawal of spirits from bond by proprietors authorized to rectify or bottle distilled spirits pursuant to a withdrawal bond. Prior statutory requirements limited withdrawals under § 5174(a)(2) to spirits intended to be rectified or bottled by authorized proprietors. The statutory amendment will extend authorized withdrawal to all spirits, including those bottled-in-bond. This will permit proprietors of bottling premises to defer payment of tax on bottled-in-bond spirits for payment on ATF Form 4077 and pursuant to regulations in 27 CFR Part 170, Subpart C. These statutory changes, however, require a minor regulatory change. Proprietors desiring to withdraw bottled-in-bond spirits pursuant to § 5174(a)(2) should prepare Form 179 in the manner other spirits are withdrawn from bond. [§ 170.43 amended.]

MISCELLANEOUS AMENDMENTS

*Definition of "Secretary" and "Delegate".* Section 26 U.S.C. 7701 was amended to change the definition of "Secretary" to provide that "Secretary of the Treasury" means the Secretary of the Treasury, personally, and does not include any delegate of his; while "Secretary" means the Secretary of the Treasury or his delegate. The term "or his delegate" is also defined in connection with the definition of "Secretary". Therefore, the definition of "Secretary" is amended in all parts of 27 CFR where it appears; and the definition of "Delegate" is added to all parts of 27 CFR where the term "Secretary" is defined. [§§ 71.11, 201.11, 211.11, 213.11, 245.5 and 252.11 amended.]

*Revocation of obsolete provisions.* Pub. L. 94-455 revoked numerous obsolete statutory provisions. Conforming regulatory changes are made in 27 CFR Parts 170, 240, 245 and 296 to incorporate these revocations. [§§ 170.86, 170.87, 170.92, 170.93, 240.236, 240.720, 240.723, 245.56, 296.2, 296.3, 296.8, and 296.9 amended; §§ 170.371-.374 revoked]

INFLATION IMPACT

The Bureau has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

In consideration of the foregoing, the regulations in 27 CFR are amended as follows:

## PART 70—PROCEDURE AND ADMINISTRATION

1. Section 70.22 is amended by revising paragraph (c), and revising the statutory citation at the end of the section, to read as follows:

**§ 70.22 Examination of books and witnesses.**

* * * * *

(c) *Persons who may issue summonses.* The following officers and employees of the Bureau are authorized to issue summonses pursuant to 26 U.S.C. 7602:

(1) Regional regulatory administrators, and

(2) Office of Inspection: Assistant Director, Deputy Assistant Director, and regional inspectors.

* * * * *

(Aug. 16, 1954, ch. 736, 68A Stat. 901; (26 U.S.C. 7602).)

## PART 71—STATEMENT OF PROCEDURAL RULES

2. Section 71.11 is amended by adding the definition of "Delegate" and changing the definition of "Secretary" to read as follows:

**§ 71.11 Meaning of terms.**

* * * * *

*Delegate.* Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

*Secretary.* The Secretary of the Treasury or his delegate.

* * * * *

## PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

3a. Section 170.43 is amended, in alphabetical order, to revise the definition of "controlled stock", and redesignate existing paragraphs, (b), (c), (d), (e), (f), and (g), as paragraphs (c), (d), (e), (f), (g), and (h), to read as follows:

### § 170.43 Meaning of terms.

* * * * *

*Controlled stock.* Stock on control premises, comprising:

(a) Tax-determined domestic spirits received for rectification or bottling:

(b) Tax-determined spirits bottled-in-bond (prior to tax determination) and received for storage;

(c) Tax-determined imported spirits received from internal revenue bond (as authorized by section 5232, I.R.C.) for rectification or bottling;

(d) Other tax-determined imported spirits dumped and reported on batch record Form 122 for use in production of rectified distilled spirits product;

(e) Alcoholic flavoring materials, wines, and products made with wine, dumped and reported on batch record Form 122 for use in production of a rectified distilled spirits product;

(f) Distilled spirits products received and dumped for reprocessing or rebottling;

(g) Any mixture of, or product made from, the preceding;

(h) Any of the preceding (1) on the control premises of a proprietor on the commencement of business under the provisions of this subpart, or (2) received from an outgoing proprietor as controlled stock under the provisions of § 170.56.

3b. Section 170.86 is amended, in alphabetical order, to revise the definition of "Assistant regional commissioner" and add the definition of "Regional regulatory administrator", to read as follows:

### § 170.86 Meaning of terms.

* * * * *

*Assistant regional commissioner.* A regional regulatory administrator, as defined in this section.

* * * * *

*Regional regulatory administrator.* The principal regional official responsible for administering regulations in this subpart.

* * * * *

4. Secton 170.87 is amended by deleting paragraph (c), by redesignating paragraph (d) as paragraph (c), and by deleting the last undesignated paragraph, to read as follows:

### § 170.87 Applicability to certain credits or refunds.

* * * * *

(a) * * *

(b) Any claim made in accordance with any law expressly providing for credit or refund where an article is withdrawn from the market, returned to bond, or lost or destroyed, and

(c) Any claim based solely on errors in computation of the quantity of an article subject to tax or on mathematical errors in computation of the amount of the tax due, or to any claim in respect of tax collected or paid on an article seized and forfeited, or destroyed, as contraband.

5. Section 170.92 is amended by deleting paragraph (b), and by redesignating the present text of paragraphs (c), (d), (e), (f), and (g), as paragraphs (b), (c), (d), (e), and (f), respectively, to read as follows:

### § 170.92 Data to be shown in claim.

Claims to which this subpart is applicable, in addition to the requirements of § 170.91, must set forth or contain the following:

(a) A statement that the claimant paid the amount claimed as a "tax" as defined in this subpart.

(b) Full identification (by specific reference to the form number, the date of filing, the place of filing, and the amount paid on the basis of the particular form or return) of the tax forms or returns covering the payments for which refund or credit is claimed.

(c) The written consent of the owner to the allowance of the refund or credit to the claimant (where the owner of the article in respect of which the tax was paid furnished the claimant the amount claimed for the purpose of paying the tax).

(d) If the claimant (or owner, as the case may be) has neither sold nor contracted to sell the articles involved in the claim, a statement that the claimant (or owner, as the case may be) agrees not to shift, directly or indirectly in any manner whatsoever, the burden of the tax to any other person.

(e) If the claim is for refund of a floor stocks tax, or of an amount resulting from an increase in rate of tax applicable to an article, a statement as to whether the price of the article was increased on or following the effective date of such floor stocks tax or rate increase, and, if so, the date of the increase, together with full information as to the amount of such price increase.

(f) Specific evidence (such as relevant records, invoices, or other documents, or affidavits of individuals having personal knowledge of pertinent facts) which will satisfactorily establish the conditions to allowance set forth in § 170.89.

The regional regulatory administrator may require the claimant to furnish as a part of the claim such additional information as he may deem necessary.

6. Section 170.93 is revised by amending paragraph (a), and by deleting paragraphs (b) and (c), to read as follows:

### § 170.93 Time for filing claim.

No credit or refund of any amount of tax to which the provisions of this subpart apply shall be made unless the claimant files a claim therefor within the time prescribed by law and in accordance with the provisions of this subpart.

7. Section 170.124 is amended by making conforming changes to read as follows:

### § 170.124 General provisions.

Distilled spirits brought into the United States from the Virgin Islands in bulk containers of 5 gallons or more capacity may under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of his plant, without payment of the internal revenue tax, including rectification tax, if any imposed on such spirits by 26 U.S.C. 7652. Such spirits so withdrawn and transferred to a distilled spirits plant (a) may not be bottled in bond under 26 U.S.C. 5233, (b) may be redistilled or denatured only if of 185° or more of proof, and (c) may be withdrawn from internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic distilled spirits. Spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the provisions of Part 201 of this chapter. The person operating the bonded premises of the distilled spirits plant to which spirits are transferred under the provisions of this subpart shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232, upon release of the spirits from customs custory, and the importer or person bringing the spirits into the United States shall thereupon be relieved of his liability for such tax.

(Sec. 3(a), Pub. L. 91-659, 72 Stat. 1328; Sec. 1905, Pub. L. 94-455, 72 Stat. 1820 (26 U.S.C. 5232).)

8. Section 170.134 is revised in its entirety to read as follows:

### § 170.134 Abatement, remission, credit, or refund.

The provisions of 26 U.S.C. 5008, authorizing abatement, remission, credit and refund for loss or destruction of distilled spiirts, shall apply to spirits brought into the United States from the Virgin Islands, with respect to the following:

(a) Spirits lost while in internal revenue bond;

(b) Voluntary destruction of spirits in bond;

(c) Voluntary destruction of spirits after withdrawal for rectification or bottling;

(d) Spirits lost after withdrawal for rectification or bottling, by reason of accident, flood, fire or other disaster;

(e) Spirits lost in rectifying, packaging, bottling and casing operations;

(f) Spirits returned to bonded premises;

(g) Spirits returned to bonded premises after withdrawal upon tax determination;

(h) Spirits returned to the bottling premises from which removed; and

(i) Samples of spirits for use by the United States.

Claims relating to spirits lost in bond, in addition to the information required by § 201.43 of this chapter, shall show the name of the producer, and the serial number and date of the Form 27-B Supplemental under which produced.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1364, as amended; Sec. 1905, Pub. L. 94-455, 90 Stat. 1818 (26 U.S.C. 5008, 5215).)

9. Section 170.170 is revised in its entirety to read as follows:

**§ 170.170 Abatement, remission, credit, or refund.**

The provisions of 26 U.S.C. 5008, authorizing abatement, remission, credit and refund for loss or destruction of distilled spirits, shall apply to spirits brought into the United States from Puerto Rico, with respect to the following:

(a) Spirits lost while in internal revenue bond;

(b) Voluntary destruction of spirits in bond;

(c) Voluntary destruction of spirits after withdrawal for rectification or bottling;

(d) Spirits lost after withdrawal for rectification or bottling, by reason of accident, flood, fire or other disaster;

(e) Spirits lost in rectifying, packaging, bottling and casing operations;

(f) Spirits returned to bonded premises;

(g) Spirits returned to bonded premises after withdrawal upon tax determination;

(h) Spirits returned to the bottling premises from which removed; and

(i) Samples of spirits for use by the United States.

Claims relating to spirits lost in bond, in addition to the information required by § 201.43 of this chapter, shall show the name of the producer, and the serial number and date of the Form 27-B Supplemental under which produced.

(Sec. 201, Pub. L. 85-859, 72 Stat. 13231, as amended, 1364, as amended; sec. 1905, Pub. L. 94-455, 90 Stat. 1818 (26 U.S.C. 5008, 5215).)

## Subpart Q—Interim Regulations (§§ 170.371–170.374 [Revoked])

10. Subpart Q (§§ 170.371–.374) is revoked.

## PART 194—LIQUOR DEALERS

11. Section 194.11 is amended, in alphabetical order, by adding the definition of "Tax year", to read as follows:

**§ 194.11 Meaning of terms.**

* * * * *

*Tax year.* The period from July 1 of one calendar year through June 30 of the following year.

* * * * *

12. Section 194.24 is revised by amending paragraphs (b), (c)(i), and (c)(ii), and by amending the statutory citation at the end of the section, to read as follows:

**§ 194.24 Wholesale dealer in liquors.**

(a) *General.* * * *

(b) *Persons not deemed to be wholesale dealers in liquors.* The following persons are not deemed to be wholesale dealers in liquors within the meaning of 26 U.S.C., chapter 51, and are not required to pay special tax as such dealer—

(1) * * *

* * * * *

(c) *Persons exempt from special tax.* (1) * * *

(i) A retail dealer in liquors who consummates sales of distilled spirits, beer or wine, or any combination thereof, to a limited retail dealer at the place where such retail dealer in liquors has paid the special tax as such dealer for the current tax year,

(ii) A retail dealer in beer who, having paid the special tax as such dealer for the current tax year, consummates sales at his place of business of beer to a limited retail dealer, or

(iii) * * *

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended, 1344, as amended; Sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5111, 5112, 5113, 5123).)

13. Section 194.26 is revised by amending paragraphs (b) and (c)(1)(i), and by amending the statutory citation at the end of the section, to read as follows:

**§ 194.26 Wholesale dealer in beer.**

(a) *General.* * * *

(b) *Persons not deemed to be wholesale dealers in beer.* The following persons are not deemed to be wholesale dealers in beer within the meaning of 26 U.S.C., chapter 51, and are not required to pay special tax as such dealer—

(1) * * *

(c) *Persons exempt from special tax.* (1) * * *

(i) A retail dealer in liquors who consummates sales of distilled spirits, beer or wine, or any combination thereof, to a limited retail dealer at the place where such retail dealer in liquors has paid the special tax as such dealer for the current tax year,

(ii) A retail dealer in beer who consummates sales of beer to a limited dealer at the place where such retail dealer in beer has paid the special tax as such dealer for the current tax year, or

(iii) * * *

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended, 1344, as amended; Sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5111, 5112, 5113, 5123).)

14. Section 194.27 is amended to provide for the sale of distilled spirits by limited retail dealers, and to revise the statutory citation at the end of the section, to read as follows:

**§ 194.27 Limited retail dealer; persons eligible.**

Each person desiring to sell distilled spirits, beer or wine, or any combination thereof, to members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or similar outings, and any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization desiring to sell distilled spirits, beer or wine, or any combination thereof, on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, shall obtain, for each calendar month in which sales are to be made, a special tax stamp as a limited retail dealer in liquors. No person or organization otherwise engaged in business as a dealer shall procure such limited special tax stamp. Application on Form 11 and payment of special tax at the rate specified in § 194.101 shall be submitted to the district director, except that, where instructions on or relating to Form 11 so provide, Form 11 and payment shall be filed with the director of the service center serving the internal revenue district in which the sales are to be made, before any sales are made. If requested on Form 11, the director of the service center may issue the special tax stamp under the designation of (a) limited retail dealer in distilled spirits, if distilled spirits only are to be sold, (b) limited retail dealer in wine, if wine only is to be sold, or (c) limited retail dealer in beer, if beer only is to be sold.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1344, 1346; Sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5122, 5142).)

15. Section 194.101 is amended by adding the special tax rate for limited retail dealers (spirits, wines, beer) to paragraph (b) and by revising the statutory citation at the end of the section, to read as follows:

**§ 194.101 Special tax rates.**

Special (occupational) taxes are imposed on dealers in liquors and beer at the following rates—

(a) *Annual (tax year) rates:* * * *

(b) *Monthly (calendar month) rate:*

| | |
|---|---|
| Limited retail dealer (spirits, wines, beer) | \$4.50 |
| Limited retail dealer (wine, beer) | 2.20 |

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, 1343; Sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5111, 5121).)

16. Section 194.121 is revised in its entirety to read as follows:

**§ 194.121 Issuance of stamps.**

(a) *Issuance.* Upon filing a return properly executed on Form 11, together with a remittance in the full amount due, the taxpayer will be issued an appropriately designated stamp. Special tax stamps will not be issued in the case of a return covering liability for a past period.

(b) *Multiple locations.* If Form 11 with remittance covers multiple locations, the taxpayer will be issued one stamp for each location listed in the attachment to Form 11 required by § 194.106(c) but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(Sec. 1905, Pub. L. 94-455, 90 Stat. 1820 (26 U.S.C. 5142).)

§§ 194.128–194.130 [Revoked]

17. Sections 194.128–194.130 are revoked.

18. Section 194.211 is amended by designating the existing language as paragraph (a); by designating existing paragraphs (a), (b), (c), (d), and (e) as paragraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5), respectively; and adding a new paragraph (b), to read as follows:

§ 194.211 Unlawful purchases of distilled spirits.

(a) *General.* It is unlawful for any dealer to purchase distilled spirits for resale from any person other than—

(1) A dealer who has paid special tax as a wholesale dealer in liquors at the place where the distilled spirits are purchased;

(2) A wholesale dealer whose place of business comes within the exemptions provided by § 194.151 for changes in location and § 194.169 for changes in control;

(3) The proprietor of a distilled spirits plant who is exempt from special tax as a dealer at the place where the distilled spirits are purchased;

(4) A retail liquor store operated by a State, a political subdivision thereof, or the District of Columbia, which is not required to pay special tax as a wholesale dealer in liquors as provided in § 194.31;

(5) A person not required to pay special tax as a wholesale liquor dealer, as provided in §§ 194.188–194.190 and 194.-192–194.193.

(b) *Special provisions for limited retail dealers.* A limited retail dealer may purchase distilled spirits for resale from a retail dealer in liquors.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1343; Sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5117).)

§ 194.245 [Amended]

19. Section 194.245 is amended by deleting the last sentence.

## PART 197—DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

20. Section 197.8 is amended to revise the definition of "Director", to read as follows:

§ 197.8 Director.

The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

21. Section 197.9 is amended to revise the definition of "distilled spirits", to read as follows:

§ 197.9 Distilled spirits.

Distilled spirits shall mean that substance known as ethyl alcohol, ethanol, spirits, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, rum, gin, and vodka, all of which are fully taxpaid or tax-determined at the distilled spirits rate.

22. Section 197.109 is amended by revising paragraphs (b) and (d) to read as follows:

§ 197.109 Information to be shown by the claim.

The claim must set forth the following:

(a) * * *

(b) That the distilled spirits on which drawback is claimed are fully taxpaid or tax-determined at the distilled spirits rate.

* * * * *

(d) That the nonbeverage products were manufactured in compliance with (1) quantitative formulas filed with the Director, Bureau of Alcohol, Tobacco and Firearms, on Form 1678 prior to or at the time of manufacture, or (2) formulas prescribed by the United States Pharmacopoeia, the National Formulary, or the Homeopathic Pharmacopoeia of the United States.

* * * * *

23. Section 197.130b is amended in its entirety, to read as follows:

§ 197.130b Evidence of tax payment of distilled spirits.

(a) *Domestic spirits.* (1) Forms 179 shall be secured from the distilled spirits plant proprietor and retained by the manufacturer as evidence of tax payment of the spirits to support information required to be furnished in supporting data filed with a claim.

(2) Where shipments are made from a taxpaid room operated in connection with a distilled spirits plant, the vendor's commercial invoice may be utilized in lieu of Form 179 if the invoice bears a certification as to tax payment by the person who paid the tax, and includes the following information:

(i) The name and address of vendor:

(ii) The registry number of the distilled spirits plant from which the spirits were withdrawn on determination of tax;

(iii) The release number of the applicable Form 179;

(iv) The name of the producer, blender, or warehouseman of the spirits;

(v) The serial number of the container.

(vi) The serial number and date of the distilled spirits stamp; and

(vii) The kind of spirits, proof, and proof gallons in the container.

(b) *Imported spirits.* Evidence of tax payment of imported distilled spirits (such as Customs Forms 7501 and 7505 receipted to indicate payment of tax) shall be secured from the importer and retained by the manufacturer as evidence of tax payment to support information required to be furnished in supporting data filed with a claim.

## PART 201—DISTILLED SPIRITS PLANTS

24. Section 201.11 is amended, in alphabetical order to revise the definition of "Assistant regional commissioner"; add the definition of "Delegate"; revise the definition of "Regional director"; add the definition of "Regional regulatory administrator", and revise the definition of "Secretary", to read as follows:

§ 201.11 Meaning of terms.

* * * * *

*Assistant regional commissioner.* Wherever used in this part shall mean a regional regulatory administrator as defined in this section.

* * * * *

*Delegate.* Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

* * * * *

*Regional director.* Whenever used in this part shall mean a regional regulatory administrator as defined in this section.

*Regional regulatory administrator.* The principal regional official responsible for administering regulations in this part.

* * * * *

*Secretary.* The Secretary of the Treasury on his delegate.

* * * * *

25. Section 201.29 is amended by revising the first sentence, paragraphs (k), (p), (s), (t), and (v), and the statutory citation at the end of the section, to read as follows:

§ 201.29 Exemption from rectification tax.

The rectification tax imposed by 26 U.S.C. 5021 does not apply in the case of—

(a) * * *

* * * * *

(k) Cordials or liqueurs, on which a tax is imposed by 26 U.S.C. 5022;

* * * * *

(p) Heterogeneous spirits mingled, as provided in Subpart J of this part, in bulk gauging tanks on bonded premises for immediate removal to bottling premises exclusively for use in taxable rectification; in blends of straight whiskies, fruit brandies, or rums, differing as to type, under 26 U.S.C. 5025(f); or for other mingling or treatment under 26 U.S.C. 5025(k);

* * * * *

(s) Spirits mingled on bonded premises for immediate redistillation, immediate denaturation, or immediate removal from such premises free of tax under 26 U.S.C. 5214(a) (1), (2), or (3), or 26 U.S.C. 7510;

(t) Spirits mingled on bonded premises for further storage in bond, as provided in 26 U.S.C. 5234(a)(2), and Subpart J of this part;

* * * * *

(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 Subparts J, K and N of this part;

* * * * *

(Aug. 16, 1954, ch. 736, 68A Stat. 900; sec. 201, Pub. L. 85-859, 72 Stat. 1328, 1338, 1356, 1362, 1365, 1367, 1381; sec. 1905, Pub. L. 94-455, 90 Stat. 1818 (26 U.S.C. 7510, 5021, 5022, 5023, 5025, 5082, 5201, 5214, 5223, 5234, 5363).)

26. Section 201.301 is revised by amending the heading, by amending the period during which spirits may be consolidated, and by revising the statutory citation at the end of the section, to read as follows:

**§ 201.301 Mingling to consolidate packages under 26 U.S.C. 5234(a)(2).**

Within 20 years of the date of original entry for deposit packages of spirits of the same kind, distilled by the same proprietor (under his own or any trade name), at the same distillery, and which have been stored in internal revenue bond in the same kind of cooperage for not less than 4 years (or 2 years in the case of rum or brandy) may be dumped and mingled in a tank in the storage facilities on bonded premises. * * *

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1328, as amended, 1367, as amended; Sec. 1905, Pub. L. 94-455, 90 Stat. 1820 (26 U.S.C. 5025, 5234).)

27. A new center heading and a new § 201.314 are added immediately following § 201.313, to read as follows:

EXPORTATION OF SPIRITS

**§ 201.314 Filtering and stabilizing.**

Spirits withdrawn for exportation may be treated as provided in § 201.324.

28. Section 201.482 is amended to make conforming changes and to update the statutory citation at the end of the section. As amended, § 201.482 reads as follows:

**§ 201.482 Allowable losses.**

Where spirits withdrawn from internal revenue or customs bond on payment or determination of tax for rectification or bottling are lost, the tax imposed on such spirits under 26 U.S.C. 5001 or 7652, may be abated, remitted, or, without interest, refunded or credited to the proprietor who so withdrew the spirits for removal to his bottling premises, if it is established to the satisfaction of the regional regulatory administrator that:

(a) * * *

* * * * *

Paragraphs (a)(2), (a)(3), and (b) of this section shall apply to spirits returned to the bottling premises to which withdrawn from bond as provided in § 201.495. Abatement, remission, credit, or refund of tax shall not be made with respect to 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, credit, or refund shall not be made in excess of the limitations set forth in this subpart. No allowance is made in 26 U.S.C. 5008(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 26 U.S.C. 5008(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 26 U.S.C. 5008(c).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended; Sec. 1905, Pub. L. 94-455, 90 Stat. 1818 (26 U.S.C. 5008).)

29. Section 201.491 is amended by adding a new sentence to paragraph (a), referring to claims for losses of Puerto Rican and/or Virgin Islands spirits, and by updating the statutory citation at the end of the section. As amended, § 201.491 reads as follows:

**§ 201.491 Claims and supporting data.**

(a) Any person filing a claim under § 201.45(d) shall file with the claim, as supporting data, Form 2611 to show computation of the losses described in §§ 201.485 and 201.487, as applicable. Page 2 of Form 2611 shall also be required when the proprietor is computing the allowable loss under both the general loss allowance schedule, (§ 201.485a (b)(1)), and the loss allowance schedule for cordials, liqueurs, cocktails, mixed drinks, and specialities (§ 201.45a(b)(2)). Proprietors shall prepare Page 3 of Form 2611 to support claims which include losses of Puerto Rican and/or Virgin Islands spirits.

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended; Sec. 1905, Pub. L. 94-455, 90 Stat. 1818, (26 U.S.C. 5008).)

30. Section 201.561 is amended by making conforming changes in paragraph (b), and by updating the statutory citation at the end of the section. As amended, § 201.561 reads as follows:

**§ 201.561 General.**

The tax liability on distilled spirits (including denatured spirits) terminates, or if the tax has been paid it may be refunded or credited, when such spirits are voluntarily destroyed in accordance with this subpart—

(a) * * *

(b) By the proprietor who withdrew the spirits on payment or determination of tax for rectification or bottling, if the spirits are destroyed after they were withdrawn from bond and before they were removed from, or after return to, the bottling premises of such proprietor. 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 applies to the distilled spirits tax imposed under 26 U.S.C. 5001 and 7652, and, as applicable, the rectification tax imposed under 26 U.S.C. 5021, 5022 and 5023. This paragraph applies only in respect of such taxes on the quantity actually destroyed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended; Sec. 1905, Pub. L. 94-455, 90 Stat. 1818, (26 U.S.C. 5008).)

## PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

31. Section 211.11 is amended by adding the definition of "Delegate" and changing the definition of "Secretary" to read as follows:

**§ 211.11 Meaning of terms.**

* * * * *

*Delegate.* Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

* * * * *

*Secretary.* The Secretary of the Treasury or his delegate.

* * * * *

## PART 213—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

32. Section 213.11 is amended by adding the definition of "Delegate" and changing the definition of "Secretary" to read as follows:

**§ 213.11 Meaning of terms.**

* * * * *

*Delegate.* Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

* * * * *

*Secretary.* The Secretary of the Treasury or his delegate.

* * * * *

## PART 240—WINE

33. Section 240.236 is amended by deleting the term "Territory", wherever it appears, by making editorial changes, and by updating the statutory citation at the end of the section, to read as follows:

**§ 240.236 Disapproval.**

Bonds submitted on Form 700 or Form 2053, or consents of surety relative to such bonds, may be disapproved if the individual, firm, partnership, corporation, or association giving the bond, or owning, controlling, or actively participating in the management of the bonded wine cellar of the individual, firm, partnership, corporation, or association giving the bond, has 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 relates to internal revenue or customs taxation of distilled spirits, wine, or beer, or if such offense has been compromised with the individual, firm, partnership, corporation, or association, upon payment of penalties or otherwise, or (b) any felony under the law of any State, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation or transportation of distilled spirits, wine, beer, or other intoxicating liquor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394; sec. 1905, Pub. L. 94-455, 72 Stat. 1823 (26 U.S.C. 5551).)

34. Section 240.720 is amended by deleting the phrase "and Territories", and by updating the statutory citation at the end of the section, to read as follows:

§ 240.720 General.

Wine may be removed from bonded wine cellars free of tax for use of the Government of the United States or any agency thereof upon receipt of proper governmental order signed by the officer in charge of the department, institution, station, or similar establishment, to which the wine is to be shipped, or other officer authorized to sign such order. Wine may also be removed for use by the governments of the several states and the District of Columbia, or of any subdivision thereof or by any agency of such governments, free of tax, from bonded wine cellars for analysis, testing, research or experimentation, as provided in §§ 240.723 to 240.726.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended; sec. 1905, Pub. L. 94-455, 90 Stat. 1823 (26 U.S.C. 5362).)

35. Section 240.723 is amended by deleting the term "Territories", and by updating the statutory citation at the end of the section, to read as follows:

§ 240.723 Application.

Where it is desired to obtain wine for use of States, or the District of Columbia, or of any subdivision thereof or by any agency of the governments, letter application, in triplicate, shall be filed with the regional director of the region in which the bonded wine cellar is located, by the governmental agency, listing the name, address, and registry number of the wine cellar; the kind, quantity and alcohol content of the wine desired; and the purpose for which the wine is to be used.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended; sec. 1905, Pub. L. 94-455, 90 Stat. 1823 (26 U.S.C. 5362).)

## PART 245—BEER

36. Section 245.5 is amended by adding the definition of "Delegate" and changing the definition of "Secretary" to read as follows:

§ 245.5 Meaning of terms.

* * * * *

*Delegate*. Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

* * * * *

*Secretary*. "Secretary" shall mean the Secretary of the Treasury of his delegate.

* * * * *

37. Section 245.56 is amended by deleting the term "Territory", in paragraph (b), and by updating the statutory citation at the end of the section, to read as follows:

§ 245.56 Disapproval of bonds or consents of surety.

* * * * *

(b) Any felony under a law of any State, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, beer, or other intoxicating liquor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394; sec. 1905, Pub. L. 94-455, 72 Stat. 1823 (26 U.S.C. 5551).)

## PART 252—EXPORTATION OF LIQUORS

38. Section 252.11 is amended by adding the definition of "Delegate" and changing the definition of "Secretary" to read as follows:

§ 252.11 Meaning of terms.

* * * * *

*Delegate*. Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

* * * * *

*Secretary*. The Secretary of the Treasury or his delegate.

* * * * *

## PART 296—MISCELLANEOUS REGULATIONS RELATING TO CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

39. Section 296.2 is amended in alphabetical order, to revise the definition of "Assistant regional commissioner" and add the definition of "Regional regulatory administrator", to read as follows:

§ 296.2 Meaning of terms.

* * * * *

*Assistant regional commissioner*. A regional regulatory administrator, as defined in this section.

* * * * *

*Regional regulatory administrator*. The principal regional official responsible for administering regulations in this subpart.

* * * * *

40. Section 296.3 is amended to remove obsolete provisions by deleting paragraph (c), by redesignating paragraph (d) as paragraph (c), and by deleting the last paragraph. As amended, § 296.3 reads as follows:

§ 296.3 Applicability to certain credits or refunds.

* * * * *

(a) * * *

(b) Any claim made in accordance with any law expressly providing for credit or refund where an article is withdrawn from the market, returned to bond, lost, or destroyed, and

(c) Any claim based solely on errors in computation of the quantity of an article subject to tax or on mathematical errors in computation of the amount of the tax due, or to any claim in respect of tax collected or paid on an article seized and forfeited, or destroyed, as contraband.

41. Section 296.8 is amended to remove obsolete provisions by deleting paragraph (b), and by redesignating paragraphs (c), (d), (e), (f), and (g) as paragraphs (b), (c), (d), (e), and (f), respectively. As amended, § 296.8 reads as follows:

§ 296.8 Data to be shown in claim.

Claims to which this subpart is applicable, in addition to the requirements of § 296.7, must set forth or contain the following:

(a) A statement that the claimant paid the amount claimed as a "tax" as defined in this subpart.

(b) Full identification (by specific reference to the form number, the date of filing, the place of filing, and the amount paid on the basis of the particular form or return) of the tax forms or returns covering the payments for which refund or credit is claimed.

(c) The written consent of the owner to allow the refund or credit to the claimant (where the owner of the article on which the tax was paid has furnished the claimant the amount claimed for the purpose of paying the tax).

(d) If the claimant or the owner, as the case may be, has neither sold nor contracted to sell the articles involved in the claim, a statement that the claimant or the owner, as the case may be, agrees not to shift, directly or indirectly in any manner whatsoever, the burden of the tax to any other person.

(e) If the claim is for refund of a floor stocks tax, or of an amount resulting from an increase in rate of tax applicable to an article, a statement as to whether the price of the article was increased on or following the effective date of such floor stocks tax or rate increase, and, if so, the date of the increase, together with full information as to the amount of such price increase.

(f) Specific evidence (such as relevant records, invoices, or other documents, or affidavits of individuals having personal knowledge of pertinent facts) which will satisfactorily establish the conditions of allowance set forth in § 296.5.

The regional regulatory administrator may require the claimant to furnish as a part of the claim such additional information as he may deem necessary.

42. Section 296.9 is amended to remove obsolete provisions in paragraph (a), and by deleting paragraphs (b) and (c), to read as follows:

**§ 296.9 Time for filing claim.**

No credit or refund of any amount of tax to which the provisions of this subpart apply shall be made unless the claimant files a claim therefor within the time prescribed by law and in accordance with the provisions of this subpart.

Because this Treasury decision is liberalizing in nature, deletes obsolete provisions, and corrects technical errors, it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

Effective date: Accordingly this Treasury decision shall become effective on February 1, 1977, the date when applicable provisions of Pub. L. 94-455 take effect.

Signed: January 26, 1977.

REX D. DAVIS,
*Director.*

Approved: February 3, 1977.

JOHN H. HARPER,
*Acting Assistant Secretary of the Treasury.*

[FR Doc.77-4322 Filed 2-9-77;8:45 am]

## Title 30—Mineral Resources

## CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

### SUBCHAPTER D—ELECTRICAL EQUIPMENT, LAMPS, METHANE DETECTORS; TESTS FOR PERMISSIBILITY; FEES

## PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

### Miscellaneous Amendments

• *Purpose.* The purpose of this notice is to announce several minor changes in 30 CFR Part 18 of the Department of the Interior's regulations pertaining to electrical equipment for use in mines. •

The changes involve miscellaneous amendments related to matters of internal organization of the Department of the Interior, as well as the correction of errors. The items below, numbered 1, 3, and 4 correct typographical errors. Items numbered 2, 7 and 8 reflect changes in nomenclature from "Bureau of Mines" to "MESA" following Secretarial Order No. 2953 (May 7, 1973). Items numbered 5 and 6 correct errors in abbreviation, whereby "B. of M." is an abbreviation for "Bill of Materials", not "Bureau of Mines" and therefore should not have been replaced by the word "MESA" when nomenclature changes were published in the FEDERAL REGISTER, 39 FR 23999 (June 28, 1974).

Since these changes are not substantive in nature, proposed rulemaking and opportunity for public comment are unnecessary.

Accordingly, 30 CFR Part 18 is amended as follows:

1. The heading of § 18.95 in the table of sections is amended by deleting the word "Scheduled" and substituting therefor the word "Schedule".

2. Section 18.82(g)(1) is amended by deleting the words "Seal of the Bureau of Mines" and substituting therefor the words "Emblem of the Mining Enforcement and Safety Administration".

3. Table 7 in Appendix I of Subpart D, is amended by deleting the numbers immediately below the column heading "Conductor size—AWG or MCM" and substituting therefor the numbers 6, 4, 3, 2, 1, 1/0, 2/0, 3/0, 4/0, 250, 300, 350.

4. Table 8 in Appendix I of Subpart D, is amended by deleting the word "or" in footnote number 1, and substituting therefor the word "for".

5. Figure 2 in Appendix II of Subpart D, is amended by deleting the words "MESA No. ____" and substituting therefor the words "B. of M. No. ____".

6. Figure 4 in Appendix II of Subpart D, is amended by deleting the words "MESA No. ____" under the heading "Portable Cable" and substituting therefor the words "B. of M. No. ____".

7. Section 18.97(b)(4)(iii) is amended by deleting the words "Bureau of Mines" and substituting therefor the word "MESA".

8. Section 18.99 is amended by deleting the words "Bureau of Mines" and substituting therefor the word "MESA".

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Effective date: These regulations are effective on February 10, 1977.

(Sec. 508, Pub. L. 91-173, 83 Stat. 803; (30 U.S.C. 957))

Dated: February 3, 1977.

WILLIAM D. BETTENBERG,
*Acting Assistant Secretary of the Interior.*

[FR Doc.77-4312 Filed 2-9-77;8:45 am]

## Title 33—Navigation and Navigable Waters

## CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-138]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Black River, Michigan

This amendment changes the regulations for the Military Street, Seventh Street and Tenth Street drawbridges across the Black River, Port Huron, Michigan, to provide more restrictive opening periods. This amendment was circulated as a public notice dated October 1, 1976, by the Commander, Ninth Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 76-138) on August 23, 1976 (41 FR 35536). No comments were received.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by:

**§ 117.641 [Amended]**

1. Revoking § 117.641(f)(5).

2. Adding a new § 117.702 immediately before § 117.703 to read as follows:

**§ 117.702 Black River, Port Huron, Michigan; bridges.**

(a) The draws of the Military Street, and Seventh Street bridges shall open as follows:

(1) From May 1 through October 31—(i) From Monday through Saturday, except holidays, from 9 a.m. to 5:30 p.m., the draw need open only on the hour and half-hour; and

(ii) From 5:30 p.m. to 9 a.m., and on Sundays and holidays, the draw shall open on signal.

(2) During the months of April and November—(i) From 8 a.m. to 4 p.m., the draws shall open on signal; and

(ii) From 4 p.m. to 8 a.m., the draws shall open on signal if at least three hours notice is given.

(3) From December 1, through March 31, the draws shall open on signal if at least twenty-four hours notice is given.

(b) The draw of the Tenth Street bridge shall open as follows:

(1) From May 1 through October 31—(i) From 8 a.m. to 11 p.m., the draw shall open on signal; and

(ii) From 11 p.m. to 8 a.m., the draw shall open on signal if at least one hour notice is given.

(2) During the months of April and November, the draw shall open on signal if at least three hours notice is given.

(3) From December 1 through March 31, the draw shall open on signal if at least twenty-four hours notice is given.

(c) Signals. (1) The opening signal from the vessel for each of these bridges is one long blast followed by one short blast of a whistle, horn, siren, or by shouting.

(2) The acknowledging signal from the drawbridge is—(i) One long blast

followed by one short blast when the draw will open promptly; and

(ii) Four short blasts when the draw will not open promptly, or is open and must be closed.

(d) The owners of or agencies controlling each bridge shall provide the necessary draw tenders and the proper mechanical appliances for the safe, prompt opening of the draw for the passage of vessels.

(e) Advance notice for the opening of the draws may be given to the dispatcher of the City of Port Huron Police Department.

(f) Public vessels of the United States, state or local government vessels used for public safety, and vessels in distress, shall be passed through the draws of these bridges as soon as possible at any time.

(g) The owner of or agency controlling each bridge shall keep a copy of the regulations in this section, together with a notice stating exactly how the dispatcher may be reached, conspicuously posted both upstream and downstream, either on the bridge or elsewhere in such a manner that it can easily be read from an approaching vessel at all times.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655 (g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1 (c)(4)).

Effective date. This revision shall become effective on March 14, 1977.

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 4, 1977.

A. F. FUGARO,
*Chief, Office of Marine Environment and Systems.*

[FR Doc.77-4246 Filed 2-9-77;8:45 am]

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[CGD 76-160]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Cheboygan River, Michigan

This amendment changes the regulations for the U.S. 23 drawbridge across the Cheboygan River, mile 0.92, to require that the draw only open from May 16 through September 15, from three minutes before to three minutes after the quarter hour and three-quarters hour from 7:18 a.m. to 6:12 p.m., Monday through Friday, and from 11:18 a.m. to 5:12 p.m. on Saturday. From December 15 through March 15, the draw will open after 24 hours notice. At all other times the draw shall open on signal. This amendment was circulated as a public notice dated November 17, 1976 by the Commander, Ninth Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 76-160) on October 28, 1976 (41 FR 47264). No comments were received.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.696 immediately after § 117.695 to read as follows:

**§ 117.696 Cheboygan River, Cheboygan, Mich., U.S. 23 bridge.**

(a) The draw shall open on signal except that: (1) From May 16 through September 15, Monday through Friday, from 7:18 a.m. to 6:12 p.m., and from 11:18 a.m. to 5:12 p.m., on Saturday, the draw need open only from three minutes before to three minutes after the quarter hour and the three-quarters hour.

(2) From December 15 through March 15, the draw need open only if at least 24 hours notice is given to the City of Cheboygan Police Department.

(b) The draw shall open on signal at any time for public vessels of the United States, state or local government vessels engaged in public safety or law enforcement activities, commercial vessels, or vessels in distress. The opening signal from these vessels is four blasts of a whistle or horn, or by shouting.

(c) The opening signal from all other vessels is one long blast followed by one short blast.

(d) The acknowledging signal is:

(1) When the draw shall open promptly, one long blast followed by one short blast.

(2) When the draw cannot open or is open and must be closed, four short blasts.

(e) The owner of or agency controlling this bridge shall keep a copy of the regulations in this section together with information stating how notice is to be given to the authorized representative of the bridge owner posted both upstream and downstream, either on the bridge or elsewhere in such manner that it can easily be read from an approaching vessel at all times.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4).)

Effective date. This revision shall become effective on March 14, 1977.

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 4, 1977.

A. F. FUGARO,
*Chief, Office of Marine Environment and Systems.*

[FR Doc.77-4247 Filed 2-9-77;8:45 am]

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## Title 39—Postal Service

## CHAPTER III—POSTAL RATE COMMISSION

[Docket No. RM76-5; Order 151]

## PART 3001—RULES OF PRACTICE

### Filing of Periodic Reports by United States Postal Service; Clarifying Order

FEBRUARY 4, 1977.

On December 7, 1976 the United States Postal Service (Postal Service) filed a document entitled "Postal Service Response to Order No. 141." In this response to Order No. 141, the Postal Service implicitly seeks Commission reconsideration of those portions of Order No. 141 which dealt with filing deadlines for six periodic reports and the prescribed contents of two other reports, specifically the Regional Operating Plans Summary and the Investment Income Report. Inasmuch as the issues addressed in the Postal Service response do not involve matters of substance—as we explain infra—but instead involve further elaboration on certain requirements of Order No. 141, we are issuing this Order of Clarification.[1]

In its pleading the Postal Service asserts that compliance with the deadlines established by Order No. 141 for the filing of the Revenue and Cost Analysis Report; Statement of Revenue and Expense; Civil Service Retirement Fund Deficit Report; Workmen's Compensation Report; Revenue, Pieces and Weight by Classes of Mail and Special Services Report; and the Incremental Cost Analysis Report probably cannot be assured. This situation arises because the Postal Service must rely upon third persons for completion of the data, e.g., independent auditors and other government agencies, or in the case of the Revenue, Pieces and Weight by Classes of Mail and Special Services Report, the requirement that the report be completed within sixty days is alleged to be an unduly harsh burden on the staff of the Postal Service.

As in its earlier comments in this docket the Postal Service does not advance any proposed time schedules for filing of these periodic reports, except for the Revenue, Pieces and Weight by Classes of Mail and Special Services Report in which the Postal Service recommends a ninety-day deadline. To reiterate from our Order No. 141, we believe firmly that time schedules are necessary, for otherwise "the efficacy of having access to postal data would be severely undermined if the Commission and interested persons had no indication as to when the information [report] would be available for review and analysis."[2]

With this objective in mind, coupled with the need to obtain reported data before it becomes outdated, we adopted the present deadlines. Of course, where there is a bona fide reason for a late filing our general rules of practice provide procedures for relief. Specifically, rule 22 provides in part that "any requirement of any subpart of the Part 3001 may be waived in whole or in part to the extent permitted by law upon a showing that such waiver" is not prejudicial to other persons and is consistent with the public interest. [39 CFR § 3001.-

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[1] Ordinarily it is within an agency's discretion, especially without a showing of significant supervening changes or manifest inequity, to refuse to rehear issues which were explored during the course of a recent rulemaking proceeding. This is done, inter alia, to keep the administrative burden manageable. *See* Alabama Power Co. *v.* Federal Power Commission, 511 F. 2d 383 (D.C. Cir. 1974).

[2] *See* Order No. 141 (41 Fed. Reg. 47431, Oct. 29, 1976) at p. 6.