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[Proposed Rules]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 19

[Notice No. 870]

RIN 1512-AB58

Distilled Spirits Plant Regulatory Initiative Proposals

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of
the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: ATF is proposing changes to the distilled spirits plant regulations to implement the Administration's Reinventing Government effort to reduce the regulatory burden and streamline requirements on the regulated public.

Proposals for change include removing an obsolete provision relating to special (occupational) tax; liberalizing the requirement for approval of changes in plant security personnel or procedures; reducing the paperwork when plant premises are alternated with other premises according to a previously approved plan; providing for alternation of distilled spirits plant and brewery premises; allowing denaturation and manufacture of articles to be done in a single, unified process; specifying marks for packages of spirits withdrawn taxpaid for industrial use; clarifying regulations that refer to a transfer record required when spirits are transferred in bulk from customs custody to the bonded premises of a distilled spirits plant; and incorporating a provision of Industry Circular 80-6 regarding the importation of alcohol fuel.

ATF believes these proposed changes will benefit distilled spirits plant proprietors and other industry members by enabling them to operate more easily and with less regulatory oversight from the Government.

Besides proposing and soliciting comments on these specific changes, ATF is requesting suggestions for additional changes that may, in the future, be proposed for the general system of recordkeeping at

distilled spirits plants.

DATES: Written comments on specific proposals for which regulatory language is set forth in this notice must be received by January 29, 1999. Comments suggesting future possible changes pertaining to the general system of recordkeeping at distilled spirits plants must be received by March 30, 1999.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221; Notice No. 870.

Copies of written comments in response to this notice of proposed rulemaking will be available for public inspection during normal business hours in the ATF Reference Library, Room 6480, 650 Massachusetts Avenue NW., Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Steven C. Simon, Regulations Division, 650 Massachusetts Avenue NW., Washington, DC 20226; telephone (202) 927-8210.

SUPPLEMENTARY INFORMATION:

Delegations of Authority

Since the authorities formerly assigned to the ``regional director (compliance)'' have been reassigned to other officials, references to ``regional director (compliance)'' in regulations proposed to be

amended or promulgated by this document are proposed to be changed to
``appropriate ATF official.''

Special Tax Provisions

ATF proposes to delete obsolete provisions in Sec. 19.49(a)(2) which refer to the special (occupational) tax rate applicable to distilled spirits plants in business as of January 1, 1988. There are no substantive changes proposed relating to special tax.

Change in Security Personnel or Procedures

Currently, Sec. 19.153(b) requires an application for amended plant registration (ATF Form 5110.41) to be filed each time there is a change in plant security personnel or procedures. ATF has determined that this requirement may be liberalized without jeopardy to the revenue. Therefore, this notice proposes to amend Sec. 19.153(b) to require a letterhead application for changes in security procedures (Sec. 19.153(a) (1)-(4)), and a letterhead notice for changes in security personnel (Sec. 19.153(a)(5)). The plant registration would be updated on an annual basis to incorporate changes made during the preceding year.

Alternation of Premises

Current regulations in Secs. 19.203-206 require the filing of a notice on ATF Form 5110.34 every time distilled spirits plant premises

are alternated with general premises or with other ATF-regulated premises. However, ATF has determined that this requirement is unnecessary and burdensome when, as frequently occurs, these premises are regularly alternated according to a set plan of operations. Therefore, this notice proposes to amend Secs. 19.203-206 to provide that after the proprietor has received approval of the plan (defining the boundary of the premises to be alternated), the alternation may take place pursuant to records to be kept in a logbook. The content of those records is prescribed in new Sec. 19.781. Further, it is proposed to provide for alternation of distilled spirits plant and brewery premises, which is not currently provided for. With respect to alternation of proprietors under Sec. 19.201 and alternation with customs premises under Sec. 19.202, this notice proposes to substitute a letterhead notice for the filing of Form 5110.34; thus, that form (OMB control number 1512-0202) will become obsolete. The notice of suspension of production operations for 90 days or more in section A of Form 5110.34 will be covered by an amendment of Sec. 19.311.

Denaturation and Article Manufacture

Regulations in Sec. 19.454 require gauges both before and after denaturation. If followed, this requirement prevents a distilled spirits plant from conducting denaturation and article manufacture in a single, unified process. A unified process may be desirable, for example, when manufacture of an article involves addition of more of the same chemicals as are used as denaturants in making the denatured spirits formula from which the article is manufactured. Clearly, in

this case, and in other similar situations, it would be helpful to be able to add the entire quantity of chemicals for denaturation and article manufacture in a single step, rather than pausing to take a gauge after the chemicals necessary to denature the spirits had been added. The purpose of requiring gauges before and after denaturation is to obtain accurate measurements of spirits used for denaturation, and of denatured spirits produced. However, when denatured spirits and articles are manufactured in a unified process, the quantity of denatured spirits produced can be accurately determined by a computation. Therefore, this notice proposes to amend Sec. 19.454 to allow proprietors using such a process to use a prescribed method of computation to determine the quantity of denatured spirits produced.

Marks on Packages of Tax-Paid Industrial Spirits

Regulations in Sec. 19.596 require certain information to be marked on ``packages'' (i.e. barrels or drums) of distilled spirits. These regulations primarily envision barrels of beverage spirits (e.g. whisky) entering bonded storage. Thus, in Sec. 19.596(a), only ``rated capacity'' need

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be shown on packages filled in production or storage, since the actual contents of wooden barrels changes during the aging process. For packages filled in processing (Sec. 19.596(b)), not even the rated capacity is required; the proof must be shown, but not the quantity. In

general, there is no requirement for quantity of contents to be shown on packages. This may be appropriate for beverage spirits, which will be put in bottles before withdrawal from bond, but it can be problematic for industrial spirits. Particularly, if spirits in drums are withdrawn on tax determination for shipment to a manufacturer of nonbeverage products, that manufacturer does not have a ready means of determining their contents for taking a physical inventory. Moreover, the absence of a requirement for quantity of contents to be shown on packages is abnormal, when compared with regulations governing similar situations. Thus, quantity of contents must be shown on cases of spirits filled in processing (Sec. 19.607), on cases of industrial alcohol (Sec. 19.608), on containers of imported spirits (Sec. 19.484), on containers of spirits from an alcohol fuel plant (Sec. 19.1008), on bulk conveyances (Sec. 19.606), and even on packages of denatured spirits (Sec. 19.601). ATF feels that the advantage to nonbeverage manufacturers in having contents information as a required package mark outweighs any added burden on distilled spirits plant proprietors in being required to provide such information. Therefore, this notice proposes an amendment to Sec. 19.605 to require proof, tare, and proof gallons to be marked on packages of spirits withdrawn on determination of tax.

Transfer Record for Shipments From Customs Custody

The transfer record for spirits being received into ATF bond from customs custody is mentioned in Sec. 19.770 in a way that implies that this transfer record would be prepared under that section. However, 27

CFR 251.138 prescribes the information for the transfer record covering such transfers, and that information is different in several ways from the information required for domestic transfers by Sec. 19.770.

Therefore, it is proposed to amend Sec. 19.770 to clarify that the record required for transfer of spirits from customs custody must be prepared in accordance with Sec. 251.138. ATF also proposes to add a sentence to Sec. 19.481, cross referencing the requirements of part 251 pertaining to transfers from customs custody.

Importation of Alcohol Fuel

Industry Circular 80-6, titled ``Distilled Spirits for Fuel Use,`` explained that an alcohol fuel plant may receive shipments of imported alcohol from customs custody, provided the alcohol was not produced from petroleum, natural gas, or coal. Subsequently, ATF has determined that, under the statute, this privilege only applies to medium and large alcohol fuel plants, since small plants are not covered by a bond. (Nontaxpaid bulk spirits transferred from customs custody are required by 26 U.S.C. 5232 to go to premises that are ``bonded.``) Further, 26 U.S.C. 5181(a)(1) provides that an alcohol fuel plant may be established solely for the purpose of (A) producing, processing, and storing, and (B) using or distributing distilled spirits for fuel use. Therefore, an alcohol fuel plant may not be established solely for the purpose of receiving and processing imported alcohol, since no distilled spirits would be ``produced.`` For the same reason, imported spirits received at an alcohol fuel plant must be subjected to some form of manufacture or processing (such as addition of materials to

render the spirits unfit for beverage use). However, 26 U.S.C. 5232 prevents such spirits from being redistilled or denatured if they were imported at less than 185 deg. proof. This notice proposes to incorporate expressly these determinations in the regulations by adding a new Sec. 19.1003.

General System of Recordkeeping

In general, the system of recordkeeping prescribed in part 19 is derived from the system that was in place prior to the institution of ``all-in-bond'' in 1980. In many instances, use of commercial records is prescribed in lieu of previously required Government forms, but the content of the commercial record must be the same as was formerly shown on the Government form. Thus, the present recordkeeping system is not as different from the former system as it might appear. Ultimately, the present system descends from the era when Federal officers were permanently stationed at distilled spirits plants and kept many of the records that are now required to be kept by the plant proprietors. ATF feels that this is a situation that calls for examination under the Administration's Reinventing Government initiative. Modern methods of recordkeeping, particularly the use of computers, should be taken into account. The entire system should be looked at globally to determine whether the Government's goal of ensuring that all distilled spirits are accounted for, from production to taxpayment, can be met by a modern system that is based as much as possible on the industry's own recordkeeping methods. Before proposing specific regulatory changes, comments and suggestions should be considered from all segments of the

distilled spirits industry and others concerned. Accordingly, this notice requests such comments and suggestions.

Public Participation--Written Comments

ATF requests comments from all interested persons. All comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential.

Comments may be disclosed to the public. Any material which a respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting a comment is not exempt from disclosure.

Comments may be submitted by facsimile transmission to (202) 927-8602, provided the comments: (1) are legible; (2) are 8\1/2\' x 11\' in size; (3) contain a written signature; and (4) are three pages or less in length. Please mail (do not FAX) any comments that exceed three pages. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

Disclosure

Copies of this notice and written comments will be available for public inspection during normal business hours at the ATF Reading Room, located in the ATF Reference Library, Room 6480, 650 Massachusetts

Avenue NW., Washington, DC.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action, because it will not: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan

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programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The collections of information contained in regulations proposed to be amended by this notice have been previously

reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control numbers 1512-0202, 1512-0206, 1512-0215, 1512-0250, and 1512-0461. The proposed amendments are expected to result in a net annual reduction of 450 burden hours, due to (1) the elimination of control number 1512-0202 (1,000 burden hours), (2) a net increase of 50 burden hours under control number 1512-0206, and (3) an increase of 500 burden hours under control number 1512-0250. Comments on these collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Chief, Document Services Branch, Room 3110, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226.

Regulatory Flexibility Act

Pursuant to Sec. 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. As discussed elsewhere in this preamble, this proposed rule will ease the regulatory burden on small proprietors and will not: (1) impose, or otherwise cause, a significant increase in recordkeeping or other compliance burdens on a substantial number of small entities or (2)

have significant secondary or incidental effects on a substantial number of small entities. The factual basis for this certification is that the proposed regulatory amendments will result in a reduced burden on small entities. Accordingly, an initial regulatory flexibility analysis is not required.

Drafting Information

This notice was written by Steven C. Simon, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Chemicals, Claims, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Stills, Surety bonds, Transportation, Vinegar, Virgin Islands, Warehouses, Wine. Issuance. Accordingly it is proposed to amend Title 27, Code of Federal Regulations, as follows:

PART 19--DISTILLED SPIRITS PLANTS

Paragraph 1. The authority citation for 27 CFR Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004-5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111-5113, 5142, 5143, 5146, 5171-5173, 5175, 5176, 5178-5181, 5201-5204, 5206, 5207, 5211-5215, 5221-5223, 5231, 5232, 5235, 5236, 5241-5243, 5271, 5273, 5301, 5311-5313, 5362, 5370, 5373, 5501-5505, 5551-5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2-3. Section 19.49(a) is revised to read as follows:

Sec. 19.49 Liability for special tax.

(a) Proprietor of distilled spirits plant. Except as provided in Sec. 19.906, every proprietor of a distilled spirits plant shall pay a special (occupational) tax at a rate specified by Sec. 19.50. The tax shall be paid on or before the date of commencing business as a distilled spirits plant proprietor, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

* * * * *

Par. 4. Section 19.153 is amended by revising paragraph (b) to read as follows:

Sec. 19.153 Statement of physical security.

* * * * *

(b) Changes. For changes in any of the information provided under paragraphs (a)(1) through (a)(4) of this section, the proprietor shall submit a letterhead application to the appropriate ATF official and receive approval thereof before instituting the change. For changes in security personnel listed in paragraph (a)(5) of this section, the proprietor shall submit a letterhead notice within 30 days after the change. Annually on May 1 (or other date approved by the appropriate ATF official), if there have been any changes, the proprietor shall submit an application for amended registration reflecting the changes made during the preceding year.

* * * * *

Par. 5. In Sec. 19.201, the second, fourth, and last (fifth) sentences of paragraph (a) are revised, and new paragraph (f) is added, to read as follows:

Sec. 19.201 Procedure for alternating proprietors.

(a) General. * * * Where operations by alternating proprietors are limited to parts of the plant, the notice of registration shall describe the areas, rooms or buildings, or combinations thereof, which will be alternated, indicate the method to be used to separate the premises being alternated from those not being alternated, and be accompanied by special diagrams designating the parts of the plant which are to be alternated. * * * Once such qualifying documents have been approved, the plant or parts thereof may be alternated pursuant to

letterhead notices filed in accordance with paragraph (f) of this section by each proprietor involved in the alternation. A single notice may be filed if it is signed by an authorized representative of each proprietor.

* * * * *

(f) Filing of notices. The letterhead notices required by paragraph (a) of this section shall be submitted to the area supervisor for transmission to the appropriate ATF official. Separate notices shall be submitted for each alternation of premises. The notices must be received by the area supervisor prior to the effective date of the alternation and shall contain the following information:

- (1) The name and plant number of the proprietor(s) filing the notice.
- (2) Identification (by name and plant number) of the outgoing proprietor and the incoming proprietor.
- (3) The date and hour of the alternation.
- (4) Identification of any applicable special diagrams, in the registration documents of each proprietor named under paragraph (a)(1) of this section, depicting the portions of the premises to be alternated.
- (5) The purpose of the alternation.

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(6) Whether distilling materials, unfinished or finished spirits, denatured spirits, or wine will be transferred to the incoming proprietor.

(7) Whether denatured spirits or articles in the processing account will be retained in locked tanks during the period of alternating proprietorship.

* * * * *

Par. 6. In Sec. 19.202, the fifth sentence of paragraph (a) and the entirety of paragraph (c) are revised, and new paragraph (d) is added, to read as follows:

Sec. 19.202 Alternate use of premises and equipment for customs purposes.

(a) General. * * * Once such qualifying documents have been approved by the appropriate ATF official, the designated premises and equipment may be alternately curtailed or extended pursuant to a letterhead notice filed in accordance with paragraph (d) of this section. * * *

* * * * *

(c) Exception. Notwithstanding the provisions of paragraphs (a) and (b) of this section, the bonded premises may be used temporarily without filing Form 5110.41 or the notice described in paragraph (d) of this section, for the sole purpose of gauging bulk distilled spirits to effect their transfer from customs custody to ATF bond.

(d) Filing of notice. The notice required by paragraph (a) of this section shall be submitted to the area supervisor for transmission to the appropriate ATF official. A separate notice shall be submitted for each alternation of premises. The notice must be received by the area supervisor prior to the effective date of the alternation and shall

contain the following information:

- (1) The name and plant number of the proprietor filing the notice.
- (2) The date and hour of the alternation.
- (3) Whether the premises are being curtailed or extended.
- (4) Identification of the special diagrams in the registration documents depicting the premises as they exist before and after the alternation;
- (5) The purpose of the alternation, including the class of customs warehouse (if any) temporarily occupying the curtailed premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1353, as amended (26 U.S.C. 5172, 5178))

Par. 7. Section 19.203 is amended by revising the heading and paragraphs (a), (c), (d), and the authority citation, and by adding new paragraph (e), to read as follows:

Sec. 19.203 Alternation of distilled spirits plant and bonded wine cellar or taxpaid wine bottling house premises.

(a) General. A proprietor of a distilled spirits plant operating a contiguous bonded wine cellar or taxpaid wine bottling house, who desires to alternate the use of such premises with distilled spirits plant premises by temporary extension and curtailment, shall file qualifying documents, keep records, and conduct operations as prescribed in this section.

* * * * *

(c) Records. After approval of qualifying documents for the alternation of premises, the proprietor may alternate the premises according to the plan described in those documents. Each time the premises are alternated, the proprietor shall prepare the record of alternating premises prescribed by Sec. 19.781.

(d) Separation of premises. Separation of distilled spirits plant premises from bonded wine cellar or taxpaid wine bottling house premises shall be in a manner which satisfies the appropriate ATF official that the revenue will not be jeopardized. The method of separation shall be in accordance with the approved plan of alternation described in the qualifying documents.

(e) Segregation of products. Prior to alternation, all spirits, denatured spirits, articles, and wine shall be removed from premises to be alternated to wine premises, except that spirits may remain if they are being withdrawn for use in wine production under Sec. 19.532 or for use in the production of nonbeverage wine or wine products under Sec. 19.534, and wine may remain if it is being transferred in bond under Sec. 19.505(b)(1)(ii); and all wine and spirits shall be removed from premises to be alternated to distilled spirits plant premises, except that wine may remain if it is being transferred in bond under Sec. 19.505(b)(1)(i), and spirits may remain if they are being returned from bonded wine cellar to distilled spirits plant bonded premises under Sec. 19.686(b).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1353, as amended (26 U.S.C. 5172, 5178))

Par. 10. Section 19.204 is revised to read as follows:

Sec. 19.204 Alternation of distilled spirits plant and brewery premises.

(a) General. A proprietor of a distilled spirits plant operating a contiguous brewery, who desires to alternate the use of brewery premises with distilled spirits plant premises by temporary extension and curtailment, shall file qualifying documents, keep records, and conduct operations as prescribed in this section.

(b) Qualifying documents. The proprietor shall file with the appropriate ATF official:

(1) Form 5110.41 and Form 5130.10 to cover the proposed alternation of premises;

(2) A special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment, and clearly depicting all buildings, floors, rooms, areas, equipment and spirits lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence; and

(3) Evidence of existing bond, consent of surety, or a new bond to cover the proposed alternation of premises.

(c) Records. After approval of qualifying documents for the alternation of premises, the proprietor may alternate the premises according to the plan described in those documents. Each time the premises are alternated, the proprietor shall prepare the record of alternating premises prescribed by Sec. 19.781.

(d) Separation of premises. Separation of distilled spirits plant

premises from brewery premises shall be in a manner which satisfies the appropriate ATF official that the revenue will not be jeopardized. The method of separation shall be in accordance with the approved plan of alternation described in the qualifying documents.

(e) Segregation of products. Prior to alternation, all spirits, denatured spirits, articles, and wine shall be removed from premises to be alternated to brewery premises; and all beer shall be removed from premises to be alternated to distilled spirits plant premises, except that beer may remain if it is being received for production of distilled spirits as provided in Sec. 19.312.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1353, as amended (26 U.S.C. 5172, 5178))

Par. 9. Section 19.205 is amended by revising paragraphs (c) and (d), and by adding new paragraph (e), to read as follows:

Sec. 19.205 Alternate curtailment and extension of bonded premises for use as general premises.

* * * * *

(c) Records. After approval of qualifying documents for the alternation of bonded and general premises, the proprietor may alternate the premises according to the plan described in those documents. Each time the premises are alternated, the proprietor shall prepare the record of alternating premises prescribed by Sec. 19.781.

(d) Separation of premises. Separation of bonded premises from general premises shall be in a manner which satisfies the appropriate ATF official that the revenue will not be jeopardized. The method of separation shall be in accordance with the approved plan of alternation described in the qualifying documents.

(e) Removal of products. Prior to alternation, all spirits, denatured spirits, articles, and wine shall be removed from premises to be alternated, except that--

(1) Bonded spirits may remain on portions of bonded premises to be alternated to general premises if the spirits are taxpaid concurrently with the alternation; and

(2) Taxpaid spirits may remain on portions of general premises to be alternated to bonded premises if the spirits are to be immediately dumped and returned to bond under the provisions of subpart U of this part.

* * * * *

Par. 10. Section 19.206 is amended by revising paragraphs (c) and (d), and by adding new paragraph (e), to read as follows:

Sec. 19.206 Curtailment and extension of plant premises for the manufacture of eligible flavors.

* * * * *

(c) Records. After approval of qualifying documents for the alternate curtailment and extension of distilled spirits plant premises, the proprietor may alternately curtail and extend the

premises according to the plan described in those documents. Each time the premises are alternated, the proprietor shall prepare the record of alternating premises prescribed by Sec. 19.781.

(d) Separation of premises. The portion of the premises which is to be curtailed or extended as provided in this section shall be separated from the remaining portion of the distilled spirits plant in a manner which satisfies the appropriate ATF official that the revenue will not be jeopardized. The method of separation shall be in accordance with the approved plan of alternation described in the qualifying documents.

(e) Removal of products. Prior to alternation, all spirits, denatured spirits, articles, and wine shall be removed from premises to be alternated, except that--

(1) Bonded spirits may remain on portions of bonded premises to be curtailed if the spirits are taxpaid concurrently with the curtailment; and

(2) Taxpaid spirits which have not been used in the manufacture of a nonbeverage product may remain on portions of premises to be included by extension of bonded premises if the spirits are to be immediately dumped and returned to bond under the provisions of subpart U of this part.

* * * * *

Par. 11. Section 19.311 is revised to read as follows:

Sec. 19.311 Notice by proprietor.

(a) Commencement of operations. The proprietor shall, before commencing production operations or resuming production operations

after having given notice of suspension, file a letterhead notice with the area supervisor, specifying the date on which the proprietor desires to commence or resume operations for the production of spirits. The proprietor shall not commence or resume operations prior to the time specified in the notice.

(b) Suspension of operations. Any proprietor desiring to suspend production operations for a period of 90 days or more shall file a letterhead notice with the area supervisor, specifying the date on which the operations will be suspended. In case of an accident which makes it apparent that operations cannot be conducted for 90 days or more, the proprietor shall immediately notify the area supervisor. (If such notification is verbal, it shall be followed up with a written notice.)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1364, as amended (26 U.S.C. 5221))

Par. 12. Section 19.454 is revised by designating the existing text as ``a),'' and by adding a heading to paragraph (a) and a new paragraph (b), to read as follows:

Sec. 19.454 Gauge for denaturation.

(a) General. * * *

(b) Denaturation and article manufacture in a single process. When spirits are denatured and articles are immediately produced therefrom in a unified process, the spirits and denatured spirits may be gauged by the following method:

(1) The spirits to be denatured are gauged by weight.

(2) The denaturants to be used are gauged by weight.

(3) The following computation is performed:

(i) The weight (in pounds) of denaturants used for denaturation (not to include any additional quantity of the same chemicals being used for article manufacture) is added to the weight (in pounds) of the spirits.

(ii) The sum thus obtained is divided by a number consistent with the data in Sec. 21.161 of this chapter under the heading ``Wt./gal. in air (lbs.),'' extrapolated as necessary to the exact proof of the spirits.

(iii) The result is the number of wine gallons of denatured spirits produced; this figure shall be entered in the record required by Sec. 19.752(b).

* * * * *

Sec. 19.481 [Amended]

Par. 13. Section 19.481 is amended by adding at the end of the existing text the following new sentence:

Sec. 19.481 General.

* * * The procedures in subpart L of part 251 of this chapter pertain to the transfer of spirits from customs custody to the bonded premises of a distilled spirits plant.

* * * * *

Par. 14. Paragraph (a) of Sec. 19.605 is revised to read as

follows:

Sec. 19.605 Additional marks on portable containers.

(a) In addition to the other marks required by this part, portable containers (other than bottles enclosed in cases) of spirits or denatured spirits to be withdrawn from the bonded premises shall bear the following marks:

(1) If withdrawn without payment of tax for export, for transfer to a customs manufacturing bonded warehouse or to a foreign trade zone, or for use as supplies on certain vessels or aircraft: the marks required by part 252 of this chapter.

(2) If withdrawn tax free for shipment to a permittee under part 22 of this chapter: the word ``Tax-Free.``

(3) If withdrawn in packages on determination of tax: the tare, proof, and proof gallons.

* * * * *

Par. 15. In Sec. 19.770, paragraph (a)(6)(i) is revised and new paragraph (c) is added, to read as follows:

Sec. 19.770 Transfer record.

(a) Consignor. * * *

(6) * * *

(i) Name and plant number of the producer, warehouseman or processor (Not required for denatured spirits or wine. For imported spirits transferred in bond between distilled spirits plants, record

the name and plant number of the warehouseman or processor who received the spirits from customs custody. For Virgin Islands or Puerto Rican spirits, show the name of the producer in the Virgin Islands or Puerto Rico. For spirits of different producers or warehousemen which have been mixed in the processing account, record the name of the processor.);

* * * * *

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(c) Receipt of spirits from customs custody. When spirits are transferred from customs custody as provided in subpart O of this part, the transfer record shall contain the information prescribed by Sec. 251.138 of this chapter.

* * * * *

Par. 16. New Sec. 19.781 is added immediately following Sec. 19.780, to read as follows:

Sec. 19.781 Record of alternating premises.

When distilled spirits plant bonded premises are alternated to or from bonded wine cellar, taxpaid wine bottling house, brewery, manufacturer of nonbeverage products, or general premises, under an approved plan of alternation described in the plant registration, the proprietor shall record the following information:

- (a) The date and hour of the alternation;
- (b) The kind of premises being curtailed, including plant

identification number, if applicable;

(c) The kind of premises being extended, including plant identification number, if applicable;

(d) Identification of the special diagrams in the registration documents depicting the premises as they exist before and after the alternation; and

(e) The purpose of the alternation.

Par. 17. In Sec. 19.1001, the first sentence of paragraph (a) is revised to read as follows:

Sec. 19.1001 Consignee premises.

(a) General. When spirits are received by transfer in bond or from customs custody, the proprietor shall examine each conveyance to determine whether the locks, seals, or other devices are intact upon arrival at the premises. * * *

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Par. 18. New Sec. 19.1003 is added immediately following Sec. 19.1002, to read as follows:

Sec. 19.1003 Transfer from customs custody.

(a) General. Spirits imported or brought into the United States in bulk containers may be withdrawn from customs custody and transferred in such bulk containers or by pipeline, without payment of tax, to the bonded premises of a large or medium alcohol fuel plant, but only if the spirits were not produced from petroleum, natural gas, or coal.

Spirits received on alcohol fuel plant premises as provided in this section shall be subjected to further manufacturing or processing after receipt. Such spirits may be redistilled or denatured only if imported at 185 degrees or more of proof, and withdrawn for fuel use only, in the same manner and subject to the same requirements as domestically produced alcohol fuel.

(b) Transfer procedures. The procedures in Sec. 19.1001 and in subpart L of part 251 of this chapter pertain to the transfer of spirits from customs custody to an alcohol fuel plant.

(c) Restriction. A proprietor who intends not to produce spirits, but to engage solely in the business of receiving spirits from customs custody as authorized in this section, must qualify as a regular distilled spirits plant under 26 U.S.C. 5171 and subpart G of this part.

Sec. 19.1010(b) [Amended]

Par. 19. Section 19.1010(b) is revised to:

(a) Remove references to control number 1512-0202 from Secs. 19.201-19.205,

(b) Revised the reference to control number 1512-0202 in Sec. 19.311 to a reference to control number 1512-0206,

(c) Remove all references to obsolete control number 1512-0189,

(d) Remove all entries for Secs. 19.661-19.672,

(e) Remove entries for Secs. 19.610 and 19.772, and

(f) Add an entry for Sec. 19.781, to read as follows:

Sec. 19.1010 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) Display.

Current OMB

Section where identified control no.

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19.781..... 1512-0250

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Signed: August 5, 1998.

John W. Magaw,
Director.

Approved: October 26, 1998.

John P. Simpson,
Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

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