

## § 71.38

consideration of facts, arguments, offers of settlement, or proposals of adjustment. The notice should inform the permittee of the charges on which the citation would be based, if issued, and afford him a period of 10 days from the date of the notice, or such longer period as the director of industry operations deems necessary, in which to submit proposals of settlement to the director of industry operations. Where informal settlement is not reached promptly because of inaction of the permittee or proposals are made for the purpose of delay, a citation shall be issued in accordance with §§ 71.55 and 71.56.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9196, Mar. 6, 1985; T.D. ATF-244, 51 FR 45763, Dec. 22, 1986; T.D. ATF-374, 61 FR 29957, June 13, 1996]

### § 71.38 Limitation on informal settlement.

Where the evidence is conclusive and the nature of the violation is such as to preclude any settlement short of suspension, revocation or annulment, or the violation is of a continuing character that necessitates immediate action to protect the public interest, or where the director of industry operations believes that any informal settlement of the alleged violation will not insure future compliance with the laws and regulations, or in any similar case where the circumstances are such as to clearly preclude informal settlement, and the director of industry operations so finds and states his reasons therefor as provided in § 71.35, he may restrict settlement to that provided in § 71.71.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

## Subpart E—Grounds for Citation

### § 71.45 Basic permits.

Whenever the director of industry operations has reason to believe that any person has willfully violated any of the conditions of his basic permit, or has not in fact or in good faith engaged in the operations authorized by such permit for a period of more than two

## 27 CFR Ch. I (4–1–02 Edition)

years, or that such permit was procured through fraud, misrepresentation or concealment of material facts, he shall issue a citation for the suspension, revocation or annulment of such permit, as the case may be.

[21 FR 1441, Mar. 6, 1956, as amended by T.D. 6389, 24 FR 4790, June 12, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

### § 71.46 Tobacco permits.

Whenever the director of industry operations has reason to believe that any person has not in good faith complied with any of the provisions of 26 U.S.C. chapter 52 or regulations issued thereunder, or has not complied with any provision of 26 U.S.C. which involves intent to defraud, or has violated any of the conditions of his permit, or has failed to disclose any material information required, or has made any materially false statement, in the application for his permit, or has failed to maintain his premises in such manner as to protect the revenue, the director of industry operations shall issue a citation for the revocation or suspension of such permit.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55846, Sept. 28, 1979; T.D. ATF-374, 61 FR 29957, June 13, 1996]

### § 71.48 Operating permits and industrial use permits.

Whenever the director of industry operations has reason to believe that any person who has an operating permit or an industrial use permit:

(a) Has not in good faith complied with the provisions of 26 U.S.C. chapter 51 or enabling regulations; or

(b) Has violated the conditions of such permit; or

(c) Has made any false statement as to any material fact in his application therefor; or

(d) Has failed to disclose any material information required to be furnished; or

(e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor or has been convicted of any offense under 26 U.S.C. punishable as a felony or of any conspiracy to commit such an offense; or

(f) Is (in the case of any person who has a permit to procure or use distilled spirits free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale, or to procure, deal in, or use specially denatured distilled spirits) by reason of his operations, no longer warranted in procuring or using the distilled spirits or specially denatured distilled spirits authorized by his permit; or

(g) Has, in the case of any person who has a permit to procure, deal in, or use specially denatured distilled spirits, manufactured articles which do not correspond to the descriptions and limitation prescribed by law and regulations; or

(h) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years;

He may issue a citation for the revocation or suspension of such permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

[T.D. 6389, 24 FR 4790, June 12, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55846, Sept. 28, 1979; T.D. ATF-199, 50 FR 9196 and 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

#### § 71.49 Applications for basic permits.

If, upon examination of any application (including a renewal application) for a basic permit, the director of industry operations has reason to believe that the applicant is not entitled to such permit he shall issue a citation for the contemplated disapproval of the application.

[T.D. 6954, 33 FR 6814, May 4, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975; as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

#### § 71.49a Applications for operating permits and industrial use permits.

If, on examination of an application for an operating permit or an industrial use permit, the director of industry operations has reason to believe:

(a) In case of an application to withdraw and use distilled spirits free of tax, the applicant is not authorized by law or regulations issued pursuant

thereto to withdraw or use such distilled spirits; or

(b) The applicant (including in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner) is, by reason of the applicant's business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C. chapter 51 or implementing regulations; or

(c) The applicant has failed to disclose any material information required, or has made any false statement as to any material fact, in connection with his application; or

(d) The premises on which the applicant proposes to conduct the business are not adequate to protect the revenue;

He may issue a citation for the contemplated disapproval of the application.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

[T.D. 6389, 24 FR 4791, June 12, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55846, Sept. 28, 1979; T.D. ATF-199, 50 FR 9196 and 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

#### § 71.49b Applications for tobacco permits.

If, on examination of an application for a tobacco permit provided for in 26 U.S.C. 5713, the director of industry operations has reason to believe—

(a) The premises on which it is proposed to conduct the business are not adequate to protect the revenue; or

(b) The applicant for a permit does not meet the minimum manufacturing and activity requirements in 27 CFR 40.61; or

(c) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C. chapter 52, or has failed to disclose any material