INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE
ALCOHOL AND TOBACCO TAX DIVISION

WASHINGTON 25, D. C.

Industry Circular No. 60-25

June 7, 1960

EXPORT REGULATIONS 26 CFR PART 290

Manufacturers of tobacco products
and cigarette papers and tubes;
dealers in tobacco materials;
proprietors of export warehouses; and
proprietors of customs bonded cigar
manufacturing warehouses, class 6:

Purpose. This industry circular is to call to your attention the new internal revenue tobacco export regulations in 26 CFR Part 290, which become effective July 1, 1960, and to furnish information to assist you in the transition from the superseded regulations to the new regulations.

Background. The new regulations implement the Internal Revenue Code of 1954, as amended by the Excise Tax Technical Changes Act of 1958. They bring together in one part the internal revenue regulations relating to the exportation (including supplies for vessels and aircraft) of tobacco materials, tobacco products, and cigarette papers and tubes, without payment of tax; the qualification of, and operations by, export warehouse proprietors; and the allowance of drawback on tax-paid tobacco products and cigarette papers and tubes exported. A reprint of the regulations, as published in the Federal Register on May 28, 1960, is attached, and the following comments highlight the areas of significant effect.

Supplies for Vessels. Under section 290.62, tax-exempt tobacco products and cigarette papers and tubes may be delivered as supplies, for consumption beyond the jurisdiction of the internal revenue laws, to vessels engaged in foreign, intercoastal, or noncontiguous territory trade when such vessels are operating on a regular schedule in trade or actually transporting passengers and/or cargo; to vessels clearing through customs for a port beyond the jurisdiction of the internal revenue laws of the United States; to vessels of war or other governmental activity; and to vessels engaged in the fishing business.

Under this section, if the quantity of tobacco products or cigarette papers or tubes to be laden appears to be excessive for the intended voyage, the customs authorities at the port may require the master of the receiving vessel to submit an application on Customs Form 5127 for authorization to lade the articles. Any portion of the shipment not laden must be either returned to the factory or the warehouse in accordance with the provisions of sections 290.210 or 290.267 or otherwise disposed of as authorized by the assistant regional commissioner. A copy of the Form 5127 will be returned to you by the Collector of Customs with the certified copy of the notice of removal,

Form 2149 or 2150. Please see that the Form 5127 is attached to the notice of removal when you file the notice with the assistant regional commissioner.

Vessels engaged in the fishing business no longer need "touch and trade" permits in order to take aboard tax-exempt tobacco products or cigarette papers or tubes for use as supplies.

Supplies for Aircraft. Under section 290.62, tax-exempt tobacco products and cigarette papers and tubes may be delivered as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States, to aircraft clearing through customs en route to a place or places beyond the jurisdiction of these internal revenue laws and to aircraft operating on a regular schedule between United States customs areas as defined in the Air Commerce Regulations (19 CFR Part 6).

Relief from Liability for Tax. Under section 290.66, manufacturers and export warehouse proprietors are relieved from liability for the tax on tobacco products and cigarette papers and tubes when they furnish the assistant regional commissioner satisfactory evidence of exportation or proper delivery of the articles. Therefore, the notices of removal, Form 2149 or 2150, returned to you in accordance with the provisions of Subpart J, should be forwarded promptly to the assistant regional commissioner. Unless this evidence is received by him within the prescribed period of 90 days, or any authorized extended period, the tax becomes immediately due and payable under the provisions of section 290.67.

Export Warehouse Proprietors Currently Qualified. Because the permits issued under the Interim Regulations Relating to Export Warehouses (Subpart D of 26 CFR Part 296) continue in effect, there is no general requirement for requalification when Part 290 becomes effective.

Operations by Export Warehouse Proprietors. Under section 290.141, a sign must be placed on the outside of the building in which an export warehouse is located, or at the entrance thereof, showing the name under which the proprietor operates and either the type of business (Export Warehouse Proprietor) or his permit number.

Under section 290.142, complete and adequate records are to be maintained by an export warehouse proprietor showing the date, kind, and quantity of tobacco products and cigarette papers and tubes received, removed, transferred, destroyed, lost, or returned to manufacturers or customs warehouse proprietors. No particular form of records is prescribed, but the information required must be readily ascertainable. In addition to these records, a copy of each notice, Form 2149 or 2150, covering the receipt of tobacco products or cigarette papers or tubes and a copy of each notice, Form 2150, covering the removal of such articles are also required to be kept.

Under section 290.143, an export warehouse proprietor furnishes an inventory, to the assistant regional commissioner, of the quantity of tobacco products and cigarette papers and tubes held by him at the time of commencing business, filing a superseding bond, transferring ownership, moving to another region, concluding business, and whenever required by an internal revenue officer.

The new report, Form 2140, to be submitted to the assistant regional commissioner at the times specified in sections 290.148 through 290.151, supersedes the more detailed report, Form 550-C, which required the reporting of individual receipts and removals. Please note that a report for each calendar month is required to be made not later than the 20th day of the succeeding month even though no operations or transactions occurred.

Sections 290.142, 290.143, and 290.147 specify the retention period for the records, inventories, and reports and require that they be made available for inspection by any internal revenue officer upon his request.

Under section 290.152, an export warehouse proprietor may file claim, in letter form, for the remission of tax liability on tobacco products and cigarette papers and tubes lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, before removal from the export warehouse or after removal for tax-exempt purposes, while such articles are in the possession or ownership of the export warehouse proprietor.

Exportation of Tobacco Materials by Dealers in Tobacco Materials. Under sections 290.171 and 290.172, dealers who export tobacco materials prepare an extra copy of the shipper's export declaration, Commerce Form 7525-V, for each shipment, which copy, after completion by the customs authorities at the port, is to be returned to the dealer for retention as a part of his records and for presentation to the internal revenue officer at the time of inspection of the dealer's establishment. In those instances where tobacco materials are exported by parcel post and no shipper's export declaration is required, the dealer must secure, at the time the packages are presented for mailing, a receipt on Post Office Department Form 3817 for retention as a part of his records.

Please note that internal revenue tobacco invoice, Form 774, has been discontinued; also, a copy of Commerce Form 7525-V is no longer required to be filed with the Internal Revenue Service.

Packages. Under section 290.181, all tobacco products and cigarette papers and tubes are to be put up in packages before removal from the factory for export purposes (including supplies for vessels and aircraft and supplies for use of the armed forces overseas).

Mark, Label or Notice, and Class Designation. Under sections 290.184, 290.185, and 290.186, packages of tobacco products must show the following:

1. Name and location, or the permit number, of the manufacturer.

2. Quantity of manufactured tobacco or number of cigars or cigarettes.

3. The words "Tax-exempt. For Use outside U. S." or "U. S. Tax-exempt. For use outside U. S." except where a stamp, sticker, or notice required by a foreign country or a possession of the United States, which identifies such country or possession, is used.

4. In the case of large cigars, the class designation.

Shipping Containers. Under section 290.187, each shipping container in which tobacco materials, tobacco products, or cigarette papers or tubes are removed must bear a distinguishing number assigned either by the manufacturer or by the export warehouse proprietor.

Procedure for Removals by Manufacturers and Export Warehouse Proprietors. Provisions are made in sections 290.198 through 290.213 for manufacturers and export warehouse proprietors to prepare and transmit the notices of removal, Forms 2149 and 2150, covering the transfer or removal of tobacco materials, tobacco products, and cigarette papers and tubes for direct exportation or for delivery for subsequent exportation.

Section 290.200 provides for the transfer of tobacco products and cigarette papers and tubes from a factory to an export warehouse and between export warehouses. As an informational guide, a list of the proprietors of export warehouses operating under permits on January 1, 1960, will be furnished to all export warehouse proprietors and to manufacturers who presently remove shipments for export purposes.

Under sections 290.203 and 290.205, relating to the shipment of tobacco materials, tobacco products, and cigarette papers and tubes to foreign countries and possessions of the United States, the notice of removal, Form 2149 or 2150, should be filed with the related shipper's export declaration, Commerce Form 7525-V. This concurrent filing of the notice of removal with the shipper's export declaration is not mandatory but is preferred because we are assured that such filing will assist the customs authorities in processing the forms. This procedure, and the elimination of the requirement for customs officers' inspection and supervision of lading of export shipments, should result in an earlier certification of the forms to evidence exportation and the return of the forms to you.

Section 290.207 provides for the filing with the collector of customs of Form 2149 or 2150, as appropriate, to cover the removal of tobacco products and cigarette papers and tubes for delivery to vessels and aircraft entitled to receive such articles for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States. To insure proper processing of the forms at the customhouse, we urge that in preparing the forms you insert the word "SUPPLIES" in item 7, in addition to the required information.

Provision is made in section 290.210 for the return to the factory or export warehouse of tobacco materials, tobacco products, or cigarette papers or tubes previously removed therefrom, before lading, or after lading if such materials or articles have not been beyond the jurisdiction of the internal revenue laws of the United States (i.e., the 3-mile limit or international boundary). However, such materials or articles which are returned after having been beyond the jurisdiction of the internal revenue laws of the United States are subject to treatment under the tariff laws of the United States administered by the Bureau of Customs.

Drawback of Tax. Subpart K provides for the allowance of drawback of tax when taxpaid tobacco products and cigarette papers and tubes are exported and the person who paid the tax files claim and otherwise complies with the provisions of the regulations.

Withdrawal of Cigars from Customs Bonded Manufacturing Warehouses. Subpart L provides for the withdrawal of cigars from customs bonded manufacturing warehouses, class 6, for exportation or for delivery for subsequent exportation when the customs warehouse proprietor has on file an internal revenue bond, Form 2100, or submits a bond on Form 2104 in accordance with section 290.243. Requirements relating to packages and the preparation and transmission of the notices of removal, Form 2149, are similar to the requirements in Subpart J with respect to the removal of tobacco products and cigarette papers and tubes by domestic manufacturers and export warehouse proprietors.

The duty paid by a customs warehouse proprietor on the tobacco used in the manufacture of cigars may not be recovered when the cigars are exported under the provisions of Subpart L.

Supplies of Forms 2140, 2149, and 2150. A supply of the monthly report, Form 2140, and the notice of removal, Form 2150, will be furnished to each export warehouse proprietor and a supply of the notice of removal, Form 2149, will be furnished to each manufacturer and customs warehouse proprietor who presently exports tobacco materials, tobacco products, or cigarette papers or tubes, in sufficient time to permit their use on the effective date of the regulations. Additional

supplies of these forms may be obtained from your assistant regional commissioner (alcohol and tobacco tax).

Superseded Regulations. The regulations in 26 CFR Part 290 will, on July 1, 1960, supersede the provisions of regulations in:

1. 26 CFR (1939) Part 140 (Regulations 8) insofar as it relates to the exportation of tobacco materials, tobacco products, and cigarette papers and tubes;

2. 26 CFR (1939) Part 141 (Regulations 76);

3. 26 CFR (1939) Part 142 (Treasury Decision 5438);

4. 26 CFR (1939) Part 451 (Regulations 73) insofar as it relates to tobacco products; and

5. Subpart D of 26 CFR Part 296 which prescribes interim regulations relating to the qualification of persons engaging in or commencing to engage in business as an export warehouse proprietor.

Superseded Forms. The application for withdrawal and entry for exportation, Form 550, the notices of removal, Forms 550-A and 550-B, the monthly report, Form 550-C, and the internal revenue tobacco invoice, Form 774, become obsolete on July 1, 1960. Please destroy any supply of the unused forms you may have on hand.

Inquiries. Inquiries regarding this circular should refer to its number and be addressed to the office of your assistant regional commissioner (alcohol and tobacco tax).

Dwight E. Avis
Director, Alcohol and Tobacco Tax Division

Attachment

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

PART 290—EXPORTATION OF TOBACCO MATERIALS, TOBACCO PRODUCTS, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

On February 12, 1960, a notice of proposed rule making with respect to regulations designated as Part 290 of Title 26 of the Code of Federal Regulations was published in the FEDERAL REGISTER (25 F.R. 1253). The proposed regulations supersede 26 CFR (1939) Part 140, insofar as it relates to the exportation of tobacco materials, tobacco products, and cigarette papers and tubes; 26 CFR (1939) Part 141; 26 CFR (1939) Part 142; 26 CFR (1939) Part 451, insofar as it relates to tobacco products; and Subpart D of 26 CFR Part 296; and are promulgated in order to implement the Internal Revenue Code of 1954, as amended by section 202 of the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275).

In accordance with the notice, interested persons were afforded an opportunity to submit for consideration any comments or suggestions pertaining thereto. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, and after making editorial, clarifying, and liberalizing changes the following regulations are hereby adopted.

Preamble. 1. These regulations, 26 CFR Part 290, "Exportation of Tobacco Materials, Tobacco Products, and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax," supersede 26 CFR (1939) Part 140, insofar as it relates to the exportation of tobacco materials, tobacco products, and cigarette papers and tubes; 26 CFR (1939) Part 141; 26 CFR (1939) Part 142; 26 CFR (1939) Part 451, insofar as it relates to tobacco products; and Subpart D of 26 CFR Part 296; and are promulgated in order to implement the Internal Revenue Code of 1954, as amended by section 202 of the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275).

2. These regulations shall not affect any act done, or any liability or right accruing or accrued, or any suit or proceeding had or commenced, before the effective date of these regulations.

3. The regulations in this part shall be effective on the first day of the first month which begins not less than 30 days following the date of publication in the FEDERAL REGISTER.

Subpart A—Scope of Regulations

Sec.
290.1 Exportation of tobacco materials, tobacco products, and cigarette papers and tubes, without payment of tax, or with drawback of tax.
290.2 Forms prescribed.

Subpart B—Definitions

290.11 Meaning of terms.
290.12 Assistant regional commissioner.
290.13 Black Fat.
290.14 Cigar.
290.15 Cigarette.
290.16 Cigarette paper.
290.17 Cigarette papers.
290.18 Cigarette tube.
290.19 Clippings.
290.20 Collector of customs.
290.21 Commissioner.
290.22 Customs warehouse.
290.23 Cuttings.
290.24 Dealer in tobacco materials.
290.25 Director, Alcohol and Tobacco Tax Division.
290.26 Establishment.
290.27 Exportation or export.
290.28 Export warehouse.
290.29 Export warehouse proprietor.
290.30 Factory.
290.31 Inclusive language.
290.32 I.R.C.
290.33 Internal revenue officer.
290.34 Leaf tobacco.
290.35 Manufactured tobacco.
290.36 Manufacturer of cigarette papers and tubes.
290.37 Manufacturer of tobacco products.
290.38 Package.
290.39 Perique.
290.40 Person.
290.41 Region.
290.42 Regional commissioner.
290.43 Removal or remove.
290.44 Scraps.
290.45 Siftings.
290.46 State.
290.47 Stems.
290.48 Tobacco in process.
290.49 Tobacco materials.
290.50 Tobacco products.
290.51 United States.
290.52 U.S.C.
290.53 Waste.

Subpart C—General

290.61 Removals, withdrawals, and shipments authorized.
290.62 Restrictions on deliveries of tobacco products and cigarette papers and tubes to vessels and aircraft, as supplies.
290.63 Restrictions on disposal of tobacco products and cigarette papers and tubes on vessels and aircraft.
290.64 Responsibility for delivery or exportation of tobacco materials, tobacco products, and cigarette papers and tubes.
290.65 Liability for tax on tobacco products and cigarette papers and tubes.
290.66 Relief from liability for tax.
290.67 Payment of tax.
290.68 Liability for tax on tobacco materials.
290.69 Assessment.
290.70 Authority of internal revenue officers to enter premises.
290.71 Interference with administration.

VARIATIONS FROM REQUIREMENTS

290.72 Construction and separation of export warehouse premises.
290.73 Methods of operation.
290.74 Application.

Subpart D—Qualification Requirements for Export Warehouse Proprietors

Sec.
290.81 Persons required to qualify.
290.82 Application for permit.
290.83 Corporate documents.
290.84 Articles of partnership or association.
290.85 Trade name certificate.
290.86 Bond.
290.87 Power of attorney.
290.88 Description and diagram of premises.
290.89 Separation of premises.
290.90 Restrictions relating to export warehouse premises.
290.91 Additional information.
290.92 Investigation of applicant.
290.93 Issuance of permit.

Subpart E—Changes Subsequent to Original Qualification of Export Warehouse Proprietors

CHANGES IN NAME

290.101 Change in individual name.
290.102 Change in trade name.
290.103 Change in corporate name.

CHANGES IN OWNERSHIP AND CONTROL

290.104 Fiduciary successor.
290.105 Transfer of ownership.
290.106 Change in officers or directors of a corporation.
290.107 Change in stockholders of a corporation.

CHANGES IN LOCATION AND PREMISES

290.108 Change in location within same region.
290.109 Change in address.
290.110 Change in location to another region.
290.111 Change in export warehouse premises.
290.112 Emergency premises.

Subpart F—Bonds and Extensions of Coverage of Bonds

290.121 Corporate surety.
290.122 Deposit of bonds, notes, or obligations in lieu of corporate surety.
290.123 Amount of bond.
290.124 Strengthening bond.
290.125 Superseding bond.
290.126 Extension of coverage of bond.
290.127 Approval of bond and extension of coverage of bond.
290.128 Termination of liability of surety under bond.
290.129 Release of bonds, notes, and obligations.

Subpart G—Operations by Export Warehouse Proprietors

290.141 Sign.
290.142 Records.

INVENTORIES

290.143 General.
290.144 Opening.
290.145 Special.
290.146 Closing.

REPORTS

290.147 General.
290.148 Opening.
290.149 Monthly.
290.150 Special.
290.151 Closing.

CLAIMS

290.152 Claim for remission of tax liability.
290.153 Claim for abatement of assessment.
290.154 Claim for refund of tax.

Subpart H—Suspension and Discontinuance of Operations

Sec.
290.161 Discontinuance of operations.
290.162 Suspension and revocation of permit.

Subpart I—Shipments of Tobacco Materials by Dealers in Tobacco Materials

290.171 Shipment for export other than by parcel post.
290.172 Shipment for export by parcel post.

Subpart J—Removal of Shipments of Tobacco Materials by Manufacturers and Removal of Tobacco Products and Cigarette Papers and Tubes by Manufacturers and Export Warehouse Proprietors

PACKAGING REQUIREMENTS

290.181 Packages.
290.182 Lottery features.
290.183 Indecent or immoral material.
290.184 Mark.
290.185 Label or notice.
290.186 Class designation for large cigars.
290.187 Shipping containers.

CONSIGNMENT OF SHIPMENT

290.188 General.
290.189 Transfers between factories and export warehouses.
290.190 Return of shipment to a manufacturer or customs warehouse proprietor.
290.191 To officers of the armed forces for subsequent exportation.
290.192 To vessels and aircraft for shipment to noncontiguous foreign countries and possessions of the United States.
290.193 To a Federal department or agency.
290.194 To collector of customs for shipment to contiguous foreign countries.
290.195 To Government vessels and aircraft for consumption as supplies.
290.196 To collector of customs for consumption as supplies on commercial vessels and aircraft.
290.197 For export by parcel post.

NOTICE OF REMOVAL OF SHIPMENT

290.198 Preparation.
290.199 Disposition.
290.200 Transfers between factories and export warehouses.
290.201 Return to manufacturer or customs warehouse proprietor.
290.202 To officers of the armed forces for subsequent exportation.
290.203 To noncontiguous foreign countries and possessions of the United States.
290.204 To a Federal department or agency.
290.205 To contiguous foreign countries.
290.206 To Government vessels and aircraft for consumption as supplies.
290.207 To commercial vessels and aircraft for consumption as supplies.
290.208 For export by parcel post.

MISCELLANEOUS PROVISIONS

290.209 Diversion of shipment to another consignee.
290.210 Return of shipment to factory or export warehouse.
290.211 Shipments to foreign-trade zones.
290.212 Delay in lading at port of exportation.
290.213 Destruction of tobacco products and cigarette papers and tubes.

Subpart K—Drawback of Tax

290.221 Application of drawback of tax.
290.222 Claim.
290.223 Drawback bond.
290.224 Inspection by an internal revenue officer.
290.225 Delivery of tobacco products and cigarette papers and tubes for export other than by parcel post.
290.226 Delivery of tobacco products and cigarette papers and tubes for export by parcel post.
290.227 Customs procedure.
290.228 Landing certificate.
290.229 Collateral evidence as to landing.
290.230 Proof of loss.
290.231 Extension of time.
290.232 Allowance of claim.

Subpart L—Withdrawal of Cigars From Customs Warehouses

290.241 Shipment restricted.
290.242 Responsibility for tax on cigars.

BONDS

290.243 Bond required.
290.244 Amount of bond.
290.245 Strengthening bond.
290.246 Superseding bond.
290.247 Termination of liability of surety under bond.

PACKAGING REQUIREMENTS

290.248 Packages.
290.249 Lottery features.
290.250 Indecent or immoral material.
290.251 Mark.
290.252 Label or notice.
290.253 Class designation for large cigars.
290.254 Shipping containers.

CONSIGNMENT OF SHIPMENT

290.255 Consignment of cigars.

NOTICE OF REMOVAL OF SHIPMENT

290.256 Preparation.
290.257 Disposition.
290.258 To officers of the armed forces for subsequent exportation.
290.259 To noncontiguous foreign countries and possessions of the United States.
290.260 To a Federal department or agency.
290.261 To contiguous foreign countries.
290.262 To Government vessels and aircraft for consumption as supplies.
290.263 To commercial vessels and aircraft for consumption as supplies.
290.264 To internal revenue export warehouses.
290.265 For export by parcel post.

RETURN OF SHIPMENT

290.266 Return of cigars from internal revenue export warehouses.
290.267 Return of cigars from other sources.

AUTHORITY: §§ 290.1 to 290.267 are issued under authority of section 7805, I.R.C. (68A Stat. 917; 26 U.S.C. 7805). Statutory provisions interpreted or applied are cited to text in parentheses.

Subpart A—Scope of Regulations

§ 290.1 Exportation of tobacco materials, tobacco products, and cigarette papers and tubes, without payment of tax, or with drawback of tax.

This part contains the regulations relating to the exportation (including supplies for vessels and aircraft) of tobacco materials, tobacco products, and cigarette papers and tubes, without payment of tax; the qualification of, and operations by, export warehouse proprietors; and the allowance of drawback of tax paid on tobacco products and cigarette papers and tubes exported.

§ 290.2 Forms prescribed.

The Director, Alcohol and Tobacco Tax Division, is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

Subpart B—Definitions

§ 290.11 Meaning of terms.

The terms used in this part shall have the meanings ascribed in this subpart, unless the context otherwise indicates.

§ 290.12 Assistant regional commissioner.

"Assistant regional commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to and functions under the direction and supervision of the Regional Commissioner.

§ 290.13 Black Fat.

"Black Fat" shall mean tobacco which is normally treated with oil under pressure and results in black tobacco, and shall include all tobacco similarly treated and referred to by such other terms as Black Horse, etc.

§ 290.14 Cigar.

"Cigar" shall mean any roll of tobacco wrapped in tobacco.

§ 290.15 Cigarette.

"Cigarette" shall mean any roll of tobacco, wrapped in paper or any substance other than tobacco.

§ 290.16 Cigarette paper.

"Cigarette paper" shall mean paper or other material except tobacco, prepared for use as a cigarette wrapper.

§ 290.17 Cigarette papers.

"Cigarette papers" shall mean taxable books or sets of cigarette papers.

§ 290.18 Cigarette tube.

"Cigarette tube" shall mean cigarette paper made into a hollow cylinder for use in making cigarettes.

§ 290.19 Clippings.

"Clippings" shall mean the tobacco which is clipped or cut off the ends of cigars in the manufacture thereof.

§ 290.20 Collector of customs.

"Collector of customs" shall mean the person having charge of a customs collection district and shall also include assistant collector of customs, deputy collector of customs, and any person authorized by law or by regulations approved by the Secretary of the Treasury to perform the duties of a collector of customs.

§ 290.21 Commissioner.

"Commissioner" shall mean the Commissioner of Internal Revenue.

§ 290.22 Customs warehouse.

"Customs warehouse" shall mean a customs bonded manufacturing warehouse, class 6, where cigars are manufactured of imported tobacco.

§ 290.23 Cuttings.

"Cuttings" shall mean the tobacco remaining after the binders and wrappers for cigars are cut out of the leaf.

§ 290.24 Dealer in tobacco materials.

"Dealer in tobacco materials" shall mean any person who receives and handles tobacco materials for sale, shipment, or delivery to another dealer in such materials, to a manufacturer of tobacco products, or to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or who receives tobacco materials, other than stems and waste, for use by him in the production of fertilizer, insecticide, or nicotine. The term "dealer in tobacco materials" shall not include (a) an operator of a warehouse who stores tobacco materials solely for a qualified dealer in tobacco materials, for a qualified manufacturer of tobacco products, for a farmer or grower of tobacco, or for a bona fide association of farmers or growers of tobacco; (b) a farmer or grower of tobacco with respect to the sale of leaf tobacco of his own growth or raising, or a bona fide association of farmers or growers of tobacco with respect to sales of leaf tobacco grown by farmer or grower members, if the tobacco so sold is in the condition as cured on the farm: *Provided*, That such association maintains records of all leaf tobacco acquired or received and sold or otherwise disposed of by the association, in accordance with Part 280 of this subchapter; (c) a person who buys leaf tobacco on the floor of an auction warehouse, or who buys leaf tobacco from a farmer or grower, and places the tobacco on the floor of such a warehouse, or who purchases and sells warehouse receipts without taking physical possession of the tobacco covered thereby; or (d) a qualified manufacturer of tobacco products with respect to tobacco materials received by him under his bond as such a manufacturer.

§ 290.25 Director, Alcohol and Tobacco Tax Division.

"Director, Alcohol and Tobacco Tax Division" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Treasury Department, Washington, D.C.

§ 290.26 Establishment.

"Establishment" shall mean those premises of a dealer in tobacco materials in which he carries on such business.

§ 290.27 Exportation or export.

"Exportation" or "export" shall mean a severance of tobacco materials, tobacco products, or cigarette papers or tubes from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country. For the purposes of this part, shipment from the United States to Puerto Rico, the Virgin Islands, or a possession of the United States, shall be deemed exportation, as will the clearance from the United States of tobacco products and cigarette papers and tubes for consumption beyond the jurisdiction of the internal revenue laws of the United States, i.e., beyond the 3-mile limit or international boundary, as the case may be.

§ 290.28 Export warehouse.

"Export warehouse" shall mean a bonded internal revenue warehouse for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

§ 290.29 Export warehouse proprietor.

"Export warehouse proprietor" shall mean any person who operates an export warehouse.

§ 290.30 Factory.

"Factory" shall mean the premises of a manufacturer of tobacco products or cigarette papers and tubes in which he carries on such business.

§ 290.31 Inclusive language.

Words in the plural form shall include the singular, and vice versa, and words in the masculine gender shall include the feminine, partnerships, associations, companies, corporations, estates, and trusts.

§ 290.32 I.R.C.

"I.R.C." shall mean the Internal Revenue Code of 1954.

§ 290.33 Internal revenue officer.

"Internal revenue officer" shall mean an officer or employee of the Treasury Department duly authorized to perform any function relating to the administration or enforcement of this part.

§ 290.34 Leaf tobacco.

"Leaf tobacco" shall mean:

(a) *Unstemmed.* Tobacco from which the stem or mid-rib has not been removed, and

(b) *Stemmed.* Tobacco from which the stem or mid-rib has been removed, also known as "strips."

§ 290.35 Manufactured tobacco.

"Manufactured tobacco" shall mean tobacco (other than cigars and cigarettes) prepared, processed, manipulated, or packaged, for removal, or merely removed, for consumption by smoking or for use in the mouth or nose, and any tobacco (other than cigars and cigarettes), not exempt from tax under Chapter 52, I.R.C., sold or delivered to any person contrary to the provisions of such chapter or regulations thereunder.

§ 290.36 Manufacturer of cigarette papers and tubes.

"Manufacturer of cigarette papers and tubes" shall mean any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for his own personal use or consumption.

§ 290.37 Manufacturer of tobacco products.

"Manufacturer of tobacco products" shall mean any person who manufactures cigars or cigarettes, or who prepares, processes, manipulates, or packages, for removal, or merely removes, tobacco (other than cigars and cigarettes) for consumption by smoking or for use in the mouth or nose, or who sells or delivers any tobacco (other than cigars and cigarettes) contrary to the provisions of Chapter 52, I.R.C., or regulations thereunder. The term "manufacturer of tobacco products" shall not include (a) a person who in any manner prepares tobacco, or produces cigars or cigarettes, solely for his own personal consumption or use; (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse; (c) a farmer or grower of tobacco with respect to the sale of leaf tobacco of his own growth or raising, if it is in the condition as cured on the farm; or (d) a bona fide association of farmers or growers of tobacco with respect to sales of leaf tobacco grown by farmer or grower members, if the tobacco so sold is in the condition as cured on the farm, and if the association maintains records of all leaf tobacco, acquired or received and sold or otherwise disposed of, in accordance with Part 280 of this subchapter.

§ 290.38 Package.

"Package" shall mean the container in which tobacco products or cigarette papers or tubes are put up by the manufacturer and offered for sale or delivery to the consumer.

§ 290.39 Perique.

"Perique" shall mean tobacco, such as that produced in Louisiana, cured in its own juices and given other treatment peculiar to this type of tobacco.

§ 290.40 Person.

"Person" shall mean and include an individual, partnership, association, company, corporation, estate, or trust.

§ 290.41 Region.

"Region" shall mean the area, designated by the Secretary or his delegate, comprising the geographical jurisdiction of a regional commissioner of internal revenue.

§ 290.42 Regional commissioner.

"Regional commissioner" shall mean the Regional Commissioner of Internal Revenue of an internal revenue region.

§ 290.43 Removal or remove.

"Removal" or "remove" shall mean the removal of tobacco products or cigarette papers or tubes from either the factory or the export warehouse covered by the bond of the manufacturer or proprietor.

§ 290.44 Scraps.

"Scraps" shall mean portions of leaf tobacco.

§ 290.45 Siftings.

"Siftings" shall mean the particles of tobacco salvaged in the process of sifting or screening the residue of tobacco.

§ 290.46 State.

"State" shall, for the purposes of this part, be construed to include the District of Columbia.

§ 290.47 Stems.

"Stems" shall mean the stems or midribs of tobacco.

§ 290.48 Tobacco in process.

"Tobacco in process" shall mean tobacco which has been, or is being, manipulated or processed, but is to undergo further manipulation, processing, or handling, prior to removal for consumption by smoking or for use in the mouth or nose.

§ 290.49 Tobacco materials.

"Tobacco materials" shall mean tobacco other than manufactured tobacco, cigars, and cigarettes and shall include tobacco in process, Perique, Black Fat, leaf tobacco, and tobacco scraps, cuttings, clippings, siftings, stems, and waste.

§ 290.50 Tobacco products.

"Tobacco products" shall mean manufactured tobacco, cigars, and cigarettes.

§ 290.51 United States.

"United States" when used in a geographical sense shall include only the States and the District of Columbia.

§ 290.52 U.S.C.

"U.S.C." shall mean the United States Code.

§ 290.53 Waste.

"Waste" shall mean tobacco, including dust, and foreign substances resulting from the handling, manipulation, or processing of tobacco, and which are worthless for use in the manufacture of tobacco products and have no market value for that purpose.

Subpart C—General

§ 290.61 Removals, withdrawals, and shipments authorized.

Tobacco products and cigarette papers and tubes may be removed from a factory or an export warehouse, and cigars may be withdrawn from a customs warehouse, without payment of tax, for direct exportation or for delivery for subsequent exportation, in accordance with the provisions of this part. Tobacco materials may be shipped from a factory or establishment, without payment of tax, for exportation to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, in accordance with the provisions of this part.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.62 Restrictions on deliveries of tobacco products and cigarette papers and tubes to vessels and aircraft, as supplies.

Tobacco products and cigarette papers and tubes may be removed from a factory or an export warehouse and cigars may be withdrawn from a customs warehouse, without payment of tax, for delivery to vessels and aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States, subject to the applicable provisions of this part. Deliveries may be made to vessels actually engaged in foreign, intercoastal, or noncontiguous territory trade (i.e., vessels operating on a regular schedule in trade or actually transporting passengers and/or cargo (a) between a port in the United States and a foreign port; (b) between the Atlantic and Pacific ports of the United States; or (c) between a port on the mainland of the United States and a port in Alaska, Hawaii, Puerto Rico, the Virgin Islands, or a possession of the United States; between a port in Alaska and a port in Hawaii; or between a port in Alaska or Hawaii and a port in Puerto Rico, the Virgin Islands, or a possession of the United States); to vessels clearing through customs for a port beyond the jurisdiction of the internal revenue laws of the United States; to vessels of war or other governmental activity; or to vessels of the United States documented to engage in the fishing business (including the whaling business), and foreign fishing (including whaling) vessels of 5 net tons or over. Such deliveries to vessels shall be subject to lading under customs supervision as provided in §§ 290.207 and 290.263. As a condition to the lading of the tobacco products and cigarette papers and tubes, the customs authorities at the port of lading may, if they deem it necessary in order to protect the revenue, require assurances, satisfactory to them, from the master of the receiving vessel that the quantities to be laden are reasonable, considering the number of persons to be carried, the vessel's itinerary, the duration of its intended voyage, etc., and that such articles are to be used exclusively as supplies on the voyage. For this purpose, the customs authorities may require the master of the receiving vessel to submit for their approval, prior to lading, an application on Customs Form 5127 for permission to lade the articles. Where the customs authorities allow only a portion of a shipment to be laden, the remainder of the shipment shall be returned to the bonded premises of the manufacturer, export warehouse proprietor, or customs warehouse proprietor making the shipment, or otherwise disposed of as approved by the assistant regional commissioner for the region from which the articles were shipped. Deliveries may be made to aircraft clearing through customs en route to a place or places beyond the jurisdiction of the internal revenue laws of the United States, and to aircraft operating on a regular schedule between United States customs areas (as defined in the Air Commerce Regulations (19 CFR Part 6) of the Bureau of Customs). Deliveries may not be made to a vessel or aircraft stationed in the United States for an indefinite period and where its schedule does not include operations outside such jurisdiction.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.63 Restrictions on disposal of tobacco products and cigarette papers and tubes on vessels and aircraft.

Tobacco products and cigarette papers and tubes delivered to a vessel or aircraft, without payment of tax, pursuant to § 290.62, shall not be sold, offered for sale, or otherwise disposed of until the vessel or aircraft is outside the jurisdiction of the internal revenue laws of the United States, i.e., outside the 3-mile limit or international boundary, as the case may be, of the United States. Where the vessel or aircraft returns within the jurisdiction of the internal revenue laws with such articles on board, the articles shall be subject to treatment under the tariff laws of the United States.

(72 Stat. 1418; 26 U.S.C. 5704; 19 U.S.C. 1317)

§ 290.64 Responsibility for delivery or exportation of tobacco materials, tobacco products, and cigarette papers and tubes.

Responsibility for compliance with the provisions of this part with respect to the removal under bond of tobacco materials, tobacco products, and cigarette papers and tubes, without payment of tax, for export, and for the proper delivery or exportation of such materials and articles, and with respect to the exportation of tobacco products and cigarette papers and tubes with benefit of drawback of tax, shall rest upon the manufacturer of such articles, dealer in tobacco materials, or the proprietor of an export warehouse or customs warehouse from whose premises such materials and articles are removed for export, and upon the exporter who exports tobacco products and cigarette papers and tubes with benefit of drawback of tax.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.65 Liability for tax on tobacco products and cigarette papers and tubes.

The manufacturer of the tobacco products and cigarette papers and tubes shall be liable for the taxes imposed thereon by section 5701, I.R.C.: *Provided,* That when tobacco products and cigarette papers and tubes are transferred, without payment of tax, pursuant to section 5704, I.R.C., between the bonded premises of manufacturers and/or export warehouse proprietors, the transferee shall become liable for the tax upon receipt by him of such articles. Any person who possesses tobacco products and cigarette papers and tubes in violation of section 5751(a) (1) or (2), I.R.C., shall be liable for a tax equal to the tax on such articles.

(72 Stat. 1417, 1424; 26 U.S.C. 5703, 5751)

§ 290.66 Relief from liability for tax.

A manufacturer of tobacco products or cigarette papers and tubes or an export warehouse proprietor shall be relieved of the liability for tax on tobacco products or cigarette papers and tubes when he furnishes the assistant regional commissioner, for the region in which the factory or warehouse is located, evidence satisfactory to the assistant regional commissioner of exportation or proper delivery, as required by this part, or satisfactory evidence of such other disposition as may be used as the lawful basis for such relief. Such evidence shall be furnished within 90 days of the date of removal of the tobacco products or cigarette papers or tubes: *Provided,* That this period may be extended for good cause shown.

(72 Stat. 1417; 26 U.S.C. 5703)

§ 290.67 Payment of tax.

The taxes on tobacco products and cigarette papers and tubes with respect to which the evidence contemplated by § 290.66 is not timely furnished shall become immediately due and payable. Such taxes shall be paid to the district director, for the district in which the factory or export warehouse is located, with sufficient information to identify the taxpayer, the nature and purpose of the payment, and the articles covered by the payment.

§ 290.68 Liability for tax on tobacco materials.

A manufacturer of tobacco products or dealer in tobacco materials who ships tobacco materials from his factory or establishment, under this part, shall be liable for the payment of tax on tobacco materials equal to the tax imposed by law on manufactured tobacco until the evidence of exportation or delivery required by Subpart I is secured, or the evidence of exportation or delivery required by § 290.203, § 290.205, or § 290.208 is furnished the assistant regional commissioner.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.69 Assessment.

Whenever any person required by law to pay tax on tobacco products and cigarette papers and tubes fails to pay such tax in accordance with the provisions of this part, the tax shall be determined and assessed, subject to the limitations prescribed in section 6501, I.R.C., against such person. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax at the time due. Except in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after notice has been afforded such person to show cause against assessment. The person will be allowed 45 days from the date of such notice to show cause, in writing, against such assessment.

(72 Stat. 1417; 26 U.S.C. 5703)

§ 290.70 Authority of internal revenue officers to enter premises.

Any internal revenue officer may enter in the daytime any premises where tobacco products and cigarette papers and tubes are produced or kept, so far as it may be necessary for the purpose of examining such articles. When such premises are open at night, any internal revenue officer may enter them, while so open, in the performance of his official duties. The owner of such premises, or person having the superintendence of the same, who refuses to admit any internal revenue officer or permit him to examine such articles shall be liable to the penalties prescribed by law for the offense.

(68A Stat. 872, 903; 26 U.S.C. 7342, 7606)

§ 290.71 Interference with administration.

Whoever, corruptly or by force or threats of force, endeavors to hinder or obstruct the administration of this part, or endeavors to intimidate or impede any internal revenue officer acting in his official capacity, or forcibly rescues or attempts to rescue or causes to be rescued any property, after it has been duly seized for forfeiture to the United States in connection with a violation of the internal revenue laws, shall be liable to the penalties prescribed by law.

(68A Stat. 855; 26 U.S.C. 7212)

VARIATIONS FROM REQUIREMENTS

§ 290.72 Construction and separation of export warehouse premises.

The Director, Alcohol and Tobacco Tax Division, may approve a manner of construction and separation of export warehouse premises in lieu of that specified in this part, where it is shown that it is impracticable to conform to the requirements, and the proposed construction and separation will afford as much or more security and protection to the revenue as is intended by the requirements in this part, and where such variation is not contrary to any provision of law. Where it is proposed to employ a manner of construction and separation of premises other than that provided for by this part, prior approval shall be obtained in accordance with the provisions of § 290.74.

§ 290.73 Methods of operation.

The Director, Alcohol and Tobacco Tax Division, may in case of emergency approve methods of operation other than those provided for by this part, where it is shown that variations from the requirements are necessary, will not hinder the effective administration of this part, will not jeopardize the revenue, and where such variations are not contrary to any provision of law. Where it is proposed to employ methods of operation other than those provided for by this part, prior approval shall be obtained in accordance with the provisions of § 290.74.

§ 290.74 Application.

Any person, subject to the provisions of this part, who proposes to employ methods of operation, or of construction and separation of export warehouse premises, other than as provided in this part, shall submit an application so to do, in triplicate, to the assistant regional commissioner. Such application shall describe the proposed variations and state the necessity therefor. With respect to variations in construction and separation of export warehouse premises, where they cannot be adequately described in the application, drawings or photographs thereof shall also be submitted. The assistant regional commissioner shall make such inquiry as is necessary to ascertain the necessity for the variations and whether approval thereof will hinder the effective administration of this part or result in jeopardy to the revenue. On completion of the inquiry, the assistant regional commissioner will forward two copies of the application to the Director, Alcohol and Tobacco Tax Division, together with a report of his findings and his recommendation. Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations with respect thereto set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations shall automatically terminate the authority for such variations and the person granted the variations shall thereupon fully comply with the prescribed requirements of the regulations from which the variations were authorized.

Subpart D—Qualification Requirements for Export Warehouse Proprietors

§ 290.81 Persons required to qualify.

Every person who intends to engage in business as an export warehouse proprietor, as defined in this part, shall qualify as such in accordance with the provisions of this part.

(72 Stat. 1421; 26 U.S.C. 5711, 5712, 5713)

§ 290.82 Application for permit.

Every person, before commencing business as an export warehouse proprietor, shall make application, on Form 2093, to the assistant regional commissioner for, and obtain, the permit provided for in § 290.93. All documents required under this part to be furnished with such application shall be made a part thereof.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 290.83 Corporate documents.

Every corporation, before commencing business as an export warehouse proprietor, shall furnish with its application for permit required by § 290.82, a true copy of the corporate charter or a certificate of corporate existence or incorporation, executed by the appropriate officer of the State in which incorporated. The corporation shall also furnish, in duplicate, evidence which will establish the authority of the officer or other person who executes the application for permit to execute the same; the authority of persons to sign other documents, required by this part, for the corporation; and the identity of the officers and directors, and each person who holds more than ten percent of the stock of such corporation. Where a corporation has previously filed such documents or evidence with the same assistant regional commissioner, a written statement by the corporation, in duplicate, to that effect will be sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 290.84 Articles of partnership or association.

Every partnership or association, before commencing business as an export warehouse proprietor, shall furnish with its application for permit, required by § 290.82, a true copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality. Where a partnership or association has previously filed such documents with the same assistant regional commissioner, a written statement by the partnership or associa-

tion, in duplicate, to that effect will be sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 290.85 Trade name certificate.

Every person, before commencing business under a trade name as an export warehouse proprietor, shall furnish with his application for permit, required by § 290.82, true copies, in duplicate, of the certificate or other document, if any, issued by a State, county, or municipal authority in connection with the transaction of business under such trade name. If no such certificate or other document is so required, a written statement by such person, in duplicate, to that effect will be sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 290.86 Bond.

Every person, before commencing business as an export warehouse proprietor, shall file, in connection with his application for permit, a bond, Form 2103, in accordance with the applicable provisions of § 290.88 and Subpart F, conditioned upon compliance with the provisions of Chapter 52, I.R.C., and regulations thereunder, including, but not limited to, the timely payment of taxes imposed by such chapter and penalties and interest in connection therewith for which he may become liable to the United States.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 290.87 Power of attorney.

If the application for permit or other qualifying documents are signed by an attorney in fact for an individual, partnership, association, company, or corporation, or by one of the partners for a partnership, or by an officer of an association or company, or, in the case of a corporation, by an officer or other person not authorized to sign by the corporate documents described in § 290.83, power of attorney conferring authority upon the person signing the documents shall be manifested on Form 1534 and furnished to the assistant regional commissioner.

§ 290.88 Description and diagram of premises.

The premises to be used by an export warehouse proprietor as his warehouse shall be described, in the application for permit required by § 290.82, and bond required by § 290.86, by number, street, and city, town, or village, and State. Such premises may consist of more than one building, which need not be contiguous: *Provided,* That such premises are located in the same city, town, or village and each location is described in the application for permit and the bond by number and street. Where such premises consist of less than an entire building, a diagram, in duplicate, shall also be furnished showing the particular floor or floors, or room or rooms, comprising the warehouse.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 290.89 Separation of premises.

Where the export warehouse premises consist of less than an entire building, the premises shall be completely separated from adjoining portions of the building, which separation shall be constructed of materials generally used in the construction of buildings and may include any necessary doors or other openings.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 290.90 Restrictions relating to export warehouse premises.

Export warehouse premises shall be used exclusively for the storage of tobacco products and cigarette papers and tubes for subsequent removal under this part.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 290.91 Additional information.

The assistant regional commissioner may require such additional information as may be deemed necessary to determine whether the applicant is entitled to a permit. The applicant shall, when required by the assistant regional commissioner, furnish as a part of his application for permit such additional information as may be necessary for the assistant regional commissioner to determine whether the applicant is entitled to a permit.

§ 290.92 Investigation of applicant.

The assistant regional commissioner shall promptly cause such inquiry or investigation to be made, as he deems necessary, to verify the information furnished in connection with an application for permit and to ascertain whether the applicant is, by reason of his business experience, financial standing, and trade connections, likely to maintain operations in compliance with Chapter 52, I.R.C., and regulations thereunder; whether such person has disclosed all material information required or made any material false statement in the application for such permit; and whether the premises on which it is proposed to establish the export warehouse are adequate to protect the revenue. If the assistant regional commissioner has reason to believe that the applicant is not entitled to a permit, he shall promptly give the applicant notice of the contemplated disapproval of his application and opportunity for hearing thereon in accordance with Part 200 of this chapter, which part (including the provisions relating to the recommended decision and to appeals) is made applicable to such proceedings. If, after such notice and opportunity for hearing, the assistant regional commissioner finds that the applicant is not entitled to a permit, he shall, by order stating the findings on which his decision is based, deny the permit.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 290.93 Issuance of permit.

If the application for permit, bond, and supporting documents, required under this part, are approved by him, the assistant regional commissioner shall issue a permit, Form 2096, to the export warehouse proprietor. The permit shall bear a number and shall fully set forth where the business of the export warehouse proprietor is to be conducted. The proprietor shall retain such permit at all times within his export warehouse and it shall be readily available for inspection by any internal revenue officer upon his request. Where the warehouse consists of more than one building, the permit shall be retained in the building in which the records, required by § 290.142, are kept.

(72 Stat. 1421; 26 U.S.C. 5713)

Subpart E—Changes Subsequent to Original Qualification of Export Warehouse Proprietors

Changes in Name

§ 290.101 Change in individual name.

Where there is merely a change in the name of an individual operating as an export warehouse proprietor, the proprietor shall, within 30 days of such change, make application on Form 2098 for an amended permit, which shall be supported by an extension of coverage of bond, in accordance with the provisions of § 290.126.

(72 Stat. 1421; 26 U.S.C. 5711, 5712)

§ 290.102 Change in trade name.

Where there is merely a change in the trade name of an export warehouse proprietor, the proprietor shall, within 30 days of the adoption of the new trade name, make application on Form 2098 for an amended permit, which shall be supported by an extension of coverage of bond, in accordance with the provisions of § 290.126. The proprietor shall also furnish true copies, in duplicate, of any new trade name certificate or document issued to him, or statement in lieu thereof, required by § 290.85.

(72 Stat. 1421; 26 U.S.C. 5711, 5712)

§ 290.103 Change in corporate name.

Where there is merely a change in the name of a corporate export warehouse proprietor, the proprietor shall, within 30 days of such change, make application on Form 2098 for an amended permit, which shall be supported by an extension of coverage of bond, in accordance with the provisions of § 290.126. The proprietor shall also furnish such documents as may be reasonably necessary to establish that the corporate name has been changed.

(72 Stat. 1421; 26 U.S.C. 5711, 5712)

Changes in Ownership and Control

§ 290.104 Fiduciary successor.

If an administrator, executor, receiver, trustee, assignee, or other fiduciary, is to take over the business of an export warehouse proprietor, as a continuing operation, such fiduciary shall, before commencing operations, make application for permit and file bond as required by Subpart D of this part, furnish certified copies, in duplicate, of the order of the court, or other pertinent documents, showing his appointment and qualification as such fiduciary, and make an opening inventory, in accordance with the provisions of § 290.144: *Provided,* That where a diagram has been furnished by the predecessor, in accordance with the provisions of § 290.88, the successor may adopt such diagram. How-

ever, where a fiduciary intends merely to liquidate the business, qualification as an export warehouse proprietor will not be required if he promptly files with the assistant regional commissioner a statement to that effect, together with an extension of coverage of the predecessor's bond, executed by the fiduciary, also by the surety on such bond, in accordance with the provisions of § 290.126.

(72 Stat. 1421, 1422; 26 U.S.C. 5711, 5712, 5721)

§ 290.105 Transfer of ownership.

If a transfer is to be made in ownership of the business of an export warehouse proprietor (including a change in the identity of the members of a partnership or association), such proprietor shall give notice, in writing, to the assistant regional commissioner, naming the proposed successor and the desired effective date of such transfer. The proposed successor shall, before commencing operations, qualify as a proprietor, in accordance with the applicable provisions of Subpart D of this part: *Provided,* That where a diagram has been furnished by the proprietor in accordance with the provisions of § 290.88, the proposed successor may adopt such diagram. The proprietor shall give such notice of transfer, and the proposed successor shall make application for permit and file bond, as required, in ample time for examination and approval thereof before the desired date of such change. The predecessor shall make a closing inventory and closing report, in accordance with the provisions of §§ 290.146 and 290.151, respectively, and surrender, with such inventory and report, his permit, and the successor shall make an opening inventory, in accordance with the provisions of § 290.144.

(72 Stat. 1421, 1422; 26 U.S.C. 5712, 5713, 5721, 5722)

§ 290.106 Change in officers or directors of a corporation.

Where there is any change in the officers or directors of a corporation operating the business of an export warehouse proprietor, the proprietor shall furnish to the assistant regional commissioner notice, in writing, of the election of the new officers or directors within 30 days after such election.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 290.107 Change in stockholders of a corporation.

Where the issuance, sale, or transfer of the stock of a corporation, operating as an export warehouse proprietor, results in a change in the identity of the principal stockholders exercising actual or legal control of the operations of the corporation, the corporate proprietor shall, within 30 days after the change occurs, make application for a new permit; otherwise, the present permit shall be automatically terminated at the expiration of such 30-day period, and the proprietor shall dispose of all tobacco products and cigarette papers and tubes on hand, in accordance with this part, make a closing inventory and closing report, in accordance with the provisions of §§ 290.146 and 290.151, respectively, and surrender his permit with such inventory and report. If the application for a new permit is timely made, the present permit shall continue in effect pending final action with respect to such application.

(72 Stat. 1421, 1422; 26 U.S.C. 5712, 5713, 5721, 5722)

CHANGES IN LOCATION AND PREMISES

§ 290.108 Change in location within same region.

Whenever an export warehouse proprietor contemplates changing the location of his warehouse within the same region, the proprietor shall, before commencing operations at the new location, make an application, to the assistant regional commissioner, on Form 2098 for an amended permit. The application shall be supported by an extension of coverage of the bond filed under this part, in accordance with the provisions of § 290.126.

(72 Stat. 1421; 26 U.S.C. 5711, 5712)

§ 290.109 Change in address.

Whenever any change occurs in the address, but not the location, of the warehouse of an export warehouse proprietor, as a result of action of local authorities, the proprietor shall, within 30 days of such change, make application, to the assistant regional commissioner, on Form 2098 for an amended permit, which shall be supported by an extension of coverage of the bond filed under this part, in accordance with the provisions of § 290.126.

(72 Stat. 1421; 26 U.S.C. 5711, 5712)

§ 290.110 Change in location to another region.

Whenever an export warehouse proprietor contemplates changing the location of his warehouse to another region, he shall, before commencing operations at the new location, qualify as such a proprietor in the new region, in accordance with the applicable provisions of Subpart D. The proprietor shall notify the assistant regional commissioner of the region from which he is removing of his qualification in the new region, giving the address of the new location of his warehouse and the number of the permit issued to him in the new region, make a closing inventory and closing report, in accordance with the provisions of §§ 290.146 and 290.151, respectively, and surrender, with such inventory and report, the permit for his old location.

(72 Stat. 1421, 1422; 26 U.S.C. 5711, 5712, 5713, 5721, 5722)

§ 290.111 Change in export warehouse premises.

Where the premises of an export warehouse are to be changed to an extent which will make inaccurate the description of such premises as set forth in the last application by the proprietor for permit, or the diagram, if any, furnished with such application, the proprietor shall first make an application, Form 2098, for an amended permit, to the assistant regional commissioner, describing the proposed change in such premises, and furnish a diagram thereof, if required under the provisions of § 290.88. The application shall be supported by an extention of coverage of bond, in accordance with the provisions of § 290.126.

(72 Stat. 1421; 26 U.S.C. 5711, 5712)

§ 290.112 Emergency premises.

In cases of emergency, the assistant regional commissioner may authorize, for a stated period, the temporary use of a place for the temporary storage of tobacco products and cigarette papers and tubes, without making the application or furnishing the extension of coverage of bond required under §§ 290.111 and 290.126, or the temporary separation of warehouse premises by means other than those specified in § 290.89, where such action will not hinder the effective administration of this part, is not contrary to law, and will not jeopardize the revenue.

Subpart F—Bonds and Extensions of Coverage of Bonds

§ 290.121 Corporate surety.

Surety bonds, required under the provisions of this part, may be given only with corporate sureties holding certificates of authority from the Secretary of the Treasury as acceptable sureties on Federal bonds. Power of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of such corporate sureties shall be filed with, and passed upon by, the Surety Bonds Branch, Division of Deposits and Investments, Bureau of Accounts, Treasury Department. Limitations concerning corporate sureties are prescribed by the Secretary in Treasury Department Circular No. 570, as revised. The surety shall have no interest whatever in the business covered by the bond.

(72 Stat. 1421, 61 Stat. 648; 26 U.S.C. 5711, 6 U.S.C. 6)

§ 290.122 Deposit of bonds, notes, or obligations in lieu of corporate surety.

Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by the export warehouse proprietor as security in connection with bond to cover his operations, in lieu of the corporate surety, in accordance with the provisions of Treasury Department Circular No. 154, revised (31 CFR Part 225). Such bonds or notes which are nontransferable, or the pledging of which will not be recognized by the Treasury Department, are not acceptable as security in lieu of corporate surety.

(72 Stat. 1421, 61 Stat. 650; 26 U.S.C. 5711, 6 U.S.C. 15)

§ 290.123 Amount of bond.

The amount of the bond filed by the export warehouse proprietor, as required by § 290.86, shall be not less than the estimated amount of tax which may at any time constitute a charge against the bond: *Provided,* That the amount of any such bond (or the total amount where original and strengthening bonds are

filed) shall not exceed $200,000 nor be less than $1,000. The charge against such bond shall be subject to increase upon receipt of tobacco products and cigarette papers and tubes into the export warehouse and to decrease as satisfactory evidence of exportation, or satisfactory evidence of such other disposition as may be used as the lawful basis for crediting such bond, is received by the assistant regional commissioner with respect to such articles transferred or removed. When the limit of liability under a bond given in less than the maximum amount has been reached, no additional shipments shall be received into the warehouse until a strengthening or superseding bond is filed, as required by § 290.124 or 290.125.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 290.124 Strengthening bond.

Where the assistant regional commissioner determines that the amount of the bond, under which an export warehouse proprietor is currently carrying on business, no longer adequately protects the revenue, and such bond is in an amount of less than $200,000, the assistant regional commissioner may require the proprietor to file a strengthening bond in an appropriate amount with the same surety as that on the bond already in effect, in lieu of a superseding bond to cover the full liability on the basis of § 290.123. The assistant regional commissioner shall refuse to approve any strengthening bond where any notation is made thereon which is intended or which may be construed as a release of any former bond, or as limiting the amount of either bond to less than its full amount.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 290.125 Superseding bond.

An export warehouse proprietor shall file a new bond to supersede his current bond, immediately when (a) the corporate surety on the current bond becomes insolvent, (b) the assistant regional commissioner approves a request from the surety on the current bond to terminate his liability under the bond, (c) payment of any liability under a bond is made by the surety thereon, or (d) the assistant regional commissioner considers such a superseding bond necessary for the protection of the revenue.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 290.126 Extension of coverage of bond.

An extension of the coverage of any bond filed under this part shall be manifested on Form 2105 by the export warehouse proprietor and by the surety on the bond with the same formality and proof of authority as required for the execution of the bond.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 290.127 Approval of bond and extension of coverage of bond.

No person shall commence operations under any bond, nor extend his operations, until he receives from the assistant regional commissioner notice of his approval of the bond or of an appropriate extension of coverage of the bond required under this part.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 290.128 Termination of liability of surety under bond.

The liability of a surety on any bond required by this part shall be terminated only as to operations on and after the effective date of a superseding bond, or the date of approval of the discontinuance of operations by the export warehouse proprietor, or otherwise in accordance with the termination provisions of the bond. The surety shall remain bound in respect of any liability for unpaid taxes, penalties, and interest, not in excess of the amount of the bond, incurred by the proprietor while the bond is in force.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 290.129 Release of bonds, notes, and obligations.

Bonds, notes, and other obligations of the United States, pledged and deposited as security in connection with bonds required by this part, shall be released only in accordance with the provisions of Treasury Department Circular No. 154, revised (31 CFR Part 225). When the assistant regional commissioner is satisfied that it is no longer necessary to hold such security, he shall fix the date or dates on which a part or all of such security may be released. At any time prior to the release of such security, the assistant regional commissioner may, for proper cause, extend the date of release of such security for such additional length of time as in his judgment may be appropriate.

(72 Stat. 1421, 61 Stat. 650; 26 U.S.C. 5711, 6 U.S.C. 15)

Subpart G—Operations by Export Warehouse Proprietors

§ 290.141 Sign.

Every export warehouse proprietor shall place and keep, on the outside of the building in which his warehouse is located, or at the entrance of his warehouse, where it can be plainly seen, a sign, in plain and legible letters, exhibiting the name under which he operates and (a) the type of business ("Export Warehouse Proprietor") or (b) the number of the permit issued to the export warehouse proprietor under this part.

§ 290.142 Records.

Every export warehouse proprietor shall keep at his warehouse complete and adequate records of the date, kind, and quantity of tobacco products and cigarette papers and tubes received, removed, transferred, destroyed, lost, or returned to manufacturers or to customs warehouse proprietors. In addition to such records, the export warehouse proprietor shall retain a copy of each notice, Form 2149 or 2150, received from a manufacturer, another export warehouse proprietor, or customs warehouse proprietor from whom tobacco products and cigarette papers and tubes are received, and a copy of each notice, Form 2150, covering the tobacco products and cigarette papers and tubes removed from his warehouse. The entries for each day in the records maintained or kept under this section shall be made by the close of the business day following that on which the transactions occur. No particular form of records is prescribed, but the information required shall be readily ascertainable. Such records and copies of the notices, Forms 2149 and 2150, shall be retained for two years following the close of the calendar year in which the shipments were received or removed and shall be made available for inspection by any internal revenue officer upon his request.

(72 Stat. 1423; 26 U.S.C. 5741)

INVENTORIES

§ 290.143 General.

Every export warehouse proprietor shall make a true and accurate inventory, to the assistant regional commissioner, of the quantity of tobacco products and cigarette papers and tubes (large cigars by taxable class) held by him at the times specified in this subpart, which inventory shall be subject to verification by an internal revenue officer. A copy of each inventory shall be retained by the export warehouse proprietor for two years following the close of the calendar year in which the inventory is made and shall be made available for inspection by any internal revenue officer upon his request.

(72 Stat. 1422; 26 U.S.C. 5721)

§ 290.144 Opening.

An opening inventory shall be made by the export warehouse proprietor at the time of commencing business. The date of commencing business under this part shall be the effective date indicated on the permit issued under § 290.93. A similar inventory shall be made by the export warehouse proprietor when he files a superseding bond. The date of such inventory shall be the effective date of such superseding bond as indicated thereon by the assistant regional commissioner.

(72 Stat. 1422; 26 U.S.C. 5721)

§ 290.145 Special.

A special inventory shall be made by the export warehouse proprietor whenever required by any internal revenue officer.

(72 Stat. 1422; 26 U.S.C. 5721)

§ 290.146 Closing.

A closing inventory shall be made by the export warehouse proprietor when he transfers ownership, changes his location to another region, or concludes business. Where the proprietor transfers ownership the closing inventory shall be made as of the day preceding the date of the opening inventory of the successor.

(72 Stat. 1422; 26 U.S.C. 5721)

REPORTS

§ 290.147 General.

Every export warehouse proprietor shall make a report on Form 2140, to the assistant regional commissioner, of all tobacco products and cigarette papers and tubes on hand, received, removed, transferred, and lost or destroyed. Such report shall be made at the times specified in this subpart and shall be made whether or not any operations or transactions occurred during the period covered by the report. A copy of each report shall be retained by the export warehouse proprietor at his warehouse for two years following the close of the calendar year covered in such reports, and made available for inspection by any internal revenue officer upon his request.

(72 Stat. 1422; 26 U.S.C. 5722)

§ 290.148 Opening.

An opening report, covering the period from the date of the opening inventory, or inventory made in connection with a superseding bond, to the end of the month, shall be made on or before the 20th day following the end of the month in which the business was commenced.

(72 Stat. 1422; 26 U.S.C. 5722)

§ 290.149 Monthly.

A report for each full month shall be made on or before the 20th day following the end of the month covered in the report.

(72 Stat. 1422; 26 U.S.C. 5722)

§ 290.150 Special.

A special report, covering the unreported period to the day preceding the date of any special inventory required by an internal revenue officer, shall be made with such inventory. Another report, covering the period from the date of such inventory to the end of the month, shall be made on or before the 20th day following the end of the month in which the inventory was made.

(72 Stat. 1422; 26 U.S.C. 5722)

§ 290.151 Closing.

A closing report, covering the period from the first of the month to the date of the closing inventory, or the day preceding the date of an inventory made in connection with a superseding bond, shall be made with such inventory.

(72 Stat. 1422; 26 U.S.C. 5722)

CLAIMS

§ 290.152 Claim for remission of tax liability.

Every loss (otherwise than by theft) or destruction, by fire, casualty, or act of God, of tobacco products and cigarette papers and tubes, before removal from the export warehouse, or after removal for tax-exempt purposes, and which are in the possession or ownership of the export warehouse proprietor, shall be reported by the proprietor to the assistant regional commissioner and the facts of such loss or destruction shall be established to his satisfaction. Claim for remission of tax liability may be filed with the assistant regional commissioner. Such claim shall be in letter form showing the nature, date, and extent of such loss or destruction, shall set forth the reasons why such tax liability should be remitted, and shall be supported by such evidence as is necessary to establish to the satisfaction of the assistant regional commissioner that the claim is valid.

(72 Stat. 1419; 26 U.S.C. 5705)

§ 290.153 Claim for abatement of assessment.

A claim for abatement of the unpaid portion of the assessment of any tax on tobacco products and cigarette papers and tubes, or any liability in respect of such tax, alleged to be excessive in amount, assessed after the expiration of the period of limitation applicable thereto, or erroneously or illegally assessed, shall be filed on Form 843 with the assistant regional commissioner. Such claim shall set forth the reasons relied upon for the allowance of the claim and shall be supported by such evidence as is necessary to establish to the satisfaction of the assistant regional commissioner that the claim is valid.

(68A Stat. 792; 26 U.S.C. 6404)

§ 290.154 Claim for refund of tax.

The taxes paid on tobacco products and cigarette papers and tubes may be refunded (without interest) to the export warehouse proprietor on satisfactory proof that he has paid the tax on such articles lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the export warehouse proprietor. To obtain refund of tax under this section, claim for refund, Form 843, shall be filed with the assistant regional commissioner for the region in which the tax was paid within six months after the loss or destruction of the tobacco products and cigarette papers and tubes to which the claim relates and shall be supported by such evidence as is necessary to establish to the satisfaction of the assistant regional commissioner that the claim is valid.

(72 Stat. 1419; 26 U.S.C. 5705)

Subpart H—Suspension and Discontinuance of Operations

§ 290.161 Discontinuance of operations.

Every export warehouse proprietor who desires to discontinue operations and close out his warehouse shall dispose of all tobacco products and cigarette papers and tubes on hand, in accordance with this part, make a closing inventory and closing report, in accordance with the provisions of §§ 290.146 and 290.151, respectively, and surrender, with such inventory and report, his permit to the assistant regional commissioner as notice of such discontinuance, in order that the assistant regional commissioner may terminate the liability of the surety on the bond of the export warehouse proprietor.

(72 Stat. 1422; 26 U.S.C. 5721, 5722)

§ 290.162 Suspension and revocation of permit.

Where the assistant regional commissioner has reason to believe that an export warehouse proprietor has not in good faith complied with the provisions of Chapter 52, I.R.C., and regulations thereunder, or with any other provision of the I.R.C. with intent to defraud, or has violated any condition of his permit, or has failed to disclose any material information required or made any material false statement in the application for permit, or has failed to maintain his premises in such manner as to protect the revenue, the assistant regional commissioner shall issue an order, stating the facts charged, citing such export warehouse proprietor to show cause why his permit should not be suspended or revoked after hearing thereon in accordance with Part 200 of this chapter, which part (including the provisions relating to appeals) is made applicable to such proceedings. If the hearing examiner, or the Director, Alcohol and Tobacco Tax Division, on appeal, decides the permit should be suspended, for such time as to him seems proper, or be revoked, the assistant regional commissioner shall by order give effect to such decision.

(72 Stat. 1421; 26 U.S.C. 5713)

Subpart I—Shipments of Tobacco Materials by Dealers in Tobacco Materials

§ 290.171 Shipment for export other than by parcel post.

Where a dealer in tobacco materials removes a shipment of tobacco materials, under his bond and this subpart, and forwards it directly to the port for lading and exportation, the dealer, or his forwarding or export agent at the port, shall prepare an extra copy of the shipper's export declaration, Commerce Form 7525-V, marked "For internal revenue purposes," which shall show the quantity of each kind of tobacco materials included in the shipment. This copy of the shipper's export declaration, after it has been completed by the customs authorities at the port to indicate exportation of the tobacco materials described thereon, shall be retained by the dealer as a part of the records of his establishment for two years following the close of the calendar year in which the tobacco materials are removed and shall be made available for inspection by any internal revenue officer upon his request.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.172 Shipment for export by parcel post.

Tobacco materials removed by a dealer in tobacco materials, under his bond and this subpart, for export by parcel post to a person in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, shall be addressed and consigned to such person when the tobacco materials are deposited in the mails. Waiver of his right to withdraw the shipment from the mails shall be stamped or written on each shipping container and signed by the dealer in tobacco materials making the shipment. In any case where a shipper's export declaration, Commerce Form 7525-V, is not required to be executed by

the dealer in connection with a shipment of tobacco materials for export by parcel post, he shall obtain from the postmaster or his agent a receipt on Post Office Department Form 3817. Such receipt shall be retained by the dealer at his establishment, as a part of the records thereof, for two years following the close of the calendar year in which the shipment is deposited in the mails and shall be made available for inspection by any internal revenue officer upon his request.

(72 Stat. 1418; 26 U.S.C. 5704)

Subpart J—Removal of Shipments of Tobacco Materials by Manufacturers and Removal of Tobacco Products and Cigarette Papers and Tubes by Manufacturers and Export Warehouse Proprietors

PACKAGING REQUIREMENTS

§ 290.181 Packages.

All tobacco products and cigarette papers and tubes shall, before removal, be put up by the manufacturer in packages which shall bear the label or notice, class designation, and mark, as required by this subpart.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 290.182 Lottery features.

No certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery shall be contained in, attached to, or stamped, marked, written, or printed on any package of tobacco products or cigarette papers or tubes.

(72 Stat. 1422; 26 U.S.C. 5723, 18 U.S.C. 1301)

§ 290.183 Indecent or immoral material.

No indecent or immoral picture, print, or representation shall be contained in, attached to, or stamped, marked, written, or printed on any package of tobacco products or cigarette papers or tubes.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 290.184 Mark.

Every package of tobacco products shall, before removal from the factory under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, the name and location of the manufacturer, or his permit number. There shall also be adequately stated on each such package the quantity, by weight, of manufactured tobacco or the number of cigars or cigarettes contained in the package.

(72 Stat 1422; 26 U.S.C. 5723)

§ 290.185 Label or notice.

Every package of tobacco products shall, before removal from the factory under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, the words "Tax-exempt. For use outside U.S." or the words "U.S. Tax-exempt. For use outside U.S.", except where a stamp, sticker, or notice, required by a foreign country or a possession of the United States, which identifies such country or possession, is so imprinted or affixed.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 290.186 Class designation for large cigars.

Every package of large cigars shall, before removal from the factory under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, a class designation corresponding with the rate of tax under section 5701(b)(2), I.R.C., applicable to similar cigars removed for taxable purposes. The appropriate class designation shall be stated in the following manner:

Class A. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be not more than 2½ cents each;

Class B. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 2½ cents each and not more than 4 cents each;

Class C. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 4 cents each and not more than 6 cents each;

Class D. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 6 cents each and not more than 8 cents each;

Class E. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 8 cents each and not more than 15 cents each;

Class F. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 15 cents each and not more than 20 cents each; or

Class G. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 20 cents each.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 290.187 Shipping containers.

Each shipping case, crate, or other container in which tobacco materials, tobacco products, or cigarette papers or tubes are to be shipped or removed, under this part, shall bear a distinguishing number, such number to be assigned by the manufacturer or export warehouse proprietor. Removals of tobacco products and cigarette papers and tubes from an export warehouse shall be made, insofar as practicable, in the same containers in which they were received from the factory.

(72 Stat. 1418; 26 U.S.C. 5704)

CONSIGNMENT OF SHIPMENT

§ 290.188 General.

Tobacco materials, tobacco products, and cigarette papers and tubes transferred or removed from a factory, or tobacco products and cigarette papers and tubes removed from an export warehouse, under this part, without payment of tax, shall be consigned as required by this subpart.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.189 Transfers between factories and export warehouses.

Where tobacco products and cigarette papers and tubes are transferred, without payment of tax, from a factory to an export warehouse or between export warehouses, such articles shall be consigned to the export warehouse proprietor to whom such articles are to be delivered.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.190 Return of shipment to a manufacturer or customs warehouse proprietor.

Where tobacco products and cigarette papers and tubes are returned by an export warehouse proprietor to a manufacturer or where cigars are so returned to a customs warehouse proprietor, such articles shall be consigned to the manufacturer or customs warehouse proprietor to whom the shipment is to be returned.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.191 To officers of the armed forces for subsequent exportation.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to officers of the armed forces of the United States in this country for subsequent shipment to, and use by, the armed forces outside the United States, the manufacturer or export warehouse proprietor shall consign such articles to the receiving officer at the armed forces base or installation, in this country, to which they are to be delivered.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.192 To vessels and aircraft for shipment to noncontiguous foreign countries and possessions of the United States.

Where tobacco materials, tobacco products, and cigarette papers and tubes are removed from a factory, or tobacco products and cigarette papers and tubes are removed from an export warehouse, for direct delivery to a vessel or aircraft for transportation to a noncontiguous foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, the manufacturer or export warehouse proprietor shall consign the shipment directly to the vessel or aircraft, or to his agent at the port for delivery to the vessel or aircraft.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.193 To a Federal department or agency.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse and are destined for ultimate delivery in a noncontiguous foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, but the shipment is to be delivered in the United States to a Federal department or agency, or to an authorized dispatch agent, transportation officer, or port director of such a department or agency for forwarding on to the place of destination of the shipment, the manufacturer or export warehouse proprietor shall consign the shipment to the Federal department or agency, or to the proper dispatch agent, transportation officer, or port director of such department or agency.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.194 To collector of customs for shipment to contiguous foreign countries.

Where tobacco materials, tobacco products, and cigarette papers and tubes are removed from a factory, or tobacco products and cigarette papers and tubes are removed from an export warehouse, for export to a person in a contiguous foreign country, the manufacturer or export warehouse proprietor shall consign the shipment to the collector of customs at the border or other port of exit.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.195 To Government vessels and aircraft for consumption as supplies.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to a vessel or aircraft engaged in an activity for the Government of the United States or a foreign government, for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States, the manufacturer or export warehouse proprietor shall consign the shipment to the proper officer on board the vessel or aircraft to which the shipment is to be delivered.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.196 To collector of customs for consumption as supplies on commercial vessels and aircraft.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States, the manufacturer or export warehouse proprietor shall consign the shipment to the collector of customs at the port at which the shipment is to be laden.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.197 For export by parcel post.

Tobacco materials, tobacco products, and cigarette papers and tubes removed from a factory, or tobacco products and cigarette papers and tubes removed from an export warehouse, for export by parcel post to a person in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, shall be addressed and consigned to such person when the materials or articles are deposited in the mails. Waiver of his right to withdraw such materials or articles from the mails shall be stamped or written on each shipping container and be signed by the manufacturer or export warehouse proprietor making the shipment.

(72 Stat. 1418; 26 U.S.C. 5704)

NOTICE OF REMOVAL OF SHIPMENT

§ 290.198 Preparation.

For each shipment of tobacco materials, tobacco products, and cigarette papers and tubes transferred or removed from his factory, under bond and this part, the manufacturer shall prepare a notice of removal, Form 2149, and for each shipment of tobacco products and cigarette papers and tubes transferred or removed from his export warehouse, under bond and this part, the export warehouse proprietor shall prepare a notice of removal, Form 2150. Each such notice shall be given a serial number by the manufacturer or export warehouse proprietor in a series beginning with number 1, with respect to the first shipment removed from the factory or export warehouse under this part and commencing again with number 1 on January 1 of each year thereafter.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.199 Disposition.

After actual removal from his factory or export warehouse of the shipment described on the notice of removal, Form 2149 or 2150, the manufacturer or export warehouse proprietor shall, except where the shipment is to be exported by parcel post, promptly forward one copy of the notice of removal to the assistant regional commissioner for the region in which is located the factory or warehouse from which the shipment is removed. A copy of each such notice shall be retained by the manufacturer or export warehouse proprietor as a part of his records, for two years following the close of the calendar year in which the shipment was removed and shall be made available for inspection by any internal revenue officer upon his request. The manufacturer or export warehouse proprietor shall dispose of the other copies of each notice of removal as required by this subpart.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.200 Transfers between factories and export warehouses.

Where tobacco products and cigarette papers and tubes are transferred from a factory to an export warehouse or between export warehouses, the manufacturer or export warehouse proprietor making the shipment shall forward three copies of the notice of removal, Form 2149 or 2150, as the case may be, to the export warehouse proprietor to whom the shipment is consigned. Immediately upon receipt of the shipment at his warehouse, the export warehouse proprietor shall properly execute the certificate of receipt on each copy of the notice of removal, noting thereon any discrepancy; return one copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner; retain one copy at his warehouse as a part of his records; and file the remaining copy with his report, required by § 290.147.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.201 Return to manufacturer or customs warehouse proprietor.

Where tobacco products and cigarette papers and tubes are removed from an export warehouse for return to the factory, or cigars are removed from such a warehouse for return to a customs warehouse, the export warehouse proprietor making the shipment shall forward two copies of the notice of removal, Form 2150, to the manufacturer or customs warehouse proprietor to whom the shipment is consigned. Immediately upon receipt of the shipment at his factory or warehouse, the manufacturer or customs warehouse proprietor shall properly execute the certificate of receipt on both copies of the notice of removal, noting thereon any discrepancy, and return one copy to the export warehouse proprietor making the shipment for filing with his assistant regional commissioner. The other copy of the notice of removal shall be retained by the manufacturer or customs warehouse proprietor, as a part of his records, for two years following the close of the calendar year in which the shipment was received and shall be made available for inspection by any internal revenue officer upon his request.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.202 To officers of the armed forces for subsequent exportation.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to officers of the armed forces of the United States in this country for subsequent shipment to, and use by, the armed forces outside the United States, the manufacturer or export warehouse proprietor making the removal shall forward a copy of the notice of removal, Form 2149 or 2150, to the officer at the base or installation authorized to receive the articles described on the notice of removal. Upon execution by the armed forces receiving officer of the certificate of receipt on the copy of the notice of removal, he shall return such copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.203 To noncontiguous foreign countries and possessions of the United States.

Where tobacco materials, tobacco products, and cigarette papers and tubes are removed from a factory, or tobacco products and cigarette papers and tubes are removed from an export warehouse, for direct delivery to a vessel or aircraft for transportation to a noncontiguous foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, the manufacturer or export warehouse proprietor making the shipment shall file two copies of the notice of removal, Form 2149 or 2150, with the office of the collector of customs at the port where the shipment is to be laden. Such copies of the notice of removal should be filed with the related shipper's export declaration, Commerce Form 7525–V. In the event the copies of the notice of removal are not filed with the shipper's export declaration, when the copies of the notice of removal are filed with the collector of customs they shall show all particulars necessary to enable the collector to identify the shipment with the related shipper's export declaration and any other documents filed with his office in connection with the shipment. After the vessel or aircraft on which the shipment has been laden clears or departs from his port, the collector of customs shall execute the certificate of exportation on each copy of the notice of removal, retain one copy

for his records, and deliver or transmit the other copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.204 To a Federal department or agency.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse and are destined for ultimate delivery in a noncontiguous foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, but the shipment is to be delivered to a Federal department or agency, or to an authorized dispatch agent, transportation officer, or port director of such a department or agency for forwarding on to the place of destination of the shipment, the manufacturer or export warehouse proprietor making the shipment shall furnish a copy of the notice of removal, Form 2149 or 2150, to the Federal department or agency, or an officer thereof at the port, receiving the shipment for ultimate transmittal to the place of destination, in order that such department, agency, or officer can properly execute the certificate of receipt on such notice to evidence receipt of the shipment for transmittal to a place beyond the jurisdiction of the internal revenue laws of the United States. After completing such certificate, the Federal department, agency, or officer shall return the copy of the notice of removal, so executed, to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.205 To contiguous foreign countries.

Where tobacco materials, tobacco products, and cigarette papers and tubes are removed from a factory, or tobacco products and cigarette papers and tubes are removed from an export warehouse, and consigned to a person in a contiguous foreign country, the manufacturer or export warehouse proprietor making the shipment shall furnish to the collector of customs at the border or other port of exit of the shipment from the United States, through which the shipment will be routed, two copies of the notice of removal, Form 2149 or 2150, together with the related shipper's export declaration, Commerce Form 7525–V. In the event the copies of the notice of removal are not filed with the shipper's export declaration or, in the case of a shipment for the armed forces of the United States in the contiguous foreign country, where no shipper's export declaration is required, the copies of the notice of removal when filed with the collector of customs shall show all particulars necessary to enable the collector to identify the shipment with the related shipper's export declaration, if any, and any other documents filed with his office in connection with the shipment. After the shipment has been cleared by customs from the United States, the customs authorities at the port of exit will complete the certificate of exportation on each copy of the Form 2149 or 2150, retain one copy thereof, and transmit the other copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.206 To Government vessels and aircraft for consumption as supplies.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse for direct delivery to a vessel or aircraft, engaged in an activity for the Government of the United States or a foreign government, for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States, the manufacturer or export warehouse proprietor making the shipment shall forward a copy of the notice of removal, Form 2149 or 2150, to the officer of the vessel or aircraft authorized to receive the shipment. Upon execution by the receiving officer of the vessel or aircraft of the certificate of receipt on the copy of the notice of removal, he shall return such copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.207 To commercial vessels and aircraft for consumption as supplies.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to a vessel or aircraft entitled to receive such articles for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States, the manufacturer or export warehouse proprietor making the shipment shall file two copies of the notice of removal, Form 2149 or 2150, with the collector of customs at the port where the shipment is to be laden in sufficient time to permit delivery of the two copies of the notice of removal to the inspector of customs who will inspect the shipment and supervise its lading. After inspection and lading of the shipment the inspector of customs shall note on the copies of the notice of removal any discrepancy between the shipment inspected and laden under his supervision and that described on the notice of removal or any limitation on the quantity to be laden; complete and sign the certificate of inspection and lading; and return both copies of the notice of removal to the collector of customs. The collector of customs shall execute the certificate of clearance on the copies of the notice of removal, retain one copy for his records, and forward the other copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner. Where the vessel or aircraft does not clear from the port at which the shipment is laden, the customs inspector supervising the lading of the shipment shall require the person on board the vessel or aircraft authorized to receive the shipment to execute the certificate of receipt on both copies of the notice of removal to indicate the trade or activity in which the vessel or aircraft is engaged.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.208 For export by parcel post.

Where tobacco materials, tobacco products, and cigarette papers and tubes are removed from a factory, or tobacco products and cigarette papers and tubes are removed from an export warehouse, for export by parcel post, the manufacturer or export warehouse proprietor shall present one copy of the notice of removal, Form 2149 or 2150, together with the shipping containers, to the postal authorities with the request that the postmaster or his agent execute the certificate of mailing on the form. Where the manufacturer or export warehouse proprietor so desires, he may cover under one notice of removal all the merchandise removed under this part for export by parcel post which is delivered at one time to the postal service for that purpose. The manufacturer or export warehouse proprietor shall immediately file the receipted copy of the notice of removal with his assistant regional commissioner.

(72 Stat. 1418; 26 U.S.C. 5704)

MISCELLANEOUS PROVISIONS

§ 290.209 Diversion of shipment to another consignee.

If, after removal of a shipment from a factory or an export warehouse, the manufacturer or export warehouse proprietor desires to divert the shipment to another consignee, he shall so notify his assistant regional commissioner. The manufacturer or export warehouse proprietor shall describe the shipment, set forth the serial number and date of the notice of removal under which the shipment was removed from his factory or export warehouse, and furnish the name and address of the new consignee, who shall comply with all applicable provisions of this part.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.210 Return of shipment to factory or export warehouse.

A manufacturer or export warehouse proprietor may return to his factory or export warehouse, without internal revenue supervision when so authorized by the assistant regional commissioner, tobacco materials, tobacco products, and cigarette papers and tubes previously removed therefrom, under this part, but not yet exported. The manufacturer or export warehouse proprietor shall, prior to returning the materials or articles to his factory or export warehouse, make application to the assistant regional commissioner for permission so to do, which application shall be accompanied by two copies of the notice of removal, Form 2149 or 2150, under which the materials or articles were originally removed. If less than the entire shipment is intended to be returned to the factory or export warehouse, the application shall set forth accurately the materials or articles to be returned and shall show what disposition was made of the remainder of the original shipment and any other facts per-

tinent to such shipment. Where the assistant regional commissioner approves the application, he shall so indicate by endorsement to that effect on each of the copies of the notice of removal, set forth the materials or articles for which return is approved, and return both copies of the notice of removal to the manufacturer or export warehouse proprietor concerned. Upon receipt of the copies of the notice of removal bearing the endorsement of the assistant regional commissioner, the manufacturer or export warehouse proprietor shall return the materials or articles to his factory or export warehouse, properly modify and execute the certificate of receipt on each copy of the notice of removal, return one such copy to the assistant regional comissioner, and retain the other copy as a part of his records.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.211 Shipments to foreign-trade zones.

A manufacturer or export warehouse proprietor may remove tobacco products and cigarette papers and tubes, under his bond, without payment of tax, for shipment to a foreign-trade zone, in accordance with the applicable provisions of Part 253 of this subchapter.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 290.212 Delay in lading at port of exportation.

If, on arrival of tobacco materials, tobacco products, and cigarette papers and tubes at the port of exportation, the vessel or aircraft for which they are intended is not prepared to receive the materials or articles, they may be properly stored at the port for not more than 30 days. In the event of any further delay, the facts shall be reported by the manufacturer or export warehouse proprietor to his assistant regional commissioner and unless he approves an extension of time in which to effect lading and clearance of the shipment it must be returned to the factory or export warehouse.

§ 290.213 Destruction of tobacco products and cigarette papers and tubes.

Where an export warehouse proprietor desires to destroy any of the tobacco products or cigarette papers or tubes stored in his warehouse, he shall notify the assistant regional commissioner of the kind and quantity of such articles to be destroyed and the date on which he desires the destruction to take place in order that the assistant regional commissioner may assign an internal revenue officer to inspect the articles and supervise their destruction. The export warehouse proprietor shall prepare a notice of removal, Form 2150, describing the articles to be destroyed. After witnessing the destruction of the articles, the internal revenue officer shall certify to their destruction on two copies of the notice of removal and return them to the export warehouse proprietor, who shall retain one copy for his records and file the other copy with his assistant regional commissioner.

Subpart K—Drawback of Tax

§ 290.221 Application of drawback of tax.

Allowance of drawback of tax shall apply only to tobacco products and cigarette papers and tubes, on which tax has been paid, when such articles are shipped to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States. Such drawback shall be allowed only to the person who paid the tax on such articles and who files claim and otherwise complies with the provisions of this subpart.

(72 Stat. 1419, 68A Stat. 908; 26 U.S.C. 5706, 7653)

§ 290.222 Claim.

Claim for allowance of drawback of tax, under this subpart, shall be filed on Form 2147 with the assistant regional commissioner for the region in which the tobacco products and cigarette papers and tubes covered by the claim are held by the claimant. Such claim shall be so filed in sufficient time to permit the assistant regional commissioner to detail an internal revenue officer to inspect the articles and supervise destruction of the stamps thereon denoting payment of tax or, where the tax has been paid by return, to supervise the affixture of a label or notice bearing the legend "For Export With Drawback of Tax." Upon receipt of a claim supported by satisfactory bond, as required by this subpart, the assistant regional commissioner shall assign an internal revenue officer to proceed to the place where the articles involved are held and there perform the functions required in § 290.224.

(72 Stat. 1419; 26 U.S.C. 5706)

§ 290.223 Drawback bond.

Each claim for allowance of drawback of tax, under this subpart, shall be accompanied by a bond, Form 2148, satisfactory to the assistant regional commissioner with whom the claim is filed. Such bond shall be in an amount not less than the amount of tax for which drawback is claimed, conditioned that the claimant shall furnish, within a reasonable time, evidence satisfactory to the assistant regional commissioner that the tobacco products and cigarette papers and tubes have been landed at some port beyond the jurisdiction of the internal revenue laws of the United States, or that after clearance from the United States the articles were lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, and have not been relanded within the limits of the United States. The provisions of §§ 290.121 and 290.122 are applicable with respect to any drawback bond required under this section.

(72 Stat. 1419; 26 U.S.C. 5706)

§ 290.224 Inspection by an internal revenue officer.

The internal revenue officer assigned in connection with a claim for drawback of tax, under this subpart, shall, at the place where the tobacco products and cigarette papers and tubes covered by the claim are held by the claimant, examine such articles and satisfy himself as to the accuracy of the schedule of such articles appearing in the claim, Form 2147. Where the tax has been paid by stamp, the internal revenue officer will supervise destruction of the stamps on the packages. No particular mode of destruction of such stamps is prescribed, but the use of any indelible preparation which will render them illegible is approved. Where the tax on such articles has been paid by return, the internal revenue officer will satisfy himself that the articles have in fact been taxpaid and each package bears the label or notice required by § 290.222. When the stamps have been properly destroyed, or the packages bear the required label or notice, the internal revenue officer will supervise the packing of such articles in shipping containers, the numbering of each such container, and the affixture thereto of the following:

Drawback of tax claimed on contents.
Sale, consumption, or use in U.S. prohibited.

Thereafter, the internal revenue officer will execute his report on each copy of the claim, return two copies to the claimant, deliver one copy to the assistant regional commissioner, and release the shipment to the claimant for delivery to the port of exportation.

(72 Stat. 1419; 26 U.S.C. 5706)

§ 290.225 Delivery of tobacco products and cigarette papers and tubes for export other than by parcel post.

The claimant, upon release of the tobacco products and cigarette papers and tubes by the internal revenue officer for exportation with benefit of drawback of tax, under this subpart, shall be responsible for delivery of such articles to the port of exportation for customs inspection, supervision of lading, and clearance of the articles. The claimant, or his agent at said port, shall file with the collector of customs at the port of exportation in sufficient time, prior to lading, to permit his inspection and supervision of lading of the tobacco products and cigarette papers and tubes, the two copies of the Form 2147 returned to the claimant by the internal revenue officer, in accordance with § 290.224.

(72 Stat. 1419; 26 U.S.C. 5706)

§ 290.226 Delivery of tobacco products and cigarette papers and tubes for export by parcel post.

Where the tobacco products and cigarette papers and tubes are to be shipped by parcel post to a destination in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, a waiver of his right to withdraw such articles from the mails shall be stamped or written on each shipping container and be signed by the claimant, after which the claimant shall present the shipment to the post office. The claimant shall request the postmaster or his agent to execute the certificate of mailing on the copy of the claim, Form 2147, returned to the claimant by the internal revenue officer in accordance with § 290.224. When so executed by

the postal authorities, the Form 2147 shall be transmitted at once to the assistant regional commissioner with whom the form was previously filed.

(72 Stat. 1419; 26 U.S.C. 5706)

§ 290.227 Customs procedure.

The inspector of customs shall satisfy himself that the tobacco products and cigarette papers and tubes described on the Form 2147 and those inspected by him are the same, and shall note on the form any discrepancy. After having inspected the articles and supervised the lading thereof on the export carrier, the inspector shall complete and sign the certificate of inspection and lading on each copy of the Form 2147, and then deliver or transmit such copies of the form to the office of his collector of customs for further processing. After clearance from the port of the export carrier on which the articles are laden, the collector of customs shall execute the certificate of exportation on both copies of Form 2147. The collector shall retain one copy of the form for his record and transmit the other copy to the assistant regional commissioner of the region from which the articles were shipped.

(72 Stat. 1419; 26 U.S.C. 5706)

§ 290.228 Landing certificate.

Each claimant for drawback under this subpart agrees in the bond filed by him that he will furnish, within a reasonable time, evidence satisfactory to the assistant regional commissioner that the tobacco products and cigarette papers and tubes covered by his claim have been landed at some port beyond the jurisdiction of the internal revenue laws of the United States, or that after shipment from the United States the articles were lost, and have not been relanded within the limits of the United States. The landing certificate shall accurately describe the articles involved, so as to readily identify the drawback claim to which it relates. The landing certificate shall be signed by a revenue officer at the place of destination, unless it is shown that no such officer can furnish such landing certificate, in which case the certificate of landing shall be signed by the consignee, or by the vessel's agent at the place of landing, and shall be sworn to before a notary public or other officer authorized to administer oaths and having an official seal. The landing certificate shall be filed with the assistant regional commissioner, with whom the drawback claim was filed, within six months from the date of clearance of the tobacco products and cigarette papers and tubes from the United States. A landing certificate prepared in a foreign language shall be accompanied by an accurate translation thereof in English.

(72 Stat. 1419; 26 U.S.C. 5706)

§ 290.229 Collateral evidence as to landing.

In case of inability to furnish the prescribed evidence of landing, application for relief shall be promptly made by the claimant to the assistant regional commissioner with whom the drawback claim and bond were filed. Such application shall set forth the facts connected with the alleged exportation, and indicate the date of shipment, the kind, quantity, and value of tobacco products and cigarette papers and tubes shipped, the name of the consignee, the name of the vessel, the port or place of destination to which the shipment was made, and the date and amount of the bond covering such shipment. The application shall also state in what particular the provisions of this subpart, respecting the proofs of landing, have not been complied with, and the cause of failure to furnish such proofs; that such failure was not occasioned by any lack of diligence on the part of the claimant, or that of his agents; and that he is unable to furnish any other or better evidence than that furnished with his application. Each such application shall be supported by the best collateral evidence the claimant may be able to submit. The evidence may consist of the original or verified copies of letters from the consignee advising the claimant of the arrival or sale of the tobacco products and cigarette papers and tubes, with such other statements respecting the failure to furnish the prescribed evidence of landing as may be obtained from the consignee or other persons having knowledge thereof. Such letters and other documents in a foreign language shall be accompanied by accurate translations thereof in English, and, when the letters fail to identify sufficiently the tobacco products and cigarette papers and tubes, the original sales account must be produced.

(72 Stat. 1419; 26 U.S.C. 5706)

§ 290.230 Proof of loss.

When the claimant is unable to procure a certificate of landing, in accordance with the provisions of § 290.228, in consequence of loss of the tobacco products and cigarette papers and tubes, his application for relief shall set forth the extent of the loss and, if possible, the location and manner of shipwreck or other casualty and the time of its occurrence. When obtainable, affidavits of the vessel's owners should be furnished detailing the manner and extent of the loss and the time and location of the disaster. If the tobacco products and cigarette papers and tubes were insured, the claimant shall furnish certificates by officers of the insurance companies that the insurance has been paid, and that, to the best of their knowledge and belief, the tobacco products and cigarette papers and tubes were actually destroyed. The aforesaid proof shall be furnished to the assistant regional commissioner within six months from the date of clearance of the tobacco products and cigarette papers and tubes from the United States.

(72 Stat. 1419; 26 U.S.C. 5706)

§ 290.231 Extension of time.

In case the claimant, from causes beyond his control, is unable to furnish the landing certificate or proof of loss, within the time prescribed therefor, he may make an application to the assistant regional commissioner for an extension of time in which to do so. Such application must state specifically the cause of failure to furnish the evidence. Two extensions of three months each may be granted by the assistant regional commissioner, provided the surety on the drawback bond of the claimant assents in writing thereto.

(72 Stat. 1419; 26 U.S.C. 5706)

§ 290.232 Allowance of claim.

On receipt of the executed Form 2147 from the collector of customs the assistant regional commissioner will allow or disallow the claim in accordance with existing law and regulations. If the claim is not allowed in full the assistant regional commissioner will notify the claimant, in writing, of the reasons for any disallowance.

(72 Stat. 1419; 26 U.S.C. 5706)

Subpart L—Withdrawal of Cigars From Customs Warehouses

§ 290.241 Shipment restricted.

Cigars produced in a customs warehouse in accordance with customs laws and regulations may be withdrawn under this subpart, without payment of tax, for export or for delivery for subsequent exportation. Duties paid on the tobacco used in the manufacture of such cigars may not be recovered on the exportation of the cigars under this subpart.

§ 290.242 Responsibility for tax on cigars.

A customs warehouse proprietor who withdraws cigars for export under his bond, without payment of tax, in accordance with the provisions of this part, shall be responsible for payment of such tax until he is relieved of such responsibility by furnishing the assistant regional commissioner, for the region in which is located the customs warehouse from which the cigars were withdrawn, evidence satisfactory to the assistant regional commissioner of exportation or proper delivery, as required by this subpart, or satisfactory evidence of such other disposition as may be used as the lawful basis for such relief. Such evidence shall be furnished within 90 days of the date of withdrawal of the cigars: *Provided,* That this period may be extended for good cause shown.

Bonds

§ 290.243 Bond required.

Where the customs warehouse proprietor desires to withdraw cigars from his warehouse, without payment of tax, under this subpart, he shall, prior to making the first withdrawal, file with the assistant regional commissioner a bond, Form 2104, conditioned upon compliance with the provisions of Chapter 52, I.R.C., and regulations thereunder, including, but not limited to, the timely payment of taxes imposed by such chapter, for which he may be responsible to the United States, and penalties and interest in connection therewith. The provisions of §§ 290.121 and 290.122 are applicable to the bond required under this section. However, such bond shall not be required where the customs warehouse propri-

etor has in effect a bond, Form 2100, pursuant to § 270.199 of this subchapter, conditioned upon compliance with Chapter 52, I.R.C., and regulations thereunder.

§ 290.244 Amount of bond.

The amount of the bond filed by the customs warehouse proprietor, as required by § 290.243, shall be not less than the estimated amount of tax which may at any time constitute a charge against the bond: *Provided,* That the amount of any such bond (or the total amount where original and strengthening bonds are filed) shall not exceed $25,000 nor be less than $1,000. The charges against such bond shall be subject to increase as withdrawals are made and decrease as required evidence of exportation is received by the assistant regional commissioner with respect to cigars withdrawn. When the limit of liability under a bond given in less than the maximum amount has been reached, further withdrawals shall not be made thereunder until a strengthening or superseding bond is filed as required by § 290.245 or 290.246.

§ 290.245 Strengthening bond.

Where the assistant regional commissioner determines that the amount of the bond, under which the customs warehouse proprietor is withdrawing cigars for shipment under this subpart, no longer adequately protects the revenue, and such bond is in an amount of less than $25,000, the assistant regional commissioner may require the proprietor to file a strengthening bond in an appropriate amount with the same surety as that on the bond already in effect, in lieu of a superseding bond to cover the full liability on the basis of § 290.244. The assistant regional commissioner shall refuse to approve any strengthening bond where any notation is made thereon which is intended or which may be construed as a release of any former bond, or as limiting the amount of either bond to less than its full amount.

§ 290.246 Superseding bond.

The customs warehouse proprietor shall file a new bond to supersede his current bond, immediately when (a) the corporate surety on the current bond becomes insolvent, (b) the assistant regional commissioner approves a request from the surety on the current bond to terminate his liability under the bond, (c) payment of any liability under a bond is made by the surety thereon, or (d) the assistant regional commissioner considers such a superseding bond necessary for the protection of the revenue.

§ 290.247 Termination of liability of surety under bond.

The liability of a surety on any bond required by this subpart shall be terminated only as to operations on and after the effective date of a superseding bond, or the date of approval of the customs warehouse proprietor's request for termination, or otherwise, in accordance with the termination provisions of the bond. The surety shall remain bound in respect of any liability for unpaid taxes, penalties, and interest, not in excess of the amount of the bond, incurred by the proprietor while the bond is in force.

PACKAGING REQUIREMENTS

§ 290.248 Packages.

Cigars shall, before withdrawal under this part, be put up by the customs warehouse proprietor in packages which shall bear the label or notice, class designation, and mark, as required by this subpart.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 290.249 Lottery features.

No certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery shall be contained in, attached to, or stamped, marked, written, or printed on any package of cigars withdrawn under this subpart.

(72 Stat. 1422; 26 U.S.C. 5723; 18 U.S.C. 1301)

§ 290.250 Indecent or immoral material.

No indecent or immoral picture, print, or representation shall be contained in, attached to, or stamped, marked, written, or printed on any package of cigars withdrawn under this subpart.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 290.251 Mark.

Every package of cigars shall, before withdrawal from the customs warehouse under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, the name and location of the manufacturer. There shall also be adequately stated on each such package the number of cigars contained in the package.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 290.252 Label or notice.

Every package of cigars shall, before withdrawal from the customs warehouse under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, the words "Tax-exempt. For use outside U.S." or the words "U.S. Tax-exempt. For use outside U.S.", except where a stamp, sticker, or notice, required by a foreign country or a possession of the United States, which identifies such country or possession, is so imprinted or affixed.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 290.253 Class designation for large cigars.

Every package of large cigars shall, before withdrawal from the customs warehouse under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, a class designation corresponding with the rate of tax under section 5701(b)(2), I.R.C., applicable to similar cigars withdrawn for taxable purposes. The appropriate class designation shall be stated in the following manner:

Class A. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be not more than 2½ cents each;

Class B. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 2½ cents each and not more than 4 cents each;

Class C. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 4 cents each and not more than 6 cents each;

Class D. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 6 cents each and not more than 8 cents each;

Class E. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 8 cents each and not more than 15 cents each;

Class F. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 15 cents each and not more than 20 cents each; or

Class G. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 20 cents each.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 290.254 Shipping containers.

Each shipping case, crate, or other container, in which cigars are to be withdrawn, under this subpart, shall bear a distinguishing number, such number to be assigned by the customs warehouse proprietor.

CONSIGNMENT OF SHIPMENT

§ 290.255 Consignment of cigars.

Cigars withdrawn from a customs warehouse, without payment of tax, under internal revenue bond and this part, shall be consigned in the same manner as provided by Subpart J of this part with respect to the removal of tobacco products and cigarette papers and tubes from a factory or an export warehouse.

NOTICE OF REMOVAL OF SHIPMENT

§ 290.256 Preparation.

For each shipment to be withdrawn under this subpart, the customs warehouse proprietor shall prepare a notice of removal, Form 2149. Each such notice shall be given a serial number by the proprietor in a series beginning with number 1, with respect to the first shipment withdrawn under this subpart and commencing again with number 1 on January 1 of each year thereafter.

§ 290.257 Disposition.

After actual withdrawal from his warehouse of the shipment described on the notice of removal, Form 2149, the customs warehouse proprietor shall, except where the shipment is to be exported by parcel post, promptly forward one copy of the notice of removal to the assistant regional commissioner for the region in which is located the customs warehouse from which the shipment is withdrawn. A copy of each such notice shall be retained by the customs warehouse proprietor as a part of his records, for two years following the close of the calendar year in which the shipment was withdrawn, and shall be made available for inspection by any internal revenue officer upon his request. The proprietor shall dispose of the other copies of each notice of removal as required by this subpart.

§ 290.258 To officers of the armed forces for subsequent exportation.

Where cigars are withdrawn from a customs warehouse for delivery to officers of the armed forces of the United States

in this country for subsequent shipment to, and use by, the armed forces outside the United States, the customs warehouse proprietor making the shipment shall forward a copy of the notice of removal, Form 2149, to the officer at the base or installation authorized to receive the cigars described on the notice of removal. Upon execution by the armed forces receiving officer of the certificate of receipt on the copy of the notice of removal, he shall return such copy to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner.

§ 290.259 To noncontiguous foreign countries and possessions of the United States.

Where cigars are withdrawn from a customs warehouse for direct delivery to a vessel or aircraft for transportation to a noncontiguous foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, the customs warehouse proprietor making the withdrawal shall file two copies of the notice of removal, Form 2149, with the office of the collector of customs at the port where the shipment is to be laden. Such copies of the notice of removal should be filed with the related shipper's export declaration, Commerce Form 7525-V. In the event the copies of the notice of removal are not filed with the shipper's export declaration, when the copies of the notice of removal are filed with the collector of customs they shall show all particulars necessary to enable the collector to identify the shipment with the related shipper's export declaration and any other documents filed with his office in connection with the shipment. After the vessel or aircraft on which the shipment has been laden clears or departs from his port, the collector of customs shall execute the certificate of exportation on each copy of the notice of removal, retain one copy for his records, and deliver or transmit the other copy to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner.

§ 290.260 To a Federal department or agency.

Where cigars are withdrawn from a customs warehouse and are destined for ultimate delivery in a noncontiguous foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, but the shipment is to be delivered to a Federal department or agency, or to an authorized dispatch agent, transportation officer, or port director of such a department or agency for forwarding on to the place of destination of the shipment, the customs warehouse proprietor making the shipment shall furnish a copy of the notice of removal, Form 2149, to the Federal department or agency, or an officer thereof at the port, receiving the shipment for ultimate transmittal to the place of destination, in order that such department, agency, or officer, can properly execute the certificate of receipt on such notice to evidence receipt of the shipment for transmittal to a place beyond the jurisdiction of the internal revenue laws of the United States. After completing such certificate, the Federal department, agency, or officer, shall return the copy of the notice of removal, so executed, to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner.

§ 290.261 To contiguous foreign countries.

Where cigars are withdrawn from a customs warehouse and consigned to a person in a contiguous foreign country, the customs warehouse proprietor making the shipment shall furnish to the collector of customs at the border or other port of exit of the shipment from the United States, through which the shipment will be routed, two copies of the notice of removal, Form 2149, together with the related shipper's export declaration, Commerce Form 7525-V. In the event the copies of the notice of removal are not filed with the shipper's export declaration or, in the case of a shipment for the armed forces of the United States in the contiguous foreign country, where no shipper's export declaration is required, the copies of the notice of removal when filed with the collector of customs shall show all particulars necessary to enable the collector to identify the shipment with the related shipper's export declaration, if any, and any other documents filed with his office in connection with the shipment. After the shipment has been cleared by customs from the United States, the customs authorities at the port of exit will complete the certificate of exportation on each copy of the Form 2149, retain one copy thereof, and transmit the other copy to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner.

§ 290.262 To Government vessels and aircraft for consumption as supplies.

Where cigars are withdrawn from a customs warehouse for direct delivery to a vessel or aircraft, engaged in an activity for the Government of the United States or a foreign government, for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States, the customs warehouse proprietor making the shipment shall forward a copy of the notice of removal, Form 2149, to the officer of the vessel or aircraft authorized to receive the shipment. Upon execution by the receiving officer of the vessel or aircraft of the certificate of receipt on the copy of the notice of removal, he shall return such copy to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner.

§ 290.263 To commercial vessels and aircraft for consumption as supplies.

Where cigars are withdrawn from a customs warehouse for delivery to a vessel or aircraft entitled to receive such articles for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States, the customs warehouse proprietor making the shipment shall file two copies of the notice of removal, Form 2149, with the collector of customs at the port where the shipment is to be laden in sufficient time to permit delivery of the two copies of the notice of removal to the inspector of customs who will inspect the shipment and supervise its lading. After inspection and lading of the shipment the inspector of customs shall note on the copies of the notice of removal any discrepancy between the shipment inspected and laden under his supervision and that described on the notice of removal or any limitation on the quantity to be laden; complete and sign the certificate of inspection and lading; and return both copies of the notice of removal to the collector of customs. The collector of customs shall execute the certificate of clearance on the copies of the notice of removal, retain one copy for his records, and forward the other copy to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner. Where the vessel or aircraft does not clear from the port at which the shipment is laden, the customs inspector supervising the lading of the shipment shall require the person on board the vessel or aircraft authorized to receive the shipment to execute the certificate of receipt on both copies of the notice of removal to indicate the trade or activity in which the vessel or aircraft is engaged.

§ 290.264 To internal revenue export warehouses.

Where cigars are withdrawn from a customs warehouse for delivery to an internal revenue export warehouse, the proprietor of the customs warehouse shall forward to the proprietor of the internal revenue export warehouse three copies of the notice of removal, Form 2149, covering the shipment, for execution and disposition in accordance with procedure similar to that set forth in § 290.200 in connection with a shipment of tobacco products and cigarette papers and tubes from a factory to an export warehouse. The executed copy of the notice of removal, Form 2149, returned to the customs warehouse proprietor by the internal revenue export warehouse proprietor shall be filed with the appropriate assistant regional commissioner.

§ 290.265 For export by parcel post.

Where cigars are withdrawn from a customs warehouse for export by parcel post, the customs warehouse proprietor shall present one copy of the notice of removal, Form 2149, together with the shipping containers, to the postal authorities with the request that the postmaster or his agent execute the certificate of mailing on the form. Where a customs warehouse proprietor so desires, he may cover under one notice of removal all the cigars removed under this part for export by parcel post which are delivered at one time to the postal service for that purpose. The customs warehouse proprietor shall immediately file the receipted copy of the notice of removal with the appropriate assistant regional commissioner.