

rm. 1-23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

#### List of Subjects in 21 CFR Part 522

##### Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

#### **PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

#### **§ 522.1660 [Amended]**

2. Section 522.1660 *Oxytetracycline injection* is amended in paragraphs (b) and (c)(2)(iii) by adding "053389," after "000069,".

Dated: June 10, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96-15465 Filed 6-18-96; 8:45 am]

BILLING CODE 4160-01-F

#### **21 CFR Parts 522 and 556**

#### **Animal Drugs, Feeds, and Related Products; Spectinomycin Injection**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by The Upjohn Co. The ANADA provides for subcutaneous use of a generic spectinomycin sterile solution in turkey poults and newly-hatched chicks as an aid in the control of bacterial respiratory infections, airsacculitis, and mortality. The regulations are also amended to add a tolerance for spectinomycin residues in turkey tissues.

**EFFECTIVE DATE:** June 19, 1996.

#### **FOR FURTHER INFORMATION CONTACT:**

Melanie R. Berson, Center for Veterinary Medicine (HFV-135), Food and Drug

Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1643.

**SUPPLEMENTARY INFORMATION:** The Upjohn Co., Agricultural Division, Kalamazoo, MI 49001-0199, is the sponsor of ANADA 200-127 which provides for the use of a generic spectinomycin dihydrochloride pentahydrate sterile solution (500 milliliter (mL) vial; 100 milligrams of spectinomycin activity per mL). The generic drug product is administered subcutaneously to 1- to 3-day-old turkey poults as an aid in the control of chronic respiratory disease (CRD) and airsacculitis and 1- to 3-day-old chicks as an aid in the control of mortality and to lessen the severity of respiratory infections, caused by certain microbial species sensitive to spectinomycin.

Approval of ANADA 200-127 for The Upjohn Co.'s spectinomycin dihydrochloride pentahydrate sterile solution is as a generic copy of Rhone Merieux's (formerly Sanofi Animal Health) NADA 040-040 for Spectam® Injectable. The ANADA is approved as of May 9, 1996, and the regulations are amended in 21 CFR 522.2120 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Spectinomycin was originally approved based on the negligible tolerance concept. A negligible tolerance has been applied to animal drug residues when the supporting toxicological data are of subchronic (90-day) duration. The "negligible tolerance" concept is based on two precepts: (1) The residue present is at a level of insignificance and (2) the safety of the residue is supported by limited toxicological data. The upper level for a drug residue to qualify for "negligible tolerance" is considered customarily to be 0.1 part per million (ppm) residue in tissue. Therefore, the tolerance for spectinomycin residues in edible tissues is the same for all species in which the drug is approved. Accordingly, 21 CFR 556.600 is amended to apply the tolerance of 0.1 ppm to edible turkey tissues.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of

a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

#### List of Subjects

#### *21 CFR Part 522*

##### Animal drugs.

#### *21 CFR Part 556*

##### Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 522 and 556 are amended to read as follows:

#### **PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 522.2120 is amended by revising paragraph (b) and by amending paragraph (d)(4) by removing "M. mileagris" and adding in its place "M. meleagris" to read as follows:

#### **§ 522.2120 Spectinomycin injection.**

\* \* \* \* \*

(b) *Sponsor.* In § 510.600 of this chapter, see Nos. 000033 and 050604 for conditions of use as in paragraph (d) of this section, and see No. 000009 for conditions of use as in paragraph (d)(2) and (d)(4) of this section.

\* \* \* \* \*

#### **PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD**

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: Secs. 402, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 360b, 371).

4. Section 556.600 is revised to read as follows:

#### **§ 556.600 Spectinomycin.**

A tolerance of 0.1 part per million is established for negligible residues of spectinomycin in the uncooked edible tissues of chickens and turkeys.

Dated: June 10, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96-15567 Filed 6-18-96; 8:45 am]

BILLING CODE 4160-01-F

**DEPARTMENT OF THE TREASURY****Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 24, 70, and 170**

[T.D. ATF 376]

RIN 1512-AB44

**Miscellaneous Regulations Relating to Liquor (95R-039P)**

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

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** ATF is amending its regulations by transferring Subparts E and O from 27 CFR Part 170 to 27 CFR Part 70, and redesignating these regulations as Subparts F and G respectively within Part 70. 27 CFR Part 170, Subpart E contains regulations which implement 26 U.S.C. 6423 relating to certain refunds or credits of tax on distilled spirits, wines, and beer. Subpart O contains regulations which implement 26 U.S.C. 5064 relating to payments for losses of distilled spirits, wines, and beer due to disaster, vandalism, or malicious mischief.

ATF has also reviewed the regulations within 27 CFR Part 170, Subpart E and determined that the bonding requirements provided for in §§ 170.94-170.99 are no longer needed. Consequently, these bonding provisions have been eliminated.

**EFFECTIVE DATE:** September 17, 1996.

**FOR FURTHER INFORMATION CONTACT:** Daniel J. Hiland, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8210).

**SUPPLEMENTARY INFORMATION:****Background**

On February 21, 1995, President Clinton announced a regulatory reform initiative. As part of this initiative, each Federal agency was instructed to conduct a page by page review of all agency regulations to identify those which are obsolete or burdensome and those whose goals could be better achieved through the private sector, self-regulation or state and local governments. In cases where the agency's review disclosed regulations which should be revised or eliminated, the agency would, as soon as possible, propose administrative changes to its regulations.

The page by page review of all regulations was completed as directed by the President. In addition, on April

13, 1995 the Bureau published a notice in the Federal Register requesting comments from the public regarding which ATF regulations could be improved or eliminated. As a result of both the Bureau's analysis of its regulations, and from the public comments received, a number of regulatory initiatives were developed which are intended to accomplish the President's goals.

**Transfer of Subparts E and O**

This Treasury decision implements one of the regulatory initiatives identified by ATF personnel, the transfer of regulations found in 27 CFR Subparts E and O from Part 170 to 27 CFR Part 70.

These two subparts were located within 27 CFR Part 170, which contains miscellaneous regulations relating to liquor. The Bureau has determined that the placement of this information in a miscellaneous part within 27 CFR is not appropriate and not easily accessible to persons seeking information regarding claims, refunds, and credits. The Bureau has decided that since much of this type of information is already located within Part 70, Procedures and Practices, it would be more appropriate to transfer these two subparts to 27 CFR Part 70.

**Elimination of Bond**

This Treasury decision also eliminates a bonding requirement relating to certain claims filed under 26 U.S.C. 6423. The regulations at 27 CFR Part 170, Subpart E contain provisions whereby a claim, for refund or credit of tax on articles which the claimant or owner has neither sold nor contracted to sell at the time of filing of the claim under 26 U.S.C. 6423, must be accompanied by a bond on Form 2490. ATF has reviewed the background and legislative history surrounding Section 6423 and determined that this bonding provision is no longer needed in the regulations.

ATF finds that this bonding provision dates back to the passage of Public Law 85-323 in 1958. At that time, the tax law required distillers to remove distilled spirits from bond after a period of eight years and pay the distilled spirits tax on the spirits so removed. Distillers filed suit against the Government because they considered this law unconstitutional. In addition, many distillers filed claims for refund of taxes paid on spirits which they were required to remove from bond.

In response to these actions, Congress passed Public Law 85-323 which added Section 6423 to the Internal Revenue Code. The purpose of this section was to prevent claimants from realizing a

windfall gain from the possible credit or refund of tax in those instances where someone else bore the ultimate burden for the tax. The provisions of Section 6423 set certain conditions for payment of such refunds or credits. Generally, these provisions required that the claimant establish that he bore the ultimate burden for the tax claimed. Section 6423 also provided that, where the taxed commodities had not yet been sold, the claimant must agree not to shift the burden of the tax, or to seek relief from it, and the Secretary could require filing of a bond to guarantee compliance with this agreement. A bonding requirement was incorporated into ATF's regulations.

The bonding provision was intended to cover spirits which the distiller withdrew from bond and taxpaid, but had not yet marketed. Any person filing a claim for spirits which were not yet marketed was required to provide a bond to ensure compliance with the agreement that they would not also shift the tax burden for the spirits to another person after the claim was filed.

Ultimately, the court ruled in favor of the Government and the claims filed by the various distillers were denied. See *Schenley Distillers, Inc. v. United States*, 255 F.2d 334 (3rd Cir. 1958), cert. denied, 358 U.S. 835 (1958). Later, the tax law was amended, and the requirement to withdraw spirits from bond after eight years was eliminated from the law.

Under current law, it would be unusual for a claimant to file a request for credit or refund on a product which had been taxpaid, but not yet marketed, since products are generally sold immediately after removal from bond. Since the circumstances which brought about this bonding provision have changed, and the bond is not required by law, ATF has decided to remove the bonding requirement from the regulations. ATF has determined that elimination of the bonding requirement will not jeopardize the revenue.

**Miscellaneous**

The transfer of two subparts of regulations from 27 CFR Part 170 to Part 70 affects references to refund and claim procedures found in several sections of 27 CFR Part 24. Therefore, this Treasury decision also makes minor technical amendments to 27 CFR Part 24 whereby references to provisions formerly found in 27 CFR Part 170 will now refer to 27 CFR Part 70.

**Executive Order 12866**

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866.

Accordingly, this final rule is not subject to the analysis required by this Executive Order.

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law. A copy of this final rule has been submitted to the Administrator of the Small Business Administration for comment on the impact of such regulations on small business, pursuant to 26 U.S.C. 7805(f).

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no new requirement to collect information is imposed. This final rule only transfers two Subparts from 27 CFR Part 170 to 27 CFR Part 70.

#### Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 553(b).

Drafting Information: The principal author of this document is Daniel J. Hiland, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

#### List of Subjects

##### 27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

##### 27 CFR Part 70

Administrative practice and procedure, Authority delegations, Claims, Customs duties and inspection, Disaster assistance, Excise taxes, Government employees, Law enforcement, Law enforcement officers.

##### 27 CFR Part 170

Alcohol and alcoholic beverages, Authority delegations, Customs duties and inspection, Labeling, Liquors,

Penalties, Reporting requirements, Wine.

#### Issuance

Chapter I of title 27, Code of Federal Regulations is amended as follows:

#### PART 24—WINE

Par. 1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111-5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364-5373, 5381-5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 24.65(c) is revised to read as follows:

##### § 24.65 Claims for wine or spirits lost or destroyed in bond.

\* \* \* \* \*

(c) *Claim for abatement, credit or refund.* A claim for an abatement of an assessment under § 24.61, or credit or refund of tax which has been paid or determined, will be filed with the regional director (compliance) in accordance with the provisions of this paragraph and the provisions of 27 CFR part 70, subpart F. A claim filed under this paragraph with respect to spirits, wine, or volatile fruit-flavor concentrate, will set forth the applicable information required by paragraphs (a) and (b) of this section. In addition, any claim filed under this paragraph will set forth the following information:

(1) The date of the assessment for which abatement is claimed; and

(2) The name, registry number, and address of the premises where the tax was assessed (or name, address, and title of any other person who was assessed the tax, if the tax was not assessed against the proprietor).

\* \* \* \* \*

Par. 3. Section 24.67 is amended by revising paragraphs (b) and (c) to read as follows:

##### § 24.67 Other Claims.

\* \* \* \* \*

(b) Refund or credit of any tax imposed on wine or other liquors by 26 U.S.C. chapter 51, part I, subchapter A, on the grounds that an amount of tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that the amount was excessive, are contained in 27 CFR part 70 subpart F.

(c) Payment of an amount equal to the internal revenue tax paid or determined and customs duties paid on wines or

other liquors previously withdrawn, which are lost, rendered unmarketable, or condemned by a duly authorized official as a result of

(1) A major disaster,

(2) Fire, flood, casualty, or other disaster, or

(3) Breakage, destruction, or damage (excluding theft) resulting from vandalism or malicious mischief, are found in 27 CFR part 70, subpart G.

Par. 4. Section 24.295(a) is revised to read as follows:

##### § 24.295 Return of unmerchantable wine to bond.

(a) *General.* Wine produced in the United States which has been taxpaid, removed from bonded wine premises, and subsequently determined to be unmerchantable may be returned to bonded wine premises for reconditioning, reformulation or destruction. The tax paid on United States wine may, when such wine is returned to bond, be refunded or credited, without interest, to the proprietor of the bonded wine premises to which such wine is delivered. However, no tax paid on any United States wine for which a claim has been or will be made under the provisions of 27 CFR part 70, subpart G will be refunded or credited. If the tax on the United States wine has been determined but not paid, the person liable for the tax may, when such wine is returned to bond, be relieved of the liability. Claims for refund or credit, or relief from tax paid or determined on United States wine returned to bond are filed in accordance with § 24.66.

\* \* \* \* \*

#### PART 70—PROCEDURE AND ADMINISTRATION

Par. 5. The authority citation for part 70 is revised to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5064, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331-6343, 6401-6404, 6407, 6416, 6423, 6501-6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656, 6657, 6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601-7606, 7608-7610, 7622, 7623, 7653, 7805.

#### Penalties

70.610 Penalties.

Par. 6. Section 70.1 is revised to read as follows:

**§ 70.1 General.**

(a) The regulations in Subparts C, D, and E of this part set forth the procedural and administrative rules of the Bureau of Alcohol, Tobacco and Firearms for:

(1) The issuance and enforcement of summonses, examination of books of account and witnesses, administration of oaths, entry of premises for examination of taxable objects, granting of rewards for information, canvass of regions for taxable objects and persons, and authority of ATF officers.

(2) The use of commercial banks for payment of excise taxes imposed by 26 U.S.C. Subtitles E and F.

(3) The preparing or executing of returns; deposits; payment on notice and demand; assessment; abatements, credits and refunds; limitations on assessment; limitations on credit or refund; periods of limitation in judicial proceedings; interest; additions to tax, additional amounts, and assessable penalties; enforced collection activities; authority for establishment, alteration, and distribution of stamps, marks, or labels; jeopardy assessment of alcohol, tobacco, and firearms taxes, and registration of persons paying a special tax.

(4) Distilled spirits, wines, beer, tobacco products, cigarette papers and tubes, firearms, ammunition, and explosives.

(b) The regulations in Subpart F of this part relate to the limitations imposed by 26 U.S.C. 6423, on the refund or credit of tax paid or collected in respect to any article of a kind subject to a tax imposed by Part I, Subchapter A of Chapter 51, I.R.C., or by any corresponding provision of prior internal revenue laws.

(c) The regulations in Subpart G of this part implement 26 U.S.C. 5064, which permits payments to be made by the United States for amounts equal to the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, and beer, previously withdrawn, that were lost, made unmarketable, or condemned by a duly authorized official as a result of disaster, vandalism, or malicious mischief. This subpart applies to disasters or other specified causes of loss, occurring on or after February 1, 1979. This subpart does not apply to distilled spirits, wines, and beer manufactured in Puerto Rico and brought into the United States.

Par. 7. Section 70.2 is added to read as follows:

**§ 70.2 Forms prescribed.**

(a) The Director is authorized to prescribe all forms required by this part.

All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be mailed to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22153-5950.

Par. 8. Section 70.411 is amended by revising paragraph (c)(2) to read as follows:

**§ 70.411 Imposition of taxes, qualification requirements, and regulations.**

\* \* \* \* \*

(c) \* \* \*

(2) *Miscellaneous liquor transactions.* Part 170 of 27 CFR contains miscellaneous regulations relative to:

(i) Manufacture, removal, and use of stills and condensers, and to the notice, registration, and recordkeeping requirements therefor;

(ii) Manufacture and sale of certain compounds, preparations, and products containing alcohol;

\* \* \* \* \*

Par. 9. Section 70.414 is amended by revising paragraphs (a) and (g) to read as follows:

**§ 70.414 Preparation and filing of claims.**

(a) *Distilled spirits at distilled spirits plants.* Procedural instructions in respect of claims for remission, abatement, credit, or refund of tax on spirits (including denatured spirits) lost or destroyed on or lost in transit to, or on spirits returned to, the premises of a distilled spirits plant are contained in Part 19 of Title 27 CFR. It is not necessary to file a claim for credit of tax on taxpaid samples taken by ATF officers from distilled spirits plants, as the regional director (compliance) will allow credit, without claim, for tax on such samples.

\* \* \* \* \*

(g) *Miscellaneous.* Procedural instructions are contained in 27 CFR Part 70, subparts F and G in respect of claims for—

(1) Refund or credit of tax on distilled spirits, wines or beer where such refund or credit is claimed on the grounds that tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive, and where such refund or credit is subject to the limitations imposed by section 6423 of the Internal Revenue Code.

(2) Payment of an amount equal to the internal revenue tax paid or determined and customs duties paid on distilled

spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of a major disaster occurring in the United States after June 30, 1959.

\* \* \* \* \*

Par. 10. 27 CFR Part 70 is amended by adding Subpart F to read as follows:

**Subpart F—Application of Section 6423, Internal Revenue Code of 1954, as Amended, to Refund or Credit of Tax on Distilled Spirits, Wines, and Beer****General**

70.501 Meaning of terms.

70.502 Applicability to certain credits or refunds.

70.503 Ultimate burden.

70.504 Conditions to allowance of credit or refund.

70.505 Requirements on persons intending to file claim.

**Claim Procedure**

70.506 Execution and filing of claim.

70.507 Data to be shown in claim.

70.508 Time for filing claim.

**Penalties**

70.509 Penalties.

**Subpart F—Application of Section 6423, Internal Revenue Code of 1954, as Amended, to Refund or Credit of Tax on Distilled Spirits, Wines, and Beer****General****§ 70.501 Meaning of terms.**

When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section.

*Article.* The commodity in respect to which the amount claimed was paid or collected as a tax.

*Claimant.* Any person who files a claim for a refund or credit of tax under this subpart.

*District director of customs.* The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

*I.R.C.* Internal Revenue Code of 1986, as amended.

*Owner.* A person who, by reason of a proprietary interest in the article, furnished the amount claimed to the claimant for the purpose of paying the tax.

*Person.* An individual, a trust, estate, partnership, association, company, or corporation.

*Tax.* Any tax imposed by 26 U.S.C. 5001–5066, or by any corresponding provision of prior internal revenue laws, and in the case of any commodity of a kind subject to a tax under any such sections, any tax equal to any such tax, any additional tax, or any floor stocks tax. The term includes an extraction denominated a “tax”, and any penalty, addition to tax, additional amount, or interest applicable to any such tax.

**§ 70.502 Applicability to certain credits or refunds.**

The provisions of this subpart apply only where the credit or refund is claimed on the grounds that an amount of tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive. This subpart does not apply to:

- (a) Any claim for drawback,
- (b) Any claim made in accordance with any law expressly providing for credit or refund where an article is withdrawn from the market, returned to bond, or lost or destroyed, and
- (c) Any claim based solely on errors in computation of the quantity of an article subject to tax or on mathematical errors in computation of the amount of the tax due, or to any claim in respect of tax collected or paid on an article seized and forfeited, or destroyed, as contraband.

**§ 70.503 Ultimate burden.**

For the purposes of this subpart, the claimant, or owner, shall be treated as having borne the ultimate burden of an amount of tax only if:

- (a) The claimant or owner has not, directly or indirectly, been relieved of such burden or shifted such burden to any other person,
- (b) No understanding or agreement exists for any such relief or shifting, and
- (c) If the claimant or owner has neither sold nor contracted to sell the articles involved in such claim, such claimant or owner agrees that there will be no such relief or shifting.

**§ 70.504 Conditions to allowance of credit or refund.**

No credit or refund to which this subpart is applicable shall be allowed or made, pursuant to a court decision or otherwise, of any amount paid or collected as a tax unless a claim therefor has been filed, as provided in this subpart, by the person who paid the tax and the claimant, in addition to establishing that such claimant is otherwise legally entitled to credit or refund of the amount claimed, establishes:

- (a) That the claimant bore the ultimate burden of the amount claimed, or
- (b) That the claimant has unconditionally repaid the amount claimed to the person who bore the ultimate burden of such amount, or
- (c) That:
  - (1) the owner of the article furnished the claimant the amount claimed for payment of the tax;
  - (2) The claimant has filed with the regional director (compliance) the written consent of such owner to the allowance to the claimant of the credit or refund; and
  - (3) Such owner satisfies the requirements of paragraph (a) or (b) of this section.

**§ 70.505 Requirements on persons intending to file claim.**

Any person who, having paid the tax with respect to an article, desires to claim refund or credit of any amount of such tax to which the provisions of this subpart are applicable must:

- (a) File a claim, as provided in § 70.506, and
- (b) Comply with any other provisions of law or regulations which may apply to the claim.

**Claim Procedure**

**§ 70.506 Execution and filing of claim.**

Claims to which this subpart is applicable shall be executed on Form 2635 (5620.8) in accordance with the instructions on the form and shall (except as hereinafter provided) be filed with the regional director (compliance) for the region in which the tax was paid. (For provisions relating to handcarried documents, see 27 CFR 70.304). Claims for credit or refund of taxes collected by district directors of customs, to which the provisions of section 6423, I.R.C., are applicable and which Customs regulations (19 CFR Part 24—Customs Financial and Accounting Procedure) require to be filed with the regional director (compliance) of the region in which the claimant is located, shall be executed and filed in accordance with applicable Customs regulations and this subpart. The claim shall set forth each ground upon which the claim is made in sufficient detail to apprise the regional director (compliance) of the exact basis therefor. Allegations pertaining to the bearing of the ultimate burden relate to additional conditions which must be established for a claim to be allowed and are not in themselves legal grounds for allowance of a claim. There shall also be attached to the form and made part of the claim the supporting data required by § 70.507. All evidence relied upon in support of

such claim shall be clearly set forth and submitted with the claim.

**§ 70.507 Data to be shown in claim.**

Claims to which this subpart is applicable, in addition to the requirements of § 70.506 must set forth or contain the following:

- (a) A statement that the claimant paid the amount claimed as a “tax” as defined in this subpart.
- (b) Full identification (by specific reference to the form number, the date of filing, the place of filing, and the amount paid on the basis of the particular form or return) of the tax forms or returns covering the payments for which refund or credit is claimed.
- (c) The written consent of the owner to the allowance of the refund or credit to the claimant (where the owner of the article in respect of which the tax was paid furnished the claimant the amount claimed for the purpose of paying the tax).
- (d) If the claimant (or owner, as the case may be) has neither sold nor contracted to sell the articles involved in the claim, a statement that the claimant (or owner, as the case may be) agrees not to shift, directly or indirectly in any manner whatsoever, the burden of the tax to any other person.

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

(f) Specific evidence (such as relevant records, invoices, or other documents, or affidavits of individuals having personal knowledge of pertinent facts) which will satisfactorily establish the conditions to allowance set forth in § 70.504.

(g) The regional director (compliance) may require the claimant to furnish as a part of the claim such additional information as may be deemed necessary.

**§ 70.508 Time for filing claim.**

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

**Penalties**

**§ 70.509 Penalties.**

It is an offense punishable by fine and imprisonment for anyone to make or

cause to be made any false or fraudulent claim upon the United States, or to make any false or fraudulent statements, or representations, in support of any claim, or to falsely or fraudulently execute any documents required by the provisions of the internal revenue laws, or any regulations made in pursuance thereof.

Par. 11. 27 CFR Part 70 is amended by adding Subpart G to read as follows:

**Subpart G—Losses Resulting From Disaster, Vandalism, or Malicious Mischief**

**Definitions**

70.601 Meaning of terms.

**Payments**

70.602 Circumstances under which payment may be made.

**Claims Procedures**

70.603 Execution and filing of claims.

70.604 Record of inventory to support claims.

70.605 Claims related to imported, domestic and Virgin Island liquors.

70.606 Claimant to furnish proof.

70.607 Supporting evidence.

70.608 Action on claims.

**Destruction of Liquors**

70.609 Supervision.

**Subpart G—Losses Resulting From Disaster, Vandalism, or Malicious Mischief**

**§ 70.601 Meaning of Terms.**

When used in this subpart, terms are defined as follows in this section. Words in the plural shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude other things not named which are in the same general class or are otherwise within the scope of the term defined.

*Alcoholic liquors or liquors.* Distilled spirits, wines, and beer lost, made unmarketable, or condemned, as provided in this subpart.

*Beer.* Beer, ale, porter, stout, and other similar fermented beverages (including sake, or other similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume on which the internal revenue tax has been paid or determined, and if imported, on which duties have been paid.

*Claimant.* The person who held the liquors for sale at the time of the disaster or other specified cause of loss and who files a claim under this subpart.

*Commissioner of Customs.* The Commissioner of Customs, U.S.

Customs Service, the Department of the Treasury, Washington, DC.

*Distilled spirits, or spirits.* Ethyl alcohol and other distillates such as whisky, brandy, rum, gin, vodka, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), on which the internal revenue tax has been paid or determined and, if imported, on which duties have been paid.

*Duly authorized official.* Any Federal, State or local government official who is authorized to condemn liquors on which a claim is filed under this subpart.

*Duty or duties.* Any duty or duties paid under the customs laws of the United States.

*Major Disaster.* A flood, fire, hurricane, earthquake, storm, or other catastrophe defined as a “major disaster” under the Disaster Relief Act (42 U.S.C. 5122(2)), which occurs in any part of the United States and which the President has determined causes sufficient damage to warrant “major disaster” assistance under that Act.

*Region.* A Bureau of Alcohol, Tobacco and Firearms region.

*Tax.* (1) With respect to distilled spirits, “tax” means the internal revenue tax that is paid or determined on spirits.

(2) With respect to wines, “tax” means the internal revenue tax that is paid or determined on the wine.

(3) With respect to beer, “tax” means the internal revenue tax that is paid or determined on the beer.

*United States.* When used in a geographical sense includes only the States and the District of Columbia.

*Wines.* All still wines, effervescent wines, and flavored wines, on which internal revenue wine tax has been paid or determined, and if imported, on which duty has been paid.

**Payments**

**§ 70.602 Circumstances under which payment may be made.**

(a) *Major disasters.* The regional director (compliance) shall allow payment (without interest) of an amount equal to the tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the duty paid, on distilled spirits, wines, and beer previously withdrawn, if the liquors are lost, made unmarketable, or condemned by a duly authorized official as the result of a major disaster (as defined in § 70.601).

(b) *Other causes of loss—(1) Payment.* The regional director (compliance) shall allow payment (without interest) of an

amount equal to the tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the duty paid, on distilled spirits, wines, and beer previously withdrawn, if the liquors are lost, made unmarketable, or condemned by a duly authorized official as a result of:

(i) Fire, flood, casualty, or other disaster; or

(ii) Breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief.

(2) *Minimum claim.* No claim of less than \$250 will be allowed for losses resulting from any disaster or damage described in paragraph (b)(1) of this section.

(c) *General.* Payment under this section may be made only if:

(1) The disaster or other specified cause of loss occurred in the United States;

(2) At the time of the disaster or other specified cause of loss, the liquors were being held for sale by the claimant;

(3) Refund or credit of the amount claimed, or any part of the amount claimed, has not or will not be claimed for the same liquors under any other law or regulations; and

(4) The claimant was not indemnified by any valid claim of insurance or otherwise for the tax and/or duty on the liquors covered by the claim.

**Claims Procedures**

**§ 70.603 Execution and filing of claim.**

(a) *General.* (1) Claims under this subpart shall be filed on Form 2635 (5620.8), in original only, with the regional director (compliance) of the region in which the liquors were lost, became unmarketable, or were condemned.

(2) The claim shall include all the facts on which the claim is based, and be accompanied by a record of inventory of the liquors lost, made unmarketable, or condemned. (See § 70.604.)

(3) The claim shall contain a statement that no other claim for refund or credit of the amount claimed, or for any part of the amount claimed, has been or will be filed under any other law or regulations.

(b) *Major disasters.* Claims for refund of tax and/or duty on liquors which were lost, became unmarketable, or were condemned as a result of a major disaster must be filed not later than 6 months from the day on which the President determines that a major disaster has occurred.

(c) *Other causes of loss.* (1) Claims for amounts of \$250 or more for refund of

tax and/or duty on liquors which were lost, became unmarketable, or were condemned as the result of:

(i) Fire, flood, casualty, or other disaster; or  
(ii) Damage (excluding theft) resulting from vandalism or malicious mischief, must be filed within 6 months after the date on which the disaster or damage occurred.

(2) Claims for amounts less than \$250 will not be allowed.

**§ 70.604. Record of inventory to support claims.**

(a) *Claims relating to distilled spirits.* The record of inventory of distilled spirits lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

(1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).

(2) Address where the spirits were lost, became unmarketable, or were condemned, if different from the business address.

(3) Kind of spirits.

(4) Brand name.

(5) *For full cases, show.* (i) Number of cases;

(ii) Serial numbers;

(iii) Bottles per case;

(iv) Size of bottles;

(v) Wine gallons per case;

(vi) Proof; and

(vii) Proof gallons.

(6) *For bottles not in cases, show.*

(i) Total number;

(ii) Size of bottles;

(iii) Wine gallons;

(iv) Proof; and

(v) Total proof gallons.

(7) Total proof gallons for all items.

(b) *Claims relating to wines.* The record of inventory of wines lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

(1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).

(2) Address where the wines were lost, became unmarketable, or were condemned, if different from the business address.

(3) Kind of wine.

(4) Percent of alcohol by volume.

(5) Number of barrels or kegs.

(6) Kind and number of other bulk containers.

(7) Number of full cases and bottles per case.

(8) Size of bottles.

(9) Number of bottles not in cases and wine gallons.

(10) Total wine gallons.

(c) *Claims relating to beer.* The record of inventory of beer lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

(1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).

(2) Address where the beer was lost, became unmarketable, or was condemned, if different from the business address.

(3) Number and size of barrels.

(4) *For full cases, show.* (i) Number of cases;

(ii) Bottles or cans per case; and

(iii) Size (in ounces) of bottles or cans.

(5) Number and size of bottles and cans not in cases.

(6) Quantity in terms of 31-gallon barrels.

(7) Total quantity.

(d) *Special instructions.* (1) Inventories of domestic liquors, imported liquors, and liquors manufactured in the Virgin Islands shall be reported separately.

(2) Liquors manufactured in Puerto Rico may not be included in claims filed under this subpart. Claims for losses of Puerto Rican liquors shall be filed with the Secretary of the Treasury of Puerto Rico under the laws of Puerto Rico.

**§ 70.605 Claims relating to imported, domestic, and Virgin Islands liquors.**

(a) Claims involving taxes on domestic liquors, imported liquors, and liquors manufactured in the Virgin Islands must show the quantities of each separately in the claim.

(b) A separate claim on Form 2635 (5620.8) must be filed for customs duties.

**§ 70.606 Claimant to furnish proof.**

The claimant shall furnish proof to the satisfaction of the regional director (compliance) regarding the following:

(a) That the tax on the liquors, or the tax and duty if imported, was fully paid; or the tax, if not paid, was fully determined.

(b) That the liquors were lost, made unmarketable, or condemned by a duly authorized official, by reason of damage sustained as a result of a disaster or other cause of loss specified in this subpart.

(c) The type and date of occurrence of the disaster or other specified cause of loss, and the location of the liquors at the time.

(d) That the claimant was not indemnified by a valid claim of insurance or otherwise for the tax, or tax and duty, on the liquors covered by the claim.

(e) That the claimant is entitled to payment under this subpart.

**§ 70.607 Supporting evidence.**

(a) The claimant shall support the claim with any evidence (such as inventories, statements, invoices, bills, records, labels, formulas, stamps) that is available to submit, relating to the quantities and identities of the liquors, on which duty has been paid or tax has been paid or determined, that were on hand at the time of the disaster or other specified cause of loss and alleged to have been lost, made unmarketable, or condemned as a result of it.

(b) If the claim is for refund of duty, the claimant shall furnish, if possible:

(1) The customs number;

(2) The date of entry; and

(3) The name of the port of entry.

**§ 70.608 Action on claims.**

The regional director (compliance) shall date stamp and examine each claim filed under this subpart and will determine the validity of the claim. Claims and supporting data involving customs duties will be forwarded to the Commissioner of Customs with a summary statement by the regional director (compliance) regarding his or her findings.

**Destruction of Liquors**

**§ 70.609 Supervision.**

When allowance has been made under this subpart for the tax and/or duty on liquors condemned by a duly authorized official or made unmarketable, the liquors shall be destroyed by suitable means under supervision satisfactory to the regional director (compliance), unless the liquors were previously destroyed under supervision satisfactory to the regional director (compliance). The Commissioner of Customs will notify the regional director (compliance) as to allowance under this subpart of claims for duty on unmarketable or condemned liquors.

**Penalties**

**§ 70.610 Penalties.**

(a) Penalties are provided in 26 U.S.C. 7206 for making any false or fraudulent statement under the penalties of perjury in support of any claim.

(b) Penalties are provided in 26 U.S.C. 7207 for filing any false or fraudulent document under this subpart.

(c) All laws and regulations, including penalties, which apply to internal revenue taxes on liquors shall, when appropriate, apply to payments made under this subpart the same as if the payments were actual refunds of internal taxes on liquors.

**PART 170—MISCELLANEOUS  
REGULATIONS RELATING TO LIQUOR**

Par. 12. The authority citation for part 170 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5002, 5111, 5121, 5171, 5205, 5291, 5301, 5362, 7805; 31 U.S.C. 9304, 9306.

Par. 13. Subpart E, §§ 170.85–170.100 and Subpart O, §§ 170.301–170.311 are removed.

Signed: May 7, 1996.

Bradley A. Buckles,  
*Acting Director.*

Approved: May 21, 1996.

John P. Simpson,  
*Deputy Assistant Secretary, Regulatory, Tariff  
& Trade Enforcement.*

[FR Doc. 96–14853 Filed 6–18–96; 8:45 am]

BILLING CODE 4810–31–P

**DEPARTMENT OF EDUCATION****34 CFR Part 668**

RIN 1840–AB84

**Student Assistance General Provisions**

**AGENCY:** Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the Student Assistance General Provisions regulations to add the Office of Management and Budget (OMB) control number to certain sections of the regulations. These sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved and affected parties must comply with them.

**EFFECTIVE DATE:** These regulations are effective on July 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Lorraine Kennedy, U.S. Department of Education, 600 Independence Avenue, SW., (Room 3053, ROB–3) Washington, DC 20202. Telephone (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Final regulations for the Student Assistance General Provisions were published in the Federal Register on December 1, 1995 (60 FR 61830 [Ability-to-Benefit]). Compliance with information collection requirements in certain sections of these regulations was delayed until those requirements were approved by OMB under the Paperwork Reduction Act of

1995. OMB approved the information collection requirements in the regulations on May 1, 1996. The information collection requirements in these regulations will therefore become effective with all of the other provisions of the regulations on July 1, 1996.

**Waiver of Proposed Rulemaking**

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined under 5 U.S.C. 553 (b)(B), that public comment on the regulations is unnecessary and contrary to the public interest.

**List of Subjects in 34 CFR Part 668**

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: June 14, 1996.

David A. Longanecker,  
*Assistant Secretary for Postsecondary  
Education.*

The Secretary amends Part 668 of Title 34 of the Code of Federal Regulations as follows:

**PART 668—STUDENT ASSISTANCE  
GENERAL PROVISIONS**

1. The authority citation for Part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141 unless otherwise noted.

**§§ 668.143 through 668.146, 668.148  
through 668.153, 668.156 [Amended]**

2. Sections 668.143, 668.144, 668.145, 668.146, 668.148, 668.149, 668.150, 668.151, 668.152, 668.153, and 668.156 are amended by adding the OMB control number following each section to read as follows: “(Approved by the Office of Management and Budget under control number 1840–0627)”.

[FR Doc. 96–15649 Filed 6–18–96; 8:45 am]

BILLING CODE 4000–01–M

**ENVIRONMENTAL PROTECTION  
AGENCY****40 CFR Part 52**

[LA–16–1–7165a; FRL–5522–6]

**Approval and Promulgation of Air  
Quality Plans; Louisiana; Revision to  
the State Implementation Plan (SIP)  
Addressing Ozone Monitoring**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a revision to Louisiana’s SIP for ozone. This action is based upon a revision request which was submitted by the State to satisfy the requirements of the Clean Air Act (Act), as amended November 15, 1990, and the Photochemical Assessment Monitoring Stations (PAMS) regulations. The PAMS regulations require the State to provide for the establishment and maintenance of an enhanced ambient air quality monitoring network in the form of PAMS by November 12, 1993.

**DATES:** This final rule is effective August 19, 1996, unless adverse comments are received by July 19 1996. If the effective date is delayed, timely notice will be published in the Federal Register (FR).

**ADDRESSES:** Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Regional Office listed below. Copies of the documents relevant to this final action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency,  
Region 6, Multimedia Planning and  
Permitting Division, 1445 Ross  
Avenue, Suite 700, Dallas, Texas  
75202–2733, telephone (214) 665–  
7214.

Louisiana Department of Environmental  
Quality, Office of Air Quality and  
Radiation Protection, H. B. Garlock  
Building, 7290 Bluebonnet Blvd.,  
Baton Rouge, Louisiana 70810.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jeanne M. McDaniels, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7254.

**SUPPLEMENTARY INFORMATION:****I. Background**

On September 10, 1993, the Louisiana Department of Environmental Quality