GSA (excess property). A determination should be made as to whether the land falls under the limitations of Executive Orders 11988 Floodplain Management and/or 11990, Protection of Wetlands and GSA should be notified of the determination.

c. Section 650.4 regarding right-of-way and use permits will be revised to read:

Prior to the granting of a permit or easement, a determination must be made as to whether the permit or easement area will fall within a floodplain or wetland or if the planned use may affect a floodplain or wetland area. If the area is within the floodplain or the planned use will affect the "floodplain" or a "wetland" area an appropriate notice must be published giving the nearest local jurisdictions, adjacent property owners, and the general public an opportunity to comment. An appropriate stipulation subjecting the grant to the requirements of Executive Orders 11988 and/or 11990 must also be added to the terms and conditions of the grant.

4. The Service's Engineering Handbook will be revised to require site surveys to include locations and elevations with respect to floodplains and wetlands. It will also specify that hydrological investigations include flood frequency and location with respect to floodplains.

The handbook will also state that the Office of Engineering will review all projects for compliance with orders, and discussion of location criteria (Sec. 303.2) will be revised to indicate:

Buildings should be located outside, or above, flood zones if at all practicable. When necessary to locate structures within the floodplain, the structures shall, whenever possible, be elevated above the base flood level rather than filling the land.

All other construction located in flood zones must include design features which will minimize or eliminate damages when exposed to or inundated by flood waters.

5. The Service's guidelines for the review and preparation of Environmental Impact Statements and general NEPA compliance are being updated. They will incorporate the instructions in item 1 of this notice in sections on the preparation of Environmental Assessments and Environmental Impact Statements.

The guidelines for review of environmental documents prepared by other agencies will state that potential impacts of proposed action on floodplains and wetlands should be carefully evaluated. Reviewers are to point out any unidentified impacts, suggest alternative project elements with less impact, and recommend steps that could be taken to restore or enhance natural floodplain or wetland values. If the recommended alternative or proposal does not appear to be in compliance with the orders it should be stated that such is the view of the U.S. Fish and Wildlife Service and recommendations should be made for modifying or abandoning the project.

6. Two FEDERAL REGISTER notices providing guidelines for the review of permits and licenses issued by other agencies are now being amended. Subsection F is added to Section 1.2 of Review of Fish and Wildlife Aspects of Proposals in or Affecting Navigable Waters, FR 40 No. 231, Part IV, December 1, 1975, and Subsection E is added to Section 2.1 of Oil and Gas Exploration and Development Activities in Territorial and Inland Navigable Waters and Wetlands, FR 40 No. 231, Part II, December 1, 1975. The new subsections are to read as follows:

Executive Orders 11988, Floodplain Management and 11990, Protection of Wetlands.

As part of the required reviews of applications for Federal permit or license to be issued by other agencies, Fish and Wildlife Service personnel must consider the effects of proposed actions on the natural and beneficial values of floodplains and wetlands. Personnel are to review all proposed actions in light of Executive Orders 11988 and 11990, the Water Resources Council's guidelines for implementing the Floodplain Management Order and the approved implementation guidelines of the permitting agency. If in the view of the Fish and Wildlife Service the proposed action is not in compliance with the Orders, the comments will so state and appropriate recommendations will be made.

Dated: May 25, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-15114 Filed 6-1-78; 8:45 am]

[8120-01]

TENNESSEE VALLEY AUTHORITY

IMPLEMENTATION OF EXECUTIVE ORDER NOS. 11988 AND 11990, FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

Draft Procedures

AGENCY: Tennessee Valley Authority (TVA)

ACTION: Draft procedures.

SUMMARY: The Tennessee Valley Authority proposes to adopt the following draft procedures to guide the development, coordination, and review of TVA activities. These procedures are intended to implement Executive Order Nos. 11988 and 11990, Floodplain Management and Protection of Wetlands.

DATE: Comments must be received on or before July 3, 1978.

ADDRESS: Comments should be sent to Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tenn. 37902.

FOR FURTHER INFORMATION CONTACT:

Edward H. Lesesne, Director, Division of Water Management, Tennessee Valley Authority, 448 Evans Building, Knoxville, Tenn. 37902, 615-632-3788.

SUPPLEMENTARY INFORMATION: These draft procedures were prepared recognizing the admonition of the Water Resources Council guidelines for implementing Executive Order No. 11988, to the effect that it may be impossible to anticipate the full range of individual program situations affected by the order and that an agency is responsible for tailoring its procedures to meet its legislatively prescribed missions and the requirements of the order.

As a regional resource development agency, TVA has a unique role. Under the Tennessee Valley Authority Act of 1933, 48 Stat. 58, as amended, 16 U.S.C. 831-831dd (1976), TVA has the responsibility for the advancement of the national defense and the physical, social, and economic development of the region, including responsibility for providing for flood control on the Tennessee River and improving navigation. The wide diversity and variety of TVA programs under the TVA Act make it impossible to anticipate the full range of individual situations affected by both Executive orders. Therefore, the most effective approach for implementing the Executive orders is not to attempt to adopt highly detailed procedures for each, but rather to incorporate floodplain and wetlands considerations into TVA's normal multi-disciplinary process for implementing the National Environmental Policy Act. This is consistent with the WRC guidelines, which provide that agencies should use existing processes established under CEQ's NEPA guidelines.

Under TVA's NEPA procedures, virtually every action undertaken by TVA is subjected to an interdisciplinary review utilizing all of TVA's in-house environmental expertise even where an environmental statement is not required. We feel, therefore, that the best implementation of the floodplain and wetlands Executive orders for TVA is to integrate those elements into these existing procedures. The draft procedures, coupled with our NEPA procedures, will assure that the intent of the Executive orders is achieved.

The draft procedures are as follows:

TVA Code IX—Floodplain Management and Protection of Wetlands

Part I. Purpose

This code provides guidance for compliance by TVA with Executive Order Nos. 11988, Floodplain Management, and 11990, Protection of Wetlands.

Part II. Definitions

A. "Floodplain" means the lowland and relatively flat areas adjoining inland waters, including at a minimum the 100-year floodplain, that area subject to a 1 percent or greater chance of flooding in a given year. The base floodplain is the 100-year floodplain. The critical action floodplain is the 500-year floodplain, that area subject to a 0.2 percent chance of flooding in a given year.

B. "Base Flood" means that flood with a 1 percent or greater chance of occurrence in any given year.

C. "Wetlands" means those areas inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats and natural ponds.

D. "New Construction" includes draining, dredging, channelizing, filling, diking, impounding, and related activities, and any structures or facilities begun after October 1, 1977.

E. "Critical Action" means any action for which even a slight chance of flooding would be too great.

Part III. Policy

TVA provides leadership and takes action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains. To accomplish these objectives, TVA avoids, to the extent possible, the long- and short-term impacts associated with the occupancy and modification of floodplains, and, whenever there is a practicable alternative avoids the direct or indirect support of floodplain development.

TVA provides leadership and takes action to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. To accomplish these objectives, TVA avoids, to the extent possible, the long- and short-term adverse impacts associated with the destruction or modification of wetlands, and whenever there is a practicable alternative, avoids the direct or indirect support of new construction in wetlands.

In order to obtain the views of the public, timely public information is provided to the fullest extent practicable of TVA plans for actions in floodplains or new construction in wetlands.

Part IV. Floodplain Evaluation

A. *Application.* This part shall apply to the following actions: (1) the acquisition, management, and disposition of TVA facilities and Federal lands under TVA's control; (2) construction and improvements undertaken, financed, or assisted by TVA; and (3) TVA activities and programs affecting land use, including but not limited to water and related land resources planning and approvals under § 26a of the TVA Act.

B. *Consideration of flood hazards and floodplain management.* Flood hazards and floodplain management shall be taken into account when formulating proposals for actions. The use of resources and the construction of TVA facilities and structures shall be consistent with the flood hazard involved, and unless inappropriate to the particular facility, the regulations promulgated under the National Flood Insurance Program. Nonopen space use of land in the floodplain will be avoided to the extent practicable. Where new structures or facilities are to be located in a floodplain, floodproofing, and other flood protection measures shall be applied. Raising of structures above the base flood levels, shall, when practicable, be preferred to filling.

When Federal property in a floodplain held by TVA is proposed for lease, granting of easements, and rights of way, or disposal: (1) The uses restricted under applicable floodplain regulations shall be referenced in the conveyance; (2) restrictions appropriate to the degree of hazard involved shall be attached; or (3) such properties shall be withheld from conveyance.

C. *Procedure.* For each action or class of actions described in this part, a floodplain evaluation will be performed. This evaluation will be made part of the environmental evaluation record and any ensuing environmental impact statement.

1. At the request of, and on the basis of information provided by the initiating office or division, the Division of Water Management will determine, in accordance with the Water Resource Council's "Guidance for Floodplain Management" (42 FR 52, 590-99 (1977)), or subsequent revisions, whether a proposed action, or any part of it, will occur in the base floodplain. For critical actions, the 500-year or greater floodplain will be used. Initiating offices and divisions shall seek flood hazard information at the earliest feasible stage of planning when alternative sites are being identified and evaluated.

2. The initiating office or division, the Division of Environmental Planning, and the Division of Law will determine the feasibility of providing early public review for particular actions or classes of action to be located in a floodplain for such proposals. The Division of Navigation Development

and Regional Studies will send a notice to state and area A-95 clearinghouses for the geographical area affected.

3. If it is determined that any part of a proposed action will occur in a floodplain, offices or divisions will, in accordance with their program interests and fields of expertise, recommend, and evaluate: (a) alternatives to avoid adverse effects and incompatible development in the floodplain, and (b) measures to minimize potential harm to or within the floodplain.

4. The initiating office or division will include in the EER a preliminary determination whether the only practicable alternative(s) consistent with the law and the policy of this code requires siting in a floodplain. This determination will be made by considering the project benefits and the following factors:

(a) The risk of flood hazard to humans and property;

(b) The effect of floodplain modification or occupancy on water quality, ground water recharge, living resources, cultural resources, and agricultural resources; and

(c) The feasibility and availability of non-floodplain sites.

5. If the Director of the Division of Environmental Planning, after consultation with the Division of Law, concurs in the determination, it is a final determination. If the Director of the Division of Environmental Planning does not concur, the initiating office or division may refer the matter to the General Manager for determination.

6. If a final determination is made that the only practicable alternative requires floodplain siting, a short notice will be prepared and circulated explaining why the action is proposed to be located in a floodplain. If the action is subject to Office of Management and Budget Circular A-95 procedures, the notice shall be sent to state and areawide A-95 clearinghouses for the areas affected. For actions not subject to A-95 review, the notice will be made available in a reasonable manner to the areas affected. The notice shall include the reasons for locating in a floodplain, a statement whether the action conforms to applicable floodplain protection standards, and a list of alternatives studied. When feasible, a brief period for comment will be allowed before implementing the action, the period to be specified in the notice.

7. Requests for new appropriations submitted to the Office of Management and Budget will indicate, for actions proposed to be located in a floodplain, whether the action is in accord with Executive Order No. 11988.

8. When a class of routine or recurring actions exists and the considerations of whether to locate in a floodplain are substantially similar, a floodplain evaluation of the class may be undertaken. If the evaluation results in a final determination that normally for each action within the class the only practicable alternative(s) consistent with the law and the policy of Executive Order No. 11988 requires siting in a floodplain, then subsequent actions in the class shall not normally require a floodplain evaluation.

PART V. PROTECTION OF WETLANDS

A. *Application.* Subject to the exceptions defined below, this part applies to: (1) the acquisition, management, and disposition of TVA facilities and Federal lands under TVA's control; (2) construction and improvements undertaken, financed, or assisted by TVA; and (3) TVA activities and programs affecting the land use, including but not limited to water and related land resources planning, regulating, and licensing activities. This part does not apply to the issuance of permits, licenses, or allocations to private parties for activities involving wetlands, e.g., such as 26a permits. This part also does not apply to projects or programs under construction or in operation on May 24, 1977, or for which all of the funds have been appropriated through fiscal year 1977, or for which a draft or final environmental impact statement was filed or the environmental review was completed prior to October 1, 1977.

B. *Procedure.* For each action or class of actions described in this part, a wetlands evaluation will be performed. This evaluation will be made a part of the environmental evaluation record and any ensuing environmental impact statement.

1. At the request of, and on the basis of information provided by the initiating office or division, the Division of Forestry, Fisheries, and Wildlife Development will determine, in accordance with the "Classification of Wetlands and Deep-Water Habitats of the United States" Cowardin (1977), whether a proposed action will undertake, or provide assistance for, new construction located in a wetlands.

2. The initiating office or division, the Division of Environment Planning, and the Division of Law will determine the feasibility of providing early public review for particular actions or classes of action that will involve new construction in wetlands. For such proposals the Division of Navigation Development and Regional Studies will send a notice to state and area A-95 clearinghouses for the geographical area affected.

3. If a proposed action involves new construction in a wetlands, alternatives to such construction will be evaluated. Offices and divisions, in accordance with their program interests and fields of expertise, will recommend measures to minimize harm to the wetlands from the proposed action.

4. The initiating office or division should include in the EER a preliminary determination: (1) that there is no practicable alternative(s) consistent with the law to such construction; and (2) that the proposed action includes all practicable measures to minimize harm to wetlands. This determination will be made by considering the project benefits and the following factors: (a) Living resources; (b) cultural resources; (c) water quality; (d) agricultural and forestry resources; and (e) feasibility and availability of alternative sites.

5. If the Director of the Division of Environmental Planning, after consultation with the Division of Law, concurs in the determination, it is a final determination. If the Director of the Division of Environmental Planning does not concur, the initiating office or division may refer the matter to the General Manager for determination.

6. When a class of routine or recurring actions exists and the impacts and considerations of siting new construction in a wetlands are substantially similar, a wetlands evaluation of the class may be undertaken. If the evaluation results in a final determination that: (1) for the actions within the class there is usually not a practicable alternative, consistent with the law and the policy of this code, to new construction in wetlands; and (2) all practicable measures to minimize harm to wetlands have been included, than subsequent actions in that class shall not normally require a wetlands evaluation.

7. Any requests for new appropriations submitted to the Office of Management and Budget shall indicate whether a proposed action to be located in wetlands is in accord with Executive Order No. 11990.

8. When federally owned wetlands under TVA's control are proposed for lease, granting of easements and rights of way, or disposal to non-Federal parties: (1) the conveyance shall reference uses restricted under applicable wetlands regulations; (2) restrictions consistent with the policy of this code will be attached as allowed by law; or (3) the property will be withheld from disposal.

Dated: May 23, 1978.

H. N. STROUD, Jr.,
Acting General Manager.

[FR Doc. 78-15416 Filed 6-1-78; 8:45 am]

federal register

FRIDAY, JUNE 2, 1978

PART V

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

■

Implementation of Statutory Changes Made by Public Law 95–176

[4810-31]

Title 27—Alcohol, Tobacco Products and Firearms

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

[T.D. ATF-51]

IMPLEMENTATION OF STATUTORY CHANGES MADE BY PUBLIC LAW 95-176

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: These regulations implement Pub. L. 95-176. This law provides a series of liberalizing amendments to the Internal Revenue Code relating to: (1) exportation of distilled spirits and wines; (2) mingling of distilled spirits; (3) use of distilled spirits for research, development or testing; (4) production of gin; and (5) return of bottled-in-bond spirits to bonded premises.

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Linthicum, Specialist, Procedures Branch, Regulations and Procedures Division (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C., 20226, 202-566-7602.

SUPPLEMENTARY INFORMATION: Pub. L. 95-176 provides seven revisions in the Internal Revenue Code which: (1) extend to distilled spirits that are imported and then packaged or bottled in the United States for export the same tax drawback benefits given under present law to domestically produced spirits that are packaged or bottled for export; (2) allow distilled spirits to be returned to bonded premises of distilled spirits plants or to export storage facilities, with benefit of tax credit or refund, etc., for storage pending exportation and certain other preferred dispositions (e.g., use on vessels and aircraft or for transfer to foreign-trade zones); (3) allow refund or credit of tax on spirits bottled-in-bond after tax determination and returned to bonded premises pending further withdrawal; (4) allow distilled spirits bottled-in-bond, or returned to an export storage facility for export, to be transferred without payment of tax to customs bonded warehouses for storage pending exportation; (5) allow distilled spirits to be withdrawn from bonded premises without payment of tax for purposes of research, development or testing; (6) relax the conditions under which bonded distilled spirits may be mingled; and, (7) allow gin to be made with the extracted oils of juniper berries and other aromatics, as well as with the juniper berries or other aromatics themselves, without payment of the rectification tax.

EXPORT DRAWBACK ON IMPORTED DISTILLED SPIRITS AND WINES

Previous law authorized an allowance of drawback in the amount of the taxes paid or determined upon the exportation of distilled spirits or wines manufactured or produced in the United States. Export drawback was allowed on imported distilled spirits or wines only if they were used in the production of rectified products in the United States. The new statute extends this drawback privilege to include imported distilled spirits or wines if they are bottled or packaged in the United States.

The new statute also permits exportation with benefit of drawback for "other bulk containers" (5 wine gallons, or more) in addition to packages, casks, and bottles. A definition of "bulk container" is added to § 252.11. Conforming changes are made in sections in Parts 170, 201, 231 and 252 which refer to containers.

(§§ 170.137, 170.173, 201.469, 231.100, 252.30, 252.36, 252.37, 252.171, 252.192, 252.193, 252.211, 252.216, 252.263 amended; § 252.11, new definition added)

RETURN OF TAX-DETERMINED DISTILLED SPIRITS TO BONDED PREMISES

The new statute has expanded the types of transactions for which tax-determined distilled spirits may be returned to bonded premises with the benefit of abatement, remission, credit, or refund of tax on spirits returned. These various types of transactions are discussed below.

Under previous restrictions, distilled spirits could be returned to bonded premises for destruction, denaturation, redistillation, or certain types of mingling. Returning taxpaid or tax-determined distilled spirits to bonded premises for these purposes entitled the proprietor to abatement, remission or credit or refund (without interest) of distilled spirits excise tax. These provisions remain unchanged.

Return of spirits to bonded premises pending export. The new statute allows distilled spirits, which would be eligible for drawback upon exportation, to be returned to an export storage facility on the bonded premises of the distilled spirits plant where bottled or packaged for the purpose of storage pending withdrawal without payment of tax for exportation, use as supplies on certain vessels or aircraft, deposit in a foreign trade zone or transfer to a customs bonded warehouse (all of which are referred to hereafter as "exportation"). Similarly, distilled spirits may be returned to an export storage facility for withdrawal free of tax for the use of the United States. For the purpose of storage pending export, any type of distilled spirits, including rectified and foreign products, may be returned to an export storage facility. Under these regulations the proprietor may submit a claim for credit or refund (without interest) of the internal revenue tax paid or determined on the distilled spirits returned. The amount of tax claimed is the same as would be allowed for drawback on the exportation of those distilled spirits.

Establishment of export storage facilities. Distilled spirits plant proprietors who wish to return spirits to bonded premises under this provision, shall make application on Form 2607, Registration of Distilled Spirits Plant, to establish an export storage facility. The construction and security requirements for bonded export storage facilities will be the same standards normally required for bonded premises where packages are stored. The export storage facilities shall be a separate area used solely for storage of spirits returned to bonded premises pending withdrawal without payment of tax for export, or free of tax for the use of the United States. The establishment of export storage facilities may also be allowed as alternating bonded and bottling premises under the provisions of 27 CFR 201.175. Alternated export storage facilities shall be a separate room or building which conforms to the same standards normally required for bonded premises where packages are stored.

Return of spirits bottled-in-bond after tax determination. The new statute also allows distilled spirits, which are bottled-in-bond for domestic consumption under Subpart Na of Part 201, to be returned to the bonded premises of the distilled spirits plant where bottled for storage. Withdrawal from bonded premises may be for any purpose for which distilled spirits bottled-in-bond under Subpart K of Part 201 are withdrawn from bonded premises.

Withdrawals upon tax determination become additions to controlled stock and the tax liability may be assumed on the tax return, Form 4077. The proprietor may submit a claim for credit or refund (without interest) of tax on the returned spirits.

ATF F 5110.17, Return of tax-determined spirits to bonded premises. Form 2612 is revised to provide for returning tax-determined spirits to bonded premises under the new statute. The form is redesignated as ATF F 5110.17 to conform with the Bureau's standard subject classification system. The form is modified to record disposition of spirits returned to bonded premises, in a manner similar to Form 1515, Distilled Spirits Bottled in Bond. Since ATF F 5110.17 will now serve as a warehouse record for spirits returned to bonded premises, it will not be completed until disposition of all spirits recorded on the form. In order to expedite filing claims for taxes on spirits returned to bonded premises, the original ATF F 5110.17 recording the gauge of spirits returned, will be filed with the regional regulatory administrator immediately after recording the gauge of the spirits returned, and may be referenced as a supporting document for claims filed under § 201.44. The remaining copies will not be filed until disposition of all spirits recorded on the form.

Overprinting strip stamps. Section 201.541 now requires that strip stamps on bottles of spirits to be exported be overprinted with the words "Export" or "Drawback". Since spirits may now be returned to the export storage facility for storage pending exportation, § 201.541 is amended to require that strip stamps on bottles of these spirits be similarly overprinted with the word "Export".

(§§ 170.43, 201.44, 201.132, 201.149, 201.311, 201.541, Subpart S—Return of Spirits to Bonded Premises, 201.622, 201.628, 201.629, 252.61, 252.62, 252.91, 252.173 amended; §§ 201.116a, 201.241a, 252.91a added; §§ 201.11, 252.11, new definitions added.)

WITHDRAWALS TO CUSTOMS BONDED WAREHOUSES

Under previous law, distilled spirits could be withdrawn without payment of tax from the bonded premises of a distilled spirits plant for exportation. There was no comparable provision allowing withdrawal without payment of tax for transfer to a customs bonded warehouse for storage pending exportation. Spirits entered into a customs bonded warehouse could only be withdrawn for use in the United States by foreign embassies, legations and other specially qualified individuals. The new statute allows distilled spirits bottled-in-bond or returned to bonded export storage facilities to be transferred without payment of tax to a customs bonded warehouse for storage pending exportation.

(§§ 201.386, 252.26(a), 252.27 amended.)

SPIRITS WITHDRAWN FOR RESEARCH, DEVELOPMENT OR TESTING

Under previous law, samples of distilled spirits could be withdrawn free of tax from the bonded premises of a distilled spirits plant as samples for use only in tests or for laboratory analyses.

The new statute recognizes that previous limitations on these withdrawals were restrictive and in need of revision. The liberalized restrictions are now consistent with those purposes allowed for withdrawal without payment of tax for beer (26 U.S.C. 5053). The new statute provides that distilled spirits may be withdrawn "without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials or equipment, relating to distilled spirits or distillery operations . . .".

The new regulations divide withdrawal of spirits without payment of tax for research, development or testing into two categories: (1) withdrawal for testing or laboratory analysis to determine the quality or character of the finished product, discussed below as "quality control" testing; and (2) withdrawals for research, development or testing of processes, systems, materials or equipment relating to distilled spirits or plant operations, discussed below as "research and development" testing.

Quality control testing will be permitted with fewer restrictions. This testing must be conducted at the proprietor's laboratory located at the same distilled spirits plant or at a laboratory located at the distilled spirits plant of an affiliated or subsidiary corporation. The quantities withdrawn for quality control testing on a continuing basis will be subject to the approval of the assigned officer or area supervisor, and taxpayment will be required for quantities determined to be excessive. The proprietor will be required to extend the terms of the surety bond to cover the tax on spirits withdrawn without payment of tax for quality control testing.

Research and development testing will be regulated by requiring a letter application for each removal or each individual research, development or testing project. The laboratory receiving the spirits will be required to provide a written statement agreeing to keep records of receipt, use and disposition of the spirits and to permit inspection of those records and operations by ATF officers. This written statement will not be required when the testing is done at the proprietor's laboratory or the laboratory of a distilled spirits plant operated by an affiliated or subsidiary corporation. The proprietor will be required to extend the terms of the surety bond to cover the tax on spirits withdrawn without payment of tax for research and development testing.

Restrictions relating to withdrawal of samples of denatured spirits by dealers, users, applicants or prospective applicants for permits have been moved to § 201.393, which now covers all types of removals of denatured spirits from bonded premises.

ATF Form 1615, Report of Tax Due on Samples of Distilled Spirits, is now obsolete. Taxpayment of excessive quantities of spirits withdrawn for research, development or testing will be accomplished with ATF Form 179, Withdrawal of Spirits Tax-Determined, as other taxpayment. Summary records, schedules of spirits withdrawn for testing or laboratory analysis and applications relating to spirits withdrawn for research, development or testing will record the information previously shown on ATF Form 1615.

Spirits withdrawn for research, development or testing and lost prior to being used will be eligible for remission of tax.

General sections relating to termination of tax liabilities and withdrawals without payment of tax are amended by making conforming changes.

(§§ 201.25, 201.43, 201.249, 201.386, 201.393, 201.626 amended; Subpart T—Samples, §§ 201.631(c)(1), 201.631a deleted; Subpart T—Spirits Withdrawn for Research, Development or Testing, added.)

MINGLING UNDER 26 U.S.C. 5234 (a)(2)

Under previous law, distilled spirits mingled on bonded premises under 26 U.S.C. 5234(a)(2) were required to be returned to the same packages from which removed and the mingling was required to be for the purpose of further storage in bond.

The new statute and the regulations covering this type of mingling delete the requirements for further storage in bond and repackaging. Further storage in bond is now an option and not a requirement.

A conforming change is made in the § 201.29 relating to tax-exempt rectification. ATF Form 2546, Report of Spirits Mingled under 26 U.S.C. 5234(a)(2), is obsolete and the regulatory reference to it is deleted.

(§§ 201.29(t), 201.301, 201.310 amended; § 201.634(c) deleted)

USE OF EXTRACTED OILS IN PRODUCTION OF GIN

The previous law, 26 U.S.C. 5025(b) allowed exemption from rectification tax for production of gin on the bottling premises of a distilled spirits plant by redistillation of pure spirits over juniper berries and other natural aromatics.

The new statute allows tax-exempt rectification of gin by redistillation with the use of extracted oils of juniper berries and other natural aromatics. Gin may be produced without payment of rectification tax on either bottling premises or bonded premises.

There is no specific section of the Code which discusses production of gin on the bonded premises of a distilled spirits plant. However, based on congressional intent, § 201.29 (b) and (c) are amended to allow use of extracted oils on bonded production premises in gin production. Extracted oils of juniper berries and other natural aromatics for use in gin production are added to the list in § 201.262 of distilling materials which may be received on bonded production premises.

Proprietors who intend to produce gin on bonded premises using extracted oils of juniper berries and other natural aromatics shall file a statement of process on the plant registration, Form 2607, prior to using extracted oils. Proprietors who intend to produce gin on bottling premises using extracted oils of juniper berries and other natural aromatics shall obtain an approved formula, Form 27-B Supplemental, Formula and Process for Rectified Products, covering the use of extracted oils, prior to commencing this activity.

Conforming changes are made in § 201.29 (b) and (c) relating to tax exempt rectification of gin. Also, the word "natural" is added in § 201.441 before the word "aromatic" since it was inadvertently omitted when the section was originally written.

(§§ 201.29(b) and (c), 201.262, 201.267, 201.441, 201.619 amended)

MISCELLANEOUS AMENDMENTS

Where they appeared in amended sections, the terms "assistant regional commissioner" and "regional director" are replaced by the term "regional regulatory administrator". The terms "internal revenue officer" and "alcohol, tobacco and firearms officer" are replaced by the term "ATF officer". The terms "director of customs" and "collector of customs" are replaced by the term "district director of customs". Some sections were rewritten to clarify language. The statutory citations for amended sections are revised to conform with the style prescribed by the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of this document is John A. Linthicum, Specialist, Procedures Branch, Regulations and Procedures Division (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226. However, other officials from the Bureau and from the Treasury Department participated in developing the Treasury decision, both on matters of substance and style.

COMPLIANCE WITH EXECUTIVE ORDER 12044

These regulations are necessary to implement Pub. L. 95-176 which was effective March 1, 1978. In order to expedite issuance of regulations under that statute and to provide immediate guidance to industry members, Richard J. Davis, Assistant Secretary of the Treasury (Enforcement and Operations) has determined that compliance with Executive Order 12044 is impractical.

EFFECTIVE DATE

Because this Treasury decision is both liberalizing and clarifying in nature, operates to the benefit of the regulated taxpayers, requires no public initiative, and because there is a need for immediate implementation of Pub. L. 95-176, it is found to be impracticable, unnecessary and contrary to the public interest 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). Accordingly this Treasury decision becomes effective on June 2, 1978. Petitions to modify provisions of this decision will be considered on an expedited basis.

AUTHORITY AND ISSUANCE

These regulations are issued under authority of 26 U.S.C. 7805 (68A Stat. 917, as amended).

In view of the above, Title 27 of the Code of Federal Regulations is amended to read as follows:

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

§ 170.43 [Amended.]

PAR. 1. Spirits bottled-in-bond after tax determination and returned to bonded premises, as authorized by the new statute, may subsequently, upon tax-determination, become additions to controlled stock. In § 170.43, the definition of "controlled stock" is amended to reflect this change by deleting from paragraph (b) the words "(prior to tax determination)".

PAR. 2. Amend §§ 170.137 and 170.173 to allow Puerto Rican and Virgin Islands distilled spirits to be exported with benefit of drawback if bottled or packaged in the United States. Paragraphs (a) and (b) are retained unchanged in each section. As amended, these sections read as follows:

§ 170.137 Exportation with benefit of drawback.

Spirits from the Virgin Islands which are bottled in bottles packed in containers, or which are packaged in casks or other bulk containers in the United States, or which are used to produce a distilled spirits product in the United States are eligible for exportation with benefit of drawback. Export drawback claims involving those spirits shall show:

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062).)

§ 170.173 Exportation with benefit of drawback.

Spirits from Puerto Rico which are bottled in bottles packed in containers, or which are packaged in casks or other bulk containers in the United States, or which are used to produce a distilled spirits product in the United States, are eligible for exportation with benefit of drawback. Export drawback claims involving those spirits shall show:

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062).)

PART 201—DISTILLED SPIRITS PLANTS

PAR. 3. Amend the Table of Contents to Part 201: (1) to reflect changes in titles of amended regulations; (2) to delete Subpart T—Samples, and §§ 201.587 and 201.631a; (3) to add titles of new sections and Subpart T—Spirits Withdrawn for Research, Development or Testing; and, (4) to redesignate §§ 201.584a, 201.585 and 201.586 as §§ 201.585, 201.586 and 201.587, respectively. As amended, the table of contents reads as follows:

* * * * *

Sec.
201.43 Claims on spirits lost or destroyed in bond.
201.44 Claims on spirits returned to bonded premises.

* * * * *

201.116a Export storage facilities.

* * * * *

201.241a Export storage facilities.

* * * * *

201.301 Mingling under 26 U.S.C. 5234(a)(2).

* * * * *

201.583 Receipt and disposition of returned taxpaid spirits.
201.584 Return of recovered denatured spirits and recovered articles.
201.585 Articles and spirits residues received for redistillation.
201.586 Return of recovered tax-free spirits, and spirits and denatured spirits withdrawn free of tax.
201.587 Return of spirits withdrawn without payment of tax.

* * * * *

Subpart T—Spirits Withdrawn for Research, Development or Testing

201.601 Withdrawal of spirits without payment of tax.
201.602 Schedule of spirits withdrawn for testing or laboratory analysis.
201.603 Mechanical sampling devices.
201.604 Taxable withdrawals.
201.605 Labels.
201.606 Withdrawals for testing or laboratory analysis.
201.607 Withdrawals for research, development or testing.

* * * * *

Sec.

201.626 Record of withdrawals from bonded premises for research, development or testing.

* * * * *

201.631 Submission of transaction forms and reports.

201.633 Monthly reports.

* * * * *

PAR. 4. Amend § 201.11 by adding a definition of "export storage facilities". As amended, § 201.11 reads as follows:

§ 201.11 Meaning of terms.

* * * * *

Export storage facilities. The part of the bonded premises of a distilled spirits plant, established under 26 U.S.C. 5178(a)(3)(D), for the storage of distilled spirits returned under 26 U.S.C. 5215(b).

* * * * *

PAR. 5. Amend § 201.25 to reflect the withdrawal of spirits without payment of tax for research, development or testing. As amended this section reads as follows:

§ 201.25 Persons liable for tax.

(a) *Distilling.* 26 U.S.C. 5005 provides that the distiller of spirits is liable for the tax and that each proprietor or possessor of, and 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. However, 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 that proprietor, is not liable by reason of the stock ownership or control. Persons transferring spirits in bond so liable for the tax are relieved of 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 the spirits. Persons withdrawing spirits on determination of tax under a withdrawal bond and liable for the tax are relieved of such liability if (1) the person withdrawing the spirits and the person or persons so liable for the tax are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and (2) all persons liable for the tax have divested themselves of all interest in the spirits withdrawn.

(b) *Storage on bonded premises.* 26 U.S.C. 5005(c) provides that each person operating bonded premises shall be liable for the tax on all spirits while the spirits are stored on the premises, and on all spirits which are in transit to the premises from the time of removal from the transferor's bonded premises, pursuant to an approved application. Liability for the tax continues until the spirits are transferred or withdrawn from bonded premises as authorized by law, or until the liability for tax is relieved under the provisions of 26 U.S.C. 5008(a). Claims for relief from liability for spirits lost are provided for in § 201.43. Voluntary destruction of spirits in bond is provided for in Subpart R of this part.

(c) *Withdrawals without payment of tax.* Under 26 U.S.C. 5005(e), any person who withdraws spirits from the bonded premises of a plant without payment of tax, as provided in 26 U.S.C. 5214, shall be liable for the tax on the spirits from the time of withdrawal. The person shall be relieved of any liability at the time the spirits are exported, deposited in a foreign-trade zone, used in production of wine, deposited in a customs bonded warehouse or a customs manufacturing bonded warehouse, laden as supplies upon or used in the maintenance or repair of certain vessels or aircraft, or used for certain research, development or testing, as provided by law.

(d) *Withdrawals free of tax.* Persons liable for tax under paragraph (a) of this section, are relieved of the liability on spirits withdrawn from bonded premises free of tax under this part, at the time the spirits are withdrawn.

(e) *Withdrawals on tax determination.* Under 26 U.S.C. 5005(c)(3), any person who gives a withdrawal bond, as provided in 26 U.S.C. 5174 shall be liable for the tax on spirits withdrawn on determination of tax from bonded premises under the bond from the time of withdrawal.

(f) *Withdrawal from customs custody without payment of tax.* 26 U.S.C. 5232(a) provides that when imported distilled spirits in bulk containers are withdrawn from customs custody and transferred to the bonded premises of a distilled spirits plant without payment of the internal revenue tax imposed on imported distilled spirits by 26 U.S.C. 5001, the person operating the bonded premises of the distilled spirits plant to which spirits are transferred shall become liable for the tax on the spirits upon their release from customs custody, and the importer shall thereupon be relieved of liability for the tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended (26 U.S.C. 5005); Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

PAR. 6. Amend section 201.29 to include the use of extracted oils in tax-exempt rectification of gin and to delete the term "for further storage in bond" from tax-exempt mingling on bonded premises. As amended, § 201.29 reads as follows:

§ 201.29 Exemption from rectification tax.

* * * * *

(b) Gin produced on bonded premises in the course of original and continuous distillation over juniper berries and other natural aromatics, or the extracted oils of such;

(c) Gin produced on bottling premises by redistillation of pure spirits over juniper berries and other natural aromatics, or the extracted oils of such, in the manner authorized on bonded premises;

* * * * *

(t) Spirits mingled on bonded premises as provided in 26 U.S.C. 5234(a)(2), and § 201.301 of this part;

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1328, as amended, 1338, 1356, as amended, 1381 as amended (26 U.S.C. 5021, 5022, 5023, 5025, 5082, 5201, 5363).)

PAR. 7. Amend § 201.43 to provide for claims for spirits lost after withdrawal, but before being used for research, development or testing. A new paragraph (a)(7) is added to paragraph (a), and present paragraphs (a)(7) and (a)(8) are redesignated (a)(8) and (a)(9), respectively. Paragraph (c) is redesignated (c)(1) and a new paragraph (c)(2) is added. As amended, § 201.43 reads as follows:

§ 201.43 Claims on spirits lost or destroyed in bond.

(a) *Claims for remission.* All claims for remission of tax required by this part, relating to the destruction or loss of spirits (including denatured spirits) in bond, shall be filed with the regional regulatory administrator and shall set forth the following:

* * * * *

(7) The name and address of the consignee, in the case of spirits withdrawn without payment of tax which are lost before being used for research, development or testing;

(8) 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;

(9) In the case of a loss, by theft, whether the claimant is indemnified or recompensed for the spirits lost and if so, the amount and nature of indemnity or recompense and the actual value of the spirits, less the tax.

(b) *Claims for abatement, credit, or refund.* Claims for abatement of an assessment, or for credit or refund of tax which has been paid or determined, for spirits (including denatured spirits) lost or destroyed in bond shall be filed with the regional regulatory administrator. The claims shall set forth the information required under paragraph (a) of this section and, in addition, shall set forth (1) the date of assessment or payment (or of tax determination, if the tax has not been assessed or paid) of the tax for which abatement, credit, or refund is claimed, and (2) the name, plant number, and the address of the plant where the tax was determined, paid, or assessed (or name, 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 document.* (1) Claims under paragraphs (a) and (b) of this section shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss or destruction. For claims on spirits (including denatured spirits) lost while being transferred by carrier, the claim shall be supported by a copy of the bill of lading.

(2) For claims pertaining to losses of spirits withdrawn without payment of tax and lost prior to being used for research, development or testing, the claim shall be supported by a copy of the proprietor's approved application or schedule prescribed in Subpart T of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008).)

PAR. 8. Amend § 201.44 to provide for claims for credit or refund of tax on spirits returned to bonded premises. As amended, § 201.44 reads as follows:

§ 201.44 Claims on spirits returned to bonded premises.

Claims for credit or refund of tax on spirits which have been withdrawn from bonded premises on payment or determination of tax and which are returned under 26 U.S.C. 5215 shall be filed with the regional regulatory administrator and shall set forth the following:

* * * * *

(d) Except for spirits returned to an export storage facility, a statement that no alcoholic ingredients other than fully taxpaid eligible distilled spirits have been added to the product covered by the claim;

(e) The serial number of ATF F 5110.17 recording the gauge of spirits returned to bonded premises; and

(f) For spirits returned to export storage facilities, a statement of the export drawback rate applicable to the returned spirits. The rate shall be computed as provided in §§ 252.173 or 252.195a of this chapter, and shall be supported, as appropriate, by a copy of each related dump and batch record, Form 2630, Form 2637, or approved substitute record, covering the dumping and bottling or packaging of the spirits. If the spirits contain Puerto Rican or Virgin Islands spirits, the claim shall show: (1) The precise quantity (in proof gallons) of the finished product derived from Puerto Rican or Virgin Islands spirits; and, (2) The amount of tax and the applicable rate of tax imposed by 26 U.S.C. 7652, determined at the time of withdrawal from internal revenue bond on the Puerto Rican or Virgin Islands spirits contained in the product.

Claims for credit or refund of tax shall be filed by the proprietor of the plant to which the spirits were returned within six months of the date of the return. If the claim is allowed, refund (without interest) will be made or credit (without interest) will be allowed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008); Sec. 2, Pub. L. 95-176, 91 Stat. 1363 (26 U.S.C. 5215).)

PAR. 9. Add a new § 201.116a immediately following § 201.116, to provide for establishment of export storage facilities. As added, § 201.116a reads as follows:

§ 201.116a Export storage facilities.

A proprietor who has established facilities for the storage on bonded premises of distilled spirits under § 201.116 may establish a portion of the premises as an export storage facility for distilled spirits returned to bonded premises under § 201.581(b).

(Sec. 2, Pub. L. 95-176, 91 Stat. 1364; (26 U.S.C. 5178 (a)(3)(D)).)

Par. 10. Amend § 201.132 to require a description of export storage facilities in the application for registration. As amended, § 201.132 reads as follows:

§ 201.132 Data for application for registration.

* * * * *

(j) * * *

* * * * *

(2) * * *

* * * * *

(ii) Description of the system of storage, including export storage facilities, and statement of storage capacity (bulk, packages and cases).

* * * * *

(5) * * *

If any of the information required by paragraph (c) or paragraph (g) of this section is on file with the regional regulatory administrator, that information, if accurate and complete, may by incorporation by reference, be made part of the application. The applicant shall, when required by the regional regulatory administrator, furnish as a part of the application for registration, additional information as may be necessary to determine whether the application for registration should be approved.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5171, 5172).)

Par. 11. Amend § 201.149 to require a description of the export storage facilities on the bonded premises in the application for registration. As amended, § 201.149 reads as follows:

§ 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. For a plant producing spirits, the premises subject to tax lien under 26 U.S.C. 5004(b) shall include the bonded premises, any building containing any part of bonded premises, and the tract of land on which any building containing any part of the bonded premises is situated. The application shall include a description of each tract of land subject to lien under 26 U.S.C. 5004(b). The description 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 area shall be identified by number or letter. If any portion of the bonded premises is to be used as export storage facilities, as provided in § 201.116a, the facilities 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 facilities from other facilities which would prevent a 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 shall be given.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172).)

Par. 12. Add a new § 201.241a immediately following § 201.241. Section 201.241a reads as follows:

§ 201.241a Export storage facilities.

When authorized to return distilled spirits to bonded storage pending exportation, the proprietor shall designate a specific room or building for that purpose. This room or building need not be used exclusively for the storage of returned spirits, but when used as an export storage facility the room or building may only be used for storage pending withdrawal without payment of tax under 26 U.S.C. 5214(a) (4), (7), (8) or (9), or free of tax under 26 U.S.C. 7510. The room or building shall be constructed as provided in § 201.231.

(Sec. 2, Pub. L. 95-176, 91 Stat. 1363, 1364 (26 U.S.C. 5215, 5178(a) (3) (D)).)

Par. 13. Amend § 201.249 to reflect the fact that distilled spirits may be withdrawn by the proprietor for research, development or testing and to add a statutory authority. As amended, § 201.249 reads as follows:

§ 201.249 **Sampling devices.**

At each place in the production system where unfinished distilled spirits or denatured spirits are to be withdrawn for research, development or testing, the proprietor shall install a mechanical device which will: (a) Permit the spirits to be withdrawn without supervision; (b) accurately record or reflect the total quantities of spirits removed; and (c) prevent access to the closed system without detection. The regional regulatory administrator may approve the installation of sampling devices at other locations in the plant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552).)

Par. 14. Amend § 201.262 to provide for receipt on bonded premises, of extracted oils of juniper berries and other natural aromatics for use in gin production. As amended, § 201.262 reads as follows:

§ 201.262 **Receipt of materials.**

The quantities of fermenting and distilling materials received on distillery premises shall be determined by the proprietor and reported as provided in Subpart U of this part. Distilling materials, as used in this section, means: spirits (including denatured spirits), articles and spirits residues, for redistillation, extracted oils of juniper berries and other natural aromatics to be used in the course of original and continuous distillation of gin and, non- potable chemical mixtures containing spirits produced in accordance with § 201.66. Fermented material (except apple cider exempt from tax under 26 U.S.C. 5042(a) (1)) to be used in the * * *

* * * * *

(Sec 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1365, as amended (26 U.S.C. 5201, 5222, 5223).)

Par. 15. Amend § 201.267 to allow use of extracted oils of juniper berries and other natural aromatics in gin production on bonded premises. As amended, § 201.267 reads as follows:

§ 201.267 **Treatment during production.**

Spirits may, in the production facilities in the course of original and continuous distillation or other original and continuous processing, be purified or refined through, or by use of, any material which will not remain incorporated in the finished product. Juniper berries and other natural aromatics, or the extracted oils of such, may be used in the distillation of gin. Spirits may be percolated * * *

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1328, as amended, 1338, 1356 (26 U.S.C. 5025, 5082, 5201).)

Par. 16. Amend § 201.301 to delete the requirement for repackaging and further storage of spirits mingled in bond. As amended, § 201.301 reads as follows:

§ 201.301 **Mingling 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. The mingled spirits may be repackaged, for further storage in bond using the packages from which dumped, or using packages which last contained the same class and type of spirits. If spirits produced in different distilling seasons are mingled under this section, the mingled spirits shall consist of not less than 10 percent of spirits of each season. Spirits mingled under the provisions of this section may not again be mingled under these provisions until at least 1 year has elapsed since the last prior mingling.

(Sec. 201. Pub. L. 85-859, 72 Stat. 1328, as amended, 1367, as amended (26 U.S.C. 5025, 5234).)

Par. 17. Amend § 201.310 to replace the words "consolidation of packages" with the word "mingling" in paragraph (c). As amended, § 201.310 reads as follows:

§ 201.310 **Taxable losses.**

* * * * *

(c) *Applicability to packages filled after entry.* The provisions of this section apply to spirits (including denatured spirits) which are filled into casks or packages, as authorized by law, after entry and deposit in storage in internal revenue bond, whether by recasking, filling from storage tanks, mingling, or otherwise. The quantity filled into those casks or packages is considered to be the original quantity for the purpose of this section in the case of loss from those casks or packages.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended (26 U.S.C. 5006).)

§ 201.311 **[Amended]**

Par. 18. Amend § 201.311 to: (1) Require monthly physical inventories of all spirits stored in bonded export storage facilities; (2) replace the words "regional director" with the words "regional regulatory administrator"; and (3) to correct the statutory citation. After the sentence "Losses of spirits (including denatured spirits) sustained from the tanks and bulk conveyances in bonded warehouses shall be determined by the proprietor each time a tank or bulk conveyance is emptied and on the basis of a physical inventory at the close of each month." the following new sentence is added: A complete physical inventory of the bonded export storage facilities shall be taken at the end of each month, and shortages found by this inventory shall be taxpaid, unless a claim for remission is filed in accordance with § 201.43, and is allowed by the regional regulatory administrator. * * *

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1356, as amended (26 U.S.C. 5008, 5201).)

§ 201.346 **[Amended]**

Par. 19. Amend § 201.346 to change a regulatory reference from § 201.586 to § 201.587.

Par. 20. Amend § 201.386 to include as authorized withdrawals without payment of tax, withdrawals for research, development or testing, and withdrawals to customs bonded warehouses for storage pending exportation. As amended, § 201.386 reads as follows:

§ 201.386 **Authorized withdrawals without payment of tax.**

Spirits may be withdrawn from bonded premises, without payment of tax for: (a) Export, as authorized under 26 U.S.C. 5214(a)(4); (b) Transfer to customs manufacturing bonded warehouses, as authorized under 26 U.S.C. 5522(a); (c) Transfer to foreign-trade zones, as authorized under 19 U.S.C. 81c; (d) Supplies for certain vessels and aircraft, as authorized under 19 U.S.C. 1309; (e) transfer to customs bonded warehouses, as authorized under 26 U.S.C. 5066 or 5214(a)(9); (f) Use in wine production, as authorized under 26 U.S.C. 5373; (g) Transfer to any university, college of learning, or institution of scientific research for experimental or research use as authorized under 26 U.S.C. 5312(a); or (h) Research, development or testing, as authorized under 26 U.S.C. 5214(a)(10).

The withdrawal of spirits as provided in paragraphs (a) through (e) of this section shall be in accordance with the regulations in Part 252 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1375, as amended, 1382, as amended, 1393 (26 U.S.C. 5214, 5312, 5373, 5522); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

Par. 21. Amend § 201.393 to provide for withdrawal of samples of denatured spirits. New paragraphs (c) and (d) are added incorporating the provisions of former §§ 201.602 and 201.607 as they related to denatured spirits. As amended, § 201.393 reads as follows:

§ 201.393 Removal of denatured spirits.

* * * * *

(c) *Samples of denatured spirits.* The proprietor may take samples of denatured spirits free of tax which may be necessary for the conduct of business. The proprietor may furnish samples of specially denatured spirits: (1) To dealers in, and users of, specially denatured spirits in advance of sales; and (2) to 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 1 liter, shall be furnished only after a permit on Form 1512 is issued to the consignee. Form 1473 shall be prepared to cover shipment of samples of a size in excess of 1 liter. Form 1473 shall show the permit number of the Form 1512. The proprietor shall retain the Form 1512 on file as a part of the record of transaction.

(d) *Labels for samples of denatured spirits.* Each sample of denatured spirits withdrawn under the provisions of this paragraph shall have a label affixed showing the following information: (1) The word "Sample", and the words "Specially Denatured Alcohol", "Specially Denatured Spirits", or "Completely Denatured Alcohol", whichever is applicable; (2) The name, address, and plant number of the proprietor; (3) The formula number; and, (4) The name and address of the consignee.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5214).)

Par. 22. Amend § 201.441 to provide for use of extracted oils in the tax-exempt rectification by redistillation of gin and to reflect existing law. As amended, § 201.441 reads as follows:

§ 201.441 Gin.

Gin produced on bottling premises is exempt from the rectification tax (as provided in § 201.29(c)) only if produced by the redistillation over juniper berries and other natural aromatics, or the extracted oils of such, of spirits distilled at or above 190 degrees of proof, free from impurities, including spirits of such a nature recovered by redistillation of imperfect gin spirits. Gin produced by redistillation is subject to rectification tax if it is mixed with other spirits or treated by the addition or abstraction of any substance or material other than pure water after redistillation in a manner that would change its class and type designation. Gin produced by redistillation is subject to rectification tax if any substance or material other than juniper berries or other natural aromatics, or the extracted oils of such, or pure water is added to the spirits before or during redistillation in a manner that would change its class and type designation. The gin shall be collected in a receiving tank and shall be gauged by the proprietor. The gin may be drawn off in packages, bottled, or transferred by pipeline or bulk conveyance to other bottling premises as provided in § 201.465. Gin exempt from rectification tax may be filtered to remove materials held in suspension, but the use of filters or filter aids which remove essential oils or flavoring materials in solution which change the class and type designation will subject the product to rectification tax. The provisions of this section do not preclude the filtering and stabilizing of gin as provided in § 201.445.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1328, as amended (26 U.S.C. 5025).)

Par. 23. Amend § 201.469 to reflect the new definition of spirits eligible for export with benefit of drawback and to provide for export with benefit of drawback of spirits in other bulk containers. As amended, the section reads as follows:

§ 201.469 Spirits not originally intended for export.

Taxpaid spirits, manufactured, produced, bottled in bottles packed in containers, or which are packaged in casks or other bulk containers in the United States, originally intended for domestic use may be exported with benefit of drawback if:

(a) * * *

(b) Each case, package or other bulk container is marked as required by Part 252 of this chapter.

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1358, as amended (26 U.S.C. 5062, 5205).)

Par. 24. Amend § 201.541 to require that red strip stamps be overprinted with the word "Export" for use on bottles filled on bottling premises, but to be returned to an export storage facility. As amended, § 201.541 reads as follows:

§ 201.541 General.

(a) *Spirits bottled-in-bond.* Each bottle of spirits bottled-in-bond under Subpart Na or K of this part, except alcohol bottled under Subpart K, shall, when filled, be stamped by the proprietor with a strip stamp. Green strip stamps are prescribed for spirits bottled-in-bond for the domestic market, and blue strip stamps are prescribed for spirits bottled-in-bond for export. Blue export strip stamps, applied to bottles of spirits bottled-in-bond for export with benefit of drawback, shall be overprinted with the word "drawback".

(b) *Spirits bottled on bottling premises.* Each bottle or other container of less than 5 wine gallons of taxpaid spirits filled on bottling premises, except spirits bottled-in-bond under Subpart Na of this Part, shall be stamped when filled by the proprietor with a prescribed red strip stamp. If bottled spirits bearing red strip stamps are to be exported, the word "Export" shall be overprinted on the strip stamps.

(c) * * *

(d) *Overprinting.* The words "Export" or "Drawback", when required, shall be legibly overprinted on the strip stamp by printing, use of a rubber stamp or by another suitable method. Subject to approval by the Director, strip stamps may be similarly overprinted with the class and type of product or with an appropriate abbreviation or symbol, i.e. "Bbn" for bourbon whiskey.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1369 as amended, (26 U.S.C. 5205, 5235).)

Par. 25. Amend Subpart S to provide for returning spirits to bonded export storage facilities and returning spirits bottled-in-bond under Subpart Na to bonded premises. These amendments also provide for the expanded use of ATF F 5110.17 (formerly Form 2612) as a record of disposition of spirits returned to bonded premises. The procedural requirements contained in § 201.587 have been placed in specific sections to which they apply and § 201.587 is deleted, § 201.584a is redesignated § 201.585, § 201.585 is redesignated § 201.586, and § 201.586 is redesignated § 201.587. As amended, Subpart S reads as follows:

Subpart S—Return of Spirits to Bonded Premises

Subpart S—Return of Spirits to Bonded Premises

§ 201.581 Return of taxpaid spirits to bonded premises.

(a) *Taxpaid spirits returned for destruction, denaturation, redistillation, or mingling.* Spirits withdrawn from bonded premises on payment or determination of tax (other than products to which any alcoholic ingredients other than such spirits have been added) may be returned to the bonded premises of a distilled spirits plant. Spirits returned under this paragraph, shall be: (1) Destroyed in accordance with § 201.562; (2) Denatured; (3) Redistilled; or (4) Mingled as follows:

(i) If distilled at 190 degrees or more of proof, with other spirits distilled at 190 degrees or more of proof;

(ii) If eligible for denaturation, with other spirits to be immediately denatured;

(iii) If eligible to be removed from bond for an authorized tax-free purpose, with other spirits eligible to be immediately so removed;

(iv) If eligible to be redistilled at the same or at another plant, with other spirits for immediate redistillation; or

(v) With heterogeneous spirits under the provision of § 201.298.

Prior to disposition as provided in paragraphs (1) through (4) of this paragraph, the returned spirits may be accumulated for short periods of time (but not longer than 6 months) so that the destruction, denaturation, redistillation, or mingling may be accomplished in quantities sufficiently large to make the operations economically worthwhile. Spirits so accumulated shall be kept separate and apart from other spirits and shall be identified.

(b) *Return to export storage of spirits eligible for drawback.* Spirits which would be eligible for allowance of drawback on exportation under the provisions of Part 252 of this chapter, may be returned by the bottler or packager of the distilled spirits to an export storage facility on the bonded premises of the distilled spirits plant where bottled or packaged, solely for the purpose of storage pending withdrawal without payment of tax under § 201.386 (a), (c), (d), or (e), or free of tax under § 201.389(c). Spirits returned under this paragraph shall be retained in the containers in which returned, and shall be kept separate from all other spirits on bonded premises until withdrawn, as provided above.

(c) *Return to bonded premises of distilled spirits bottled-in-bond under Subpart Na.* A proprietor of bonded premises who has bottled distilled spirits under Subpart Na of this part, which are stamped and labeled as bottled-in-bond for domestic consumption, may return the cases of the bottled distilled spirits to appropriate storage facilities on the bonded premises of the distilled spirits plant where bottled. Spirits so returned may be withdrawn for any purpose for which distilled spirits bottled-in-bond under Subpart K of this part may be withdrawn.

(d) *Restrictions.* The receipt and deposit of taxpaid spirits returned to bonded premises shall be under the direct supervision of an ATF officer. When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531. When containers of spirits removed for export are returned to bond pending subsequent removal for a purpose other than export, the export marks and the stamps, if any, shall be destroyed. When spirits bottled-in-bond after tax determination and spirits which would be eligible for drawback are returned to bonded premises, the spirits shall be properly marked and stamped for the intended use.

(e) *Applicability of Chapter 51, 26 U.S.C.* All provisions of Chapter 51, 26 U.S.C., and this part, applicable to spirits in internal revenue bond shall be applicable to spirits when returned to bonded premises under this section. The provisions of this subpart do not apply to taxpaid spirits returned to the bottling-in-bond facility for rebottling, relabeling, or restamping under the provisions of Subpart K.

(Sec. 2, Pub. L. 95-176, 91 Stat. 1363 (26 U.S.C. 5215).)

§ 201.582 Application for return of taxpaid spirits.

The proprietor of the bonded premises shall prepare an application on ATF F 5110.17 and submit it to the assigned officer, or if none is regularly assigned, the area supervisor, for approval of the return of spirits under the provisions of § 201.581. The proprietor shall furnish evidence of eligibility of the spirits for return to bonded premises as may be requested by the assigned officer or the area supervisor, as the case may be. On receipt of the approved application, the proprietor shall make arrangements for the shipment of the spirits to the bonded premises.

(Sec. 2, Pub. L. 95-176, 91 Stat. 1363 (26 U.S.C. 5215).)

§ 201.583 Receipt and disposition of returned taxpaid spirits.

On receipt of taxpaid spirits eligible for return to bonded premises, the proprietor shall gauge the spirits under the direct supervision of the assigned officer. The proprietor shall execute a receipt for the spirits and report of gauge in wine gallons and proof gallons on all copies of the approved ATF F 5110.17. After recording the gauge of spirits returned to bonded premises, the proprietor shall file the original ATF F 5110.17 with the regional regulatory administrator and one copy with the ATF officer. The disposition of spirits returned to bonded premises shall be recorded in tax gallons on the remaining copies of the form. When all of the spirits covered by ATF F 5110.17 have been disposed of and the dispositions recorded, the remaining copies of the form shall be filed in accordance with instructions thereon.

(Sec. 2, Pub. L. 95-176, 91 Stat. 1363 (26 U.S.C. 5215).)

§ 201.584 Return of recovered denatured spirits and recovered articles.

Recovered denatured spirits and recovered articles may be returned for restoration or redenaturation to the bonded premises of any plant authorized to denature spirits, in accordance with the provisions of Part 211 of this chapter. The receipt and deposit of recovered denatured spirits and recovered articles shall be under the general supervision of the ATF officer. When containers are emptied, the proprietor shall comply with the applicable requirements of § 201.531. If restoration requires redistillation, the recovered denatured spirits or recovered articles may be returned for that purpose to bonded premises of a plant authorized to produce spirits. When recovered denatured spirits or recovered articles are received, the proprietor shall gauge the materials and report the gauge on Form 2629. Spirits recovered by the redistillation of recovered denatured spirits and recovered articles may not be withdrawn from bonded premises except for industrial use or after denaturation. All spirits redistilled under the provisions of this subpart shall be treated the same as if the spirits had been originally produced by the redistiller. These spirits and articles shall be kept apart from all other spirits (including denatured spirits and recovered articles) and shall be promptly redenatured and removed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended, 1372 as amended (26 U.S.C. 5223, 5273).)

§ 201.585 Articles and spirits residues received for redistillation.

Articles manufactured under Part 211 of this chapter, and spirits residues of manufacturing processes related thereto, may be received on the bonded premises of a distilled spirits plant authorized to produce distilled spirits, for the recovery by redistillation of the distilled spirits contained in those materials. The articles and spirits residues may be so received pursuant to a letterhead application (in quadruplicate) filed with, and approved by, the regional regulatory administrator of the region in which the distilled spirits plant is located. This application shall include the name and address, and the permit number, if any, of the person from whom the articles or spirits residues will be received, and fully describe the materials to be received as to kind and quantity. On approval, the regional regulatory administrator will return two copies of the application to the proprietor of the distilled spirits plant, who will retain one copy on file and forward one copy to the person from whom the articles or spirits residues will be received. The receipt and deposit of articles and spirits residues shall be under the general supervision of the ATF officer. The proprietor shall gauge the materials when received and report the gauge on Form 2629. Spirits recovered by the redistillation of articles and spirits residues may not be withdrawn from bonded premises except for industrial use or after denaturation. All spirits redistilled under the provisions of this subpart shall be treated the same as if the spirits had been originally produced by the redistiller.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended (26 U.S.C. 5223).)

§ 201.586 Return of recovered tax-free spirits, and spirits and denatured spirits withdrawn free of tax.

(a) *General.* Specially denatured spirits withdrawn free of tax under the applicable provisions of Part 252 of this chapter for exportation or for deposit in a foreign-trade zone, and spirits (including denatured spirits) withdrawn free of tax under the applicable provisions of Part 211 or 213 of this chapter, may be returned: (1) To bonded premises of any plant authorized to produce distilled spirits, for redistillation; or (2) to any bonded premises for storage pending subsequent lawful withdrawal free of tax. Recovered tax-free spirits may, as provided in Part 213 of this chapter, be returned for redistillation to bonded premises of any plant authorized to produce distilled spirits or to any bonded warehouse facility for restoration (not including redistillation). The return shall be made under the applicable provisions of this part and Part 211, 213, or 252 of this chapter, as appropriate.

(b) *Bonding requirements.* Before spirits (including denatured spirits) are returned to bonded premises for storage, without redistillation, the proprietor shall file a consent of surety on Form 1533 to extend the terms of the bond, Form 2601, to cover the return and storage of spirits. The proprietor may, if desired, file one consent of surety on the bond to extend the terms thereof to cover all spirits which may be returned.

(c) *Procedure.* If the shipment was reported on a Form 1473, the proprietor shall execute the certificate of receipt on that form and forward the original to the regional regulatory administrator through the ATF officer. When recovered tax-free spirits, spirits or denatured spirits are received, they shall be gauged and the gauge shall be reported on Form 2629. However, a gauge report, Form 2629, will not be required if: (1) The spirits or denatured spirits are in the same sealed containers in which they were withdrawn from a distilled spirits plant; and (2) the proprietor intends to withdraw the spirits or denatured spirits in the same containers. When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531. When containers of spirits removed for export are returned to bond pending subsequent removal for a purpose other than export, the export marks shall be destroyed. The receipt and deposit of denatured spirits, recovered tax-free spirits, and tax-free spirits shall be under the general supervision of the ATF officer.

(d) *Limitation.* Spirits recovered by the redistillation of denatured spirits may not be withdrawn from bonded premises except for industrial use or after denaturation. All spirits redistilled under the provisions of this subpart shall be treated the same as if the spirits had been originally produced by the redistiller.

(Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1365 as amended (26 U.S.C. 5223).)

§ 201.587 Return of spirits withdrawn without payment of tax.

(a) *Spirits withdrawn for export.* Spirits lawfully withdrawn without payment of tax under the provisions of Part 252 of this chapter for exportation, or for transfer to a customs bonded warehouse or a customs manufacturing bonded warehouse, or for deposit in a foreign-trade zone, or for use on vessels and aircraft, and not so exported, transferred, deposited, or used (or laden for use) on a vessel or aircraft, may be returned, under the applicable provisions of this part and Part 252 of this chapter: (1) To the bonded premises of any plant authorized to produce distilled spirits, for redistillation; or (2) to the bonded premises from which withdrawn, for storage pending subsequent removal for a lawful purpose.

(b) *Spirits withdrawn for use in wine production.* Wine spirits withdrawn under § 201.387 for use in wine production, and not so used, may be returned to the bonded premises of a plant. The consignee proprietor shall obtain approval, as provided in § 201.366. The wine spirits shall be removed from the winery in accordance with the provisions of Part 240 of this chapter.

(c) *Spirits withdrawn for research, development or testing.* Spirits withdrawn without payment of tax, under the provisions of Subpart T of this part, for research, development or testing may be returned to the bonded premises of the distilled spirits plant from which withdrawn. The proprietor shall prepare a letterhead application, in duplicate, covering the return of these spirits and the application shall state the date of the schedule or application covering the withdrawal of the spirits, the quantity to be returned in tax gallons and date on which the spirits are to be returned. After returning these spirits to bonded premises, they shall be destroyed or returned to vessels in the distilling system containing similar spirits.

(d) *Procedure.* Receipt and deposit of spirits returned to bonded premises under this section shall be under the direct supervision of an ATF officer. When spirits are received, they shall be gauged by the proprietor and the gauge shall be reported on Form 2629. However, a gauge report, Form 2629, will not be required if: (1) The spirits are in the same sealed containers in which they were withdrawn from a distilled spirits plant; and (2) the proprietor intends to withdraw the spirits in the same containers. When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531. When containers of spirits removed for export are returned to bond pending subsequent removal for a purpose other than export, the export marks and the stamps, if any, shall be destroyed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5214, 5223, 5373); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

§ 201.588 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 the plant is authorized to denature or redistill and denature spirits. These spirits shall be kept apart from all other spirits (including denatured spirits) until denatured. The receipt, gauging, handling, and recordkeeping provisions of § 201.584 are applicable to these spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5243).)

Par. 26. Delete Subpart T—Samples, and add the following new Subpart

T—Spirits Withdrawn for Research, Development or Testing. As added, Subpart T reads as follows:

Subpart T—Spirits Withdrawn for Research, Development or Testing

§ 201.601 Withdrawal of spirits without payment of tax.

(a) *General.* Subject to the conditions prescribed in this subpart, spirits may be withdrawn from the bonded premises of a distilled spirits plant by the proprietor without payment of tax for testing or laboratory analysis, in accordance with § 201.606, or for research, development or testing, in accordance with § 201.607. Prior to withdrawal of spirits without payment of tax for either of these purposes, the proprietor shall meet the bonding requirements prescribed in paragraph (b), below.

(b) *Bonding requirements.* Withdrawal of spirits without payment of tax under this subpart shall not be permitted until the proprietor has obtained approval of:

(1) A superseding bond, Form 2601, to provide for the payment of tax, penalties and interest on spirits withdrawn under this subpart, when spirits are not used for the stated purpose, lawfully disposed of, or accounted for; or

(2) A Consent of Surety, Form 1533, extending the terms of the existing bond, Form 2601, unless the bond currently in force is so conditioned. The Consent of Surety, Form 1533, shall provide for the payment of tax, penalties and interest on spirits withdrawn under this subpart, when spirits are not used for the stated purpose, lawfully disposed of or accounted for.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended, 1362, as amended (26 U.S.C. 5005, 5214).)

§ 201.602 Schedule of spirits withdrawn for testing or laboratory analysis.

(a) *Schedule of withdrawals for testing or laboratory analysis.* The proprietor shall furnish the assigned officer, or if none is regularly assigned, the area supervisor, a schedule of all spirits to be taken on bonded premises for testing or laboratory analysis. The schedule shall be prepared for the period of time the proprietor can accurately forecast the operations and shall be furnished at least 5 days in advance of withdrawal. When unanticipated spirits are needed, the schedule may be supplemented. The schedule shall provide: (1) The name of the proprietor and the plant number; (2) If the spirits are to be tested at a laboratory located at the distilled spirits plant of an affiliated or subsidiary corporation, as defined in § 201.490, the name, address, and plant number of that plant; (3) If the spirits are for quality or character testing by a prospective purchaser, the name, address, and plant number of the prospective purchaser; (4) The place from which the spirits are to be removed, or, in the case of a package, the package identification number or serial number, as applicable, and the location of the package and the name and plant number of the packaging proprietor, if other than the one taking the spirits; (5) The kind of spirits and the quantity in tax gallons; and (6) The approximate time the spirits will be taken.

(b) *Record of disposition.* When spirits are removed, the proprietor shall indicate on the retained copy of the schedule, or on another record, the withdrawal of the spirits and the disposition.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314 as amended, 1362 as amended, 1382 as amended (26 U.S.C. 5001, 5214, 5373).)

§ 201.603 Mechanical sampling devices.

Spirits taken from the closed distilling system shall be taken by means of mechanical sampling devices installed as provided in this part, unless it is shown that the installation of mechanical sampling devices is not justified and the necessary spirits can be taken at times that will not require increased supervision by ATF officers. Mechanical sampling devices may also be used for taking spirits from storage tanks. Spirits taken by means other than mechanical sampling devices shall be taken under the direct supervision of the ATF officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362 as amended, 1345 as amended; (26 U.S.C. 5214, 5552).)

§ 201.604 Taxable withdrawals.

Spirits withdrawn from bonded premises for research, development or testing are taxable if the quantities are determined to be excessive, as provided in §§ 201.606 or 201.607. Prior to removal, the proprietor shall prepare Form 179 covering all taxable spirits withdrawn for research, development or testing. If the proprietor is qualified to defer payment of the tax, the tax due shall be included in the proprietor's tax return on Form 2522 for the period in which the spirits were withdrawn. If a proprietor is not qualified to defer the payment of tax, the tax on spirits shall be paid by return on Form 2521.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1318, as amended, 1362 as amended, 1382, as amended (26 U.S.C. 5001, 5005, 5214, 5373).)

§ 201.605 Labels.

On each container of spirits to be withdrawn under the provisions of §§ 201.606 or 201.607, the proprietor shall affix a label showing the following information: (a) The words "Research", "Development", or "Testing", as appropriate; (b) The kind of spirits (and for imported spirits, the word "Imported"); (c) The place from which the spirits were removed, and the identity of the package, if applicable; (d) A statement of the nature of the research, development or testing to be done, identifying which process, system, material or equipment is being tested; (e) The size of the container and the proof of the spirits; (f) if the spirits are to be removed to other than the immediate or contiguous premises of the proprietor, the name, and address of the consignee; (g) The name of the proprietor and the plant number; (h) The signature of the person who removed the spirits; and (i) The date the spirits are removed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1362 as amended, 1382 as amended, (26 U.S.C. 5206, 5214, 5373).)

§ 201.606 Withdrawals for testing or laboratory analysis.

(a) *General.* Subject to the conditions prescribed in this subpart, the proprietor may withdraw spirits without payment of tax, or wine spirits or brandy free of tax, from the bonded premises, for testing or laboratory analysis (other than consumer testing or other market analysis) to determine the quality or character of the finished product. A quantity of spirits not exceeding 1 liter may be furnished to a prospective purchaser for quality testing, if a bona fide written or oral purchase agreement exists which is contingent upon quality approval by a prospective purchaser of spirits or denatured spirits.

(b) *Bonding requirements.* The proprietor is required to meet the bonding requirements prescribed by § 201.601(b), prior to withdrawal of spirits without payment of tax. The bonding requirements prescribed by § 201.601(b) do not apply, if the proprietor intends to remove only wine spirits or brandy exclusively for testing or laboratory analysis (other than consumer testing or other market analysis) to determine the quality or character of the finished product.

(c) *Limitations.* Except for spirits furnished to a prospective customer, as provided in paragraph (a) of this section, spirits withdrawn for testing or laboratory analysis shall be removed to the proprietor's laboratory located at the same distilled spirits plant or to be laboratory located at the distilled spirits plant of an affiliated or subsidiary corporation, as defined in § 201.490. These spirits shall be withdrawn in containers not exceeding 1 liter. Taxes shall be paid when the spirits are used for any purpose other than the purpose authorized under this section.

(d) *Prior to withdrawal.* Prior to withdrawal, the proprietor shall submit the schedule prescribed in § 201.602. The ATF officer or area supervisor will advise the proprietor when the quantities to be withdrawn are in excess of the amount necessary for the conduct of the proprietor's business. When withdrawn from bonded premises, excessive quantities must be taxpaid in accordance with § 201.604.

(e) *After withdrawal.* The proprietor shall report the total quantity of spirits withdrawn on the monthly report, Form 2730 or 2731, as appropriate. When spirits are lost prior to being used for testing or laboratory analysis, the proprietor shall file a claim for remission of tax, prescribed by § 201.43. Remnants or residues of these spirits remaining after testing or laboratory analysis may not be accumulated beyond a reasonable period of time. Accumulated spirits shall be destroyed or returned to vessels in the distilling system containing similar spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended, 1362, as amended, 1382, as amended (26 U.S.C. 5005, 5214, 5373).)

§ 201.607 Withdrawals for research, development or testing.

(a) *General.* Subject to the conditions prescribed in this subpart, spirits may be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for research, development or testing (other than consumer testing or other market analysis) of processes, systems, materials or equipment relating to distilled spirits or distilled spirits plant operations.

(b) *Application.* A proprietor who desires to remove spirits without payment of tax shall, for each removal or each individual research, development or testing project, submit a letter application, in triplicate (in quadruplicate if the consignee is in another region), to the ATF officer, or if none is regularly assigned, to the area supervisor of the area where the plant is located. The application shall specify: (1) The name, address, and plant number of the plant; (2) The name and address of the consignee; (3) The quantity in tax gallons and the kind of spirits; (4) The place from which the spirits will be removed, or, in the case of a package, the package identification or serial number, as applicable, and the location of the package and the name and plant number of the packaging proprietor, if other than the one withdrawing the spirits; (5) The nature of the research, development or testing to be conducted, identifying which processes, systems, materials, or equipment are being tested; (6) The approximate time the spirits will be withdrawn; (7) The approximate time the testing will be completed; and (8) The manner of disposing of the spirits after completion of the testing.

(c) *Limitations.* The ATF officer or area supervisor will advise the proprietor when the quantities to be withdrawn are in excess of the amount necessary for the conduct of the proprietor's business. When withdrawn from bonded premises, excessive quantities must be taxpaid in accordance with § 201.604. These spirits shall be used for the stated purpose within the time specified in the application. Quantities exceeding the stated needs shall be returned to the bonded premises or destroyed under government supervision. Taxes shall be paid when the spirits are used for any purpose other than the purpose authorized under this section.

(d) *Consignee's statement.* The proprietor shall submit a written statement, executed by the consignee under the penalties of perjury, agreeing that he will maintain records of the receipt, use, and disposition of all spirits received by him and that those records and operations will be available during regular business hours for inspection by ATF officers. However, a statement will not be required when the spirits are removed to the proprietor's laboratory located at the same plant, or to a laboratory located at the distilled spirits plant of an affiliated or subsidiary corporation, as defined in § 201.490.

(e) *Approval.* When the requirements of § 201.601(b) and paragraphs (b) and (d), above, have been met, the ATF officer or the area supervisor will approve the application and indicate the excessive quantity of spirits, if any, to be taxpaid, in accordance with § 201.604. The proprietor will receive two copies of the approved application. One copy will be forwarded by the proprietor to the consignee laboratory and one copy will be retained by the proprietor. The proprietor will report the total quantity of spirits removed for research, development or testing on the monthly report, Form 2730 or 2731, as appropriate, identifying the purpose of the research, development, or testing.

(f) *Losses.* When spirits are lost prior to being used for the authorized purpose, the proprietor shall file a claim for remission of tax, prescribed by § 201.43.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended, 1362, as amended (26 U.S.C. 5005, 5214).)

Par. 27. Amend § 201.619: (1) by correcting the spelling of the word "gage" where it appears, to read "gauge"; (2) by redesignating paragraphs (c), (d), (e), (f), (g), (h), and (i) as (d), (e), (f), (g), (h), (i), and (j), respectively; (3) by adding a new paragraph (c) to read as follows:

§ 201.619 Daily production records.

* * * * *

"(c) The receipt and use of extracted oils of juniper berries and other natural aromatics received for use in gin production."; and (4) by correcting the statutory authority to read "(Sec. 201, Pub. L. 85-859, 72 Stat. 1361, as amended (26 U.S.C. 5207))".

Par. 28. Amend § 201.622 to require daily records of spirits returned to bonded storage. Paragraphs (a) (2), (3), and (4) are redesignated paragraphs (a) (3), (4), and (5), respectively, and a new paragraph (a)(2) is added. As amended, § 201.622 reads as follows:

§ 201.622 Daily bonded storage records.

(a) *Daily summary.* * * *

(1) * * *

(2) The spirits returned to bonded storage;

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1361, as amended (26 U.S.C. 5207).)

Par. 29. Revise § 201.626 to require records of spirits withdrawn without payment of tax for research, development or testing. As revised, the section reads as follows:

§ 201.626 Record of withdrawals from bonded premises for research, development or testing.

Proprietors shall maintain daily records of spirits withdrawn from bonded premises for research, development or testing to show: (a) The date withdrawn; (b) the kind of spirits (formula number in the case of denatured spirits); (c) the quantity in tax gallons, or, in the case of denatured spirits, in wine gallons, and, if applicable, the quantity which was taxpaid; (d) the date of the applicable application or schedule; (e) the regulatory authority under which the spirits were withdrawn; (f) the name and address of the consignee; and (g) the date on which the research, development or testing was completed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1361, as amended, 1362, as amended (26 U.S.C. 5207, 5214).)

§ 201.628 [Amended]

Par. 30. Amend § 201.628 to require maintenance of records of spirits returned to bonded storage. In paragraph (a), after the sentence "For the purpose of records under this section spirits produced under trade names shall be treated as being produced under the real name of the proprietor.", the following sentence is added: Separate files shall also be maintained for spirits returned to bonded storage, and further separated to identify the brand and standard export drawback rates of spirits returned to export storage facilities.

* * * * *

§ 201.629 [Amended]

Par. 31. Amend § 201.629 to require summary accounts for spirits returned to bonded storage. In paragraph (b), after the sentence "Basic accounts of spirits in packages which have been mingled under the provisions of § 201.301 shall be separately maintained from basic accounts for spirits which have not been mingled.", the following sentence is added: Separate warehouse summary accounts shall also be maintained for spirits returned to bond, and further separated to identify the brand and standard export drawback rate of spirits returned to export storage facilities.

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1361, as amended (26 U.S.C. 5207).)

§ 201.631 [Amended]

Par. 32. As stated above, ATF Forms 1615 and 2546 become obsolete. Delete § 201.631(c)(1) and redesignate § 201.631(c)(2) as § 201.631(c).

§ 201.631a [Deleted]

Delete § 201.631a.

§ 201.634 [Amended]

Delete § 201.634(c) and redesignate paragraph § 201.634(d) as § 201.634(c).

PART 231—TAXPAID WINE BOTTLING HOUSES

Par. 33. Amend § 231.100 to reflect the new definition of wines which may be exported with benefit of drawback. As amended, the section reads as follows:

§ 231.100 General.

Wine manufactured, produced, bottled in bottles packed in containers, or packaged in casks, or other bulk containers 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.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended 26 U.S.C. 5062).)

PART 252—EXPORTATION OF LIQUORS

Par. 34. Amend the Table of Contents to Part 252 to reflect the change in title of an amended section and to add the title of a new section. As amended, the Table of Contents reads as follows:

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Par. 34. Amend § 252.11 by adding definitions for "bulk container", and "export storage facilities." As amended, § 252.11 reads as follows:

§ 252.11 Meaning of terms.

* * * * *

Bulk container. Any approved container of 5 gallons or more.

* * * * *

Export storage facilities. The part of the bonded premises of a distilled spirits plant, established under 26 U.S.C. 5178(a)(3)(D), for the storage of distilled spirits returned under 26 U.S.C. 5215(b).

* * * * *

Par. 36. Amend §§ 252.26(a) and 252.27 amended to provide for withdrawal of spirits without payment of tax to customs bonded warehouses from which they may then be exported. As amended, the sections read as follows:

§ 252.26 Entry into customs bonded warehouses.

(a) *Distilled spirits withdrawn without payment of tax.*

(1) Distilled spirits bottled-in-bond for export, and bottled distilled spirits returned to bonded premises under the provisions of § 201.581(b) of this chapter, may, subject to this part, be withdrawn from bonded premises for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry pending withdrawal as provided in § 252.27. Withdrawals from bonded premises under the provisions of this paragraph shall be treated as withdrawals for exportation under the provisions of 26 U.S.C. 5214(a)(4).

(2) Distilled spirits bottled-in-bond for export, and distilled spirits returned to bonded premises under the provisions of § 201.581(b) of this chapter may, subject to this part, be withdrawn from bonded premises for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported. These withdrawals shall be treated as withdrawals for exportation under the provisions of 26 U.S.C. 5214(a)(9).

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

§ 252.27 Withdrawal from customs bonded warehouses.

Distilled spirits entered into customs bonded warehouses as provided in § 252.26 (a) or (b) may, under the appropriate provisions of 19 CFR Chapter I, be withdrawn from the warehouses for consumption in the United States by and for the official or family use of foreign governments, organizations, and individuals who are entitled to withdraw imported distilled spirits from a warehouse free of tax. Distilled spirits entered into customs bonded warehouses under the provisions of § 252.26(a)(2), may be withdrawn for exportation, subject to the provisions of 19 CFR, Chapter I. Distilled spirits transferred to customs bonded warehouses as provided in § 252.26 shall be entered, stored, and accounted for in such warehouses under the appropriate provisions of 19 CFR Chapter I.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

Par. 37. Amend § 252.30 to correct the description of liquors which may be deposited in a foreign-trade zone. As amended, § 252.30 reads as follows:

§ 252.30 Export status.

Distilled spirits and wines manufactured, produced, bottled in bottles packed in containers, or packaged in casks, or other bulk containers in the United States, and beer brewed or produced in the United States may be transferred to a foreign-trade zone for the sole purpose of exportation, or storage pending exportation. Liquors deposited in a foreign-trade zone under this part are considered exported. Export status is not acquired until application on Zone Form D for admission of the liquors into the zone has been approved by the district director of customs under the appropriate provisions of 19 CFR, Chapter I, and the required certification of deposit has been made on the ATF form prescribed in this part.

(Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c).)

§ 252.36 [Amended]

Par. 38. Amend § 252.36 (1) to delete the first sentence and replace it with the following "Liquors deposited in a foreign-trade zone from the United States which have become unmerchantable or unfit for export may be destroyed. The exporter shall prepare a letter application, in duplicate, and submit it to the regional regulatory administrator of the region in which the zone is located. The application shall identify the name and address of the exporter and contain the following information:"; (2) to add, in paragraph (b) the words "bottler or packager" after the word "producer"; (3) to replace the term "assistant regional commissioner" with the term "regional regulatory administrator"; and (4) to replace the term "director of customs" with the term "district director of customs".

Par. 39. Amend § 252.37 to read as follows:

§ 252.37 Action by regional regulatory administrator.

The regional regulatory administrator shall carefully examine the application to see that all the required information has been furnished and shall cause an investigation to be made or require any additional evidence, including samples, to be submitted if necessary. If the regional regulatory administrator finds that the liquors were transported to and deposited in a foreign-trade zone in good faith for the purpose of exportation or storage pending exportation, and the liquors, after deposit in the zone, have become unmerchantable or unfit for export, he may approve the application and authorize the destruction of the liquor described therein under the supervision of the district director of customs. On approval or disapproval of the application, the regional regulatory administrator shall advise the district director of customs of his action.

Par. 40. Amend § 252.61 to correct a regulatory reference. As amended, § 252,61 reads as follows:

252.61 Bond, Form 2734.

If a specific lot of distilled spirits or wines is to be withdrawn without payment of tax, as authorized in § 252.91 (a)(1), (a)(2), (a)(3), (a)(5), or (b), or § 252.121 (a), (b), or (c), by a person other than the proprietor of the bonded premises, a specific bond on Form 2734 shall be filed by the exporter with the regional regulatory administrator, as provided in § 252.51. The penal sum of the bond shall be not less than the tax prescribed by law on the quantity of spirits or wines to be withdrawn. However, the maximum penal sum of the bond shall not exceed $200,000 but in no case shall the penal sum be less than $1,000.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1352, as amended, 1362, as amended, 1380, as amended (26 U.S.C. 5175, 5214, 5362); Sec. 3, Pub. L. 91-659, 84 Stat. 1964, as amended (26 U.S.C. 5066).)

Par. 41. Revise § 252.62: (1) To make a conforming change in a regulatory reference; (2) to delete the second proviso, as obsolete; and (3) to delete instructions that are incorporated in the bond Form 2735. As revised, § 252.62 reads as follows:

§ 252.62 Bond, Form 2735.

(a) *Requirement for bond.* If a person other than the proprietor of a bonded premises withdraws distilled spirits or wines without payment of tax, as authorized by § 252.91 (a)(1), (a)(2), (a)(3), (a)(5), or (b), or § 252.121 (a), (b), or (c), the exporter shall file a continuing bond, Form 2735, with the regional regulatory administrator, as provided in § 252.51.

(b) *Penal sum of bond.* The penal sum of the bond shall be sufficient to cover the tax on the maximum quantity of distilled spirits and wines that may remain unaccounted for at any one time. However, the maximum penal sum of the bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000. Distilled spirits and wines withdrawn for exportation, use on vessels or aircraft, or transfer to a foreign-trade zone, or distilled spirits withdrawal for transfer to a customs bonded warehouse shall remain unaccounted for until the evidence of exportation, use, transfer, or loss in transit has been filed with the regional regulatory administrator.

(c) *Apportioning bonds.* If the bond, Form 2735, is in less than the maximum penal sum, the principal shall apportion the bond, in accordance with the requirements on the bond form. The exporter may reapportion the bond coverage, if changing conditions make this necessary, by filing a consent of surety, Form 1533, for approval by the regional regulatory administrator.

(d) *Filing applications for withdrawal.* If the bond, Form 2735, is in less than the maximum penal sum, the exporter shall designate, in the bond, one distilled spirits plant for filing all applications for withdrawal. If the bond, Form 2735, is in the maximum penal sum, the exporter may designate one distilled spirits plant for filing all applications for withdrawal. The ATF officer at the designated plant shall approve each application, if there is sufficient bond coverage, and forward all copies of the approved application to the plant from which the spirits are to be withdrawn.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1352, as amended, 1362, as amended, 1380 as amended (26 U.S.C. 5175, 5214, 5362); Sec. 3, Pub. L. 91-659, 84 Stat. 1964, as amended (26 U.S.C. 5066).)

Par. 42. Amend § 252.91 to provide for withdrawal without payment of tax of spirits which have been returned to bonded export storage facilities. As amended, the section reads as follows:

§ 252.91 General.

(a) Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to this part, be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for: (1) Exportation; (2) Use on the vessels or aircraft described in § 252.21; (3) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation; (4) Transportation to and deposit in a manufacturing bonded warehouse; or (5) Transfer to and deposit in a customs bonded warehouse as provided for in § 252.26.

(b) Distilled spirits returned to bonded premises under the provisions of § 201.581(b) of this chapter, may be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for the purposes described above in (a) (1), (2), (3), or (5).

(c) All withdrawals shall be made under the applicable bond prescribed in Subpart D of this part.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1393 (26 U.S.C. 5214, 5522); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

Par. 43. Add a new § 252.91a immediately after § 252.91, describing export storage facilities on bonded premises of distilled spirits plants. The new section reads as follows:

§ 252.91a Export storage facilities at distilled spirits plants.

If the proprietor of a distilled spirits plant intends to receive, store, and remove bottled or packaged distilled spirits which would be eligible for export with benefit of drawback upon exportation, but returned to bonded premises under the provisions of § 201.581(b) of this chapter, the proprietor shall provide for the storage of the spirits in the export storage facilities on the bonded premises of the distilled spirits plant. The export storage facility shall be a room or building which need not be used exclusively for the storage of distilled spirits, but when used as an export storage facility, the room or building may only be used for storage pending withdrawal without payment of tax under § 252.91(b), or free of tax under § 201.389(c) of this chapter. The records covering export storage transactions on the bonded premises provided under this section shall be maintained and reports shall be submitted in accordance with applicable provisions of Part 201 of this chapter.

(Sec. 2, Pub. L. 95-176, 91 Stat. 1364 (26 U.S.C. 5178(a)(3)(D)).)

Par. 44. Amend § 252.171 to reflect the new definition of spirits which are eligible for exportation with benefit of drawback and to make a conforming change in a regulatory reference. As amended, the section reads as follows:

§ 252.171 General.

Distilled spirits manufactured, produced, bottled in bottles packed in containers, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which have been stamped and marked, or restamped and marked (if in cases), or marked (if in packages), under the provisions of Part 201 of this chapter and of this part, as applicable, especially for export with benefit of drawback may be:

* * * * *

(d) Transferred to and deposited in a customs bonded warehouse as provided for in § 252.26(b).

On receipt by the regional regulatory administrator of required evidence of exportation, lading for use, or transfer, there shall be allowed to the bottler (or packager) of the spirits, drawback equal in amount to the tax found to have been paid or determined on the spirits.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

§ 252.173 [Amended]

PAR. 45. Amend § 252.173: (1) By replacing the term "assistant regional commissioner, alcohol, tobacco and firearms" with the term "regional regulatory administrator"; (2) by deleting from the first sentence, the words "fully taxpaid spirits, such as unrectified spirits and gin and vodka produced exempt from rectification tax," and inserting, in their place, the words "spirits taxpaid under 26 U.S.C. 5001 or 7652"; (3) by deleting from the second sentence, all of the words preceding the word "formulas" and inserting in their place, the words "Products which derive some of their alcoholic content from sources other than spirits taxpaid under 26 U.S.C. 5001 or 7652 and products which are subject to rectification tax may be subject to standard export drawback rates, if the rectifiers submit to the Director, Bureau of Alcohol, Tobacco, and Firearms"; and, (4) to add a statutory authority to read as follows:

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062).)

PAR. 46. Amend § 252.192 to permit the use of "other bulk containers" for exporting spirits with benefit of drawback. As amended, the section reads as follows:

§ 252.192 Packages of distilled spirits to be gauged.

Distilled spirits in packages or other bulk containers which are to be removed for export with benefit of drawback, shall be gauged by the distilled spirits plant proprietor prior to preparation of notice on Form 1582. However, if an inspection discloses no evidence of loss and removal is made within 30 days from the time of packaging the distilled spirits, the filling gauge shall be considered the gauge at the time of removal. The ATF officer at the distilled spirits plant shall supervise the gauging of the distilled spirits by the proprietor. A report of gauge shall be made by the proprietor on Form 2630, in quadruplicate (appropriately modified), and a copy of the report of gauge shall be attached to each copy of Form 1582 and considered a part of the claim.

(Sec. 201, Pub. L. 85-859 72 Stat. 1336, as amended, (26 U.S.C. 5062).)

PAR. 47. Amend § 252.193 to require export marks on "other bulk containers" of distilled spirits to be exported. As amended, the section reads as follows:

§ 252.193 Export marks.

In addition to the marks and brands required to be placed on packages or other bulk containers and cases at the time they are filled under the provisions of Part 201 of this chapter, the exporter shall place additional marks, as required by this section, on each container before removal for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone or a customs bonded warehouse:

* * * * *

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

Par. 48. Amend § 252.211 to reflect the new definition of wines which may be exported with benefit of drawback. As amended, the section reads as follows:

§ 252.211 General.

Wines manufactured, produced, bottled in bottles packed in containers, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are filled on premises qualified under this chapter to package or bottle wines, may, subject to this part, be:

* * * * *

On receipt by the regional regulatory administrator of required evidence of exportation, lading for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid or determined on the wines.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062).)

Par. 49. Amend § 252.216 to require export marks on "other bulk containers" of wine to be exported. As amended, the section reads as follows:

§ 252.216 Marking of containers.

In addition to the marks and brands required to be placed on packages or other bulk containers and cases under the provisions of Parts 201, 231, or 240, of this chapter, each container removed under the provisions of this subpart shall be stenciled or otherwise marked, in durable and legible letters and figures of not less than three-fourths of an inch in height, additional information, as specified below:

* * * * *

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062).)

Par. 50. Amend § 252.263 to permit exportation with benefit of drawback of distilled spirits in bulk containers and to replace the term "internal revenue officer" with the term "ATF officer". As amended, the section reads as follows:

§ 252.263 Duties of customs officer to be performed by an ATF officer.

If authorized by the district director of customs at the interior port of entry, in the case of paragraph (a) of this section, or at the port where the manufacturing bonded warehouse is located, in the case of paragraph (b) of this section, the ATF officer at a distilled spirits plant shall perform the duties required, by this subpart, to be performed by a customs officer, in the following instances:

(a) Where distilled spirits withdrawn without payment of tax, or where distilled spirits stamped and marked, or restamped and marked (if in cases) or marked (if in packages, or other bulk containers) especially for export with benefit of drawback, are laden at an interior port for exportation through another port; and

(b) * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended 1362, as amended, 1393, as amended (26 U.S.C. 5062, 5214, 5522).)

Signed: May 23, 1978.

REX D. DAVIS,
Director.

Approved: May 31, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-15499 Filed 6-1-78; 8:45 am]