Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–5075 Filed 2–27–85; 9:42 am]

BILLING CODE 6712–01–M

19

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—March 7, 1985.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTER TO BE CONSIDERED:

Portions open to the public:

1. Consideration of potential alternatives to certain Commission Regulations applicable to the domestic offshore trades.
2. Docket No. 84–35: Electronic Filing of Tariffs by Common Carriers in the Foreign and Domestic Offshore Commerce of the United States—Consideration of comments received pursuant to Notice of Proposed Rulemaking, and proposed final rules.

Portion closed to the public:

1. Agreement No. 202–010025–003: Modification of the Red Sea Rate Agreement to organize the basic agreement into the format required by Commission regulation, insert provisions mandated by the Shipping Act of 1984, and accomplish various other changes.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski Assistant Secretary, (202) 523–5725.

Bruce A. Dombrowski,

Assistant Secretary.

[FR Doc. 85–5172 Filed 2–27–85; 3:25 pm]

BILLING CODE 6730–01–M

20

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Monday, March 11, 1985.

PLACE: Room 532 (open); Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in Echlin Manufacturing, Docket No. 9157.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Echlin Manufacturing, Docket No. 9157.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 523–1892; Recorded Message: (202) 523–3806.

Emily H. Rock,

Secretary.

[FR Doc. 85–5098 Filed 2–27–85; 10:39 am]

BILLING CODE 6750–01–M

21

NATIONAL SCIENCE FOUNDATION

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

NAME: Alan T. Waterman Award Committee.

DATE: Wednesday, March 20, 1985.

TIME: 9 a.m. to 5 p.m.

PLACE: Rm. 1242A, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Mrs. Lois J. Hamaty, Executive Secretary, Alan T. Waterman Award Committee, National Science Foundation, Washington, D.C. 20550. Telephone: 202/357–7512.

PURPOSE OF COMMITTEE: To provide advice and recommendations in the selection of the Alan T. Waterman Award recipient.

AGENDA: To review nominations, with supporting documentation, as part of the selection process for the Award.

REASON FOR CLOSING: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarrantd invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: The determination made on February 20, 1985 by the Director of the National Science Foundation pursuant to the provisions of Section 10(d) of Pub. L. 92–463.

M. Rebecca Winkler,

Committee Management Officer.

February 27, 1985.

[FR Doc. 85–5169 Filed 2–27–85; 3:25 pm]

BILLING CODE 7555–01–M

Federal Register

Friday
March 1, 1985

Part II

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 3, 5, 13, 19, 30, 170, 194, 195, 196, 197, 200, 211, 213, 231, 240, 245, 250, 251, and 252

Implementation of Distilled Spirits Tax Revision Act and Portion of Crude Oil Windfall Profit Tax Act; Final Rule

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 3, 5, 13, 19, 30, 170, 194, 195, 196, 197, 200, 211, 213, 231, 240, 245, 250, 251, and 252

[T.D. ATF-198]

Implementing the Distilled Spirits Tax Revision Act of 1979 (Pub. L. 96-39) and Portion of Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96-223)

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

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule implements: (1) the Distilled Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 (Pub. L. 96-39) and (2) Section 232, Alcohol Fuels, in Part III of Title II of the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96-223).

The Distilled Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 amended or repealed numerous provisions of 26 U.S.C. Chapter 51, in the interest of tax parity for all distilled spirits products, both domestic and imported. The law changes modernized and simplified the distilled spirits tax system by providing for the all-in-bond method of tax determination and changed the method of control of distilled spirits production.

The Crude Oil Windfall Profit Tax Act of 1980 added a new section to Subchapter B of Chapter 51 of 26 U.S.C. New Section 5181 provided for the establishment of distilled spirits plants solely for the purpose of producing, processing and storing, and using or distributing distilled spirits exclusively for fuel use.

EFFECTIVE DATE: June 1, 1985.

FOR FURTHER INFORMATION CONTACT: Richard C. Langford, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone 202-566-7531.

For further information concerning alcohol fuels contact: J.R. Whitley, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone 202-566-7531.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

This document contains rules which supersede and enact into final form, material previously appearing in the following documents:

T.D. ATF-62, 44 FR 71613 (1979), Temporary Regulations Implementing the Distilled Spirits Tax Revision Act of 1979 (Pub. L. 96-39), cross ref. Notice 329, 44 FR 71612 (1979);

T.D. ATF-64, 45 FR 7528 (1980), Temporary Regulations Implementing the Distilled Spirits Tax Revision Act of 1979—Transition to All-in-Bond System;

T.D. ATF-68, 45 FR 26956 (1980), Temporary Regulations Relating to Optional Method of Gauging for Determining Proof of Spirits, cross ref. Notice 329;

T.D. ATF-69, 45 FR 33976 (1980), Temporary Regulations Relating to Reduced Bond Penal Sums for Limited Distilled Spirits Operations, cross ref. Notice 329;

T.D. ATF-71, 45 FR 41838 (1980), Temporary Regulations Implementing a Portion of the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96-223), cross ref. Notice 329;

T.D. ATF-75, 45 FR 70251 (1980), Temporary Regulations Relating to Curtailment and Extension of Distilled Spirits Plant Bonded Premises, cross ref. Notice 329; Notice No. 390, 46 FR 52129 (1981), Production of Vinegar by the Vaporizing Process;

T.D. ATF-114, 47 FR 43944 (1982), Deregulation of Liquor Bottle Manufacturers and Other Miscellaneous Amendments, cross ref. Notice 382, 46 FR 44000 (1981); and

T.D. ATF-123, 48 FR 1290 (1983) Distilled Spirits Plants—Elimination of the Marking Requirement for Devices Used as Alternatives To Strip Stamps, cross ref. T.D. ATF-62 and Notice 329.

II. Distilled Spirits Tax Revision Act of 1979 and All-In-Bond

A. Regulatory Reform Feature

The final regulations implementing Public Law 96-39 represent a significant simplification of regulations in comparison with their predecessors. The simplification is particularly apparent in the new distilled spirits plant regulations in 27 CFR Part 19. The new Part 19 alone represents a net reduction of approximately 130 regulation sections from predecessors regulations in Part 201. This reduction in the number of section is particularly significant since the final regulations in Part 19 contain approximately 60 new sections concerning alcohol fuel plants and 10 sections concerning vinegar plants which did not appear in predecessor regulations. These alcohol fuel plant and vinegar plant regulations do not represent new requirements but instead consolidate existing requirements into the permanent regulations contained in 27 CFR Part 19.

Overall, 20 parts in Title 27 of the CFR were affected in the promulgation of final regulations under Public Law 96-39. The majority of the parts in 27 CFR required only minor conforming changes to the regulations. The temporary rule and the final rule, together, resulted in a total reduction of approximately 260 sections in all parts.

Numerous forms were eliminated by the all-in-bond related regulatory changes. A total of 25 forms were obsoleted by the temporary all-in-bond regulations. An additional 11 forms are obsoleted in the final regulations. While a few forms are retained with respect to distilled spirits plant operations, the retained forms are mostly qualification related, i.e. registration, bond, consent of surety, power of attorney, etc. Only two transaction forms are retained—Form 5100.11 (formerly Form 206), Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation and Form 1473 (Form 5110.16), Shipment and Receipt—Specially Denatured, Tax-Free or Recovered Spirits. These forms were retained as they are multiple-use forms which appear in several parts of the regulations.

Numerous rulings and procedures are either incorporated into regulations or their provisions become obsolete at the time the final all-in-bond regulations become effective. The effect on rulings and procedures is as follows:

Rulings obsoleted: 106.

Procedures obsoleted: 17.

B. Discussion of Comments

ATF received 26 comments concerning temporary rules and notices issued with respect to implementation of the Distilled Spirits Tax Revision Act of 1979 and related All-in-Bond provisions. Comments were received from domestic distilled spirits plant proprietors, trade associations, wineries, foreign embassies, and other interested parties. Commenters included: Ambur Distilled Products, Incorporated; Heublein Spirits Group; Distilled Spirits Council of the United States, Incorporated (DISCUS); Kentucky Distillers Association (KDA); National Distillers and Chemical Corporation; Sazerac Co., Inc.; Aluminum Company of America (Alcoa); Glenmore Distilleries Company; Schenley Industries, Inc.; Jack Daniel Distillery; United Vintners Inc.; Wine Institute; Embassy of Ireland; British Embassy; Italian Embassy; Scotch Whisky Association; Irish Whiskey Distillers Association; and the

Delegation of the Commission of the European Communities.

The comments covered subjects ranging from records, strip stamps, samples, and proof obscuration, to destruction, return to bonded premises, bottle proof and fill, and ATF supervision of distilled spirits plants. While the majority of comments discussed changes that could be accomplished in regulations, many comments contained proposals and recommendations that could be accomplished only through statutory change.

C. Changes to Regulations

Due to the extent of both the temporary rule and comments received, it is impossible to address all subject areas. Therefore, the following summaries are organized by major subject area.

1. *Administrative provisions.* Revisions have been made in the administrative portions of the temporary rule in order that ATF may provide more timely service to the regulated industry. In the temporary rule, the Director could authorize alternate methods or procedures and emergency variation from certain regulatory requirements (§ 19.62). In a related section (§ 19.69), the Director was empowered to grant exemptions to certain regulations in instances of disaster. The Director could also require the discontinuance of storage facilities found to be unsafe or unfit for use (§ 19.71). Finally, the temporary rule (§ 19.75) provided that the regional director (compliance) could assign ATF officers to plants, as necessary to maintain supervision of operations, while specifics with respect to the type of supervision and schedule of operations were prescribed by Subpart E.

The final rule separates provisions for alternate methods and emergency variations (§§ 19.62 and 19.73). The approval authority for alternate methods remains with the Director, while approval authority for emergency variations rests with the regional director (compliance). Approval authority for disaster exemptions has also been given to the regional director (compliance) (§ 19.74). The regional director (compliance) will have the authority to require discontinuance of storage facilities found to be unsafe or unfit for use (§ 19.79).

Regulations concerning supervision of operations are simplified, with Subpart E deleted, and Subpart D simply providing that once ATF officers are withdrawn, the regional director (compliance) will notify the proprietor of the extent of any required on-premises supervision such as assignment of ATF officers (§ 19.75).

The requirement for the proprietor to furnish keys to the plant premises upon request of the regional director (compliance) is eliminated (§ 19.85 temporary rules), since the authority for the Government to require keys when necessary is statutorily provided (26 U.S.C. 5203).

Criteria for approved seals which may be used for securing conveyances are incorporated into the final rule (§ 19.96).

Criteria for approved locks have been retained (§ 19.281), and the use of locks meeting those criteria will provide a presumption of their adequacy in cases of loss by theft.

These changes, initiated by ATF, will provide for increased flexibility and service to the industry.

2. *Qualifying plants.* Extensive comments were received on the temporary rules concerning qualifying plants. Commenters from National Distillers, Schenley, and DISCUS suggested amendment of regulations to permit bottled spirits to be transferred to incoming proprietors when bonded premises are used by alternate proprietors. Heublein supported the proposal to permit alternation of portions of distilled spirits plants between bonded and general premises. DISCUS, Schenley, and National Distillers stated that the requirements for filing corporate documents are too extensive. United Vintners, DISCUS, Glenmore, and National Distillers proposed amendment of regulations to simplify the detail in which distilled spirits plants are required to be described in the notice of registration.

After careful consideration of all comments, the Bureau is adopting more simplified qualification requirements. The final rule provides for the retention of bottled spirits by an incoming proprietor upon issuance of a bond to the incoming proprietor (§ 19.201). Provisions for the alternation between distilled spirits plant bonded premises and general premises as published in T.D. ATF-75 are also incorporated into the final rule (§ 19.205). Most of the qualifying documents required by the temporary rule are retained; however, some of the corporate documents formerly required to be submitted are no longer required unless specifically required by the regional director (compliance) (§ 19.167). Plans are no longer required. Plants are still required to have a description in the registration but not with the particularity required for conveyances of real estate as was prescribed under the temporary (and predecessor) regulations. In addition, the requirement for notification of the regional director (compliance) of certain changes after original qualification has been extended from 10 to 30 days (§§ 19.180, 19.184 and 19.185).

These changes will reduce the qualification costs of distilled spirits plant proprietors.

3. *Proof and fill.* The temporary rules in 27 CFR Part 19 provided that spirits contained in bottles shall agree in proof and quantity with that stated on the label or bottle. Variations in quantity were permitted in the temporary regulations when filling operations were conducted in accordance with good commercial practice with the overall objective of maintaining 100 percent fill for all bottled spirits. A variation in proof was permitted, for a normal drop in proof occurring during bottling operations not to exceed 0.3 of a degree of proof. If variations in quantity or proof are beyond those permitted a proprietor shall rebottle or relabel the spirits (§ 19.397 temporary rule). In T.D. ATF-62, the Bureau stated it would consider allowing a drop in proof during bottling of 0.5 of a degree of proof for products with high solids content.

The Bureau received numerous comments concerning proof and fill for bottled spirits. General support was expressed for allowing a drop in proof tolerance of 0.5 of a degree of proof for products containing over 600 mg per 100 ml of solids. Commenters from the Embassy of Ireland, the British Embassy, Italian Embassy, Scotch Whiskey Association, Irish Whiskey Distillers Association, and the Delegation of the Commission of the European Communities (EC), stressed the need for uniformity between domestic and foreign products and some recommended applying the proof and fill tolerances of the EC to all products. In addition, several foreign commenters proposed expanding the proof tolerance to include a range both above and below stated label proof; while several foreign and domestic commenters favored establishing a quantitative fill tolerance.

The final rule increases the permissible drop in proof during bottling for products containing over 600 mg per 100 ml of solids to 0.5 of a degree of proof (§ 5.37 and § 19.386). In addition, the final rule provides for the applicability of bottling proof tolerances to both imported and domestic products. The final rule continues to provide for uniformity between imported and domestic products with respect to standards of fill (27 CFR Part 5, Subpart E and § 251.202). The Bureau plans a future study to ascertain the viability of both quantitative fill tolerances and

bottling proof tolerances which recognize a range both above and below label proof.

The Bureau also plans a study on the need for and possible consequences of allowing spirits which are subject to abnormal drops in proof, because of the contents of the spirits or the bottling procedure, to be set in the bottling tank at a proof higher than label proof.

4. *Losses.* The temporary rule prescribed a storage account loss limitation of one percent for spirits contained in tanks and bulk conveyances on bonded premises during a calendar quarter. This limitation, however, was deemed to be overly restrictive in view of the like limitation in predecessor regulations of one percent per month; therefore, the final rule raises that limitation to 1½ percent in view of the longer accounting period. While the temporary rule required the proprietor to report excessive intransit losses to the area supervisor, the final rule defines such losses as those which exceed one percent of the quantity shipped or, because of the greater likelihood of loss, two percent of the quantity of wine in a transcontinental shipment (§ 19.562).

5. *Certificate of Origin and Age of Distilled Spirits.* Section 252.104, in the temporary rule provided that Form 2177 (5110.58), United States of America Certificate of Origin and Age of Distilled Spirits, be furnished by the regional director (compliance) upon request by proprietors to evidence the age and origin of spirits to be exported. This was a departure from pre-January 1, 1980 regulations which provided for preparation of the certificate by officers-in-charge.

To streamline the issuance of Form 2177, the final rule provides for that issuance by an ATF officer. The final rule provides for submission of supporting documentation since, in most instances, the issuing officer will not be in a position to physically verify statements of age and origin.

6. *Strip stamps and alternative devices.* The temporary rule authorized domestic bottlers, upon approval by the Director, to use alternative devices in lieu of strip stamps on bottled distilled spirits and proposed extending this option to bottled spirits which are imported or brought into the United States from Puerto Rico or the Virgin Islands. Numerous comments were received concerning strip stamps and alternative devices. The Kentucky Distillers Association proposed reinstating serial numbers on strip stamps, while National Distillers endorsed the removal of serial numbers on strip stamps, as accomplished in the temporary regulations. Foreign commenters, including the Delegation of the Commission of European Communities, British Embassy, Embassy of Ireland, and Scotch Whisky Association, supported the proposal to extend the use of alternative devices to include imported bottled spirits.

In the final rule, provisions for strip stamps and alternative devices contain significant changes from the temporary rule. The authorization to use alternative devices has been extended to imported, Puerto Rican, and Virgin Islands spirits (§§ 250.135, 250.230, 251.61). To relieve the administrative burden of obtaining individual authorizations to use the more common types of alternative devices, the final rule allows the use of those devices which have been announced by the Director to be an approved alternative device (§§ 19.663, 250.144, 250.243, 251.67). Because a detailed accounting of strip stamps was found to be unnecessary and burdensome, these accounting procedures have been reduced to only those necessary to satisfy statutory requirements. The requirement for overprinting of stamps by importers is also eliminated (§ 251.68). The overprinting of stamps or alternative devices with additional information (e.g., serial numbers) is permitted without approval and such information must not conflict with information required by law and regulations or obscure mandatory information or overprinting (§ 19.661).

The final rule also provides for an alternative to distilled spirits stamps. The alternative will consist of marks on containers to indicate the taxpaid or export status of the product (§ 19.670).

These liberalized provisions will greatly reduce the costs connected with the use of strip stamps, alternative devices, and distilled spirits stamps.

7. *Records and reports.* All specifications for records and reports are abstracted from other subparts in Part 19 and consolidated in Subpart W, Records and Reports. The subpart includes all required information but does not generally prescribe forms. While the final rule eliminates most ATF forms, generally the information previously called for on the forms is required record information in Subpart W. The proprietor may use commercial records of any design or format which meets the requirements of these regulations, including the use of existing stocks of the ATF forms being eliminated or reproductions of those forms.

Requirements for records in Subpart W are primarily arranged by basic accounts: production, storage, and processing. Within each account subheading, individual records are specified by operation. The temporary rule contemplated the filing of quarterly operational reports to ease the reporting burden for proprietors. Quarterly reports, however, would provide ATF neither the detail to recognize problems within a specific month nor the timeliness of information necessary to take corrective action. Therefore, operational reports will continue to be required on a monthly basis.

The significant changes in the final rule are:

a. Except for ATF Forms 1473, Shipment and Receipt Specially Denatured, Tax-Free, or Recovered Spirits, and 5100.11, Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation, all ATF transaction forms are eliminated in favor of proprietor's records. Forms eliminated are: 5110.17, Tax Paid Spirits Returned to Bonded Premises; 5110.26 (2629), Gauge Report; 5110.27 (236), Transfer of Spirits or Denatured Spirits in Bond; 5110.29 (2323), Tank Record of Spirits in Storage; 5110.37 (1621), Summary of Deposits and Withdrawals at Bonded Warehouses; and 5110.45 (2630), Package Gauge Report.

b. Requirements for records of samples have been combined in one section in Subpart W, simplified, and clarified. Proprietors may use a schedule of routinely taken samples as the required record (§ 19.766).

c. Requirements for records of strip stamps, alternative devices, and distilled spirits stamps, are placed in one section. Reporting requirements are simplified, since strip stamps and alternative devices are accounted for by the size of the bottle to which affixed. The detailed accounting for strip stamps required by the temporary regulations was found to be unnecessary and burdensome and is therefore eliminated (§ 19.772).

d. Recording of case serial numbers upon withdrawal for tax determination is specifically eliminated unless required by the regional director (compliance). The daily summary of tax determination has been revised by deleting the proprietor's statement and signature under penalties of perjury that he agrees to pay the amount of tax shown on the summary record and that the penal sum of the withdrawal or unit bond is sufficient to cover the amount of tax chargeable against such bond.

e. Proprietors are now required to maintain a record of accountability for securing devices for conveyances (§ 19.775).

f. The recordkeeping requirements for redistillation are simplified. The preparation of dump and batch records for redistillation, for example, in the manufacture of gin or vodka, requires only one record for a series of tanks used to manufacture a given batch (§ 19.748).

g. Daily summary records of tax determinations are required to be calculated in proof gallons, rounded to the nearest tenth of a proof gallon (§ 19.762).

h. The retention period for required records has been reduced to three years (§ 19.723); however, the regional director (compliance) may require records to be kept for up to three additional years if the records are necessary for the conduct of a current examination or investigation.

8. *Use of initial determination of proof.* The final rule enables the use of the initial determination of proof for spirits, which is made on bonded premises, in making any subsequently required gauge of the same spirits at the same plant, so long as no material is added which would change the proof of the spirits (§ 19.92). The initial determination of proof may not be used for determination of tax, or for gauging the contents of bottling tanks. This procedure will provide proprietors greater flexibility of operation by reducing the number of instances in which actual determinations of proof must be made.

9. *Definition of spirits.* The definition of spirits, spirituous liquor, or distilled spirits in recodified Part 30 has been enlarged to include wine and alcoholic flavoring materials. However, wine and alcoholic flavoring materials have been included in the definition *only* for the purpose of providing a uniform method for gauging alcoholic ingredients on the bonded premises of a distilled spirits plant (§ 30.11). The change in no way affects the use of the terms spirits, wine or alcoholic flavoring materials, as found elsewhere in regulations, for any purpose other than gauging on bonded premises. In addition, the definition of spirits in 27 CFR Part 19 is amended to recognize that mixtures which contain more than 50 percent wine on a proof gallon basis and which are bottled at 48 degrees of proof or less, are subject to labeling, advertising, and standards of fill requirements for wine rather than spirits (§ 19.11).

10. *Proof obscuration in processing.* The final rule enables the "constructive" determination of proof obscuration for spirits in processing on the basis of a representative sample of the spirits previously taken from a storage or processing tank. This enables proprietors to determine proof obscuration in advance of setting the proof of spirits in bottling tanks, thereby minimizing the time required to reduce spirits to label proof (§ 19.376). This procedure will provide proprietors greater flexibility of operation by reducing the number of instances in which proof obscuration must be actually determined (§ 19.376). However, it has been determined that the evaporation method of determining proof obscuration as provided in regulations, is only accurate for spirits in the range of 80-100 degrees proof; therefore, the use of that method has been restricted to such spirits (§ 30.32).

11. *Returns to bond.* The Bureau received five comments on provisions in the temporary rule which required the filing of certain documents with ATF Form 5110.17 for spirits returned to bonded premises under 26 U.S.C. 5215 (§ 19.702 temporary rule). Commenters believe the information and documents required to be filed with the Forms 5110.17 in support of claims for credit or refund of tax to be onerous, and beyond the needs of the Government for effective tax administration.

In the final rule, Form 5110.17 is replaced by records and documents that are to be kept at the plant in support of claims on returned spirits (§ 19.682). Pertinent information is shown in claims for refund or credit of tax on returned spirits, but no documents are submitted with the claims. This procedure should result in decreased time necessary for compiling claims for spirits returned to bonded premises and the processing time for such claims without hindering the effective administration of these provisions.

12. *Redistillation.* The final rule provides that either a distiller or processor may redistill spirits, denatured spirits, articles, spirits residues, and distilled spirits products containing wine or alcoholic flavoring materials. Redistillation as a processing operation is no longer restricted to the production of gin or vodka by other than original and continuous distillation. Most redistillation must now be done pursuant to an approved formula on ATF Form 5110.38, whether done as a production or a processing operation (§ 19.331).

13. *Numbering of packages and cases.* One commenter proposed that packages and cases of spirits for industrial use, including denatured spirits, filled in processing be marked with lot identification numbers rather than serial numbers. The Bureau agrees that a lot identification numbering system may be equally useful in tracing spirits, and the final rule provides for such marking of packages and cases of spirits for industrial use, including denatured spirits, filled in processing, as an alternative method which may be utilized without special authorization or approval (§ 19.594).

14. *Recodification of Part 13.* The temporary rules contained in 27 CFR Part 13, Gauging Manual, are recodified into 27 CFR Part 30, continuing a program instituted in 1975 to redesignate ATF regulations.

15. *Other changes.*—a. *Equipment.* Requirements with respect to measuring devices and proofing equipment are clarified to address the testing of gauging instruments to ensure their accuracy (§ 19.277). In addition, the approval authority for use of meters has been placed with the regional director (compliance) (§ 19.277). The requirement for a sperate Government office is eliminated unless supervision by an ATF officer is required on a continuing basis. When such supervision is not required, the regional director (compliance) may require the proprietor to provide a Government cabinet.

b. *Processing.* The formula requirements in 27 CFR Part 5 are referenced in the processing subpart. The final rule provides for the temporary retention of unsealed cases on bonded premises when the bottles do not bear labels or other information (e.g., pending affixing of private labels or state stamps) (§ 19.388).

c. *Transfers and withdrawals.* To facilitate the exportation of bulk spirits, the withdrawal of spirits in wooden packages for exportation without payment of tax on the basis of the production or filling gauge is provided (§ 19.502). The withdrawal of spirits for use by the Untied States is clarified and simplified (§ 19.538).

d. *Liquor bottles.* The regional director (compliance), rather than the Director, is delegated authority to approve the reuse of bottles (§ 19.634). The provisions for the proprietor's notice to the regional director (compliance) for bottles shipped for testing purposes is eliminated (§ 19.636). Disposition of bottles for such purposes is evidenced by records.

e. *Records and reports in 27 CFR Part 240.* The final rule eliminates certain ATF forms for wine spirits in 27 CFR Part 240. ATF Form 5120.38, Withdrawal of Wine Spirits to Bonded Wine Cellar, is eliminated because the Bureau no longer requires prior approval before shipping wine spirits from a distilled spirits plant to a bonded wine cellar (§ 240.823). ATF Form 5120.28, Report of Wine Spirits Added to Wine, is also eliminated. Commercial records are now prescribed to document wine spirits

additions (§ 240.904a). Also, a commercial gauge record is now used to document the gauging of wine spirits (§ 240.904). ATF Form 5110.26 is no longer required.

The final rule provides that proprietors of distilled spirits plants use a commercial transfer record to cover the withdrawal without payment of tax of wine spirits for use in the production of wine on the bonded premises of a bonded wine cellar (§ 19.533).

f. *Transfer of Puerto Rican, Virgin Islands and imported bulk distilled spirits to domestic distilled spirits plants.* Previous regulations required a proprietor of a domestic distilled spirits plant to secure approval on ATF Form 5100.16, Application for Transfer of Spirits And/Or Denatured Spirits In Bond, before receiving bulk Puerto Rican, Virgin islands or imported spirits from customs custody under 26 U.S.C. 5232. In the final rule, a copy of the transfer record is submitted to ATF, but a proprietor is no longer required to secure approval on ATF Form 5100.16 before receiving such bulk distilled spirits from customs custody (§ 19.506).

g. *Incorporation of Part 195 into Subpart X of Part 19.* These regulations delete 27 CFR Part 195 and redesignate revised regulations for vinegar plants producing vinegar by the vaporizing process to 27 CFR Part 19, Distilled Spirits Plants, Subpart X. ATF published a notice of proposed regulations on October 26, 1981 [Notice No. 390 [46 FR 52129]]. No comments were received regarding the notice of proposed rulemaking. The regulations are being adopted as originally proposed.

D. Temporary Regulations Incorporated Into Final Regulations Without Change.

Numerous temporary regulations were adopted as a result of changes necessary to implement the Distilled Spirits Tax Revision Act of 1979 and related all-in-bond changes. The following is a list of temporary regulations in various parts of Title 27 Code of Federal Regulations which are adopted as final regulations with no change:

Part 5. §§ 5.2, 5.22, 5.25, 5.26, 5.28, 5.46, 5.47a.

Part 170. §§ 170.2, 170.3, 170.30, 170.304, 170.611, 170.612, 170.613, 170.614, 170.615, 170.616, 170.617, 170.618, 170.683.

Part 194. §§ 194.11, 194.224, 194.251, 194.256, 194.264, 194.271, 194.281, 194.292, 194.293.

Part 196. §§ 196.5.

Part 197. §§ 197.5, 197.115, 197.133.

Part 211. §§ 211.3, 211.11, 211.42, 211.215.

Part 231. §§ 231.1, 231.30, 231.81, 231.140.

Part 240. §§ 240.1, 240.10, 240.124, 240.142, 240.171, 240.190, 240.198, 240.202, 240.203, 240.204, 240.209, 240.221a, 240.270, 240.281, 240.282, 240.283, 240.286, 240.290, 240.292, 240.296, 240.311, 240.313, 240.352, 240.356, 240.374, 240.381, 240.382, 240.406, 240.411, 240.481, 240.483, 240.484, 240.488, 240.489, 240.490, 240.537, 240.538, 240.562, 240.574, 240.590a, 240.598, 240.599, 240.610, 240.612, 240.613, 240.616, 240.820, 240.821, 240.824, 240.826, 240.836, 240.837, 240.839, 240.840, 240.841, 240.853, 240.890, 240.943, 240.1041, 240.1043.

Part 250. §§ 250.1, 250.36b, 250.36c, 250.40, 250.51 250.52, 250.53, 250.54, 250.55, 250.66, 250.68a, 250.76, 250.77, 250.78, 250.82, 250.87, 250.89, 250.93, 250.95, 250.96, 250.98, 250.104, 250.105, 250.107, 250.108, 250.109, 250.137, 250.196, 250.199, 250.199c, 250.201b, 250.201c, 250.221, 250.222, 250.223, 250.224, 250.225, 250.232, 250.260, 250.261, 250.265, 250.300, 250.304, 250.312.

Part 251. §§ 251.40, 251.43, 251.48, 251.58, 251.63, 251.202.

Part 252. §§ 252.11, 252.22, 252.25, 252.26, 252.27, 252.45, 252.51, 252.56, 252.58, 252.61, 252.62, 252.63, 252.64, 252.67, 252.70, 252.72, 252.73, 252.91, 252.93, 252.94, 252.95, 252.103, 252.105, 252.116, 252.117, 252.118, 252.121, 252.123, 252.125, 252.131, 252.132, 252.133, 252.151, 252.154, 252.162, 252.163, 252.193, 252.216, 252.244, 252.250, 252.261, 252.265, 252.269, 252.275, 252.281, 252.286, 252.302, 252.316, 252.333, 252.334, 252.335.

E. Effect on Rulings and Procedures

The following rulings and procedures have been incorporated into the final rule or their provisions will become obsolete at the time the final rule becomes effective:

Rulings obsoleted: Rev. Rul. 54–507, C.B. 1954–2, 464; Rev. Rul. 54–510, C.B. 1954–2, 562; Rev. Rul. 54–558, C.B. 1954–2, 456; Rev. Rul. 54–559, C.B. 1954–2, 459; Rev. Rul. 54–595, C.B. 1954–2, 460; Rev. Rul. 54–619, C.B. 1954–2, 461; Rev. Rul. 55–115, C.B. 1955–1, 575; Rev. Rul. 55–321, C.B. 1955–1, 572; Rev. Rul. 55–360, C.B. 1955–1, 574; Rev. Rul. 56–79, C.B. 1956–1, 713; Rev. Rul. 56–147, C.B. 1956–1, 710; Rev. Rul. 56–199, C.B. 1956–1, 744; Rev. Rul. 56–200, C.B. 1956–1, 748; Rev. Rul. 56–235, C.B. 1956–1, 704; Rev. Rul. 56–241, C.B. 1956–1, 747; Rev. Rul. 56–279, C.B. 1956–1, 706; Rev. Rul. 56–281, C.B. 1956–1, 735; Rev. Rul. 56–314, C.B. 1956–2, 1023; Rev. Rul. 56–369, C.B. 1956–2, 1028; Rev. Rul. 56–493, C.B. 1956–2, 1034; Rev. Rul. 56–533, C.B. 1956–2, 1017; Rev. Rul. 56–580, C.B. 1956–2, 1045; Rev. Rul. 56–627, C.B. 1956–2, 1043; Rev. Rul. 56–669, C.B. 1956–2, 1017; Rev. Rul. 57–122, C.B. 1957–1, 560; Rev. Rul. 57–123, C.B. 1957–1, 599; Rev. Rul. 57–161, C.B. 1957–1, 602; Rev. Rul. 57–273, C.B. 1957–1, 602; Rev. Rul. 57–274, C.B. 1957–1, 607; Rev. Rul. 57–478, C.B. 1957–2, 976; Rev. Rul. 57–556, C.B. 1957–2, 950; Rev. Rul. 57–559, C.B. 1957–2, 975; Rev. Rul. 58–23, C.B. 1958–1, 604; Rev. Rul. 58–84, C.B. 1958–1, 581; Rev. Rul. 58–88, C.B. 1958–1, 600; Rev. Rul. 58–414, C.B. 1958–2, 959; Rev. Rul. 58–524, C.B. 1958–2, 992; Rev. Rul. 59–24, C.B. 1959–1, 721; Rev. Rul. 59–337, C.B. 1959–2, 516; Rev. Rul. 59–386, C.B. 1959–2, 515; Rev. Rul. 60–92, C.B. 1960–1, 708; Rev. Rul. 60–93, C.B. 1960–1, 709; Rev. Rul. 60–221, C.B. 1960–1, 707; Rev. Rul. 60–265, C.B. 1960–2, 590; Rev. Rul. 60–295, C.B. 1960–2, 510; Rev. Rul. 60–333, C.B. 1960–2, 511; Rev. Rul. 60–341, C.B. 1960–2, 592; Rev. Rul. 60–342, C.B. 1960–2, 592; Rev. Rul. 60–353, C.B. 1960–2, 591; Rev. Rul. 60–361, C.B. 1960–2, 558; Rev. Rul. 60–373, C.B. 1960–2, 589; Rev. Rul. 61–23, C.B. 1961–1, 792; Rev. Rul. 61–37, C.B. 1961–1, 799; Rev. Rul. 61–38, C.B. 1961–1, 804; Rev. Rul. 61–43, C.B. 1961–1, 798; Rev. Rul. 61–49, C.B. 1961–1, 789; Rev. Rul. 61–62, C.B. 1961–1, 797; Rev. Rul. 61–63, C.B. 1961–1, 806; Rev. Rul. 61–166, C.B. 1961–2, 267; Rev. Rul. 61–205, C.B. 1961–2, 272; Rev. Rul. 62–7, C.B. 1962–1, 355; Rev. Rul. 62–24, C.B. 1962–1, 350; Rev. Rul. 62–35, C.B. 1962–1, 343; Rev. Rul. 62–37, C.B. 1962–1, 345; Rev. Rul. 62–164, C.B. 1962–2, 371; Rev. Rul. 62–222, C.B. 1962–2, 366; Rev. Rul. 62–255, C.B. 1962–2, 371; Rev. Rul. 63–56, C.B. 1963–1, 396; Rev. Rul. 63–89, C.B. 1963–1, 394; Rev. Rul. 63–141, C.B. 1963–2, 653; Rev. Rul. 63–263, C.B. 1963–2, 651; Rev. Rul. 64–171, C.B. 1964–1, 544; Rev. Rul. 64–265, C.B. 1964–2, 528; Rev. Rul. 64–316, C.B. 1964–2, 533; Rev. Rul. 64–322, C.B. 1964–2, 561; Rev. Rul. 65–159, C.B. 1965–1, 583; Rev. Rul. 66–99, C.B. 1966–1, 315; Rev. Rul. 66–109, C.B. 1966–1, 334; Rev. Rul. 66–192, C.B. 1966–2, 532; Rev. Rul. 68–219, C.B. 1968–1, 603; Rev. Rul. 70–209, C.B. 1970–1, 290; Rev. Rul. 70–352, C.B. 1970–2, 308; Rev. Rul. 70–366, C.B. 1970–2, 305; Rev. Rul. 70–456, C.B. 1970–2, 307; Rev. Rul. 71–9, C.B. 1971–1, 451; Rev. Rul. 71–222, C.B. 1971–1, 452; Rev. Rul. 71–499, C.B. 1971–2, 437; ATF. Rul. 73–17, ATF C.B. 1973, 82; ATF. Rul. 74–9, ATF C.B. 1974, 33; ATF. Rul. 74–16, ATF C.B. 1974, 47; ATF. Rul. 74–28, ATF C.B. 1974, 32; ATF. Rul. 74–31, ATF C.B. 1974, 29; ATF. Rul. 75–1, ATF C.B. 1975, 45; ATF. Rul. 75–4, ATF C.B. 1975, 43; ATF. Rul. 75–6, ATF C.B. 1975, 40; ATF. Rul. 75–9, ATF C.B. 1975, 42; ATF. Rul. 75–25, ATF C.B. 1975, 39; ATF. Rul. 77–3, ATF C.B. 1977, 168; ATF. Rul. 77–8, ATF C.B. 1977, 169; ATF. Rul. 77–11, ATF C.B. 1977, 171; ATF. Rul. 77–18, ATF C.B. 1977, 162; ATF. Rul. 77–19, ATF C.B. 1977, 170; ATF. Rul. 78–1, ATF C.B. 1978, 64; and ATF. Rul. 78–3, ATF C.B. 1978, 63; ATF. Rul. 78–6, ATF C.B. 1978, 61; and ATF. Rul. 79–4, ATF Q.B. 1979–1, 23.

Procedures obsoleted: Rev. Proc. 57–36, C.B. 1957–2, 1109; Rev. Proc. 58–4, C.B. 1958–1, 687; Rev. Proc. 58–11, C.B. 1958–2, 1122; Rev. Proc. 60–13, C.B. 1960–1, 891; Rev. Proc. 60–21, C.B. 1960–2, 991; Rev. Proc. 60–31, C.B. 1960–2, 1010; Rev. Proc. 61–7, C.B. 1961–1, 892; Rev. Proc. 61–16, C.B. 1961–2, 548; Rev. Proc. 61–17, C.B. 1961–2, 549; Rev. Proc. 61–23, C.B. 1961–2, 558; Rev. Proc. 62–4, C.B. 1962–1, 425; Rev. Proc. 63–21, C.B. 1963–2, 754; Rev. Proc. 71–15, C.B. 1971–2, 681; Rev. Proc. 72–32, C.B. 1972–1, 760; ATF. Proc. 73–2, ATF C.B. 1973, 113; ATF. Proc. 73–7, ATF C.B. 1973, 140; ATF. Proc. 73–9, ATF C.B. 1973, 140; and ATF. Proc. 75–2, ATF C.B. 1975, 75.

III. Alcohol Fuel

A. Rulemaking Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) published in the **Federal Register** on June 20, 1980, (45 FR 41838) temporary regulations T.D. ATF–71, entitled "Fuel Use of Distilled Spirits-Implementing a Portion of the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96–223)." The temporary regulations provided for the waiver by the Director of any portion of 26 U.S.C. Chapter 51, except sections requiring payment of tax and the new alcohol fuels section (26 U.S.C. 5181). The temporary regulations provided for the establishment of distilled spirits plants exclusively for the production, processing and storing, and use or distribution of alcohol for fuel purposes, Alcohol Fuel Plants (AFP). In addition, simplified permit application procedures and recordkeeping requirements were provided, along with an exemption from bonding requirements for small plants. Medium and large plants were required to file bonds, with the penal sum based on the tax liability for spirits produced and received by transfers in bond from other plants during a calendar year. The temporary regulations provided for three size categories of alcohol fuel plants:

(1) Small plants produce (including receipts) not more than 10,000 proof gallons of spirits per calendar year;

(2) Medium plants produce (including receipts) more than 10,000 but not more than 500,000 proof gallons of spirits per calendar year; and

(3) Large plants produce (including receipts) more than 500,000 proof gallons of spirits per calendar year.

The temporary regulations allowed a qualified permittee to withdraw alcohol free of tax exclusively for fuel use when rendered unfit for beverage use or to use the alcohol produced for any fuel purpose on the AFP plant premises without rendering it unfit for beverage use.

B. Discussion of Comments

During the 60-day comment period, 31 comments were received. The comments received from the public generally reflected the views of four groups: (1) Small independent alcohol fuel producers; (2) large commercial alcohol producers; (3) State regulatory and/or revenue agencies for alcohol; and (4) interested persons who are not producers of alcohol fuels. In addition, comments were received from a private consulting firm and one member of Congress.

The temporary regulations asked for specific responses on two issues:

(1) *Location of plants in dwellings.* ATF received fourteen comments on this issue. Eight commenters were in favor of no restrictions on location of plants in dwellings as currently provided by the temporary regulations and six commenters were in favor of restrictions. The consensus of the commenters in favor of no restrictions was that a requirement to locate production facilities away from dwellings would discourage, rather than encourage production, especially by small plants. All comments in favor of restrictions were submitted by State regulatory and/or revenue agencies for alcohol. These agencies opposed permitting the location of plants in dwellings on the basis of safety and zoning problems.

ATF believes that a single Government regulation covering authorized locations of plants could not be written, implemented, and enforced and at the same time provide equity to all permittees. As of October 31, 1980, there were approximately 7,800 small plants, including experimental distilled spirits plants converted to AFP's. A large portion of the small plants are in dwellings, outbuildings, yards, or enclosures attached to a dwelling. ATF believes that local ordinances, fire codes, and similiar provisions are the appropriate measures to regulate plants at inappropriate locations. Therefore, ATF is adopting the concept in the temporary regulations which placed no restictions on the location of alcohol fuel plants. However, this decision does not relieve a permittee of any obligations imposed by State or local laws.

(2) *Specifications for fuel alcohol and materials authorized for use in rendering spirits unfit for beverage use.* (a) Are minimum proof standards necessary or desirable for fuel alcohol? ATF received ten comments which addressed this question. All ten comments were in favor of not specifying minimum proof standards for fuel alcohol. The commenters suggested that minimum proofs may be necessary in the production of alcohol/gasoline blends due to the phase separation problems which occur if alcohol is less than 193–195° proof. The commenters further recognized that such high proof alcohol is not necessary when fuel alcohol is used straight and is even undesirable for fuel use in certain engines since different applications may require either higher or lower proof alcohol for optimum performance. ATF recognizes it may be desirable to "guarantee" the quality/performance level of fuel alcohol used in the production of alcohol/gasoline blends by prescribing regulations that would establish minimum proof standards; however, we are not adopting this approach. ATF's primary responsibility is to protect tax revenues, and regulations are prescribed for the purpose of carrying out this responsibility. It is not necessary to impose minimum proof standards in order to protect the revenue. ATF, therefore, adopts the concept of the temporary regulations which do not impose minimum proof standards.

(b) Should the list of materials authorized for rendering spirits unfit for beverage use be broadened to include other substances, or should some materials or options permitted under the temporary regulations be deleted?

ATF received ten comments which addressed this question, eight of the comments indicated the list of authorized materials should be broadened to provide maximum flexibility so as to encourage the production of spirits for fuel use. The remaining two comments stated that the current list of materials in the temporary regulations is sufficient. In addition, three comments were received requesting a reduction in the quantity of materials required to render the spirits unfit for beverage purposes.

In an effort to encourage the production of alcohol fuels at minumum cost, ATF has considered various alternatives which incorporate all or part of the above comments. The materials listed in the temporary regulations which render spirits unfit for beverage use are adopted. In addition, Heptane, a petrochemical, is added to the materials listed in the temporary regulations. ATF's laboratory has stated that Heptane renders alcohol unfit equally as well as gasoline and is considerably less expensive (§ 19.1005(c)). Further, the Director will compile and periodically issue a list of materials authorized for rendering the spirits unfit for beverage use. This list will incorporate all materials authorized

under the temporary regulations and any other materials which subsequently are approved for rendering spirits unfit for beverage use (§ 19.1005(b)).

The quantity of materials required to render spirit unfit for beverage use is reduced from the five gallons required by the temporary regulations to two gallons per 100 gallons of alcohol (§ 19.1005(c)). This will lower producer's costs by reducing the quantities of materials which must be purchased, transported, and stored at the plant. The reduction in quantity is the result of extensive testing conducted by industry members and confirmed by the ATF National Laboratory. ATF's laboratory concluded that potable spirits cannot be readily recovered from alcohol fuels without the use of a sophisticated and expensive redistillation process.

(c) Are more detailed specifications for rendering spirits unfit necessary? If adopted, should these specifications be geared to the end use of the fuel alcohol? In response to the first question ATF received seven comments, five opposed detailed specification and two favored this action. The second question was responded to by three commenters, of which two opposed gearing the authorized material to the end use of the fuel alcohol.

In order to provide maximum flexibility in the production of alcohol fuels, ATF is not establishing specifications for the authorized materials used to render spirits unfit. In regard to the question of tailoring the authorized materials to the end use of the alcohol, ATF is not adopting this approach. It is believed that this restriction would not be consistent with the intent of Congress to promote the production of alcohol fuels. Further, since the alcohol fuels program is in its beginning stages, many technological advances will be developed which would outdate regulations which are too restrictive or detailed.

(3) *Other Comments.* (a) A comment was received which requested ATF to allow spirits to be removed and used off the plant premises for fuel use without first being rendered unfit for beverage use. The law, 26 U.S.C. 5181, prohibits the withdrawal of spirits from alcohol fuel plants (AFP) unless rendered unfit for beverage purposes.

(b) A comment suggested that alcohol produced from coal be eligible for use as fuel alcohol. The law, 26 U.S.C. 5181, specifically states that the term "distilled spirits', does not include distilled spirits produced from petroleum, natural gas, or coal.

(c) Various State agencies commented that interchanges of information on AFP's (identities of permittees, inspection reports, and production reports) would be desirable. These commenters stated that interchanges of information would promote coordination of Federal and State regulations and be beneficial on the basis of economy, efficiency, and uniformity. ATF is supportive of this concept and has worked within present legal restraints to cooperate with State agencies. However, until the law (26 U.S.C. 6103) is amended to provide more latitude for cooperation, ATF is generally prohibited from disclosing taxpayer return information. ATF is permitted to disclose taxpayer return information only to State tax agencies for tax administration purposes and to other entities or individuals only upon the written consent of individual permittees. ATF, within the constraints of the law, will take action to promote interchanges of information.

(d) Two comments were received which requested the exemption from bonding requirements for small plants to be raised above the 10,000 proof gallon limit. One comment pointed out that a middle income farmer uses up to 6,000 gallons of fuel (gasoline and/or diesel) per year. If this individual were to produce 200 proof (100%) alcohol, he could not produce sufficient alcohol to accommodate his own needs without being required to have a bond. The other comment pointed out that other governmental agencies generally define small scale producers as those producing less than one million gallons. This comment suggested that ATF redefine small, medium, and large plants to conform with other governmental agencies. The 10,000 proof gallon cut-off is specifically provided by law (26 U.S.C. 5181). It is based on potential losses of tax revenue on alcohol, not the number of employees, net profits, or other criteria which other Federal agencies may use. ATF does not have authority under the law to adjust the 10,000 proof gallon criteria for small plants and cannot adopt this comment.

(e) One comment suggested that ATF provide for multiple permit holders conducting operations at one location (alternating proprietorships). The commenter explained that many individuals could produce spirits from their individually owned stocks of grain or other material, with the cost of constructing a large, more efficient plant being shared. ATF is adopting this suggestion (§ 19.930). However, the flexibilities which allowed permittees to define their bonded premises to include several widely scattered tracts of land are not available. Such plants will have their bonded premises limited to a specific location. All spirits would have to be rendered unfit for beverage use before removal from the premises.

(f) One comment suggested that ATF provide for "nonproducing" AFP's, which would allow gasoline jobbers, gasoline tank farms and others to receive spirits in bond from producing AFP's for subsequent rendering unfit and sale as fuel alcohol or a gasoline/alcohol blend. AFP's are required by 26 U.S.C. 5181 to *produce, process,* and *store,* and *use* or *distribute* distilled spirits exclusively for fuel use. The major emphasis of the law is to encourage the *production of alcohol for fuel use.* Providing for nonproducing AFP's would not be consistent with this emphasis. ATF is therefore unable to accept this suggestion. However, individuals who wish to receive spirits in bond for use in manufacturing blended alcohol fuels, may apply for an operating permit as a warehouseman/processor under 26 U.S.C. 5171.

C. Miscellaneous Amendments

ATF has made other amendments and editorial changes to the regulations. These amendments include:

1. Section 19.902 provides for waiver of most provisions of Part 19 and 26 U.S.C., Chapter 51, with the exception of payment of tax, Section 5181 and applicable penalty, forfeiture and seizure provisions;

2. Sections 19.903 and 19.904 provide for alternate methods or procedures and emergency variations from requirements; and

3. Section 19.990 provides for the return and redistillation at the premises of an AFP of spirits or fuel alcohol.

IV. Drafting Information

The authors of this document are numerous headquarters and field personnel of the Bureau of Alcohol, Tobacco and Firearms, assigned or detailed to the Regulations and Procedures Division (Compliance Operations). Other personnel of the Bureau and the Treasury Department participated in the preparation of this document, both in matters of substance and style.

V. Executive order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments agencies, or geographic regions; and it will not have significant adverse effects

on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

VI. Regulatory Flexibility Act

Except for those regulations relating to the production of vinegar by the vaporizing process, this final rule relates to notices of proposed rulemaking published prior to January 1, 1981, and, therefore, is not subject to the authority of the Regulatory Flexibility Act.

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to the final rule on the production of vinegar because the final rule will not have significant economic impact on a substantial number of small entities. Those regulations are not expected to: Have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the final rule will not have a significant economic impact on a substantial number of small entities.

VII. List of Subjects

Alcohol and alcoholic beverages, reporting and recordkeeping requirements.

VIII. Authority and Issuance

These regulations are issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917, as amended) and in 27 U.S.C. 205 (49 Stat. 981, as amended).

Accordingly, Title 27 Code of Federal Regulations is amended as follows:

PART 3—BULK SALES AND BOTTLING OF DISTILLED SPIRITS

Section A. Part 3 is amended as follows:

Section 3.12 is revised to reflect changes in the qualification and operation of distilled spirits plants due to the passage of Public Law 96-39. As revised § 3.12 reads as follows:

§ 3.12 Acquiring or receiving distilled spirits in bulk for redistillation, processing, rectification, warehousing, or warehousing and bottling.

(a) *Proprietors of distilled spirits plants.* Persons holding basic permits (issued under Part 1 of this chapter) authorizing the distilling, processing, rectifying, or warehousing and bottling of distilled spirits, or operating permits (issued under § 19.157 and succeeding sections of this chapter) may acquire or receive in bulk and redistill, warehouse, or porcess distilled spirits, so far as permitted by law.

(b) *Proprietors of class 8 customs bonded warehouses.* If the permittee operates a class 8 customs bonded warehouse, he may acquire or receive in bulk, and warehouse and bottle, imported distilled spirits, so far as permitted by the customs laws.

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

Section B—Part 5 is amended as follows:

Paragraph 1. The table of sections for Part 5 is amended as follows:

Sec.

* * * * *

5.27 Formulas.

* * * * *

Par. 2. Section 5.11 is amended by revising the definition of "Distilled spirits" to read as follows:

§ 5.11 Meaning of terms.

* * * * *

Distilled spirits. Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use. The term "distilled spirits" shall not include mixtures containing wine, bottled at 48 degrees of proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis. Such mixtures shall be subject to the formula requirements of this part and the labeling, advertising and standards of fill requirements in 27 CFR Part 4.

* * * * *

Par. 3. Section 5.27 is revised to add a new paragraph (b) and a new paragraph (m) and to redesignate certain paragraphs. As revised, § 5.27 reads as follows:

§ 5.27 Formulas.

Formulas are required for distilled spirits operations which change the character, composition, class or type of spirits as follows:

(a) The compounding of spirits through the mixing of any coloring, flavoring, wine, or other material with distilled spirits;

(b) The manufacture of an intermediate product to be used exclusively in other distilled spirits products on bonded premises;

(c) Any filtering or stabilizing process which results in a product which does not possess the taste, aroma, and characteristics generally attributed to that class or type of distilled spirits; and, in the case of straight whisky, results in the removal of more than 15 percent of the fixed acids, volatile acids, esters, soluble solids, or higher alcohols, or more than 25 percent of the soluble color;

(d) The mingling of spirits (including merchandise returned to bond) produced by different distillers, or at different distilleries, or which differ in class or type of materials from which produced;

(e) The mingling of spirits stored in charred cooperage with spirits stored in plain or reused cooperage, or the mixing of spirits that have been treated with wood chips with spirits not so treated, or the mixing of spirits that have been subjected to any treatment which changes their character with spirits not so treated, unless it is determined that the composition of the spirits is the same, notwithstanding the storage in different kinds of cooperage or the treatment of a portion of the spirits;

(f) The use (except as authorized for production or storage operations as provided by 27 CFR Part 19) of any physical or chemical process or any apparatus which accelerates the maturing of the spirits;

(g) The steeping or soaking of fruits, berries, aromatic herbs, roots, seeds, etc., in spirits or wines;

(h) The artificial carbonating of spirits;

(i) The blending in Puerto Rico of spirits with any liquors manufactured outside of Puerto Rico;

(j) The production of gin by—

(1) Redistillation over juniper berries and other natural aromatics, or the extracted oils of such, of spirits distilled at or above 190 degrees of proof, free from impurities, including spirits of such a nature recovered by redistillation of imperfect gin spirits; and

(2) Mixing gin with other spirits;

(k) The treatment of gin by—

(1) Addition or abstraction of any substance or material other than pure water after redistillation in a manner that would change its class and type designation; and

(2) Addition of any substance or material other than juniper berries or other natural aromatics, or the extracted oils of such, or pure water to the spirits, before or during redistillation, in a manner that would change its class and type designation;

(l) The production of vodka by—

(1) Treatment of neutral spirits with not less than one ounce of activated carbon per 100 wine gallons of spirits;

(2) Redistillation of pure spirits so as to be without distinctive character, aroma, taste, or color;

(3) Mixing with other spirits or with any other substance or material except pure water, after production; and

(m) The recovery of spirits by redistillation from distilled spirits products containing other alcoholic ingredients and from spirits which have previously been entered for deposit. However, no formula shall be required for spirits redistilled into any type of neutral spirits other than vodka or spirits redistilled at less than 190 degrees of proof which lack the taste, aroma and other characteristics generally attributed to whisky, brandy, rum, or gin, and are designated as "Spirits," preceded or followed by a word or phrase descriptive of the material from which produced. Such spirits redistilled on or after July 1, 1972, may not be designated "Spirits Grain" or "Grain Spirits."

Par. 4. Section 5.31 is amended by revising paragraph (b)(2) to read as follows:

§ 5.31 General.

* * * * *

(b) *Alteration of labels.* * * *

(2) When an additional labeling or relabeling of bottled distilled spirits is accomplished with labels covered by certificates of label approval which comply with the requirements of this part and with State law;

* * * * *

Par. 5. Section 5.36 is amended by adding a new paragraph (a)(4) to read as follows:

§ 5.36 Name and address.

(a) *"Bottled by".* * * *

(4) In addition to the requirements of paragraphs (a)(1) and (a)(2) of this paragraph, the labels of bottled in bond spirits shall bear the real name of the distillery or the trade name under which the distillery produced and warehoused the spirits, the number of the plant in which produced and the number of the plant in which bottled.

* * * * *

Par. 6. Section 5.37 is revised to allow for certain proof tolerances for distilled spirits. As revised, § 5.37 reads as follows:

§ 5.37 Alcoholic content.

(a) *Statement.* The alcoholic content shall be stated by proof for distilled spirits except that it may be stated in percentage by volume for cordials and liqueurs, cocktails, highballs, bitters, and such other specialties as may be specified by the Director.

(b) *Tolerances.* The following tolerances shall be allowed (without affecting the labeled statement of alcoholic content) for proof drops occurring during bottling:

(1) Not to exceed five-tenths of a degree of proof for spirits containing solids in excess of 600 mg per 100 ml; and

(2) Not to exceed three-tenths of a degree of proof for all other spirits.

(Approved by the Office of Management and Budget under control number 1512-0461)

Par. 7. Section 5140(a) is amended by revising the paragraph heading and the first full sentence. As revised, the paragraph heading and first sentence of (a) read as follows:

§ 5.40 Statements of age and percentage.

(a) *Statements of age and percentage for whisky.* In the case of straight whisky bottled in conformity with the bottled in bond labeling requirements and of domestic or foreign whisky, whether or not mixed or blended, all of which is 4 years old or more, statements of age and percentage are optional. * * *

* * * * *

Par. 8. Section 5.42(b)(3)(vi) is revised to read as follows:

§ 5.42 Prohibited practices.

* * * * *

(b) *Miscelleaneous.* * * *

(3) * * *

(vi) Bottled at 100 degrees of proof.

* * * * *

Section C. Part 19 is revised in its entirety to read as follows:

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Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805, unless otherwise noted.

Subpart A—Scope

§ 19.1 General.

The regulations in this part relate to the location, construction, equipment, arrangement, qualification, and operation (including activities incident thereto) of distilled spirits plants.

§ 19.2 Territorial extent.

This part applies to the several States of the United States and the District of Columbia.

§ 19.3 Related regulations.

Regulations relating to this part are listed below:

27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
27 CFR Part 2—Nonindustrial Use of Distilled Spirits and Wine.
27 CFR Part 3—Bulk Sales and Bottling of Distilled Spirits.
27 CFR Part 4—Labeling and Advertising of Wine.
27 CFR Part 5—Labeling and Advertising of Distilled Spirits.
27 CFR Part 21—Formulas for Denatured Alcohol and Rum.
27 CFR Part 30—Gauging Manual.
27 CFR Part 170—Miscellaneous Regulations Relating to Liquor.
27 CFR Part 194—Liquor Dealers.
27 CFR Part 196—Stills.
27 CFR Part 197—Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products.
27 CFR Part 200—Rules of Practice in Permit Proceedings.
27 CFR Part 211—Distribution and Use of Denatured Alcohol and Rum.
27 CFR Part 213—Distribution and Use of Tax-Free Alcohol.
27 CFR Part 231—Taxpaid Wine Bottling Houses.
27 CFR Part 240—Wine.
27 CFR Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.
27 CFR Part 251—Importation of Distilled Spirits, Wines, and Beer.
27 CFR Part 252—Exportation of Liquors.
31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds.

Subpart B—Definitions

§ 19.11 Meaning of terms.

When used in this part and in forms prescribed under this part, terms shall have the meaning ascribed in this section. Words in the plural form include the singular, and vice versa, and words indicating the masculine gender include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class.

Alcoholic flavoring materials. The term "alcoholic flavoring materials" means those nonbeverage products on which drawback has been or will be claimed under 26 U.S.C. 5131–5134 or flavors imported free of tax which are unfit for beverage purposes. The term does not include flavorings or flavoring extracts manufactured on the bonded premises of a distilled spirits plant as an intermediate product.

Application for registration. The application required under 26 U.S.C. 5171(c).

Area supervisor. The supervisory officer of the Bureau of Alcohol, Tobacco and Firearms area office.

Article. A product, containing denatured spirits, which was manufactured under 27 CFR Part 211 or this part.

ATF bond. For purposes of this part, ATF bond means the internal revenue bond as prescribed in 26 U.S.C. Chapter 51.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Basic permit. The document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

Bonded premises. The premises of a distilled spirits plant, or part thereof, as described in the application for registration, on which distilled spirits operations defined in 26 U.S.C. 5002 are authorized to be conducted.

Bottler. A proprietor of a distilled spirits plant qualified under this part as a processor who bottles distilled spirits.

Bulk container. Any approved container having a capacity in excess of one wine gallon.

Bulk conveyance. A tank car, tank truck, tank ship, tank barge, or a compartment of any such conveyance, or any other container approved by the Director for the conveyance of comparable quantities of spirits, including denatured spirits, and wines.

Bulk distilled spirits. The term "bulk distilled spirits" means distilled spirits in a container having a capacity in excess of one gallon.

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and statewide holidays in the particular State in which the claim, report, or return, as the case may be, is required to be filed, or the act is required to be performed.)

Carrier. Any person, company, corporation, or organization, including a proprietor, owner, consignor, consignee, or bailee, who transports distilled spirits, denatured spirits, or wine in any manner for himself or others.

CFR. The Code of Federal Regulations.

Commercial bank. A bank, whether or not a member of the Federal Reserve system, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve system member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

Container. A receptacle, vessel, or form of bottle, can, package, tank or pipeline (where specifically included) used or capable of being used to contain, store, transfer, convey, remove, or withdraw spirits and denatured spirits.

Denaturant or denaturing material. Any material authorized under 27 CFR Part 21 for addition to spirits in the production of denatured spirits.

Denatured spirits. Spirits to which denaturants have been added as provided in 27 CFR Part 21.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

Director of the service center. A director of an internal revenue service center.

Distilled spirits operations. Any authorized distilling, warehousing, or processing operations conducted on the bonded premises of a plant qualified under this part.

Distilling material. Any fermented or other alcoholic substance capable of, or intended for use in, the original distillation or other original processing of spirits.

District director. A district director of internal revenue.

Electronic fund transfer or EFT. Any transfer of funds effected by a proprietor's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

Export or exportation. A severance of goods 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 and shall include shipments to any possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, and to the territories of the Virgin Islands, American Samoa, and Guam, shall also be treated as exportations.

Fermenting material. Any material which is to be subjected to a process of fermentation to produce distilling material.

Fiduciary. A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

Fiscal year. The period October 1 of one calendar year through September 30 of the following year.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

In bond. When used with respect to spirits, denatured spirits, articles, or wine refers to spirits, denatured spirits, articles, or wine possessed under bond to secure the payment of the taxes imposed by 26 U.S.C. Chapter 51, and on which such taxes have not been determined. The term includes such spirits, denatured spirits, articles, or wine on the bonded premises of a distilled spirits plant, such spirits, denatured spirits, or wines in transit between bonded premises (including, in the case of wine, bonded wine cellar premises). Additionally, the term refers to spirits in transit from customs custody to bonded premises, and spirits withdrawn without payment of tax under 26 U.S.C. 5214, and with respect to which relief from liability has not occurred under the provisions of 26 U.S.C. 5005(e)(2).

Industrial use. As applied to spirits, shall have the meaning ascribed in 27 CFR Part 2.

Intermediate product. Any product manufactured pursuant to an approved formula under 27 CFR Part 5, not intended for sale as such but for use in the manufacture of a distilled spirits product.

I.R.C. The Internal Revenue Code of 1954, as amended.

Kind. As applied to spirits, except as provided in § 19.597, kind shall mean class and type as prescribed in 27 CFR Part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR Part 4.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the Director to protect the revenue adequately.

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml."

Lot identification. The lot identification described in § 19.593.

Mash, wort, wash. Any fermented material capable of, or intended for, use as a distilling material.

Nonindustrial use. As applied to spirits, shall have the meaning ascribed in 27 CFR Part 2.

Operating permit. The document issued pursuant to 26 U.S.C. 5171(d), authorizing the person named therein to engage in the business or operation described therein.

Package. A cask or barrel or similar wooden container, or a drum or similar metal container.

Package identification number. The package identification number described in § 19.593.

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

Plant or distilled spirits plant. An establishment qualified under this part for distilling, warehousing, processing or any combination thereof.

Plant number. The number assigned to a distilled spirits plant by the regional director (compliance).

Processor. Except as otherwise provided under 26 U.S.C. 5002(a)(6), any person qualified under this part who manufactures, mixes, bottles, or otherwise processes distilled spirits or denatured spirits, or manufactures any article.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof of distillation. The composite proof of the spirits at the time the production gauge is made,or, if the spirits had been reduced in proof prior to the production gauge, the proof of the spirits prior to such reduction, unless the spirits are subsequently redistilled at a higher proof than the proof prior to reduction.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person qualified under this part to operate the distilled spirits plant.

Reconditioning. The dumping of distilled spirits products in bond after their bottling or packaging, for purposes other than destruction, denaturation, redistillation, or rebottling. The term may include the filtration, clarification, stabilization, or reformulation of a product.

Recovered article. An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured alcohol salvaged without all of the denaturants for completely denatured alcohol, under 27 CFR Part 211.

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

Region director (compliance). The principal regional official responsible for administering regulations in this part.

Season. The period from January 1 through June 30, is the spring season, and the period from July 1 through December 31 is the fall season.

Secretary. The Secretary of the Treasury or his delegate.

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

Spirits or distilled spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), but not denatured spirits unless specifically stated. For the purposes of the requirements of this part relating to liquor bottles, labels, and strip stamps or alternative devices, the term "spirits" or "distilled spirits" shall not include mixtures containing wine, bottled at 48 degrees of proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis. However, distilled spirits products containing wine bottled at 48 degrees of proof or less, if such mixture contains more than 50 percent wine on a proof gallon basis shall be subject to the formula requirements of this part and 27 CFR Part 5 and the labeling, advertising and standards of fill requirements in 27 CFR Part 4.

Spirits residues. Residues, containing distilled spirits, of a manufacturing process related to the production of an article under 27 CFR Part 211.

Tax-determined or determined. When used with respect to the tax on any distilled spirits to be withdrawn from bond on determination of tax, shall mean that the taxable quantity of spirits has been established.

Taxpaid. When used with respect to distilled spirits shall mean that all applicable taxes imposed by law in

respect of such spirits have been determined or paid as provided by law.

This chapter. Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

Transfer in bond. The removal of spirits, denatured spirits and wines from one bonded premises to another bonded premises.

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

Unfinished spirits. Spirits in the production system prior to production gauge.

U.S.C. The United States Code.

Warehouseman. A proprietor of a distilled spirits plant qualified under this part to store bulk distilled spirits.

Wine spirits. The term "wine spirits" means spirits authorized for use in wine production by 26 U.S.C. 5373.

Subpart C—Taxes

Spirits

§ 19.21 Tax.

A tax is imposed by 26 U.S.C. 5001 on all spirits produced in or imported into the United States at the rate prescribed in such section on each proof gallon and a proportionate tax at a like rate on all fractional parts of a proof gallon. Wines containing more than 24 percent of alcohol by volume are taxed as spirits. All products of distillation, by whatever name known, which contain spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, are considered and taxed as spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended) (26 U.S.C. 5001))

§ 19.22 Attachment of tax.

Under 26 U.S.C. 5001(b), the tax attaches to spirits as soon as the substance comes into existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production, or by any subsequent process.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

§ 19.23 Lien.

Under 26 U.S.C. 5004, the tax becomes a first lien on the spirits from the time the spirits come into existence as such. The conditions under which the first lien shall be terminated as described in 26 U.S.C. 5004.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1317, as amended (26 U.S.C. 5004))

§ 19.24 Person liable for tax.

(a) *Distilling.* 26 U.S.C. 5005 provides that the distiller of spirits is liable for the tax and that each proprietor or possessor of, and person in any manner interested in the use of, any still, distilling apparatus, or distillery, shall be jointly and severally liable for the tax on distilled spirits produced. However, a person, not an officer or director of a corporate proprietor, owning or having the right of control of not more than 10 percent of any class of stock of that proprietor, is not liable by reason of the stock ownership or control. Persons transferring spirits in bond so liable for the tax are relieved of liability if

(1) The proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and

(2) No person so liable for the tax on the spirits transferred retains any interest in the spirits.

(b) *Storage on bonded premises.* 26 U.S.C. 5005(c) provides that each person operating bonded premises shall be liable for the tax on all spirits while the spirits are stored on the premises, and on all spirits which are in transit to the premises from the time of removal from the transferor's bonded premises, pursuant to an approved application. Liability for the tax continues until the spirits are transferred or withdrawn from bonded premises as authorized by law, or until the liability for tax is relieved under the provisions of 26 U.S.C. 5008(a). Claims for relief from liability for spirits lost are provided for in § 19.41. Voluntary destruction of spirits in bond is provided for in Subpart U of this part.

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

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

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

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

§ 19.25 Time for tax determination.

Except as otherwise provided in this part, the tax on spirits shall be determined when the spirits are withdrawn from bond. The tax on spirits which are to be withdrawn from bonded premises shall be determined upon completion of the gauge for determination of tax and before withdrawal from bonded premises.

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

Occupational Taxes

§ 19.26 Liquor dealer's special (occupational) tax.

A proprietor shall be subject to or exempt from a liquor dealer's occupational tax as provided in 27 CFR Part 194.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended (26 U.S.C. 5111, 5113))

§ 19.27 Still manufacturer's special tax.

Special occupational tax as a still manufacturer and a commodity tax for each still or condenser manufactured is imposed by 26 U.S.C. 5101 on certain persons who manufacture stills or condensers to be used in distilling. Provisions for occupational and commodity taxes imposed on manufacturers of stills or condensers are contained in 27 CFR Part 196.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1339 (26 U.S.C. 5101))

Assessments

§ 19.31 Production not accounted for.

Where the regional director (compliance) finds that a distiller has not accounted for all spirits produced by him, assessment shall be made for the tax on the difference between the quantity reported and the quantity found to have been actually produced.

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

§ 19.32 Assessment of tax on spirits, denatured spirits, or wines in bond which are lost, destroyed or removed without authorization.

When spirits, denatured spirits, or wines in bond are lost or destroyed (except spirits, denatured spirits, or wines on which the tax is not collectible by reason of the provisions of 26 U.S.C. 5008 (a) or (d) or 26 U.S.C. 5370, as applicable) and the proprietor or other person liable for the tax on the spirits, denatured spirits, or wines fails to file a claim for remission as provided in § 19.41(a) or when the claim is denied, the tax shall be assessed. In any case where spirits, denatured spirits, or wines in bond are removed from bonded premises other than as authorized by law, the tax shall be assessed. In the case of losses under circumstances described in 26 U.S.C. 5006(b) with respect to packages of spirits or denatured spirits on bonded premises, the tax shall be assessed if the tax is not paid upon the demand of the regional director (compliance).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1320, as amended, 1323, as amended, 1381, as amended (26 U.S.C. 5006, 5008, 5370))

Wine

§ 19.36 Tax.

(a) *Imposition of tax.* A tax is imposed by 26 U.S.C. 5041 on wines (including imitation, substandard, or artificial wine, and compounds sold as wine) produced in or imported into the United States. Proprietors of distilled spirits plants may become liable for wine taxes under 26 U.S.C. 5362(b)(3) in connection with wine transferred in bond to a distilled spirits plant.

(b) *Liability for tax.* Except as otherwise provided by law, the liability for tax on wine transferred in bond from a bonded wine cellar to a distilled spirits plant, or transferred in bond between distilled spirits plants, shall continue until the wine is used in a distilled spirits product.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended, 1380, as amended (26 U.S.C. 5041, 5362))

Claims

§ 19.41 Claims on spirits, denatured spirits, articles, or wines lost or destroyed in bond.

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

(1) Identification (including serial numbers if any) and location of the container or containers from which the spirits, denatured spirits, articles, or wines were lost, or removed for destruction;

(2) Quantity of spirits, denatured spirits, articles, or wines lost or destroyed from each container, and the total quantity of spirits or wines covered by the claim;

(3) Total amount of tax for which the claim is filed;

(4) Name, number, and address of the plant from which withdrawn without payment of tax or removed for transfer in bond (if claim involves spirits so withdrawn or removed or if claim involves wines transferred in bond) and date and purpose of such withdrawal or removal, except that in the case of imported spirits lost or destroyed while being transferred from customs custody to ATF bond as provided in § 19.481, the name of the customs warehouse, if any, and port of entry will be given instead of the plant name, number, and address;

(5) Date of the loss or destruction (or, if not known, date of discovery), the cause or nature thereof, and all the facts relative thereto;

(6) Name of the carrier, where a loss in transit is involved;

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

(8) If lost by theft, facts establishing that the loss did not occur as the result of any negligence, connivance, collusion or fraud on the part of the proprietor of the plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

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

(b) *Claims for abatement, credit or refund.* Claims for abatement of an assessment, or for credit or refund of tax which has been paid or determined, for spirits, denatured spirits, articles, or wines lost or destroyed in bond shall be filed with the regional director (compliance). The claims shall set forth the information required under paragraph (a) of this section and, in addition, shall set forth—

(1) The date of assessment or payment (or of tax determination, if the tax has not been assessed or paid) of the tax for which abatement, credit or refund is claimed, and

(2) The name, plant number, and the address of the plant where the tax was determined, paid, or assessed (or name, address and capacity of any other person who paid or was assessed the tax, if the tax was not paid by or assessed against a proprietor).

(c) *Supporting document.* (1) Claims under paragraphs (a) and (b) of this section shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss or destruction. For claims on spirits, denatured spirits, articles, or wines lost while being transferred by carrier, the claim shall be supported by a copy of the bill of lading.

(2) For claims pertaining to losses of spirits withdrawn without payment of tax and lost prior to being used for research, development or testing, the claim shall be supported by a copy of the proprietor's sample record prescribed in Subpart W of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370))

§ 19.42 Claims on spirits returned to bonded premises.

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

(1) Quantity of spirits so returned;

(2) Amount of tax for which the claim is filed;

(3) Name, address, and plant number of the plant to which the spirits were returned and the date of the return;

(4) The purpose for which returned; and

(5) The serial number of the gauge record on which the spirits were returned.

(b) If the spirits contain Puerto Rican or Virgin Islands spirits, the claim shall show:

(1) Proof gallons of the finished product derived from Puerto Rican or Virgin Islands spirits; and

(2) The amount of tax imposed by 26 U.S.C. 7652, determined at the time of withdrawal from bond on the Puerto Rican or Virgin Islands spirits contained in the product.

(c) Claims for credit or refund of tax shall be filed by the proprietor of the plant to which the spirits were returned within six months of the date of the return. No interest is allowed on any claims for refund or credit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended (26 U.S.C. 5008); Sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215))

§ 19.43 Claims relating to spirits lost after tax determination.

Claims for abatement, credit, or refund of tax under this part, relating to losses of spirits occurring on bonded premises after tax determination but prior to physical removal from such premises, shall be prepared and filed as provided in, and contain the information called for under § 19.41(b) and be supported by documents as provided under § 19.41(c).

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

§ 19.44 Execution of claims and supporting documents.

All claims shall filed under this part for abatement or refund shall be filed on Form 843. All claims filed under this part for credit or remission of tax shall be filed on Form 2635. Claims for abatement, remission, credit, or refund shall (a) show the name, address, and capacity of the claimant, (b) be signed by the claimant or his duly authorized agent, and (c) be executed under the penalties of perjury as provided in § 19.100. Supporting documents required by this part to be submitted with a claim shall be attached to the claim and shall be deemed to be a part thereof. The regional director (compliance) may require the submission of additional evidence in support of any claim filed under this part when deemed necessary for proper action on the claim.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended (26 U.S.C. 5008); Sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215))

§ 19.45 Claims for credit of tax.

Claims for credit of tax, as provided in this part, may be filed after determination of the tax whether or not the tax has been paid. The claimant may not anticipate allowance of a credit or make an adjusting entry in a tax return pending action on the claim.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended (26 U.S.C. 5008); Sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215))

§ 19.46 Adjustments for credited tax.

When notification of allowance of credit is received from the regional director (compliance), including notification of credit for tax on spirits exported with benefit of drawback as provided in 27 CFR Part 252, the claimant shall make an adjusting entry and explanatory statement (specifically identifying the notification of allowance of credit) in the next distilled spirits tax return (or returns) to the extent necessary to exhaust the credit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended, 1336, as amended (26 U.S.C. 5008, 5062))

Subpart D—Administrative and Miscellaneous Provisions

Authorities of the Director

§ 19.61 Form prescribed.

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

(b) "Public Use Forms" (ATF Publication 1322.1) is a numerical listing of forms issued or used by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the ATF Distribution Center.

(c) Requests for forms should be mailed to the ATF Distribution Center.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.62 Alternate methods or procedures.

The proprietor, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when he finds that—

(a) Good cause has been shown for the use of the alternate method or procedure;

(b) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescibed method or procedure, and affords equivalent security to the revenue; and

(c) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part. No alternate method or procedure relating to the giving of any bond or to the assessment, payment, or collection of tax, shall be authorized under this paragraph. Where the proprietor desires to employ an alternate method or procedure, he shall submit a written application to do so to the regional director (compliance), for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons therefor. Alternate methods or procedures shall not be employed until the application has been approved by the Director. The proprietor shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization. As used in this paragraph, alternate methods or procedures shall include alternate construction or equipment.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended, 1395, as amended (26 U.S.C. 5178, 5552))

§ 19.63 Pilot operations.

The Director may waive any regulatory provisions of 26 U.S.C. Chapter 51, and of the regulations in this part, for temporary pilot or experimental operations for the purpose of facilitating the development and testing of improved methods of governmental supervision (necessary for the protection of the revenue) over plants. For this purpose, the Director may, with the approval of the proprietor thereof, designate any plant for such operations. The provision of law and regulations waived and the period of time during which such waiver shall continue shall be stated in writing by the Director. The provisions of this section shall not be construed as authority to waive the filing of any bond or the payment of any tax provided for in 26 U.S.C. Chapter 51.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5554))

§ 19.64 [Reserved]

§ 19.65 Experimental distilled spirits plant.

The Director may authorize the establishment and operation of experimental plants for specific and limited periods of time solely for experimentation in, or development of—

(a) Sources of materials from which spirits may be produced;

(b) Processes by which spirits may be produced or refined; or

(c) Industrial uses of spirits.

The Director may waive any provision of 26 U.S.C. Chapter 51 (other than 26 U.S.C. 5312) and of this part (other than this section and § 19.66) to the extent he deems necessary to effectuate the purposes of 26 U.S.C. 5312(b), except that he may not waive the payment of any tax on spirits removed from such plant.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1375, as amended (26 U.S.C. 5312))

§ 19.66 Application to established experimental plants.

Any person desiring to establish an experimental plant shall make written application to the Director, through the regional director (compliance), and obtain the Director's approval of the

proposed establishment. The applicant shall file with such application a bond in such form and penal sum as required by the Director. The application shall state the nature, extent, and purpose of the operations to be conducted and describe the operations and equipment, the location of the plant (including the proximity to other premises or operations subject to the provisions of 26 U.S.C. Chapter 51) and the security measures to be provided. The Director may require the submission of additional information as he deems necessary. The regional director (compliance) shall not permit operations until he has found that the plant conforms to the specifications set forth in the application, as approved, and the applicant has complied with provisions of 26 U.S.C. Chapter 51, and this part not specifically waived by the Director.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5312))

§ 19.67 Spirits produced in industrial processes.

(a) *Applicability.* (1) Persons who produce spirits in industrial processes (including spirits produced as a by-product in connection with chemical or other processes) are distillers and are required to qualify under provisions of 26 U.S.C. Chapter 51, and this part.

(2) The Director may, however, waive any provision of 26 U.S.C. Chapter 51, or this part with respect to the production of nonpotable chemical mixtures containing spirits, including any provision relating to qualification, if they are produced:

(i) For transfer to the bonded premises of a distilled spirits plant for completion of distilling; or

(ii) As a by-product which would require expensive and complex equipment for the recovery of spirits.

(3) The waiver under the provisions of paragraph (a)(2)(ii) of this section is further conditioned that such mixture would:

(i) Be destroyed on the premises where produced; or

(11) Contain a minimum quantity of spirits practicable with the procedure employed, not be subjected to further operations solely for the purification or recovery of spirits, and be found by the Director to be as nonpotable and at least as difficult with respect to recovery as completely denatured alcohol.

(b) *Application for waiver.* (1) When the producer of nonpotable mixtures desires to secure a waiver of designated provisions of 26 U.S.C. Chapter 51, or this Part, he shall file an application with the Director through the regional director (compliance).

(2) The application shall include, as applicable—

(i) Name and address of producer;

(ii) Chemical composition and source of the nonpotable mixture;

(iii) Approximate percentages of chemicals and spirits in the mixture;

(iv) Method of operation proposed;

(v) Bonded premises where the mixture will be distilled; and

(vi) Other pertinent information required by the Director.

(c) *Approval.* If the Director finds that the waiver of the requirements, or any of them, will not jeopardize the revenue and will not unduly hinder supervision of the operations, he may approve the application under such terms and conditions as he deems advisable and subject to the furnishing of any bond which he deems necessary.

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

§ 19.68 Other businesses.

The Director may authorize the carrying on of other businesses (not specifically prohibited by 26 U.S.C. 5601(a)(6)) on premises of plants if he finds that those businesses will not jeopardize the revenue, hinder the effective administration of this part, or be contrary to law. The authorization will designate the premises (i.e., bonded or general) on which such other business is to be conducted.

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

§ 19.69 Recovery and reuse of denatured spirits in manufacturing processes.

The following persons are not, by reasons of the activities listed below, subject to the provisions of this part but they shall comply with the provisions of 27 CFR Part 211 relating to the use and recovery of spirits or denatured spirits:

(a) Manufacturers who use denatured spirits, or articles or substances containing denatured spirits in a process wherein any part or all of the spirits, including denatured spirits, are recovered.

(b) Manufacturers who use denatured spirits in the production of chemicals which do not contain spirits but which are used on the permit premises in the manufacture of other chemicals resulting in spirits as a by-product.

(c) Manufacturers who use chemicals or substances which do not contain spirits or denatured spirits (but which were manufactured with specially denatured spirits) in a process resulting in spirits as a by-product.

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

§ 1970 Exemptions to meet the requirements of National defense.

The Director may temporarily exempt proprietors from any provision of the internal revenue laws or this part relating to spirits except those requiring payment of tax thereon whenever in his judgement it is expedient to do so to meet the requirements of the National defense.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1397, as amended (26 U.S.C. 5561))

§ 19.71 Experimental or research operations by scientific institutions and colleges of learning.

(a) *General.* The Director may authorize any scientific university, college of learning, or institution of scientific research to produce, receive, blend, treat, test, and store spirits, without payment of tax, for experimental or research use but not for consumption (other than organoleptic tests) or sale, in quantities as may be reasonably necessary for such purposes. The Director may waive any provision of 26 U.S.C. Chapter 51 (other than 26 U.S.C. 5312), or this part (other than this section) to the extent necessary to effect the purposes of 26 U.S.C. 5312(a), except he may not waive the payment of any tax on distilled spirits removed from any university, college, or institution.

(b) *Qualification.* Any university, college, or institution desiring to conduct any of the experimental or research operations listed in the preceding paragraphs shall make written application, to the Director, through the regional director (compliance), and obtain the Director's approval of the proposed operations. The applicant shall file with the application a bond in a form and penal sum as required by the Director. The application shall state the nature, extent, and purpose of the operations to be conducted and describe the operations and equipment, the location at which operations will be conducted (including identification of the building or buildings, or the portions thereof to be used), and the security measures to be provided. The Director may require any additional information. Operations shall not be commenced until authorized by the Director.

(c) *Records.* Reports concerning the operations need not be submitted unless required by the Director, but records of the quantities of spirits produced, received, and used each day shall be made and retained for inspection by ATF officers.

(d) *Discontinuance of operations.* When operations authorized by the Director are discontinued, all remaining spirits shall be disposed of by

destruction. When these spirits have been destroyed, notice of the discontinuance of operations shall be given to the regional director (compliance).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1375, as amended (26 U.S.C. 5312))

Authorities of the Regional Director (Compliance)

§ 19.72 Other businesses.

Application to conduct at a distilled spirits plant a type of business other than that of a distiller, warehouseman, or processor may be approved by the regional director (compliance) if the Director has, as provided in § 19.68, authorized the carrying on of a business of the type proposed, unless the regional director (compliance) finds that there are particular conditions in respect to the applicant's plant that would cause the carrying on of such business to be a jeopardy to the revenue or a hindrance to the effective administration of this part.

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

§ 19.73 Emergency variations from requirements.

The regional director (compliance) may approve construction, equipment, and methods of operation other than as specified in this part, where he finds that an emergency exists and the proposed variations from the specified requirements are necessary, and the proposed variations—

(a) Will afford the security and protection to the revenue intended by the prescribed specifications;

(b) Will not hinder the effective administration of this part; and

(c) Will not be contrary to any provisions of law.

Variations from requirements granted under this paragraph 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 proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgement of the regional director (compliance) the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where the proprietor desires to employ such variation, he shall submit a written application to do so to the regional director (compliance). The application shall describe the proposed variations and set forth the reasons therefor. Variations shall not be employed until the application has been approved.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended, 1395, as amended (26 U.S.C. 5178, 5552))

§ 19.74 Disaster exemptions.

The regional director (compliance) may, whenever he finds that it is necessary or desirable, by reason of disaster, temporarily exempt the proprietor of any plant from any provisions of the internal revenue laws and this part relating to spirits, except those requiring the payment of tax on spirits, to the extent he may deem necessary or desirable.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1397, as amended (26 U.S.C. 5562))

§ 19.75 Assignment of officers and supervision of operations.

(a) *General.* The regional director (compliance) may assign such number of ATF officers to distilled spirits plants and utilize controls (including the use of Government locks and seals) as necessary to maintain supervision of operations conducted at such plants. When supervision is necessary:

(1) The regional director (compliance) may require a proprietor to delay any distilled spirits operation so that it may be conducted in the presence of an ATF officer; and

(2) The regional director (compliance) may require the proprietor to submit a schedule of operations to an ATF officer.

(b) *Hours of operation.* When operations at a distilled spirits plant are to be conducted in the presence of an ATF officer, such operations: (1) Shall not be conducted on Sunday unless specifically authorized by the regional director (compliance) in each instance on the showing of an emergency; and (2) Shall be conducted during an 8-hour period between 7 a.m. and 5 p.m. unless, pursuant to the proprietor's application the regional director (compliance) authorizes the performance and supervision of operations during other hours. The regional director (compliance), in administering this provision, shall not restrict such operation or function to a greater extent than did the provisions of internal revenue law and regulations on June 30, 1959.

(c) *Notification of supervision.* (1) When it is determined that supervision of plant operations is necessary, the regional director (compliance) shall notify the proprietor of the extent of ATF supervision.

(2) If supervision of a distilled spirits plant was not terminated as of December 31, 1979, notification is not necessary for continued supervision.

(d) *Withdrawal of supervision.* The regional director (compliance) shall notify the proprietor when ATF supervision of plant operations is to be withdrawn.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5553); Sec. 806, Pub. L. 96–39, 93 Stat. 279 (26 U.S.C. 5201, 5202))

§ 19.76 Allowance of remission, abatement, credit or refund of tax.

The regional director (compliance) is authorized to allow claims for remission, abatement, credit, and refund of tax, filed under the provisions of this part.

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

§ 19.77 Installation of meters, tanks and other apparatus.

The regional director (compliance) is authorized to require the proprietor to install meters, tanks, pipes, or any other apparatus which the regional director (compliance) deems advisable for the purpose of protecting the revenue. Any proprietor refusing or neglecting to install such apparatus when so required shall not be permitted to conduct business.

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

§ 19.78 Approval of qualifying documents.

The regional director (compliance) is authorized to approve, except as otherwise provided in this part, all qualifying documents, including bonds and consents of surety, required by this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1394, as amended (26 U.S.C. 5172, 5551); Sec. 805, Pub. L. 96–39, 93 Stat. 275, 276 (26 U.S.C. 5171, 5173))

§ 19.79 Discontinuance of storage facilities.

When the regional director (compliance) finds that any facilities for the storage of spirits on bonded premises are unsafe or unfit for use, or that spirit stored are subject to great loss or wastage, he may require the discontinuance of the use of such facilities and require the spirits contained therein to be transferred to such other storage facilities as he may designate. Such transfer shall be made at such time and under such supervision as the regional director (compliance) may require and the expense of the transfer shall be paid by the owner or the warehouseman of the spirits. Whenever the owner of such spirits or

the warehouseman fails to make such transfer within the time prescribed or to pay the just and proper expense of such transfer, as ascertained and determined by the regional director (compliance), such spirits may be seized and sold in the same manner as goods sold on distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expense of such sale and removal, and the balance shall be paid over to the owner of such spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5236))

Authorities of ATF Officers

§ 19.81 Right of entry and examination.

Any ATF officer may at all times, as well by night as by day, enter any distilled spirits plant, or any other premises where distilled spirits operations are carried on, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any ATF officer, having demanded admittance, and having declared his name and office, is not admitted into such premises by the proprietor or other person having charge thereof, he may at all times, use such force as is necessary for him to gain entry to such premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1357, as amended (26 U.S.C. 5203))

§ 19.82 Detention of containers.

Any ATF officer may detain any container containing, or supposed to contain, spirits when such officer has reason to believe that the tax imposed by law on such spirits has not been paid or determined as required by law or this part, or that such container is being removed in violation of law or this part. Every such container may be held by the ATF officer at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture. However, such summary detention shall not continue in any case longer than 72 hours without process of law or intervention of the regional director (compliance), unless the person in possession of the container immediately prior to its detention, in consideration of the container being kept on his premises during detention, executes a waiver of the 72-hours limitation on detention of the container.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1375 (26 U.S.C. 5311))

§ 19.83 Samples for the United States.

Any ATF officer is authorized to take samples of spirits, denatured spirits, articles, wines, or any other materials which may be added to such products for analysis, testing, or other determinations to ascertain whether there is compliance with the provisions of law and regulations. When such samples are removed from the bonded premises, the ATF officer shall give the proprietor a receipt covering the sample so removed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended, 1357, as amended, 1362, as amended, 1380, as amended (26 U.S.C. 5201, 5203, 5214, 5362))

§ 19.84 Gauging and measuring equipment.

All gauging and measuring equipment and means required by 27 CFR Part 30 and this part to be furnished by the proprietor for the purpose of ascertaining the quantity, alcoholic content, specific gravity, and producing capacity of any materials, denaturants, mash, wort, or beer, or the quantity and alcoholic content of spirits, denatured spirits, or wines, shall be maintained by the proprietor in accurate and readily usable condition. Any ATF officer may disapprove the use of any equipment or means if such officer finds it would be insufficiently accurate and the proprietor shall promptly provide accurate equipment or means in lieu of the disapproved equipment or means.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1320, as amended, 1358, as amended (26 U.S.C. 5006, 5204))

Entry and Examination of Premises

§ 19.86 Furnishing facilities and assistance.

On the demand of any ATF officer or agent, the proprietor shall furnish the necessary facilities and assistance to enable the officer or agent to gauge the spirits in any container or to examine any apparatus, equipment, containers, or materials on the distilled spirits plant premises. The proprietor shall also, on demand of an ATF officer or agent, open all doors, and open for examination all containers on the plant premises. The proprietor shall, on request of an ATF officer, furnish the exact locations (including the number of containers at each location) of all packages and similar portable approved containers within a given lot, and locations (i.e., buildings, rooms or areas) where spirits in cases are stored.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1357, as amended (26 U.S.C. 5203); Sec. 806, Pub. L. 96–39, 93 Stat. 279 (26 U.S.C. 5202))

Gauging of Spirits, Wines or Alcoholic Flavoring Materials

§ 19.91 Gauging.

(a) *Gauging of spirits and wine.* Gauges shall be made by the proprietor. However, the regional director (compliance) may require that such gauges be made in the presence of and be verified by an ATF officer. Gauges of spirits, denatured spirits, or wine shall be made in accordance with 27 CFR Part 30 and as provided in this part. However, the gauge for wine that is to be transferred to a bonded wine cellar shall be recorded by kind and percent of alcohol by volume. When bulk spirits, denatured spirits, or wines are to be volumetrically measured, the measurement shall be in a tank or bulk conveyance for which a calibration chart is provided, by a meter approved under § 19.277, or, when approved by the Director, by other devices or methods. Calibration charts shall be certified as accurate by persons qualified to calibrate tanks or bulk conveyances. When spirits in bottles are gauged, the gauge may be established on the basis of legible case markings and label information, if (1) the bottles are full, and (2) there is no evidence that the bottles have been tampered with.

(b) *Gauging of alcoholic flavoring materials.* Each alcoholic flavoring material shall be gauged when dumped, except that when received from a manufacturer in a closed nonporous bottle, can, or package such material may be gauged by using the proof derived from the container label or a related statement of the proof from the manufacturer. When proof is determined from a label or manufacturer's statement, the proprietor shall periodically test a sufficient number of samples of the alcoholic flavoring material to verify the accuracy of the proof so determined and shall record the results of those tests on the gauge record. The regional director (compliance) may require that all alcoholic flavoring materials be gauged by the methods provided in 27 CFR Part 30.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1396, as amended (26 U.S.C. 5204, 5559))

§ 19.92 When gauges are required.

(a) *Initial proof.* Except for the gauges of spirits required in § 19.383, or § 19.517, the initial determination of proof for spirits, wine or alcoholic flavoring materials made on the bonded premises of a distilled spirits plant may be used whenever a subsequent gauge is required by this part to be made at the

same plant, provided that no other material has been added which changes the proof of such spirits, wine or alcoholic flavoring materials.

(b) *Required gauges.* Spirits, wine and alcoholic flavoring materials shall be gauged whenever required by this part. Such gauges include:

(1) Entered for deposit,

(2) Filled into packages from storage tanks,

(3) Transferred or received in bond,

(4) Transferred between operational accounts,

(5) Mixed in the manufacture of a distilled spirits product,

(6) Reduced in proof prior to commencement of bottling,

(7) Destroyed,

(8) Removed or withdrawn from bond,

(9) Returned to bond, or

(10) As otherwise required by the regional director (compliance).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1396, as amended (26 U.S.C. 5204, 5559))

§ 19.93 Quantity determination of spirits in bond.

Where bulk spirits in bond are gauged for determination of tax, or are gauged in packages, the quantity shall be determined by weight pursuant to the provisions of 27 CFR Part 30. In all other instances where spirits are gauged in bond, gauged for denaturation, or are gauged for transfer in bond or for withdrawal from bond free of tax or without payment of tax, the quantity may be determined by weight or volume. Volumetric determinations of quantity may be made by meters approved under § 19.277.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1396, as amended (26 U.S.C. 5559))

Securing of Conveyances Used for Transporting Spirits

§ 19.96 Securing of conveyances.

(a) *Construction for securing.* If a conveyance is required by this part to be secured, the conveyance shall be constructed in such manner that all openings, including valves (if any) on bulk conveyances, may be closed and secured.

(b) *Approval of securing devices.* (1) All seals, locks, or other devices that are required to be used on conveyances in which spirits are transferred in bond, or withdrawn free of tax or without payment of tax, shall be approved by the Director prior to use. However, cap seals, at least ¾ of an inch in diameter, and ball-strap-type (railroad) seals with a strap at least 5/16 of an inch wide may be used on conveyances without prior approval of the Director. Such seals shall:

(i) Be made of durable materials,

(ii) Bear the plant registration number or name, or readily recognizable abbreviation of the name of the proprietor,

(iii) Bear a serial number including letter prefixes or suffixes, that will not be repeated within a six month period,

(iv) Be durably marked in readily legible form, and

(v) Be made so that their being opened will leave evidence thereof.

(2) Seals, locks or other devices that are used on conveyances to transport taxpaid spirits, or denatured spirits transferred in bond or withdrawn free of tax, need not be approved.

(c) *Furnishing and affixing securing devices.* (1) Seals, locks, or other devices for use on conveyances shall be furnished and affixed by the proprietor.

(2) The regional director (compliance) may, if he deems necessary, require conveyances in which spirits are: (i) transferred in bond, (ii) withdrawn free of tax, or (iii) withdrawn without payment of tax, to be secured by seals, locks, or other devices approved and furnished by the Bureau and affixed by an ATF officer.

(3) Seals, locks, or other devices shall be affixed:

(i) As soon as the conveyance is loaded for shipment, and

(ii) In such a manner that access to the contents of the conveyance cannot be gained without showing evidence of tampering.

(4) The openings of bulk conveyances may be secured with permanent seals, locks, or other devices.

(d) *Numbers and marks on proprietor's securing devices.* Seals, locks, or other devices that are furnished by the proprietor for use on conveyances shall be serially numbered. Letter abbreviations of the name of a proprietor may not be used unless approved by the Director pursuant to written application.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended 1410, as amended (26 U.S.C. 5206, 5682))

Conveyance of Spirits or Wines on Plant Premises

§ 19.97 Taxpaid spirits or wines on bonded premises.

Spirits or wines on which the tax has been paid or determined may be conveyed within a plant across bonded premises, but such spirits or wines shall not be stored or allowed to remain on the bonded premises and shall be kept separate and apart from spirits or wines on which the tax has not been paid or determined. However, spirits returned to bonded premises in accordance with the provisions of 26 U.S.C. 5215 shall be allowed to remain on the bonded premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1404, as amended, (26 U.S.C. 5201, 5612))

§ 19.98 Conveyance of untaxpaid spirits or wines within a distilled spirits plant.

Untaxpaid spirits or wines may be conveyed between different portions of the bonded premises of the same distilled spirits plant, across any other premises of such plant; or (by uninterrupted transportation) over any public thoroughfare; or (by uninterrupted transportation) over a private roadway if the owner, or lessee, of the roadway agrees, in writing, to allow ATF officers access to the roadway to perform their necessary duties. The conveyance of spirits or wines as authorized in this section is subject to the following conditions:

(a) The spirits or wines are not stored or allowed to remain on any premises of such plant other than bonded premises,

(b) The spirits or wines are kept completely separate and apart from spirits on which the tax has been paid or determined,

(c) A description of the means and route of the conveyance and of the portions of the distilled spirits plant between which spirits or wines will be conveyed, and a copy of any agreement furnished by the owner, or lessee, of a private roadway have been submitted to and approved by the regional director (compliance), and

(d) Consent of surety on the operations or unit bond has been furnished by the proprietor, on Form 1533, extending the terms of the bond to cover conveyance of the spirits or wines.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1398, as amended (26 U.S.C. 5201, 5601))

§ 19.99 Spirits in customs custody.

Spirits in customs custody may be conveyed, when necessary, across distilled spirits plant premises if:

(a) The spirits are not stored or allowed to remain on the premises of the distilled spirits plant,

(b) The spirits are kept separate and apart from other spirits on the premises and are moved expeditiously,

(c) A description of the means and route of conveyance of the spirits across the plant premises has been submitted to and approved by the regional director (compliance), and

(d) Consent of surety on the operations or unit bond has been furnished by the proprietor, on Form

1533, extending the terms of the bond to cover the conveyance of the spirits.

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

Penalties of Perjury

§ 19.100 Execution under penalties of perjury.

(a) *Declaration.* When a return, claim, form, or other document called for under this part, or in the instructions thereon, is required to be executed under penalties of perjury, it shall contain the following declaration:

I declare under the penalties of perjury that this (insert type of document, such as report, or claim), including supporting documents, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

(b) *Signing.* The declaration shall bear the signature and title of the proprietor or other duly authorized person.

(Act of August 16, 1954, Pub. L. 591—Chapter 736, 68A Stat. 749 (26 U.S.C. 6065))

Subpart E—[Reserved]

Subpart F—Location and Use

§ 19.131 Restrictions as to locations.

Distilled spirits plants shall not be located in any dwelling house, or in any shed, yard, or enclosure connected with any dwelling house, or on board any vessel or boat, or on premises where beer or wine is produced, or liquors of any description are retailed, or (except as provided in § 19.133) on premises where any other business is conducted.

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

§ 19.132 Continuity of premises.

The continuity of the distilled spirits plant shall be unbroken except for separations by public waterways, thoroughfares, or carrier rights-of-way. However, where there are other separations of the plant premises and all parts of the plant premises are in the same general location, the Director may approve the registration of the distilled spirits plant if he finds no jeopardy to the revenue.

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

§ 19.133 Use of distilled spirits plant premises.

(a) *General.* No business or operation shall be conducted on the premises of a distilled spirits plant other than those authorized in accordance with Subpart D of this Part or those authorized to be carried on or conducted by the notice of registration.

(b) *Bonded premises.* Bonded premises shall be used exclusively for distilled spirits operations. Spirits in packages, cases, or other portable containers on bonded premises shall be stored in a room or building. However, upon application by the proprietor, the regional director (compliance) may approve an alternative method of storage of such spirits if such method is suitable for the protection of the revenue and the effective administration of this Part.

(c) *General premises.* General premises are any portion of the distilled spirits plant described in the notice of registration other than bonded premises. General premises may not be used for any of the operations required to be conducted on bonded premises. Business offices and service facilities may be included as a part of general premises.

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

§ 19.134 Bonded warehouses not on premises qualified for production of spirits.

(a) *Criteria for establishment.* (1) A bonded warehouse, other than one established on the bonded premises of a distilled spirits plant qualified for production of spirits, or contiguous to a distillery operated by the warehouseman, may be established if the need therefor is clearly shown and the prospective needs of the warehouseman will be for the bonded storage of not less than 250,000 wine gallons of bulk distilled spirits.

(2) When commercial bonded warehouses are not available in an area and it is impractical to have a warehouse of 250,000 wine gallon capacity, the regional director (compliance) may approve the establishment of a warehouse without regard to the minimum storage requirements.

(b) *Application.* (1) The application for registration to establish a warehouse shall be accompanied by a separate written application setting forth the necessity for the establishment of the warehouse.

(2) The application shall include:

(i) approximate quantity of bulk spirits that will be received, stored, and withdrawn annually;

(ii) probable number of depositors of spirits;

(iii) approximate number of persons to be served from the warehouse; and

(iv) data or documents indicating the prospective volume of business or need for establishment.

(c) *Approval.* (1) The regional director (compliance) may approve the application for registration if the proposed location of the warehouse will not be a jeopardy to the revenue and there is satisfactory evidence of the need for establishing a warehouse.

(2) The regional director (compliance) may also limit the type of operation to be conducted at a bonded warehouse established with less than the minimum storage requirements.

(d) *Special condition.* The proprietor of a warehouse established for a limited type of operation shall not, in any manner, expand or change his operation to include any other type of operations until, pursuant to written application to make such change, he has obtained the approval of the regional director (compliance).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5178); Sec. 805a, Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

Subpart G—Qualification of Distilled Spirits Plants

§ 19.151 General requirements for registration.

(a) *Operations.* Except as otherwise provided by law, operations as a distiller, warehouseman, or processor may be conducted ony on the bonded premises of a distilled spirits plant by a person qualified to carry out such operations under this subpart.

(b) *Establishment.* A distilled spirits plant may be established only by a person who intends to conduct at such plant operations as a distiller, as a warehouseman, or as both.

(c) *Registration.* Each person shall, before commencing operations at a distilled spirits plant, make application for and receive notice of registration of his plant with respect to such operations as provided in this part. Application for registration shall be made on Form 5110.41 to the regional director (compliance). Each application shall be executed under penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application or incorporated by reference shall be deemed to be a part thereof. The regional director (compliance) may, in any instance where the outstanding notice of registration is inadequate or incorrect in any respect, require the filing of an application on Form 5110.41 to amend the notice of registration, specifying the respects in which amendment is required. Within 60 days after the receipt of such notice, the proprietor shall file such application.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.152 Data for application for registration.

Application on Form 5110.41 shall include the following information:

(a) Serial number and statement of purpose for which filed.

(b) Name and principal business address of the applicant, and the location of the distilled spirits plant if different from the business address.

(c) Statement of the type of business organization and of the persons interested in the business, supported by the items of information listed in § 19.167.

(d) Statement of the operations to be conducted.

(e) In respect of the plant to which the Form 5110.41 relates, a list of applicant's operating and basic permits, and of the operations, withdrawal, or unit bonds (including those filed with the application) with the name of the surety or sureties for each bond.

(f) List of the offices, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the proprietor or to sign the proprietor's name.

(g) Description of the plant (see § 19.168).

(h) List of major equipment (see § 19.166).

(i) Statement of maximum proof gallons that will be produced in the distillery during a period of 15 days, stored on bonded premises, and in transit to the bonded premises. (Not required if the operations or unit bond is in the maximum sum.)

(j) With respect to any distilled spirits plant which was not qualified to operate before June 1, 1985 a certified statement that relevant and material accounting records (including regular books of account and such other records and data as may be necessary to support such records) will be maintained in accordance with generally accepted accounting principles which enable the proprietor to file a correct distilled spirits tax return or determine whether he is liable for distilled spirits taxes.

(k) Statement of physical security measures employed (see § 19.153).

(l) As applicable, the following:

(1) With respect to the operations of a distiller:

(i) Statement of daily producing capacity in proof gallons.

(ii) Statement of production procedure (see § 19.170).

(iii) Statement whether spirits will be redistilled.

(2) With respect to the operations of a warehouseman:

(i) Description of the system of storage.

(ii) Statement of bulk storage capacity in wine gallons.

(3) With respect to the operations of a processor:

(i) Statement whether bottling operations will be conducted.

(ii) Statement whether denaturing operations will be conducted.

(iii) Statement whether articles will be manufactured.

(iv) Statement whether spirits will be redistilled.

(v) Description of the system of storage of spirits bottled and cased or otherwise packaged or placed in approved containers for removal from bonded premises.

(4) If any other business is to be conducted on the distilled spirits plant premises, as provided by Subpart D of this part, a description of the business, a list of the buildings and/or equipment to be used, and a statement as to the relationship, if any, of the business to distilled spirits operations at the plant.

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

(68 A Stat. 731, as amended (26 U.S.C. 6001); Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.153 Statement of physical security.

(a) *Content.* The statement of security shall include:

(1) A general description of the physical security at the distilled spirits plant, including methods utilized to secure buildings and outdoor tanks;

(2) A statement whether guard personnel are employed;

(3) A statement whether any electronic or mechanical alarm system is used;

(4) A statement certifying that locks used meet the specifications provided in paragraph (e) of § 19.281;

(5) A list of persons by position or title having responsibility for the custody of and access to keys for approved locks used at the distilled spirits plant.

(b) *Changes.* The proprietor shall file an application for amended registration with the regional director (compliance) for any change in personnel or procedures contained in the statement of security.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.154 Notice of registration.

The application for registration, when approved, shall constitute the notice of registration of the distilled spirits plant. A distilled spirits plant shall not be registered or reregistered under this subpart until the applicant has complied with all requirements of law and regulations relating to the qualification of the business or operations in which the applicant intends to engage. A plant shall not be operated unless the proprietor has a valid notice of registration covering the businesses and operations to be conducted at such plant. In any instance where a bond is required to be given or a permit is required to be obtained with respect to a business or operation before notice of registration of the plant may be received with respect thereto, the notice of registration shall not be valid with respect to such business or operation in the event that such bond or permit is no longer in effect. An application for reregistration shall be filed and notice of registration again obtained before engaging in such business or operation at such plant. Reregistration is not required when a new bond or a strengthening bond is filed pursuant to § 19.246 or 19.247.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 805a, Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.155 Maintenance of registration file.

The proprietor shall maintain the registration file in looseleaf form in complete and current condition, readily available at the plant for inspection by ATF officers.

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

§ 19.156 Powers of attorney.

The proprietor shall execute and file with the regional director (compliance) a Form 1534 (5000.8) for each person authorized to sign or to act on behalf of the proprietor. (Not required for persons whose authority is furnished in the application for registration.)

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

§ 19.157 Operating permits.

(a) *General.* Except as provided in paragraph (b) of this section, each person required to file an application for registration under § 19.151 shall make application for and obtain an operating permit before commencing any of the following operations:

(1) Distilling for industrial use.
(2) Warehousing of spirits for industrial use.
(3) Denaturing spirits.
(4) Warehousing of spirits (without bottling) for nonindustrial use.
(5) Bottling or packaging of spirits for industrial use.
(6) Manufacturing articles.
(7) Any other distilling, warehousing, or processing operation not required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978, 27 U.S.C. 203, 204). Application for such operating permit shall be made on Form 5110.25 to the regional director (compliance).

(b) *Exceptions.* The provisions of paragraph (a) of this section shall not apply to any agency of a State or political subdivision thereof, or to any officer or employee of any such agency acting for the agency.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271); Sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.158 Data for application for operating permits.

Each application on Form 5110.25 shall be executed under the penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Applications on Form 5110.25 shall include the following information:

(a) Name and principal business address of the applicant.

(b) Plant address, if different from the business address.

(c) Description of the operation to be conducted for which an operating permit must be obtained.

(d) Statement of type of business organization and of the persons interested in the business, supported by the items of information listed in § 19.167.

(e) Trade names (see § 19.165).

(f) On specific request of the regional director (compliance), furnish a statement as to whether the applicant or any of the persons whose names and addresses are required to be furnished under the provisions of § 19.167(a)(2) and (c) has ever: (1) Been convicted of a felony or misdemeanor under Federal or State law; (2) Been arrested or charged with any violation of State or Federal law (convictions or arrests or charges for traffic violations need not be reported as to paragraphs (f)(1) and (f)(2) of this section, if these violations are not felonies); or (3) Applied for, held, or been connected with a permit, issued under Federal law to manufacture, distribute, sell or use spirits or products containing spirits, whether or not for beverage use, or held any financial interest in any business covered by any such permit, and, if so, give the number and classification of the permit, the period of operation, and state in detail whether the permit was ever suspended, revoked, annulled, or otherwise terminated.

Where any of the information required by paragraph (d) or (f)(3) of this section is on file with the regional director (compliance), the applicant may, by incorporation or by reference, state that the information is made a part of the application for an operating permit. The applicant shall, when required by the regional director (compliance), furnish as a part of his application for an operating permit additional information as may be necessary for the regional director (compliance) to determine whether the applicant is entitled to the permit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271); Sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.159 Issuance of operating permits.

Only one operating permit will be issued for a plant. The operating permit shall designate the operations permitted. All of the provisions of this part relating to the performance of the operations covered by the permit shall be included in the provisions and conditions of the permit. Operating permits shall be kept posted available for inspection at the distilled spirits plant.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271); Sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.160 Duration of permits.

Operating permits are continuing, unless automatically terminated by the terms thereof, suspended or revoked as provided in § 19.163, or voluntarily surrendered. The provisions of § 19.181 shall be a part of the terms and conditions of all operating permits issued under this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.161 Denial of permit.

If, on examination of an application for an operating permit (or on the basis of inquiry or investigation), the regional director (compliance) has reason to believe that—

(a) 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 51, or regulations issued thereunder; or

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

(c) The premises on which the applicant proposes to conduct the operations are not adequate to protect the revenue; the regional director (compliance) may institute proceedings for the denial of the application in accordance with the procedures set forth in 27 CFR Part 200.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.162 Correction of permits.

Where an error in an operating permit is discovered, the proprietor shall, on demand of the regional director (compliance), immediately return the permit for correction.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.163 Suspension or revocation.

Whenever the regional director (compliance) has reason to believe that any person holding an operating permit—

(a) Has not in good faith complied with the provisions of 26 U.S.C. Chapter 51, or regulations issued thereunder; or

(b) Has violated conditions of the permit; or

(c) Has made any false statement as to any material fact in the 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 Title 26, U.S.C. punishable as a felony or of any conspiracy to commit such offense; or

(f) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years; the regional director (compliance) may institute proceedings for the revocation or suspension of the permit in accordance with the procedures set forth in 27 CFR Part 200.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.164 Rules of practice in permit proceedings.

The regulations in 27 CFR Part 200 are made applicable to the procedure and practice in connection with the disapproval of any application for an operating permit required by this subpart, and in connection with the suspension and revocation of such permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.165 Trade names.

(a) *Operating permits.* Where a trade name is to be used in connection with the operations of a plant for which an operating permit is required, the proprietor shall list that trade name on Form 5110.25 (showing the operations in which each trade name will be used) and the offices where the trade name is registered, supported by copies of any certificate or other document filed or issued in respect to the trade name.

(b) *Basic permits.* Where any distilling, warehousing, or processing operation is required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203, 204), regulations issued under such Act govern the approval and use of trade names for those operations.

(c) *Conditions.* Operations shall not be conducted under a trade name until the proprietor is in possession of an operating or basic permit covering the use of such name.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.166 Major equipment.

The following items of major equipment, if on the plant premises, shall be described in the application for registration:

(a) Tanks (serial number and capacity) used in the production, storage and processing of distilled spirits, wine, denatured spirits and articles;

(b) Stills (serial number, kind, capacity and intended use). The capacity shall be stated as the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or (for column stills) may be represented by a statement of the diameter of the base and number of plates; and

(c) Condensers (serial number).

A statement of certification of accurate calibration shall be included in the description of tanks that are to be used for gauging distilled spirits or wine for any purpose.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1352, as amended (26 U.S.C. 5172, 5179))

§ 19.167 Organizational documents.

The supporting information required by paragraph (c) of § 19.152, and paragraph (d) of § 19.158, includes, as applicable, copies of—

(a) *Corporate documents.* (1) Corporate charter or a certificate of corporate existence or incorporation.

(2) List of directors and officers, showing their names and addresses.

(3) Certified extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation.

(4) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, and the voting rights of the respective owners or holders.

(b) *Articles of partnership.* 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.

(c) *Statement of interest.* (1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another for him. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names thereof need be furnished only upon request of the regional director (compliance).

(2) In the case of an individual owner or partnership, the name and address of each person interested in the plant, whether the interest appears in the name of the interested party or in the name of another for that person.

(d) *Availability of additional corporate documents.* The originals of documents required to be submitted under this section and additional documents which may be required by the regional director (compliance) such as the articles of incorporation, bylaws, and State certificate authorizing operations shall be made available to any ATF officer upon request.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

§ 19.168 Description of plant.

(a) The application for registration shall include a description of each tract of land comprising the distilled spirits plant.

(b) The description shall:

(1) Clearly indicate the bonded premises and any general premises included as part of the distilled spirits plant; and

(2) Contain directions and distances in sufficient detail to enable ATF officers to readily determine the boundaries of the plant.

(c) Each building and outside tank used for the production, storage and processing of spirits, denatured spirits, articles, or wines shall be described by location, size, construction, and arrangement with reference to each by its designated number or letter.

(d) If a plant includes a room or floor in a building, a description of the building in which the room or floor is situated and its location shall be given.

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

§ 19.169 Registry of stills.

The provisions of 27 CFR Part 196 are applicable to stills located on plant premises. However, the listing of stills or condensers in the application for registration, and the approval of the application for registration, shall constitute registration of stills or condensers as required by 27 CFR 196.45.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1355, as amended (26 U.S.C. 5172, 5179))

§ 19.170 Statement of production procedure.

The statement of production procedure in the application for registration shall set forth a step-by-step description of the procedure employed to produce spirits from an original source, commencing with the treating, mashing, or fermenting of the raw materials or substances and continuing through each step of the distilling, purifying and refining procedure to the production gauge. The kind and approximate quantity of each material or substance used in producing, purifying, or refining each type of spirits shall be shown.

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

Changes After Original Qualification

§ 19.180 Application for amended registration.

Where there is a change with respect to the information shown in the notice of registration, the proprietor shall submit, within 30 days of such change (except as otherwise provided in this subpart), an application on Form 5110.41 for amended registration. Such application shall set forth, on sheets appropriately numbered or otherwise identified, the information necessary to make the notice of registration accurate and current. Where the change affects only pages or parts of pages of the notice of registration, such complete pages shall be submitted as will enable the replacement of the pages affected and maintenance of the file as provided in § 19.155.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.181 Automatic termination of permits.

(a) *Permits not transferable.* Operating permits issued under this part shall not be transferred. In the event of the lease, sale, or other transfer of such a permit, or of the operations authorized thereby, the permit shall thereupon automatically terminate.

(b) *Corporations.* In the case of a corporation holding an operating permit under this part, if actual or legal control of the permittee corporation changes, directly or indirectly, whether by reason of change in stock ownership or control [in the permittee corporation or in any other corporation), by operation of law, or in any other manner, such permit may remain in effect with respect to the operation covered thereby until the expiration of 30 days after such change, whereupon such permit shall automatically terminate. However, if within such 30 day period an application for a new permit covering such operation is made, then the outstanding operating permit may remain in effect with respect to the continuation of the operation covered thereby until final action is taken on such application. When such final action is taken, such outstanding operting permit shall thereupon automatically terminate.

(c) *Basic permits.* The termination of basic permits is governed by the provisions of 27 CFR Part 1.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.182 Change in name of proprietor.

Where there is to be a change in the individual, firm, or corporate name, the proprietor shall file application to amend the registration and to amend the operating and/or basic permit; a new bond or consent of surety will not be required. Operations may not be conducted under the new name prior to approval of the amended registration and issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

§ 19.183 Change of trade name.

If there is to be a change in, or addition of, a trade name, the proprietor shall file application to amend the operating and/or basic permit; a new bond or consent of surety will not be required. Operations may not be conducted under the new trade name prior to issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended, (26 U.S.C. 5271))

§ 19.184 Changes in stockholders.

Changes in the list of stockholders furnished under the provisions of § 19.167(c)(1) may, in lieu of submission within 30 days of the change under the provisions of § 19.180, be submitted annually by the proprietor on May 1 or other date approved by the regional director (compliance), except where the sale or transfer of capital stock results in a change in the control or management of the business.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

§ 19.185 Changes in officers and directors.

Where there is any change in the list of officers and directors furnished under the provisions of § 19.167(a)(2), the proprietor shall submit, within 30 days of any such change, an application on Form 5110.41 for amended registration, supported by a new list of officers and directors and a statement of the changes relected in such list. Where the proprietor has shown to the satisfaction of the regional director (compliance) that certain corporate officers listed on the original appplication have no responsibilities in connection with the operations covered by the registration, the regional director (compliance) may waive the requirements for submitting applications for amended registration to cover changes of such corporate officers.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, (26 U.S.C. 5172); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.186 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of a plant qualified under this part, the outgoing proprietor shall comply with the requirements of § 19.211, and the successor shall, before commencing operations, apply for and obtain the required permits, file the required bonds, and file application for and receive notice of registration of the plant in the same manner as a person qualifying as the proprietor of a new plant, except that the successor may, in the manner provided in § 19.187, adopt the approved Forms 5110.38 and 1479-A (5150.9) of the predecessor. Spirits may be transferred from an outgoing proprietor of a plant to a successor in the manner provided in § 19.201.

(b) *Fiduciary.* If the successor to the proprietorship of a plant is an administrator, executor, receiver, trustee, assignee or other fiduciary, he shall comply with the provisions of paragraph (a) of this section except that he may, in lieu of filing a new bond, furnish consent of surety extending the terms of the predecessor's bond, and he may also incorporate by reference in the application for registration on Form 5110.41 any pertinent information contained in the predecessor's notice of registration. The fiduciary shall furnish a certified copy of the order of the court or other pertinent document showing qualification as such fiduciary. The effective dates of the qualifying documents filed by the fiduciary shall be the effective date of the court order, or the date specified therein for him to assume control. If the fiduciary was not appointed by a court, the date of assuming control shall coincide with the effective date of the qualifying documents filed by the fiduciary.

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

§ 19.187 Adoption of formulas.

(a) *Forms 5110.38.* The adoption by a successor of approved Forms 5110.38 (27-B Supplemental) shall be in the form of an application, filed with the Director. The application shall list the formulas for adoption by (1) formula number, (2) name of product, and (3) date of approval. The application shall clearly show that the predecessor has authorized the use of its previously approved formulas by the successor.

(b) *Forms 1479-A (5150.19).* The adoption by a successor of approved Forms 1479-A (5150.19) shall be in accordance with 27 CFR 211.62.

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

§ 19.188 Partnerships.

If under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the plant under the prior qualification of the partnership, provided a consent of surety is filed, wherein the surety and the surviving partner agree to remain liable on the operations or unit bond. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall qualify in his own name from the date of acquisition, as provided in § 19.186(a). The rule set forth in this section shall also apply where there is more than one surviving partner.

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

§ 19.189 Change in location.

Where there is a change in the location of the plant, the proprietor shall file applications to amend the registration of the plant and the operating and/or basic permit, and either a new bond or a consent of surety on Form 1533. Operation of the plant may not be commenced at the new location prior to approval of the amended registration and issuance of the amended permit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349 as amended, 1370, as amended (26 U.S.C. 5172, 5271); Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.190 Changes in premises.

Except as provided in §§ 19.202, 19.203, 19.204, and 19.205, where bonded premises, or any other premises included as a part of the plant are to be extended or curtailed, the proprietor shall file an application for registration, Form 5110.41, to cover such extension or curtailment. Premises and equipment to be included by extension or to be excluded by curtailment shall not, prior to approval by the regional director (compliance) of the requried documents, be used for other than previously approved purposes.

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

§ 19.191 Change in operations.

If the proprietor proposes to conduct a new business or operation involving spirits, he shall file applications to amend the registration of the plant and the operating and/or basic permit. If the proprietor desires to engage, on the plant premises, in other businesses, as provided in Subpart D, he shall submit an application to amend the registration of the plant to include the information required under § 19.152(1)(4). The additional operation or business may not be carried on prior to approval of the amended registration and (if required) issuance of the amended permit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended, (26 U.S.C. 5172, 5271); Sec. 805(a), Pub. L. 96–39, 93 Stat. 275 (26 U.S.C. 5171))

§ 19.192 Change in production procedure.

If the proprietor desires to produce a new product or make a change in a production procedure which would affect the designation, or substantially affect the character of his product, the proprietor shall file an application to amend the registration of the plant to include the amended or new statement of production procedure. The new or changed procedure may not be used prior to approval of the amended registration.

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

§ 19.193 Changes in construction or use of buildings and equipment.

(a) *Changes.* When a material change, affecting the accuracy of the notice of registration, is to be made in the construction or use of buildings or equipment of a plant, other than a change covered by §§ 19.190, 19.202, 19.203, 19.204, or 19.205, the proprietor shall, before making such change, submit a letterhead notice to the regional director (compliance) through the area supervisor.

(b) *Letterhead notice.* The letterhead notice shall:

(1) Describe the proposed change in detail;

(2) Be kept on file with the proprietor's current notice of registration; and

(3) After completion of the change, be incorporated in the next amendment of the notice of registration on Form 5110.41, unless the regional director (compliance) requires immediate amendment.

(c) *Emergency changes.* The proprietor may make emergency material changes without prior notification, but when such emergency changes are made, the proprietor shall promptly report such changes to the area supervisor.

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

Operations by Alternating Proprietors

§ 19.201 Procedure for alternating proprietors.

(a) *General.* A plant, or any part thereof which is suitable for qualification as a separate plant, may be operated alternately by proprietors who have filed and received approval of the necessary bonds and applications for registration, and have otherwise qualified under the provisions of this subpart. Where operations by alternating proprietors are limited to parts of the plant, the notice of registration shall describe the areas, rooms or buildings or combination thereof, which will be alternated, and shall be accompanied by special diagrams designating the parts of the plant which are to be alternated. A special diagram shall be submitted for each arrangement under which the premises will be operated. Once such qualifying documents have been approved, and initial operations have been conducted thereunder, the plant, or parts thereof, may be alternated by the proprietor filing notices on Form 5110.34 with the regional director (compliance). Any transfer of spirits, idenatured spirits, and wines shall be indicated on Form 5110.34 filed by each proprietor.

(b) *Production.* Distilling materials and unfinished spirits in any bonded areas, rooms or buildings to be alternated shall be processed to completion by the outgoing proprietor unless transferred to the incoming proprietor. All finished spirits shall be marked and removed by the outgoing proprietor in the name in which produced, before production gauge is made of any spirits by the incoming proprietor.

(c) *Storage.* Spirits and wines in any bonded areas, rooms, or buildings to be alternated shall be transferred in bond to the incoming proprietor. The outgoing proprietor shall execute a consent of surety on Form 1533 (5000.18) to continue in effect the operations or unit bond whenever operation of the areas, rooms, or buildings is to be resumed by him following suspension of operations by an alternate proprietor.

(d) *Processing.* Spirits, denatured spirits, wines and articles in any rooms, areas, or buildings to be alternated shall be processed to completion and removed from the affected areas, rooms, or buildings by the outgoing proprietor prior to the effective date and hours given in the notice unless transferred or retained in locked tanks as provided in this paragraph. Spirits, denatured spirits, and wines may be transferred to the incoming proprietor. Further, the outgoing proprietor shall execute a consent of surety on Form 1533 (5000.18) to continue in effect the operations or unit bond whenever operation of the affected areas, rooms, or buildings is to be resumed by him following suspension of operations by the alternate proprietor. Denatured spirits and articles may be retained in tanks locked by approved locks, the keys to which are in the custody of the outgoing proprietor. In this case, the outgoing proprietor shall execute a consent of surety on Form 1533 (5000.18) to continue liability on the operations or unit bond for the tax on such denatured spirits or articles retained in such tanks, notwithstanding the change in proprietorship.

(e) *Records.* Each proprietor shall maintain separate records and submit separate reports. Records kept by the outgoing proprietor for spirits, wines, and alcoholic flavoring materials may be used by the incoming proprietor. All transfers of distilling materials, unfinished spirits, spirits, denatured spirits, and wines shall be reflected in the records of each proprietor.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

Alternate Operations

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

(a) *General.* The premises of a distilled spirits plant may, as provided in this section, be alternately curtailed and extended to permit the facilities of the distilled spirits plant to be used temporarily by customs officers, under applicable customs law and regulations, for the purpose of gauging or processing distilled spirits. The use of the excluded portion of the premises for customs purposes is subject to the approval of the district director of customs. When it is necessary to convey spirits in customs custody across the premises of a distilled spirits plant, the proprietor shall comply with the provisions of § 19.99. When a portion of the distilled spirits plant premises is first to be excluded as provided in this section, the proprietor shall file with the regional director (compliance) (1) an application for registration, Form 5110.41, to cover alternate curtailment and extension of premises, and (2) a special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment, and clearly depicting all buildings, floors, rooms, areas, equipment and spirits lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence. Once such qualifying documents have been approved by the regional director (compliance), the designated premises and equipment may be alternately curtailed or extended pursuant to notice on Form 5110.34. Portions of the premises to be excluded by curtailment or included by extension shall not be used for purposes other than as set forth in the current notice. The proprietor shall remove all spirits from the premises or equipment affected by the notice prior to the effective date and hours of the notice. However, on release by customs, spirits being transferred to bonded premises under 26 U.S.C. 5232, may remain on the premises to be reincluded in bonded premises.

(b) *Separation of premises.* The portion of the premises which is to be excluded from the distilled spirits plant premises as provided in this section shall be separated from the remaining portion of the distilled spirits plant premises in a manner which satisfies the regional director (compliance) that the revenue will not be jeopardized.

(c) *Exception.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, the bonded premises may be used temporarily without filing Form 5110.41 or Form 5110.34, for the sole purpose of gauging bulk distilled spirits to effect their transfer from customs custody to ATF bond.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1358, as amended (26 U.S.C. 5172, 5178))

§ 19.203 Alternation of distilled spirits plant and bonded wine cellar premises.

(a) *General.* A proprietor of a distilled spirits plant operating a contiguous bonded wine cellar desiring to alternate the use of each premises by extension and curtailment shall file necessary qualifying documents with the regional director (compliance).

(b) *Qualifying documents.* The proprietor shall file with the regional director (compliance):

(1) Form 5110.41 and Form 698 (5120.25) to cover the proposed alternation of premises;

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

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

(c) *Proprietor's responsibility.* After approval of qualifying documents for the alternation of premises, and after initial operations have been conducted thereunder, the proprietor shall execute Form 5110.34 each time the premises are alternated. Prior to the effective hour of the date shown on the Form 5110.34, the proprietor shall remove all spirits, denatured spirits, articles, and wines from the distilled spirits plant premises alternated to bonded wine cellar premises. Any wine on bonded wine cellar premises shall be removed prior to alternation to distilled spirits plant premises unless wine is being simultaneously transferred in bond to the distilled spirits plant.

(d) *Separation of premises.* Separation of distilled spirits plant premises from bonded wine cellar premises after alternation shall be in a manner which satisfies the regional director (compliance) that the revenue will not be jeopardized.

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

§ 19.204 Alternation of distilled spirits plant and taxpaid wine bottling house premises.

(a) *General.* A proprietor of a distilled spirits plant operating a contiguous taxpaid wine bottling house desiring to alternate the use of each premises by extension and curtailment shall file necessary qualifying documents with the regional director (compliance).

(b) *Qualifying documents.* The proprietor shall file with the regional director (compliance):

(1) Form 5110.41 and Form 2975 (5140.2) to cover the proposed alternation of premises;

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

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

(c) *Proprietor's responsibility.* After approval of qualifying documents for the alternation of premises, and after initial operations have been conducted thereunder, the proprietor shall execute Form 5110.34 each time the premises are alternated. Prior to the effective hour of the date shown on the Form 5110.34, the proprietor shall remove all spirits, denatured spirits, articles, and wines from the distilled spirits plant premises alternated to taxpaid wine bottling house premises. Any wine on taxpaid wine bottling house premises shall be removed prior to alternation to distilled spirits plant premises.

(d) *Separation of premises.* Separation of distilled spirits plant premises from taxpaid wine bottling house premises after alternation shall be in a manner which satisfies the regional director (compliance) that the revenue will not be jeopardized.

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

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

(a) *General.* The premises of a distilled spirits plant may, as provided in this section, be alternately curtailed and extended to permit the bonded premises of the distilled spirits plant to be used temporarily as general premises, or to permit the general premises of a distilled spirits plant to be used temporarily as bonded premises.

(b) *Qualifying documents.* When a portion of the distilled spirits plant premises is first to be curtailed or extended as provided in this section, the proprietor shall file with the regional director (compliance)—

(1) An application for registration, Form 5110.41, to cover alternate extension and curtailment of the premises, and

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

(c) *Proprietor's responsibility.* Once such qualifying documents have been approved by the regional director (compliance), the designated premises and equipment may be alternately curtailed or extended pursuant to notice on Form 5110.34. Portions of the premises to be excluded by curtailment or included by extension shall not be used for purposes other than as set forth in the current notice. The proprietor shall remove all spirits, denatured spirits, articles, and wines from the premises or equipment affected by the notice prior to the effective date and hour of the notice, except that—

(1) Bonded spirits on portions of bonded premises that are to be curtailed to general premises need not be removed if the spirits are taxpaid concurrent with the filing of Form 5110.34 to effect curtailment; and

(2) Taxpaid spirits on portions of general premises to be curtailed to bonded premises need not be removed if the spirits are to be immediately dumped and returned to bond under the provisions of Subpart U of this part.

(d) *Separation of premises.* The portion of the premises which is to be curtailed or extended as provided in this section shall be separated from the remaining portion of the distilled spirits plant in a manner which satisfies the regional director (compliance) that the revenue will not be jeopardized.

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

Permanent Discontinuance of Business

§ 19.211 Notice of permanent discontinuance.

When the proprietor permanently discontinues any or all of the operations listed in the notice of registration, he shall file a Form 5110.41 to show the discontinuance. Form 5110.41 shall be accompanied—

(a) By all permits issued to the proprietor under this subpart covering the discontinued operations, and by his request that such permits be canceled;

(b) By the proprietor's written statement disclosing, as applicable, whether

(1) All spirits, denatured spirits, articles, wines, liquor bottles, strip stamps, and other pertinent items have been lawfully disposed of,

(2) Any spirits, denatured spirits, wines, liquor bottles, or strip stamps are in transit to the premises,

(3) All approved applications for transfer of spirits and denatured spirits to the premises have been secured and returned to the regional director (compliance) for cancellation; and

(c) By pertinent reports covering the discontinued operations (each report shall be marked "Final Report").

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

Subpart H—Bonds and Consents of Surety

§ 19.231 Filing of operations or unit bonds.

Every person intending to establish a distilled spirits plant shall file an operations or unit bond as prescribed in this subpart, covering distilled spirits operations at such plant, with the regional director (compliance), at the time of filing the original application for registration of the plant, and at such other times as are required by this part. Such bond shall be conditioned that he shall faithfully comply with all provisions of law and regulations relating to activities covered by such bond, will pay all taxes imposed by 26 U.S.C. Chapter 51, and shall pay all penalties incurred or fines imposed for violation of any such provisions. The regional director (compliance) may require, in connection with any operations or unit bond, a statement, executed under the penalties of perjury, as to whether the principal or any person owning, controlling, or actively participating in the management of the business of the principal has been convicted of or has compromised any offense set forth in § 19.237(a)(1) or has been convicted of any offense set forth in § 19.237(a)(2). In the event the above statement contains an affirmative answer, the applcant shall submit a statement describing in detail the circumstances surrounding such conviction or compromise. No person shall comence of continue distilled spirits operations at such plant unless he has a valid operations or unit bond (and consent of surety, if necessary), as required in respect of such operations by this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551); Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.232 Additional condition of operations bond.

In addition to the requirements of § 19.231, the operations bond shall be conditioned on payment of the tax now or hereafter in force, except as provided by law, including taxes on all unexplained shortages of bottled distilled spirits.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.233 Corporate surety.

(a) Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies).

(b) Treasury Department Circular No. 570 is published in the **Federal Register** yearly as of the first workday of July. As they occur, interim revisions of the circular are published in the **Federal Register**. Copies may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

(Ch. 390, Pub. L. 80-280, 61 Stat. 648 as amended (6 U.S.C. 6, 7))

§ 19.234 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR Part 225.

(Ch. 390, Pub. L. 80-280, 61 Stat. 650 (6 U.S.C. 15))

§ 19.235 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.236 Filing and execution of powers of attorney.

(a) *Filing.* Each bond, and each consent to changes in the terms of a

bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The regional director (compliance) who is authorized to approve the bond may require additional evidence of the authority of the agent or officer to execute the bond or consent.

(b) *Execution.* The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(Ch. 390, Pub. L. 80-280, 61 Stat. 648 (6 U.S.C. 6, 7))

§ 19.237 Disapproval of bonds or consents of surety.

(a) *Disapproval.* The regional director (compliance) may disapprove any bond or consent of surety submitted in respect to the operations of a distiller, warehouseman, or processor, if the principal or any person owning, controlling, or actively participating in the management of the business of the principal shall have been previously convicted, in a court of competent jurisdiction of—

(1) Any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of spirits, wines, or beer, or if such an offense shall have been compromised with the person on payment of penalties or otherwise, or

(2) Any felony under a law of any State or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.

(b) *Appeal.* Where a bond or consent of surety is disapproved by the regional director (compliance), the person giving the bond may appeal to the Director, who will hear such appeal. The decision of the Director shall be final.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

§ 19.241 Operations bond—distilled spirits plant and adjacent bonded wine cellar.

(a) *General.* A wine cellar under the provisions of 27 CFR Part 240 shall be treated as being adjacent to a distilled spirits plant if—

(1) Such distilled spirits plant is qualified under Subpart G for the production of distilled spirits; and

(2) Such wine cellar and distilled spirits plant are operated by the same person (or in the case of a corporation, by such corporation and its controlled subsidiaries). For the purpose of this section a controlled subsidiary is a corporation where more than 50 percent of the voting power is controlled by the parent corporation.

(b) *Bond in lieu of wine cellar bond.* In the case of an adjacent bonded wine cellar, a bond furnished under this subpart which covers operations at such bonded wine cellar shall be in lieu of any bond which would otherwise be required under 26 U.S.C. 5354 with respect to such wine cellar (other than supplemental bonds required under the second sentence of 26 U.S.C. 5354) and the operations bond listed in § 19.245(a)(1).

(c) *Liability.* Bonds given under this section shall contain the terms and conditions of the bonds in lieu of which they are given. The total amount of such operations bond shall be available for the satisfaction of any liability incurred under the terms or conditions of such bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.242 Area operations bond.

Any person (or, in the case of a corporation, a corporation and its controlled subsidiaries) operating more than one plant in a region may give an area operations bond covering the operation of any two or more of such plants, and any bonded wine cellars which are adjacent to such plants and which otherwise could be covered by an operations bond. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting power is controlled by the parent corporation. Bonds given under this section shall be in lieu of the bonds which would be required under § 19.245(a) and shall contain the terms and conditions of such bonds. If the area operations bond covers the operations of more than one corporation, each corporation shall be shown as principal, and the bond shall be signed for each corporation. The total amount of the area operations bond shall be available for the satisfaction of any liability incurred under the terms or conditions of such bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.243 Withdrawal bond.

Any person (or, in the case of a corporation, a corporation and its controlled subsidiaries) operating one or more distilled spirits plants within a region and who intends to withdraw spirits from bond on determination, but before payment, of the tax shall, before making any such withdrawal, furnish a withdrawal bond to secure payment of the tax on all spirits so withdrawn. Such bond shall be in addition to the operations bond, and if the distilled spirits are withdrawn under the withdrawal bond, the operations bond shall no longer cover liability for payment of the tax on the spirits withdrawn. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting power is controlled by the parent corporation. The bond, if it covers more than one plant, shall show as to each plant covered by the bond the part of the total sum which represents the penal sum (computed in accordance with § 19.245) for each such plant. If the penal sum of the bond covering a plant, or the penal sum allocated to any plant (where the bond covers more than one plant), is in an amount less than the maximum prescribed in § 19.245, withdrawals from such plant shall not exceed the quantity permissible, as reflected by the penal sum in the bond for such plant. Such withdrawal bond shall be conditioned that the total amount of the bond shall be available for satisfaction of any liability incurred under the terms and conditions of such bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.244 Unit bond.

Any person (or, in the case of a corporation, a corporation and its controlled subsidiaries) who would otherwise be required to give bonds for both operations at one or more distilled spirits plants (and any adjacent bonded wine cellars) and withdrawals from one or more distilled spirits plants within a reigon may, in lieu of furnishing separate bonds for operations and withdrawals, furnish a unit bond containing the terms and conditions of the bonds in lieu of which it is given. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting power is controlled by the parent corporation. The unit bond shall show as to each plant covered by the bond the part of the total sum which represents the penal sum (computed in accordance with § 19.245) for operations at and withdrawals from each plant. If the penal sum of the bond covering a plant, or the penal sum allocated to any plant (if the bond covers more than one plant), is in an amount less than the maximum prescribed in § 19.245, operations at and/or withdrawals from such plant shall not exceed the quantity permissible as reflected by the penal sum in the bond for such plant. The unit bond shall be conditioned that the total

amount of the bond shall be available for satisfaction of any liability incurred under the terms and conditions of such bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.245 Bonds and penal sums of bonds.

The bonds, and the penal sums thereof, required by this subpart, are as follows:

PENAL SUM

Type of bond	Basis	Minimum	Maximum
(a) Operations bond:			
(1) One plant bond—			
(i) Distiller	The amount of tax on spirits produced during a period of 15 days	$5,000	$100,000
(ii) Warehouseman:			
(A) General	The amount of tax on spirits and wines deposited in, stored on, and in transit to bonded premises.	5,000	200,000
(B) Limited to storage of spirits in packages to a total of not over 500,000 proof gallons.	do	5,000	50,000
(iii) Distiller and warehouseman	The amount of tax on spirits produced during a period of 15 days, and the amount of tax on spirits and wines deposited, in stored on, and in transit to bonded premises.	10,000	200,000
(iv) Distiller and processor	The amount of tax on spirits produced during a period of 15 days, and the amount of tax on spirits, denatured spirits, articles, and wines deposited in, stored on, and in transit to bonded premises.	10,000	200,000
(v) Warehouseman and processor:			
(A) General	The amount of tax on spirits, denatured spirits, articles, and wines deposited in, stored on, and in transit to bonded premises.	10,000	250,000
(B) Limited to storage of spirits or denatured spirits in packages to a total of not over 50,000 proof gallons, and processing of spirits or denatured spirits so stored.	do	10,000	50,000
(vi) Distiller, warehouseman, and processor	The amount of tax on spirits produced during a period of 15 days, and the amount of tax on spirits, denatured spirits, articles, and wines deposited in, stored on, and in transit to bonded premises.	15,000	250,000
(2) Adjacent bonded wine cellars—			
(i) Distiller and bonded wine cellar	The sum of the amount of tax calculated in (a)(1)(i) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit.	6,000	150,000
(ii) Distiller, warehouseman and bonded wine cellar	The sum of the amount of tax calculated in (a)(1)(ii) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit.	11,000	250,000
(iii) Distiller, processor and bonded wine cellar	The sum of the amount of tax calculated in (a)(1)(iv) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit.	11,000	250,000
(iv) Distiller, warehouseman, processor and bonded wine cellar.	The sum of the amount of tax calculated in (a)(1)(vi) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit.	16,000	300,000
(b) Area operations bond:	The penal sum shall be calculated in accordance with the following table:		
Total penal sums as determined under (a)	Requirements for penal sum of area operations bond		
Not over $300,000	100 percent.		
Over $300,000 but not over $600,000	$300,000 plus 70 percent of excess over $300,000.		
Over $600,000 but not over $1,000,000	$510,000 plus 50 percent of excess over $600,000.		
Over $1,000,000 but not over $2,000,000	$710,000 plus 35 percent of excess over $1,000,000.		
Over $2,000,000	$1,060,000 plus 25 percent of excess over $2,000,000.		
(c) Withdrawal bond:			
(1) One plant qualified for distilled spirits operations	The amount of tax which, at any one time, is chargeable against such bond but has not been paid.	1,000	1,000,000
(2) Two or more plants in a region qualified for distilled spirits operations.	Sum of the penal sums for each plant calculated in (c)(1) of this section	(1)	(2)
(d) Unit bond:			
(1) Both operations at a distilled spirits plant (and any adjacent bonded wine cellar) and withdrawals from the bonded premises of the same distilled spirits plant.	Total penal sums of (a) and (c)(1) of this section	6,000	1,300,000
(2) Both operations at two or more distilled spirits plants (and any adjacent bonded wine cellar) within the same region and withdrawals from the bonded premises of the same distilled spirits plants.	Total penal sums of (b) and (c)(2) of this section in lieu of which given	(3)	(4)

[1] Sum of the minimum penal sums required for each plant covered by the bond.
[2] Sum of the maximum penal sums required for each plant covered by the bond. (The maximum penal sum for one plant is $1,000,000.)
[3] Sum of the minimum penal sums for operations and withdrawal bonds required for each plant covered by the bond.
[4] Sum of the maximum penal sums for area operations bonds and withdrawal bonds required for the plants covered by the unit bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.246 Strengthening bonds.

In all cases when the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved 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 any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551); Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

New or Superseding Bonds

§ 19.247 General.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the regional director (compliance), be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or

liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, under the provisions of § 19.250, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business of operations to which such bond relates, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. New or superseding bonds shall show the current date of execution and the effective date.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended, 1394, as amended (26 U.S.C. 5175, 5178, 5551); Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.248 New or superseding bond.

(a) *Operations bond.* When a new or superseding operations bond is not given as required in § 19.247, the principal shall immediately discontinue the business or distilled spirits operations to which such bond relates.

(b) *Withdrawal bond.* When a new or superseding withdrawal bond is not given as required by § 19.247, the principal may not withdraw any distilled spirits from bonded premises (other than distilled spirits withdrawn under 26 U.S.C. 5214 or 7510) except on prior payment of tax.

(c) *Unit bond.* When a new or superseding unit bond is not given as required by § 19.247, the principal shall immediately discontinue the business or distilled spirits operations to which such bond relates and may not withdraw any distilled spirits from bonded premises (other than distilled spirits withdrawn under 26 U.S.C. 5214 or 7510) except on prior payment of tax.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5175, 5176); Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

Termination of Bonds

§ 19.249 Termination of bonds.

Operations, withdrawal, or unit bonds may be terminated as to liability for future withdrawals and/or to future production or deposits.

(a) Pursuant to application of the surety as provided in § 19.250.

(b) On approval of a superseding bond.

(c) On notification by the principal that he has discontinued withdrawals under the bond if such bond was filed solely as a withdrawal bond, or

(d) On notification by the principal that he has discontinued business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5175, 5176); Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.250 Application of surety for relief from bond.

A surety on any operations, withdrawal, or unit bond may at any time in writing notify the principal and the regional director (compliance) in whose office the bond is on file that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 10 days after the date the notice is received by the regional director (compliance) in the case of a withdrawal bond, and not less than 90 days after the date the notice is received in the case of an operations or unit bond. The surety shall also file with the regional director (compliance) an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 19.251.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5175, 5176); Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.251 Relief of surety from bond.

(a) *General.* The surety on an operations, withdrawal, or unit bond who has filed application for relief from liability as provided in § 19.250 shall be relieved from liability under such bond as set forth in this section.

(b) *Operations or unit bonds.* Where a new or superseding bond is filed, the surety shall be relieved of future liability with respect to production and deposits wholly subsequent to the effective date of the new or superseding bond. Notwithstanding such relief, the surety shall remain liable for the tax on all distilled spirits or wines produced, or for other liabilities incurred, during the term of the bond. Where a new or superseding bond is not filed the surety shall, in addition to the continuing liabilities above specified, remain liable under the bond for all spirits or wines on hand or in transit to the bonded premises or bonded wine cellar, as the case may be, on the date named in the notice until all such spirits or wines have been lawfully disposed of, or a new bond has been filed by the principal covering the same.

(c) *Withdrawal or unit bonds.* The surety shall be relieved from liability for withdrawals made wholly subsequent to the date specified in the notice, or the effective date of a new bond, if one is given.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5176,); Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.252 Release of pledged securities.

Securities of the United States pledged and deposited as provided in § 19.234 shall be released only in accordance with the provisions of 31 CFR Part 225. Such securities will not be released by the regional director (compliance) until liability under the bond for which they were pledged has been terminated. When the regional director (compliance) is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the regional director (compliance) may extend the date of release for such additional length of time as he deems necessary.

(Ch. 290, Pub. L. 80–280, 61 Stat. 650 (6 U.S.C. 15))

Subpart I—Construction, Equipment and Security

§ 19.271 Construction of buildings

Buildings in which spirits, denatured spirits, articles, or wines are produced, stored, or processed shall be constructed with substantial material (e.g., masonry, concrete, wood, metal, etc.), and arranged, equipped, and protected to provide adequate security to the revenue.

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

§ 19.272 Equipment.

The proprietor shall provide equipment suitable for the operations conducted on the distilled spirits plant. The equipment shall also meet the needs for revenue protection.

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

§ 19.273 Tanks.

(a) *General.* (1) Tanks used as receptacles for spirits, denatured spirits, or wines shall be located, constructed, and equipped to be suitable for the intended purpose and to allow ready examination.

(2) An accurate means of measuring the contents of each tank shall be provided by the proprietor.

(3) When a means of mearuring is not a permanent fixture of the tank, the tank shall be equipped with a fixed device to allow the approximate contents to be determined readily.

(4) Tanks used for determining the tax imposed by 26 U.S.C. 5001 shall be mounted on scales and an additional

suitable device shall be provided so that the volume of the contents can be quickly and accurately determined.

(5) The proprietor shall install walkways, landings and stairways which will permit safe access to all parts of a tank.

(6) Tanks in which gauges required by this part are to be made shall not be used until they are accurately calibrated and a statement of certification of accurate calibration is included in the notice of registration.

(7) If tanks or their fixed gauging devices are moved in location or position subsequent to original calibration, the tanks shall not be used until recalibrated.

(8) All tanks shall be equipped or situated so that they may be locked or otherwise secured.

(9) Any tank vents, flame arresters, foam devices, or other safety devices shall be constructed to prevent extraction of spirits or wines.

(b) *Scale tanks.*

(1) Beams or dials of scale tanks used for determining the tax imposed by 26 U.S.C. 5001 shall have minimum graduations not greater than the following:

Quantity to be weighed	Minimum graduation
Not exceeding 2,000 pounds	½ pound;
Between 2,000 and 6,000 pounds	1 pound;
Between 6,000 and 20,000 pounds	2 pounds;
Between 20,000 and 50,000 pounds	5 pounds;
Over 50,000 pounds	10 pounds.

(2) For scales having a capacity greater than 2,000 pounds, the minimum quantity which may be entered onto the weighing tank scale for gauging for tax determination shall be the greater of

(i) 1,000 times the minimum graduation of the scale or

(ii) 5 percent of the total capacity of the weighing tank scale.

(3) The weighing of lesser quantities for determination of tax may be authorized by the regional director (compliance) where the beam of the scale is calibrated in ½ pound or 1 pound graduations and it is found by actual test that the scales break accurately at each graduation.

(4) Lots of spirits weighing 1,000 pounds or less shall be weighed on scales having ½ pound graduations.

(c) *Testing of scale tanks.*

(1) Proprietors shall ensure the accuracy of scales used for weighing lots of spirits or denatured spirits through tests conducted at intervals of not more than 6 months, and whenever scales are adjusted or repaired.

(2) Proprietors shall also test, at least once a month, the gallonage represented to be in a scale tank against the gallonage indicated by volumetric determination of the contents of the tank. However, if the scale is not used during a month the volumetric determination need only be verified at the next time actually used.

(3) The volumetric determination shall be made in accordance with 27 CFR Part 30, and if the variation exceeds 0.5 percent of the quantities shown to be in the tank, the proprietor shall take appropriate steps to have the accuracy of the scale verified.

(4) When an ATF officer determines that a tank scale may be inaccurate, the proprietor shall have the accuracy of the scale tested.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1320, as amended, 1358, as amended, 1391, as amended (26 U.S.C. 5006, 5204, 5505))

§ 19.274 Pipelines.

(a) *General.*

(1) Pipelines for the conveyance of spirits, denatured spirits, articles, or wines shall be of permanent character and constructed, connected, arranged, and secured so as to afford adequate protection to the revenue and to permit ready examination. However, the regional director (compliance) may approve pipelines which may not be readily examined if no jeopardy to the revenue is created.

(2) Where a pipeline connection must be flexible, a hose may be used if connected and secured so as to protect the revenue.

(b) *Identification.* The regional director (compliance) may require permanent pipelines for conveyance of spirits or denatured spirits to be color coded to provide identification.

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

§ 19.275 Continuous distilling system.

The distilling system shall be continuous, and designed, constructed, and connected in such a manner as to prevent the unauthorized removal of distilled spirits.

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

§ 19.276 Package scales.

Proprietors shall ensure the accuracy of scales used for weighing packages of spirits through tests conducted at intervals of not more than 6 months or whenever scales are adjusted or repaired. However, if the scales are not used during such period, the scales need only be tested prior to use. Scales used to weigh packages designed to hold 10 wine gallons or less shall indicate weight in ounces or in hundredths of a pound.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 19.277 Measuring devices and proofing instruments.

(a) *General.* Proprietors shall provide for their own use accurate hydrometers, thermometers, and other necessary equipment to determine proof or volume.

(b) *Instruments.* Hydrometers and thermometers used by proprietors to gauge spirits shall show subdivisions or graduations of proof and temperature which are at least as delimitated as those prescribed in 27 CFR Part 30. Proprietors shall make frequent tests of their hydrometers and thermometers, and, if they appear to be in error in excess of one subdivision, the instruments shall not be used until they are further tested and certified as accurate by the manufacturer or another qualified person.

(c) *Meters.* The regional director (compliance) may approve applications to measure spirits by meter for purposes other than tax determination. Applications shall include sufficient technical data, such as the make, model and accuracy tolerance, to enable the regional director (compliance) to evaluate the suitability of the meter for its intended use. Corrections for temperature of the spirits being measured shall be made in conjunction with the volumetric measurement of spirits by meter. If a meter does not have a temperature compensating feature, temperature correction shall be ascertained and made from a representative sample taken from the spirits being measured.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 19.278 Identification of structures, areas, apparatus, and equipment.

(a) Each room or enclosed area where spirits, denatured spirits, articles, wine, distilling or fermenting materials, or containers are held, and each building, within the plant, shall be appropriately marked with a distinguishing number or letter.

(b) Each tank or receptacle for spirits, denatured spirits, or wine shall be marked to show a unique serial number and capacity.

(c) Each still, fermenter, cooker, and yeast tank shall be numbered and marked to show its use.

(d) All other major equipment used for processing or containing spirits, denatured spirits, or wine, or distilling or fermenting material, and all other tanks, shall be identified as to use unless the intended purpose is readily apparent.

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

§ 19.279 Office facilities.

(a) If the regional director (compliance) assigns on a continuing basis an ATF officer to a plant to supervise operations, the proprietor shall provide an office at the distilled spirits plant for the exclusive use of ATF officers in performing their duties. The office shall be provided with adequate office furniture, lighting, ventilation, heating, and toilet and lavatory facilities. A secure cabinet, fitted for locking with a Government lock and of adequate size, shall also be provided by the proprietor. The office, facilities, and equipment provided by the proprietor shall be subject to the approval of the regional director (compliance). Where suitable facilities are otherwise available, the regional director (compliance) may waive the requirements for a separate Government office.

(b) If an ATF officer is not assigned to a plant on a continuing basis, the regional director (compliance) may require the proprietor to provide for Government use a cabinet as specified in paragraph (a) of this section.

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

§ 19.280 Signs.

The proprietor shall place and keep conspicuously on the outside of his place of business a sign showing the name of the proprietor and denoting the business, or businesses, in which engaged.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended (26 U.S.C. 5180))

§ 19.281 Security.

(a) *General.* The proprietor shall provide adequate security measures at the distilled spirits plant to protect the revenue.

(b) *Buildings.* The buildings, rooms, and partitions shall be constructed of substantial materials. Doors, windows, or any other openings to the building shall be secured or fastened during times when distilled spirits plant operations are not being conducted.

(c) *Outdoor tanks.* Outdoor tanks containing spirits, denatured spirits, or wine shall be individually locked or locked within an enclosure when they are not in use.

(d) *Indoor tanks.* Indoor tanks containing spirits, denatured spirits, or wines or the rooms or buildings in which they are housed, shall be equipped so that they may be secured.

(e) *Approved locks.* (1) Approved locks shall be used to secure:

(i) outdoor tanks containing spirits in the storage account or on an enclosure around such tanks;

(ii) indoor tanks containing spirits in the storage account or on the door from which access may be gained from the outside to the rooms or buildings in which such tanks are housed; and

(iii) any doors from which access may be gained from the outside to rooms or buildings containing spirits in portable bulk containers in the storage account.

(2) Approved locks shall meet the following minimum specifications:

(i) corresponding serial number on the lock and on the key, except for master key locking systems;

(ii) case hardened shackle at least one-fourth inch in diameter, with heel and toe locking;

(iii) Body width of at least 2";

(iv) captured key feature (key may not be removed while shackle is unlocked);

(v) tumbler with at least 5 pins; and

(vi) lock or key contains no bitting data.

Master key locking systems may be used at the option of the proprietor. Locks meeting the specifications in this section are approved locks for the purpose of 26 U.S.C. 5682. Proprietors who wish to use locks of unusual design, which do not meet the specifications in this part, shall submit an example or prototype of the lock to the Director, through the regional director (compliance), with a request that the lock be approved for use. The Director may require submission of the lock for testing prior to approval.

(f) *Additional security.* Where the regional director (compliance) finds the construction, arrangement, equipment, or protection inadequate, additional security shall be provided (i.e., fences, flood lights, alarm systems, guard services) or changes in construction, arrangement, or equipment shall be made to be extent necessary to protect the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended, 1410, as amended (26 U.S.C. 5178, 5682); Sec. 806, Pub. L. 96–39, 93 Stat. 279 (26 U.S.C. 5202))

§ 19.282 Breaking Government locks.

Where affixed, Government locks shall not be removed without the authorization of the area supervisor or an ATF officer, except where a person or property is in imminent danger from a disaster or other emergency. When a disaster or other emergency occurs, and it is impractical to first obtain authorizaion from an ATF officer, Government locks may be removed, by the proprietor, or by police or firefighters. When such action is taken, the proprietor shall see that security measures are taken to prevent illegal removal of spirits and, as soon as practical, shall notify the area supervisor of the action taken and submit within 5 days a written report, executed under the penalties of perjury, describing the emergency and the action.

(Sec. 806, Pub. L. 96–39, 93 Stat. 279 (26 U.S.C. 5202))

Subpart J—Production

§ 19.311 Notice by proprietor.

(a) *Commencement of operations.* The proprietor shall, before commencing production operations or resuming production operations after having given notice of suspension, file a notice on Form 5110.34 with the area supervisor, specifying the date on which he desires to commence or resume operations for the production of spirits. The notice shall be filed in accordance with the instructions on the form. The proprietor shall not commence or resume operations prior to the time specified in the notice.

(b) *Suspension of operations.* Any proprietor desiring to suspend production operations for a period of 90 days or more shall file notice on Form 5110.34 with the area supervisor specifying the date on which he will suspend operations. The notice shall be filed in accordance with instructions on the form. In case of an accident which makes it apparent that operations cannot be conducted for 90 days or more, the proprietor shall give immediate notice of suspension on Form 5110.34.

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

§ 19.312 Receipt of materials.

The quantities of fermenting and distilling materials (including nonpotable chemical mixtures containing spirits produced in accordance with § 19.67), and of spirits, denatured spirits, articles, and spirits residues, for redistillation, received on bonded premises shall be determined by the proprietor, and reported as provided in Subpart W of this part. Fermented material (except apple cider exempt from tax under 26 U.S.C. 5042(a)(1)) to be used in the production of spirits shall be produced on the bonded premises where used or must be received on the premises from (a) a bonded wine cellar, in the case of wine, or (b) a contiguous brewery where produced, in the case of beer.

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

§ 19.313 Use of materials in production of spirits.

The proprietor may produce spirits from any suitable material in accordance with statements of production procedure in his notice of registration. The distillation of nonpotable chemical mixtures received pursuant to application as provided in § 19.67 shall be deemed to be the original and continuous distillation of the spirits in such mixtures and to constitute the production of spirits. Materials from which alcohol will not be produced may be used in production only if the use of the materials is described in approved statements of production procedure.

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

§ 19.314 Removal of fermenting material.

Material received for use as fermenting material may be removed from or used on bonded premises for other purposes. A record of use or removal shall be kept as provided in Subpart W of this part.

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

§ 19.315 Removal or destruction of distilling material.

Except as provided in this section, distilling material shall not be removed from bonded premises before being distilled. The proprietor may remove mash, wort, wash or other distilling material—(a) to plant premises, other than bonded premises for use in such businesses as may be authorized under § 19.72; (b) to other premises for use in processes not involving the production of (1) spirits, (2) alcoholic beverages, or (3) vinegar by the vaporizing process; or (c) for destruction. The residue of distilling material not introduced into the production system may be removed from the premises if the liquid is expressed from the material before removal and such liquid is not received at any distilled spirits plant or bonded wine cellar. Residue of beer used as distilling material may be returned to the producing brewery. Distilling material produced and wine and beer received for use as distilling material may be destroyed. A record of removal or destruction shall be kept as provided in Subpart W of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1365, as amended, 1381, as amended (26 U.S.C. 5222, 5370))

§ 19.316 Distillation.

The distillation of spirits shall be such that the spirits pass through a continuous system from the first still or other production equipment where access to the system would constitute a jeopardy to the revenue until the production of the spirits is completed. The distiller may, in the course of production, convey the product through as many distilling or other production operations as desired, provided the operations are continuous. Distilling operations are continuous when the spirits are conveyed through the various steps of production as expeditiously as plant operation will permit. The collection of unfinished spirits for the purpose of redistillation is not deemed to be a break in the continuity of the distilling procedure. However, the quantity and proof of any unfinished spirits produced from distilling materials, the quantity of which was ascertained in the manner authorized in § 19.732(c) for such materials, shall be determined and recorded before any mingling with other materials or before any further operations involving the unfinished spirits outside the continuous system. Spirits may be held, prior to the production gauge, only for so long as is reasonably necessary to complete the production procedure.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended, 1362, as amended, 1365, as amended (26 U.S.C. 5178, 5211, 5222))

§ 19.317 Treatment during production.

Spirits may, in the course of original and continuous distillation, be purified or refined through, or by use of, any material which will not remain incorporated in the finished product. Juniper berries and other natural aromatics, or the extracted oils of such, may be used in the distillation of gin. Spirits may be percolated through or treated with oak chips which have not been treated with any chemical. Materials used in treatment of spirits, and which do not remain in the spirits, shall be destroyed or so treated as to preclude the extraction of potable spirits therefrom.

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

§ 19.318 Addition of caramel to rum or brandy and addition of oak chips to spirits.

Caramel possessing no material sweetening properties may be added to rum or brandy on bonded premises prior to production gauge. Oak chips which have not been treated with any chemical may be added to packages prior to or after production gauge; however, notation to that effect shall be made on the record of production gauge as provided in § 19.319.

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

§ 19.319 Production gauge.

(a) *General.* All spirits shall be gauged by determining quantity and proof within a reasonable time after production is completed. Except as otherwise specifically provided in this section, quantities may be determined by volume or by weight, by approved meter, or, when approved by the Director, by other devices or methods which accurately determine the quantities. If caramel is added to brandy or rum, the proof of the spirits shall be determined after the addition. Spirits in each receiving tank shall be gauged before reduction in proof and both before and after each removal of spirits therefrom. The gauges shall be recorded by the proprietor in the records required by § 19.736.

(b) *Tax to be determined on production gauge.* Tax may be determined on the basis of the production gauge if:

(1) Spirits are weighed into bulk conveyances;

(2) Spirits are uniformly filled by weight into metal packages; or

(3) Spirits are filled by weight into packages for immediate withdrawal from bonded premises and the details of the gauge for each package are recorded on a package gauge record according to § 19.769.

Transaction records shall be marked "Withdrawal on Production Gauge."

(c) *Tax not to be determined on production gauge.* If spirits are drawn from the production system into barrels, drums, or similar portable containers of the same rated capacity and the containers are filled to capacity, and the tax is not to be determined on the basis of the production gauge, the gauge may be made by:

(1) Weighing in a tank, converting the weight into proof gallons, and determining the average content of each container; or

(2) Measuring volumetrically, in a calibrated tank, converting the wine gallons determined into proof gallons, and determining therefrom the average content of each container; or

(3) Converting the rated capacity into proof gallons to determine the average content of each container; or

(4) Determining by a device or method approved under the provisions of paragraph (a) of this section, the total quantity filled into containers, and determining therefrom the average content of each container. Rated capacity of new cooperage shall be as prescribed by specifications of the manufacturer, or in the case of used

cooperage, as determined by the proprietor.

(d) *Records of production gauge.* In computing the production gauge on the basis of average content of packages as provided in paragraph (c) of this section, fractional proof gallons shall be rounded to the nearest one-tenth and the average content so determined and the number of packages filled shall be used in computing the quantity produced. A separate gauge record, as prescribed in § 19.768, shall be prepared for each lot of packages filled (see § 19.593(b)) and for each removal by pipeline or bulk conveyance for deposit in bond on the same plant premises. The gauge record shall indicate "Deposit in storage" or "Deposit in processing." If spirits are to be transferred in bond, or withdrawn from bond, as authorized by this part, the production gauge shall be made on the form or record required by this part for the transaction (accompanied by a package gauge record, if required). Each transaction form or record and each package gauge record, if any, shall show:

(1) The real name (or basic operating name as provided in § 19.280) of the producer, and, if the spirits are produced under a trade name, the trade name under which produced.

(2) For each remnant container, the actual proof gallons in the container.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

§ 19.320 Identification of spirits.

At the time of production gauge, containers of spirits shall be identified by the proprietor in accordance with Subpart R of this part. When the proprietor desires to enter spirits into bonded storage for subsequent packaging in wooden packages, he may identify such spirits with the specific designation to which they would be entitled if drawn into wooden packages, followed by the word "Designate," for example, "Bourbon Whisky Designate."

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))

§ 19.321 Entry.

Pursuant to the production gauge, the proprietor shall make appropriate entry for (a) deposit of the spirits on bonded premises for storage or processing, (b) withdrawal of the spirits on determination of tax, (c) withdrawal of the spirits free of tax, (d) withdrawal of the spirits without payment of tax, or (e) transfer of the spirits for redistillation. Entry for deposit on the bonded premises of the same plant premises shall be made on a gauge record, prepared according to § 19.768. When spirits are entered for deposit on another plant premises or are entered for withdrawal or redistillation, the applicable provisions of Subpart K or Subpart P of this part shall be followed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5211))

§ 19.322 Distillates containing extraneous substances.

(a) *Use in production.* Distillates containing substantial quantities of fusel oil, aldehydes, or other extraneous substances may be removed from the distilling system prior to the production gauge for addition to fermenting or distilling material at the distillery where produced. Distillates removed from the distilling system under the provisions of this paragraph shall be added promptly to the fermenting or distilling material.

(b) *Use at bonded wine cellar.* Distillates containing aldehydes may be removed, without payment of tax, to an adjacent bonded wine cellar for use therein for fermentation of wine to be used as distilling material at the distilled spirits plant from which the distillates were removed. The gauge and removal of distillates to an adajcent bonded wine cellar shall be in accordance with applicable provisions of Subpart P of this part relating to withdrawal of wine spirits for use in wine production and the receipt and use of such distillates at an adjacent bonded wine cellar shall be in accordance with the provisions of 27 CFR Part 240.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5201, 5222, 5373))

Formula

§ 19.324 Statement of production procedure or Form 5110.38.

(a) A statement of production procedure is required as provided in § 19.170 for the production of spirits from original sources or substances.

(b) As provided in 27 CFR 5.27, an approved formula on Form 5110.38 is required for the redistillation of spirits in the production account.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1365, as amended, 1395, as amended (26 U.S.C. 5201, 5222, 5223, 5555))

Chemical By-Products

§ 19.326 Spirits content of chemicals produced.

All chemicals produced, including chemical by-products of the spirits production system, shall be substantially free of spirits before being removed from bonded premises. Except as authorized by the Director, the spirits content of such chemicals to be removed from bonded premises shall not exceed 10 percent by volume. Proprietors shall test chemicals for spirits content. Records of the tests will be maintained according to § 19.736.

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

§ 19.327 Disposition of chemicals.

Chemicals meeting the requirements in § 19.326 may be removed from bonded premises by pipeline or in such containers as the proprietor may desire. The quantities of such chemicals removed from bonded premises shall be determined by the proprietor and records of removals maintained according to § 19.736. Packages of such chemicals shall be appropriately marked by the proprietor to show the nature of the contents. Samples of such chemicals may be secured by ATF officers.

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

§ 19.328 Wash water.

Water used in washing chemicals to remove spirits therefrom may be run into a wash tank or a distilling material tank, or otherwise properly destroyed or disposed of on the premises.

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

Inventories

§ 19.329 Production inventories.

Each distiller shall take a physical inventory of the spirits and denatured spirits in tanks and other vessels in the production account at the close of each calendar quarter and at such other times as the regional director (compliance) may require. The inventory shall show separately spirits and denatured spirits received for redistillation.

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

Subpart K—Redistillation

§ 19.331 General.

Distillers or processors may redistill spirits, denatured spirits, articles, and spirits residues. Certain products may only be redistilled pursuant to an approved formula on Form 5110.38, as specified in 27 CFR 5.27.

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

§ 19.332 Receipts for redistillation.

Proprietors may receive and redistill spirits or denatured spirits which (a) have not been removed from bond; (b) have been withdrawn from bond on payment or determination of tax, and

are eligible for return to bond as provided in Subpart U of this part; (c) have been withdrawn from bond free of tax or without payment of tax, and are eligible for return to bond as provided in Subpart U; or (d) have been abandoned to the United States and sold to the proprietor without the payment of tax. Proprietors may also receive and redistill recovered denatured spirits and recovered articles returned under the provisions of § 19.683, and articles and spirits residues received under the provisions of § 19.684.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1365, as amended 1370, as amended (26 U.S.C. 5201, 5223, 5243); Sec. 807, Pub. L. 96–93 Stat. 285 (26 U.S.C. 5215))

§ 19.333 Redistillation.

Spirits shall not be redistilled at a proof lower than that prescribed for the class and type at which such spirits were originally produced, unless the redistilled spirits are to be used in wine production, to be used in the manufacture of gin or vodka, or to be designated as alcohol. Different kinds of spirits must be redistilled separately, or with distilling material of the same kind or type as that from which the spirits were originally produced. However, such restriction shall not apply when (a) brandy is redistilled into "spirits-fruit" or "neutral spirits-fruit" (not for use in wine production), (b) whiskey is distilled into "spirits-grain" or "neutral spirits-grain", (c) spirits originally distilled from different kinds of material are redistilled into "spirits-mixed" or "neutral spirits-mixed", or (d) the spitits are redistilled into alcohol. All spirits redistilled subsequent to production gauge shall be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this part and 26 U.S.C. Chapter 51 (including liability for tax attaching to spirits at the time of production) applicable to the original production of spirits shall be applicable thereto, except that spirits recovered by redistillation of denatured spirits, articles, or spirits residues may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. Nothing in this section shall be construed as affecting any provision of this chapter or of 27 CFR Part 5 relating to the labeling of distilled spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1365, as amended (26 U.S.C. 5223); Sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215))

Subpart L—Storage

§ 19.341 General.

Proprietors who are qualified as warehousemen as provided in this part, and who have otherwise complied with the requirements of this part for the storage of bulk distilled spirits and wines, shall conduct such operations pursuant to the provisions of this part.

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

§ 19.342 Receipt and storage of bulk spirits and wines.

(a) *Deposit.* All spirits entered for deposit in the storage account after production as provided in Subpart J shall be deposited on the bonded premises designated in the entry for deposit. Spirits withdrawn from customs custody without payment of tax under the provisions of this part shall be received on the bonded premises to which so withdrawn and (unless to be immediately redistilled) shall be deposited on such premises. Spirits transferred in bond as provided in Subpart P shall be deposited on the bonded premises designated on the transfer record.

(b) *Tanks.* If spirits or wines are being deposited in a partially filled tank in storage on bonded premises, simultaneous withdrawals may not be made therefrom unless the flow of spirits or wines into and out of the tank is being measured by meters or other devices approved by the regional director (compliance) which permit a determination of the quantity being deposited and the quantity being removed. Proprietors shall maintain records of spirits or wines in tanks in accordance with Subpart W of this part.

(c) *Storage.* Spirits or wines may be held in the storage account in tanks or portable bulk containers on the bonded premises. When used for such storage, containers shall be kept so that they can be readily inspected or inventoried by ATF officers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1362, as amended, 1366, as amended, 1398, as amended (26 U.S.C. 5201, 5211, 5212, 5232, 5601); Sec. 806(a), Pub. L. 96–39, 93 Stat. 279 (26 U.S.C. 5202); Sec. 807(a), Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5231))

§ 19.343 Addition of oak chips to spirits and addition of caramel to brandy and rum.

Oak chips which have not been treated with any chemical may be added to packages either prior to or after filling. When oak chips are added to packages, notation of such fact shall be made on all transaction records. Caramel possessing no material sweetening properties may be added to rum or brandy in packages or tanks.

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

Filling and Changing Packages

§ 19.344 Filling of packages from tanks.

Spirits or wines may be drawn into packages from storage tanks on bonded premises. The spirits or wines in the tank shall be gauged prior to filling of packages, and when only a portion of the contents of the tank is packaged, the spirits or wines remaining in the tank shall be again gauged and such gauges shall be recorded by the proprietor in records required by §§ 19.740 and 19.768. The provisions of § 19.319 regarding the filling of packages and the taking of production gauges of packages shall be applicable to the filling and gauging of packages of spirits under this section.

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

§ 19.345 Change of packages.

Spirits or wines in storage may be transferred from one package to another. Except in the case of spirits of 190 degrees or more proof, each new package shall contain spirits from only one package. Packages shall be marked as provided in Subpart R of this part. In the case of wines, each package shall bear the same marks as the package from which the wine was transferred.

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

Mingling or Blending of Spirits

§ 19.346 Mingling of blending of spirits for further storage.

The following mingling or blending operations are permissible in the storage account of a warehouseman:

(a) *Mingling of spirits distilled at 190 degrees or more of proof.* Spirits distilled at 190 degrees or more of proof, whether or not subsequently reduced, may be mingled in storage.

(b) *Mingling of spirits distilled at less than 190 degrees of proof.* Spirits distilled at less than 190 degrees of proof may be mingled for withdrawal or further storage if—

(1) In the case of domestic spirits:

(i) Such spirits are of the same kind: and

(ii) Such spirits were produced by the same proprietor (under his own or any trade name) at the same distillery.

(2) In the case of imported spirits:

(i) Such spirits are of the same kind:

(ii) Such spirits were produced by the same proprietor at the same foreign distillery; and

(iii) such spirits were treated, blended, or compounded at the same foreign plant by the same person, and the duty was paid at the same rate.

(c) *Permissible blending of beverage rums or brandies.* Fruit brandies distilled from the same kind of fruit at not more than 170 degrees of proof may, for the sole purpose of perfecting such brandies according to commercial standards, be blended with each other, or with any blend of such fruit brandies in storage. Rums may, for the sole purpose of perfecting them according to commercial standards, be blended with each other, or with any blend of rums.

(d) *Packaging of mingled spirits or blended rums and brandies.* Packaging after mingling or blending shall be conducted under the provisions of § 19.344. If so desired, the mingled or blended spirits may be returned to the packages from which they were dumped for mingling or blending, or as many of such packages as are necessary.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1362, as amended (26 U.S.C. 5201, 5214))

§ 19.347 Packages dumped for mingling.

When dumping packages of spirits of less than 190 degrees of proof for mingling in the storage account, the proprietor shall record such mingling on the tank record prescribed in § 19.742 covering such tank. When packages of spirits of 190 degrees or more of proof are to be mingled, the proprietor shall record such mingling in the tank summary record prescribed in § 19.743 for all tanks of spirits of 190 degrees or more of proof. Each package of spirits to be mingled under this subpart shall be examined by the proprietor, and if any package bears evidence of loss due to theft or unauthorized voluntary destruction, such package shall not be dumped until the area supervisor has been notified.

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

§ 19.348 Determining age of mingled spirits.

When spirits are mingled, the age of the spirits for the entire lot shall be the age of the youngest spirits contained in the lot.

(Sec. 201, Pub. L. 85–659, 72 Stat. 1356, as amended (26 U.S.C. 5201))

§ 19.349 Mingled spirits or wines held in tanks.

When spirits of less than 190 degrees of proof or wines are mingled in a tank, the proprietor shall gauge the spirits or wines in the tank and record the mingling gauge on the tank record prescribed in § 19.742.

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

Inventories

§ 19.353 Storage inventories.

Each warehouseman shall take a physical inventory of all spirits and wines held in the storage account in tanks and other vessels (except packages) at the close of each calendar quarter and at such other times as the regional director (compliance) may require. The inventory shall separately identify spirits and wines. The results of the inventory shall be recorded in accordance with Subpart W of this part.

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

Subpart M—Processing Operations Other Than Denaturation and Manufacture of Articles

§ 19.371 General.

Proprietors, who are qualified as processors as provided in this part, shall conduct operations relating to the manufacture, treatment, mixing or bottling of distilled spirits on bonded premises pursuant to the provisions of this subpart. Proprietors, who conduct operations relating to the denaturation of spirits or the manufacture of articles on bonded premises, pursuant to the provisions of Subpart N of this part, shall be qualified as processors.

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

Receipt and Use of Spirits, Wines and Alcoholic Flavoring Materials

§ 19.372 Receipt of spirits, wines, and alcoholic flavoring materials for processing.

(a) Proprietors may receive into the processing account—

(1) Bulk spirits (i) from the production or storage account at the same plant, (ii) by transfer in bond from another distilled spirits plant, or (iii) on withdrawal from customs custody under 26 U.S.C. 5232;

(2) Wines (i) from the storage account at the same plant, or (ii) by transfer in bond from a bonded wine cellar or another distilled spirits plant;

(3) Spirits returned to bond under the provisions of 26 U.S.C. 5215; or

(4) Alcoholic flavoring materials.

(b) Spirits and wines received in bulk containers or conveyances shall be recorded as dumped on receipt, but may be retained in the containers or conveyances in which received until used. Spirits and wines received by pipeline shall be deposited in tanks, gauged by the proprietor, and recorded as dumped. Alcoholic flavoring materials may be retained in the containers in which received or may be transferred to another container if the proprietor marks or otherwise indicates thereon, the full identification of the original container, the date of receipt, and the quantity deposited. Alcoholic flavoring materials and nonalcoholic ingredients shall be considered dumped when mixed with spirits or wines. The proof gallon content of spirits, wines, and alcoholic flavoring materials shall be determined at the time of dumping.

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

§ 19.373 Use of spirits, wines and alcoholic flavoring materials.

A proprietor shall prepare a dump/batch record according to § 19.748 for spirits, wines, alcoholic flavoring materials, and nonalcoholic ingredients used in the manufacture of a distilled spirits product as follows:

(a) *Dump record.* When spirits, wines, or alcoholic flavoring materials are dumped for use in the manufacture of a distilled spirits product, and when spirits are dumped for redistillation in the processing account, the proprietor shall prepare a dump record.

(b) *Batch record.* The proprietor shall prepare a batch record to report:

(1) The dumping of spirits which are to be used immediately and in their entirety in preparing a batch of a product manufactured under an approved formula;

(2) The use of spirits or wines previously dumped, reported on dump records and retained in tanks or receptacles; and

(3) Any combination of ingredients in paragraphs (b)(1) and (2) of this section used in preparing a batch of a product manufactured under an approved formula.

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

§ 19.374 Manufacture of nonbeverage or intermediate products.

Spirits and wines may be used for the manufacture of flavors or flavoring extracts of a nonbeverage nature as intermediate products to be used exclusively in the manufacture of other distilled spirits products on bonded premises. Nonbeverage products (alcoholic flavoring materials) on which drawback under 26 U.S.C. 5131–5134 is to be claimed may not be manufactured on bonded premises. Premises used for the manufacture of nonbeverage products eligible for drawback shall be separated from bonded premises.

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

Obscuration

§ 19.376 Determining obscuration.

Proprietors may determine the proof obsecuration as prescribed in 27 CFR § 30.32 of spirits to be bottled on the basis of a representative sample taken: (a) from a storage tank incident to the transfer of the spirits to the processing account, or (b) from a tank after the spirits have been dumped for processing, whether or not combined with other alcoholic ingredients. The obscuration shall be determined after the sample has been reduced to within one degree of the proof at which the spirits will be bottled. Only water may be added to a lot of spirits to be bottled for which the determination of proof obscuration is made from a sample under this section. The proof obscuration for products gauged pursuant to this section shall be frequently verified by testing samples taken from bottling tanks prior to commencement of bottling.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Formulas

§ 19.378 Formula requirements.

An approved formula on ATF Form 5110.38 must be secured for spirits for domestic use or export as provided in 27 CFR 5.26—5.27 before processors may blend, mix, purify, refine, compound or treat spirits in any manner which results in a change of character, composition, class or type of the spirits including redistillation as provided in § 19.331, and the production of gin or vodka by other than original and continuous distillation.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1395, as amended (26 U.S.C. 5201, 5555))

Bottling, Packaging, and Removal of Products

§ 19.381 Removals from processing.

Spirits shall not be transferred from processing to the storage account. Processors may remove—

(a) Spirits upon tax determination or withdrawal under the provisions of 26 U.S.C. 5214 or 26 U.S.C. 7510;

(b) Spirits to the production account at the same plant for redistillation;

(c) Bulk spirits by transfer in bond to the production or the processing account at another distilled spirits plant for redistillation or further processing;

(d) Spirits or wines for authorized voluntary destruction; or

(e) Wines by transfer in bond to a bonded wine cellar or to another distilled spirits plant. Spirits may be bottled and cased for removal. Spirits or wines may be removed in any approved bulk container, by pipeline or in bulk conveyances on compliance with the provisions of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended, 1320, as amended, 1323, as amended, 1356, as amended, 1360, as amended, 1362, as amended, 1365, as amended, 1380, as amended (26 U.S.C. 5001, 5006, 5008, 5201, 5206, 5212, 5214, 5223, 5362))

§ 19.382 Bottling tanks.

All spirits shall be bottled from tanks listed and certified as accurately calibrated in the notice of registration. However, the regional director (compliance) may authorize bottling from original packages or special containers where it is impracticable to use a bottling tank. Bottlers desiring to bottle from packages or special containers shall file notice with the area supervisor. The notice shall show the necessity for the operations.

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

§ 19.383 Bottling tank gauge.

When a distilled spirits product is to be bottled or packaged, the proprietor shall gauge the product, on completion of any filtering, reduction, or other treatment, and prior to commencement of bottling or packaging. Any gauge made under this section shall be made at labeling or package marking proof while the product is in the tank from which it is to be bottled or packaged, and the details of the gauge shall be entered on the bottling and packaging record prescribed in § 19.749.

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

§ 19.384 Preparation of bottling or packaging record.

The proprietor shall prepare a record for each batch of spirits bottled or packaged according to the specifications in § 19.749.

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

§ 19.385 Labels to agree with contents of tanks and containers.

Labels affixed to containers shall agree in every respect with the spirits in the tanks from which the containers were filled. If they do not the proprietor shall relabel such spirits with a proper label. The proprietor's records shall be such that they will enable ATF officers to readily determine, by case or package serial number, which label was used on any given filled container.

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

§ 19.386 Proof and fill.

(a) *Proof and fill tests.* (1) Proprietors shall test and examine at representative intervals spirits bottled during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity (fill) with that stated on the label or bottle.

(2) If the regional director (compliance) finds that a proprietor's test procedures do not protect the revenue and ensure the label accuracy of the bottled product, he may require corrective measures.

(b) *Variations in proof and fill.* If the contents do not agree with the respective data on the label or bottle as to:

(1) Quantity (fill), except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice with the overall objective of maintaining 100 percent fill for spirits bottled; and/or

(2) Proof, subject to a normal drop in proof occurring during bottling operations not to exceed five-tenths of a degree of proof for products containing solids in excess of 600 mg per 100 ml or three-tenths of a degree of proof for all other spirits—

the proprietor shall rebottle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(c) *Proof and fill test records.* Proprietors shall record the results of all proof and fill tests conducted on the record specified in § 19.750.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended 1394, as amended (26 U.S.C. 5201, 5301))

§ 19.387 Completion of bottling.

When the contents of a bottling tank are not completely bottled at the close of the day, the bottler shall make entries on the bottling and packaging record covering the total quantity bottled that day from the tank. Entries shall be made not later than the morning of the following business day unless the bottler maintains auxiliary or supplemental records as provided in § 19.731.

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

§ 19.388 Cases.

(a) *General.* (1) On completion of bottling, the filled bottles with labels and properly affixed strip stamps or alternative devices shall be placed in cases, and the cases shall be sealed.

(2) Each case of spirits filled shall be marked as prescribed by Subpart R of this part before removal from such premises.

(b) *Unsealed cases.* (1) Cases may be temporarily retained on bonded premises without being sealed pending the affixing to bottles of any required labels, State stamps, or seals.

(2) Unsealed cases containing bottles without labels shall be marked in accordance with Subpart R of this part, and segregated from other cases on bonded premises pending affixing of the labels, stamps, or seals.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))

§ 19.389 Remnants.

Where incident to bottling there remain bottles less than the number necessary to fill a case, the bottles, after being stamped or affixed with alternative devices and labeled, may be marked as a remnant case as provided in Subpart R of this part or kept uncased on the bonded premises until spirits of the same kind are again bottled. Appropiate notation shall be made on the bottling and packaging record to cover the bottling and disposition of the remnant. If the remnant is subsequently used to complete the filling of a case, an accounting shall be made on the subsequent bottling and packaging record showing the use of the remnant by adding the remnant gallonage to the quantity to be accounted for together with appropriate notation explaining the transactions.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))

§ 19.390 Filling packages.

Spirits may be drawn into packages from a tank (conforming to the requirements of § 19.273). Such packages shall be gauged by the proprietor, and he shall report the details of such gauge on a package gauge record, according to § 19.769, and attach a copy of the package gauge record to each copy of the bottling and packaging record covering the product. Such packages shall be marked as prescribed by Subpart R of this part.

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

§ 19.391 Removals by bulk conveyances or pipelines.

When spirits in the processing account are to be removed in bulk conveyances or by pipeline, the proprietor shall record the filling of the conveyance or the transfer by pipeline on the bottling and packaging record. The spirits shall be removed from bonded premises in accordance with Subpart P of this part. The consignor shall forward to the consignee a statement of composition or a copy of any formula under which such spirits were processed for determining the proper use of the spirits, or for the labeling of the finished product. Bulk conveyances shall be marked as provided in Subpart R of this part, and distilled spirits stamps, if required, or marks in lieu of such stamps shall be affixed to the conveyances as provided in Subpart T of this part.

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

§ 19.392 Rebottling.

When the spirits are dumped for rebottling, the proprietor shall prepare a bottling and packaging record, appropriately modified. If the spirits were originally bottled by another proprietor, a statement from the original bottler consenting to the rebottling must be secured by the proprietor.

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

§ 19.393 Restamping, reaffixing alternative devices and relabeling.

The proprietor may restamp, reaffix alternative devices, or relabel distilled spirits, either before removal from bonded premises or after return thereto. The restamping, reaffixing of alternative devices, or relabeling of spirits returned to bonded premises shall be done immediately, and the spirits promptly removed. When spirits were originally bottled by another proprietor, the relabeling proprietor shall have on file a statement from the original bottler consenting to the relabeling. When spirits are relabeled, the proprietor shall have a certificate of label approval or certificate of exemption from label approval issued under 27 CFR Part 5 for labels used on relabeled spirits. The proprietor shall prepare a separate record according to § 19.747 to cover the relabeling, restamping, or the reaffixing of alternative devices. For spirits returned to bond under 26 U.S.C. 5215(c), the proprietor shall annotate such information on the record.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1358, as amended (26 U.S.C. 5201, 5205); Sec. 807, Pub. L. 96–39, 93 Stat. 260 (26 U.S.C. 5215))

§ 19.394 Bottled-in-bond spirits.

Spirits which are labeled and stamped as bottled-in-bond for domestic consumption shall meet the requirements in 27 CFR Part 5 and shall be stamped as provided in Subpart T of this part.

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

§ 19.395 Labels for export spirits.

All bottles containing spirits bottled for export shall have securely affixed thereto a label showing the following:

(a) Kind of spirits;

(b) Proof of the spirits;

(c) Net contents, unless the markings on the bottle indicate such contents; and

(d) The name (or, if desired, the trade name) of the bottler.

The bottler may place on the label any additional information that he may desire if it is not inconsistent with the required information. The label information may be stated in the language of the country to which the spirits are to be exported provided the proprietor maintains on file an English translation of the information. The net contents and proof may be stated in the units of measurement of the foreign country provided the proprietor maintains a record of the equivalent units as they would be required to be expressed if bottled for domestic consumption. The Director may waive the requirement of showing any of the information required by this section, other than the kind of spirits, upon a showing that the country to which the spirits are to be exported prohibits the showing of such information.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1374, as amended (26 U.S.C. 5201, 5301))

§ 19.396 Spirits removed for shipment to Puerto Rico.

Spirits removed for shipment to Puerto Rico with benefit of drawback or without payment of tax under the provisions of 27 CFR Part 252 are subject to the provisions of 27 CFR Part 5 in respect to labeling requirements and standards of fill for bottles.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, (26 U.S.C. 5201))

§ 19.397 Spirits not originally intended for export.

Spirits manufactured, produced, bottled in bottles, packed in containers, or which are packaged in casks or other bulk containers in the United States, originally intended for domestic use may be exported with benefit of drawback or without payment of tax if:

(a) Strip stamps or alternative devices affixed to bottles are legibly overprinted with the word "Export", if required; and

(b) Cases or bulk containers are marked as required by 27 CFR Part 252. The proprietor may relabel the spirits to show any of the information provided for in § 19.395. When the proprietor desires to file claim for drawback on spirits prepared for export under this section, the provisions of 27 CFR

252.195b shall be followed. When the proprietor desires to withdraw spirits without payment of tax, he shall file a notice in accordance with 27 CFR 252.92.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended, 1358, as amended, 1362, as amended (26 U.S.C. 5062, 5205, 5214))

§ 19.398 Alcohol.

(a) *Containers.* Subject to the provisions of Subpart R of this part, alcohol for industrial use may be put in bottles, packages, or other containers. Proprietors shall comply with the provisions in Subpart S of this part when alcohol for nonindustrial domestic use is bottled.

(b) *Stamps.* Strip stamps, alternative devices, distilled spirits stamps, or marks in lieu of distilled spirits stamps shall be imprinted on or affixed to containers of alcohol as provided in Subpart T of this part.

(c) *Bottle labels.* All bottles of alcohol for industrial use shall have affixed thereto a label showing "Alcohol" and the name and plant number of the bottler. The bottler may place on the label additional information, if it is not inconsistent with the required information.

(d) *Case marks.* Each case of bottled alcohol shall bear the marks prescribed therefor in Subpart R of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1369, as amended (26 U.S.C. 5201, 5206, 5235, 5301))

Records

§ 19.400 Daily summary record of spirits bottled or packaged.

The proprietor shall maintain a separate daily summary record of spirits bottled or packaged as provided in § 19.751.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207))

Inventories

§ 19.401 Inventories of wines and bulk spirits (except in packages) in processing account.

Each proprietor shall take a physical inventory of wines and bulk spirits (except in packages) in the processing account at the close of each calendar quarter, and at such other time as the regional director (compliance) may require. The results of the inventory shall be recorded in accordance with Subpart W of this part.

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

§ 19.402 Inventories of bottled and packaged spirits.

(a) *Physical inventories.* (1) Physical inventories of bottled and packaged spirits in the processing account shall be taken for the return periods ending June 30 and December 31 of each year, and for other return periods as may be required by the regional director (compliance).

(2) Physical inventories may be taken within a period of a few days before or after June 30 or December 31 (or other dates approved by the regional director (compliance), if:

(i) Such period does not include more than one complete weekend; and

(ii) Necessary adjustments are made to reflect pertinent transactions, so that the recorded inventories will agree with the actual quantities of bottled or packaged spirits on hand in processing at the prescribed times.

(3) On approval of an application filed with the regional director (compliance), required physical inventories may be taken on dates other than June 30 and December 31 if the dates established for taking such inventories:

(i) Coincide with the end of a return period, and

(ii) Are approximately six months apart.

(4) On approval of the application, the designated inventory dates shall take effect with the first inventory scheduled to be taken within six months of the previous June 30 or December 31 inventory.

(b) *Waiver of physical inventory.* (1) The regional director (compliance), on receipt of an application, may relieve a proprietor of the requirement of taking the June 30 or December 31 physical inventory, (or other date approved under paragraph (a) of this section) if he finds that only one such inventory during any 24 consecutive return periods is necessary.

(2) The regional director (compliance) may reimpose the requirement for the waived inventory if he finds that it is necessary for law enforcement or protection of the revenue.

(c) *Notification of physical inventory.* Whenever a physical inventory of bottled or packaged spirits is to be taken, the proprietor shall, at least 5 business days in advance, notify the area supervisor of the date and time he will take such inventory.

(d) *Supervision of physical inventories.* Physical inventories required under the provisions of this section shall be taken under such supervision, or verified in such manner, as the regional director (compliance) may require.

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

Subpart N—Denaturing Operations and Manufacture of Articles

§ 19.451 General.

Authorized proprietors who are qualified as processors may conduct denaturing operations or manufacture articles pursuant to the provisions of this part. Proprietors shall not conduct denaturing operations or manufacture articles except as provided in this part. Records of denaturing operations and the manufacture of articles shall be maintained in accordance with § 19.752 and § 19.753.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1353, as amended (26 U.S.C. 5178); Sec. 807(a), Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5241))

Denaturation

§ 19.452 Formulas.

Spirits shall be denatured in accordance with formulas as authorized in 27 CFR Part 21 or their alternatives. Denaturing materials shall be thoroughly mixed with the spirits being denatured.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242); Sec. 807, Pub. L. 96–39, 93 Stat. 286 (26 U.S.C. 5241))

§ 19.453 Testing of denaturants.

(a) *Testing.* Proprietors shall ensure that the materials they receive for use in denaturing conform to the specifications prescribed in 27 CFR Part 21. The regional director (compliance) may require the testing of denaturants at any time.

(b) *Samples.* Samples of denaturants shall be taken in such manner as to represent a true composite of the total lot being sampled. When samples are tested by persons other than a proprietor, a copy of the analysis or a statement, signed by the chemist performing the test, shall be secured and filed by the proprietor for each test. Samples of denaturants may be taken by ATF officers at any time for testing by Government chemists.

(c) *Conformity.* When a denaturant does not conform to the specifications prescribed under 27 CFR Part 21, the proprietor shall not use the material unless he treats or manipulates the denaturant to make it conform to such specifications. Such treated or manipulated denaturant shall again be tested.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

§ 19.454 Gauge for denaturation.

The proprietor shall gauge spirits before denaturation and after denaturation and record each gauge on the record of denaturation as prescribed in § 19.752(b). However, spirits dumped

from previously gauged containers or spirits transferred directly to mixing tanks from gauge tanks where they were gauged, need not again be gauged. Measurements of spirits and denaturants shall be made by volume, weight, by approved meter, or, when approved by the Director, other devices or methods.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204); Sec. 807, Pub. L. 96-39, 93 Stat. 286 (26 U.S.C. 5241))

§ 19.455 Dissolving of denaturants.

Denaturants which are difficult to dissolve in spirits at usual working temperatures, which are highly volatile, or which become solid at such usual temperatures may be liquefied or dissolved in a small quantity of spirits or water in advance of their use in the production of specially denatured spirits, pursuant to the prescribed formula, so long as the proof of the denatured spirits manufactured does not fall below the proof prescribed for the applicable formula in 27 CFR Part 21. Any spirits used in dissolving denaturants and contained in the resulting solution shall be included as part of the total quantity of spirits denatured in each batch.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

§ 19.456 Adding denaturants.

Denaturants and spirits shall be mixed in packages, tanks, or bulk conveyances on bonded premises. The regional director (compliance) may, on written application, authorize other methods of mixing denaturants and spirits if he deems such denaturation will not hinder effective administration of this part or jeopardize the revenue. If requested by the regional director (compliance), the proprietor shall submit a flow diagram of the intended process or method of adding denaturants.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

§ 19.457 Neutralizing denatured spirits.

Proprietors may add trace quantities of compounds such as caustics or acids to certain formulas of denatured spirits to neutralize such spirits, if the intended effect of the denaturants is not reduced. Proprietors who neutralize denatured spirits must record, for each formula the kinds and quantities of compounds used, and the formula number of the denatured spirits neutralized.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242); Sec. 807, Pub. L. 96-39, 93 Stat. 286 (26 U.S.C. 5241))

§ 19.458 Restoration and redenaturation of recovered denatured spirits and recovered articles.

Recovered denatured spirits and recovered articles received on bonded premises, as provided in Subpart U of this part, for restoration (including redistillation, if necessary) and/or redenaturation may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. If the recovered or restored denatured spirits or recovered articles are to be redenatured and do not require the full amount of denaturants for redenaturation, a notation to that effect will be made on the record of denaturation required by § 19.752(b).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

§ 19.459 Mixing of denatured spirits.

(a) Denatured spirits produced under the same formula may be mixed on bonded premises.

(b) Denatured spirits of different formulas may be mixed on bonded premises for immediate redistillation at the same plant or at another plant in accordance with the provisions of Subpart K of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242); Sec. 807, Pub. L. 96-39, 93 Stat. 286 (26 U.S.C. 5241))

§ 19.460 Conversion of denatured alcohol formulas.

(a) *Conversion to Formula No. 1.* Any specially denatured alcohol, except Formulas No. 3-A and No. 30, may be converted into specially denatured alcohol, Formula No. 1, by the addition of methyl alcohol and denatonium benzoate, N.F. (Bitrex) or methyl isobutyl ketone in accordance with the formulations prescribed in § 21.32 of this chapter. For specially denatured alcohol Formulas No. 3-A and No. 30, the methyl alcohol content shall be reduced to the level prescribed for specially denatured alcohol Formula No. 1 by the addition of ethyl alcohol before adding the other ingredient prescribed in 27 CFR 21.32.

(b) *Conversion to Formula No. 29.* Any specially denatured alcohol may be converted to specially denatured alcohol, Formula No. 29, by the addition of acetaldehyde or ethyl acetate, in accordance with the formulations prescribed in 27 CFR 21.56.

(c) *General rule.* In addition to the conversions provided in paragraphs (a) and (b) of this section, any specially denatured alcohol may be converted to another specially denatured alcohol formula, if the resultant alcohol-denaturant mixture contains only the alcohol and denaturant or denaturants in the proportions authorized in 27 CFR Part 21 for the formula to which converted. Specially denatured alcohol which is converted under this paragraph may only be used as authorized in 27 CFR Part 21 for the formula to which converted.

(d) *Conditions governing conversion and use.* The quantities of denaturants required for conversions authorized in paragraphs (a), (b) and (c) of this section shall be determined on the basis of the alcohol in the formulations. Specially denatured alcohol converted to Formula No. 29 may be used as authorized in 27 CFR 21.56(b) except that it shall not be used in the manufacture of vinegar, drugs, or medicinal chemicals, and the conditions governing use provided in 27 CFR 21.56(c) shall apply.

(e) *Conversion to other formulations.* Proprietors desiring to convert specially denatured alcohol other than as provided in paragraphs (a), (b), and (c) of this section shall obtain approval from the Director prior to such conversion.

(f) *Conversion to completely denatured alcohol.* Any specially denatured alcohol not containing methanol or wood alcohol may be converted to any one of the completely denatured alcohol formulas, prescribed in 27 CFR Part 21, by adding the required denaturants.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

§ 19.461 Receipt and storage of denatured spirits.

(a) *Deposit.* Denatured spirits produced, received in bond as provided in Subpart P or returned to bonded premises as provided in Subpart U of this part, shall be deposited on the bonded premises.

(b) *Tanks.* Proprietors shall maintain a record in accordance with § 19.752 for tanks in which denatured spirits are stored.

(c) *Storage.* Denatured spirits may be stored on bonded premises in any container into which denatured spirits may be filled on bonded premises. Such containers shall be so stored that they can be readily inspected by ATF officers and inventoried. The provisions of § 19.133 are applicable to storage of denatured spirits in portable containers. However, upon application, the regional director (compliance) may authorize the proprietor to store packages and cases in any manner which safeguards the interests of the Government.

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

§ 19.462 Filling of containers from tanks.

Denatured spirits may be drawn into portable containers from tanks on bonded premises. The denatured spirits in the tanks shall be gauged prior to filling of the containers, and when only a portion of the contents of the tank is drawn into containers, the denatured spirits remaining in the tank shall be again gauged and such gauges shall be recorded by the proprietor. The provisions of paragraph (a) and (c) of § 19.319 shall be applicable to the filling and gauging of portable containers, and denatured spirits may be withdrawn from bonded premises for any lawful purpose on the filling gauge.

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

§ 19.463 Containers for denatured spirits.

Packaging of denatured spirits and the marking of portable containers of such denatured spirits shall be in accordance with requirements of Subpart R of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

Inventories

§ 19.464 Denatured spirits inventories.

Each proprietor shall take a physical inventory of all denatured spirits in the processing account at the close of each calendar quarter and at such other times as the regional director (compliance) may require. The results of the inventory shall be recorded as provided in Subpart W of this part.

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

Articles

§ 19.471 Manufacture of articles.

Proprietors shall manufacture, label, mark, and dispose of articles as provided in 27 CFR Part 211.

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

Subpart O—Spirits from Customs Custody

§ 19.481 General.

Spirits imported or brought into the United States in bulk containers may be withdrawn by proprietors from customs custody and transferred in such bulk containers or by pipeline without payment of tax to the bonded premises of their distilled spirits plant. Spirits received on bonded premises as provided in this section may be (a) redistilled or denatured only if 185 degrees or more of proof, and (b) withdrawn for any purpose authorized by 26 U.S.C. Chapter 51, in the same manner as domestic spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1366, as amended (26 U.S.C. 5232))

§ 19.482 Age and fill date.

For the purpose of this part, the age and fill date for spirits that are imported or brought into the United States shall be:

(a) *Age.* The claimed age, which is supported by the documentation required in 27 CFR Part 5.

(b) *Fill date.* The date that packages of spirits are released from customs custody or filled on bonded premises.

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

§ 19.483 Recording gauge.

(a) When packages of spirits are received from customs custody in the storage account, the proprietor shall use the last official gauge to compute and record on the deposit records prescribed in § 19.740 for each entry the average content of the packages being received which shall also provide the basis for entries on the package summary records prescribed in § 19.741. If the last official gauge indicates a substantial variation in the contents of the packages, the proprietor shall group the packages into lots according to their approximate contents, and assign a separate lot identification to each group of packages, based on the date the packages were received on bonded premises.

(b) When packages of spirits are received from customs custody in the processing account, the proprietor shall determine the proof gallons of spirits received in each package. The determination may be made by use of the last official gauge.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5232))

Imported Spirits

§ 19.484 Marks on containers of imported spirits.

(a) *General.* Each portable bulk container of spirits shall, when received on bonded premises under the provisions of § 19.481, or when filled on bonded premises, be marked with:

(1) The name of the importer;

(2) The country of origin;

(3) The kind of spirits;

(4) The package identification number as provided in § 19.593 or the package serial number as provided in § 19.594;

(5) If filled on bonded premises, the date of fill;

(6) The proof; and

(7) The proof gallons of spirits in the package. Package identification numbers or package serial numbers shall be preceded by the symbol "IMP" and any distinguishing prefix or suffix used as provided in § 19.594. The proprietor who receives packages of imported spirits under the provisions of § 19.481 shall be responsible for having the required marks placed on such packages. Package identification numbers assigned under the provisions of this section to packages of spirits received from customs custody shall be recorded on the deposit records by the proprietor who receives the spirits.

(b) *Exception.* Proprietors are relieved from placing prescribed marks on packages when the spirits will be removed from the packages within 30 days of the date of receipt at the distilled spirits plant. Packages not dumped as provided in this paragraph within the time prescribed must be promptly marked in the manner required by § 19.595. The provisions of this section shall not be construed to waive, or authorize the waiver of, the requirements of this part for the assigning of package identification numbers or for the recording of such package identification numbers on deposit records, and the required recording of lot identification numbers and related information on other transaction forms, records, or reports.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

Puerto Rican and Virgin Islands Spirits

§ 19.485 Marks on containers of Puerto Rican and Virgin Islands spirits.

(a) *Packages received in bond.* (1) When packages of Puerto Rican spirits are received on the bonded premises of a distilled spirits plant under the provisions of this subpart, the markings prescribed by 27 CFR 250.40, modified to show the serial number of the Form 5110.31 prefixed by "Form 5110.31", rather than the serial number and identification of the Form 487–B, shall be accepted in lieu of the markings prescribed in § 19.484. On receipt of packages so marked the proprietor of the distilled spirits plant shall show on such packages of spirits the date of fill as provided in § 19.482, and the words "Puerto Rican" or the abbreviation "P.R.".

(2) When packages of Virgin Islands spirits are received on the bonded premises of a distilled spirits plant under the provisions of this subpart, the markings prescribed by 27 CFR 250.206 that are on such packages shall be accepted in lieu of the markings prescribed in § 19.484. On receipt of packages so marked the proprietor of the distilled spirits plant shall show on such packages of spirits the date of fill as provided in § 19.482, and the words

"VIRGIN ISLANDS" or the abbreviation "V.I."

(b) *Portable bulk containers.* Portable bulk containers of Puerto Rican or Virgin Islands spirits filled in ATF bond shall, in addition to the required marks prescribed in § 19.596, be marked to show the serial number of the approved formula under which produced, and with the words "PUERTO RICAN" or "VIRGIN ISLANDS" or the abbreviation thereof. Portable bulk containers containing spirits received in ATF bond under the provisions of this subpart shall, in addition to other required marks, be marked with the words "PUERTO RICAN" or "VIRGIN ISLANDS" or the abbreviation thereof.

(c) *Cases of bottled alcohol.* In addition to other mandatory marks prescribed by § 19.608 for cases of bottled alcohol, the words "PUERTO RICAN" or "VIRGIN ISLANDS", as appropriate, or the abbreviation "P.R." or "V.I." shall precede or follow the word "alcohol" on cases of alcohol from Puerto Rico or the Virgin Islands that are bottled and cased on bonded premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1369, as amended (26 U.S.C. 5206, 5235))

§ 19.486 Additional tax on nonbeverage spirits.

The additional tax imposed by 26 U.S.C. 5001(a)(9), on imported spirits withdrawn from customs custody without payment of tax and thereafter withdrawn from bonded premises for beverage purposes, and the related provisons of § 19.518, are not applicable to Puerto Rican or Virgin Islands spirits brought into the United States and transferred to bonded premises under the provisions of this part.

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

§ 19.487 Abatement, remission, credit or refund.

The provisions of 26 U.S.C. 5008, authorizing abatement, remission, credit or refund for loss or destruction of distilled spirits, shall apply to spirits brought into the United States from Puerto Rico or the Virgin Islands, with respect to the following:

(a) Spirits lost while in ATF bond;

(b) Voluntary destruction of spirits in bond;

(c) Spirits returned to bonded premises after withdrawal from bonded premises without payment of tax; and

(d) Spirits returned to bonded premises after withdrawal from bonded premises upon tax determination.

Claims relating to spirits lost in bond, in addition to the information required by § 19.41, shall show the name of the producer, and the serial number and date of the formula, where required, under which produced.

(Sec. 201, Pub. L. 95–859, 72 Stat. 1323, as amended (26 U.S.C. 5008); Sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215))

Subpart P—Transfer and Withdrawals

General

§ 19.501 Authority to withdraw.

Spirits, denatured spirits, and wines shall be removed from bonded premises as provided in this subpart. Spirits entered into bonded storage for subsequent packaging in wooden packages, as provided in § 19.320, which have not been drawn into such packages at the time of withdrawal from bond shall be redesignated to conform to the classes and types set out in Subpart R of this part and in 27 CFR Part 5.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1362, as amended (26 U.S.C. 5201, 5212, 5214); Sec. 807(a), Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5213))

§ 19.502 Withdrawal of spirits on production or filling gauge.

When the production or filling gauge is made under the provisions of § 19.319(b), spirits may be withdrawn from bonded premises for any lawful purpose on the production or filling gauge. When the production or filling gauge is made under § 19.319(c), spirits may be withdrawn without payment of tax for export on the production or filling gauge. When spirits which are to be withdrawn on determination of tax on the original gauge are transferred in bond, all copies of the transfer record prescribed in § 19.770 shall be marked by the proprietor "Withdrawal on Original Gauge".

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 19.503 Determination of tare.

When packages are to be individually gauged for withdrawal from bonded premises, actual tare shall be determined in accordance with 27 CFR Part 30.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Transfers Between Bonded Premises

§ 19.505 Authorized transfers.

(a) *Spirits.* Bulk spirits or denatured spirits may be transferred in bond between the bonded premises of plants qualified under 26 U.S.C. 5171 or 26 U.S.C. 5181, in accordance with §§ 19.506 and 19.998, respectively.

(b) *Wine.* (1) Wines may be transferred (i) from a bonded wine cellar to the bonded premises of a distilled spirits plant, (ii) from the bonded premises of a distilled spirits plant to a bonded wine cellar, or (iii) between the bonded premises of distilled spirits plants.

(2) Wines transferred to the bonded premises of a distilled spirits plant may be used in the manufacture of a distilled spirits product, and may not be removed from such bonded premises for consumption or sale as wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5212, 5362); Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.506 Application to receive spirits in bond.

When a proprietor qualified under 26 U.S.C. 5171 desires to have spirits or denatured spirits transferred to him in bond which shall not include spirits withdrawn from customs custody under 26 U.S.C. 5232, he shall make application for such transfer to the regional director (compliance) on Form 5100.16. Application to receive such spirits by transfer in bond shall not be approved unless the applicant's operations or unit bond is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits or denatured spirits to be transferred in addition to all other liabilities chargeable against such bond. The applicant shall deliver one of the approved copies of the application to the consignor proprietor.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1318, as amended, 1362, as amended (26 U.S.C. 5005, 5112))

§ 19.507 Termination of application.

A proprietor may terminate an approved application, Form 5100.16, at any time by

(a) Retrieving the consignor's copy, and

(b) Returning this copy, together with his own to the regional director (compliance) for cancellation.

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

§ 19.508 Consignor premises.

(a) *General.* (1) A transfer record shall be prepared according to § 19.770 by (i) the consignor proprietor of a distilled spirits plant (A) to cover the transfer of spirits or denatured spirits in bond to another distilled spirits plant, pursuant to an approved application on Form 5100.16, (B) to cover the transfer in bond of spirits or denatured spirits to an alcohol fuel plant, or (C) to cover the transfer of wine in bond to the bonded premises of a distilled spirits plant or

bonded wine cellar; or (ii) the consignor proprietor of an alcohol fuel plant to cover the transfer of spirits to the bonded premises of a distilled spirits plant pursuant to an approved application on Form 5100.16. Except as otherwise provided herein, a transfer record shall be prepared for each conveyance. The proprietor shall also enter on the transfer record the serial numbers of any seals or other devices affixed to a conveyance used for shipment of spirits, or denatured spirits. On completion of lading (or completion of transfer by pipeline), the proprietor shall retain one copy of the transfer record and one copy of any accompanying document for his files and forward the original of the transfer record and any accompanying document to the consignee (to accompany the shipment, if by truck).

(2) Spirits or denatured spirits produced from petroleum, natural gas, or coal may not be transferred to alcohol fuel plants qualified under 26 U.S.C. 5181.

(3) The consignor proprietor may cover on one transfer record all packages of spirits shipped by truck on the same day from his bonded premises to the bonded premises of another plant. In such case, the proprietor shall prepare a shipment and delivery order for each shipment, showing the number of packages, their package identification or serial numbers, the name of the producer, warehouseman, or processor, and the serial numbers of the seals or other devices (if any) applied to the truck. Such shipping and delivery order shall be properly authenticated and shall consititute a complete record of the spirits so transferred in each truck each day. A copy of each shipping and delivery order shall be retained by the consignor. On completion of the lading of the last truck for the day, the proprietor shall retain one copy of the transfer record and one copy of any accompanying document for his files and forward the original of the transfer record and any accompanying document to the consignee.

(b) *Packages.* When spirits are to be transferred in bond in packages, the consignor proprietor shall weigh each package, except (1) when the transfer is to be made in a secured conveyance, (2) when the individual packages have been securely sealed by the proprietor, or (3) when this requirement has been waived by the regional director (compliance) on a finding that, because of the location of the premises and the proposed method of operation, there will be no jeopardy to the revenue. When packages are weighed at the time of shipment, the proprietor shall assign temporary serial numbers to the packages and show for each package its gross shipment weight on a package gauge record prepared according to § 19.769. A copy of the package gauge record shall accompany each copy of the transfer record.

(c) *Bulk conveyances and pipelines.* When spirits, denatured spirits, or wines are to be transferred in bond in bulk conveyances or by pipelines, the consignor shall gauge the spirits, denatured spirits, or wines and record the quantity so determined on the transfer record prescribed in § 19.770. Bulk conveyances of spirits or denatured spirits shall be secured by the proprietor.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1367, as amended, 1380, as amended (26 U.S.C. 5212, 5362))

§ 19.509 Reconsignment.

Where, prior to or on arrival at the premises of a consignee, spirits, denatured spirits, or wines transferred in bond are found to be unsuitable for the purpose for which intended, were shipped in error, or, for any other bona fide reason, are not accepted by such consignee, or are not accepted by a carrier, they may be reconsigned, by the consignor, to himself, or to another consignee. In such case, application to receive spirits or denatured spirits by transfer in bond (on Form 5100.16) shall have been previously approved for the consignee (not required in the case of wines or in the case of alcohol fuel plants receiving spirits or denatured spirits) and the bond of the proprietor to whom the spirits, denatured spirits, or wines are reconsigned shall cover such spirits, denatured spirits, or wines while in transit after reconsignment. Notice of cancellation of the shipment shall be made by the consignor to the consignee. Where the reconsignment is to another proprietor, a new transfer record shall be prepared and prominently marked with the word "Reconsignment".

(Sec. 201, Pub. L. 85–859, 72 Stat. 1367, as amended, 1380, as amended (26 U.S.C. 5212, 5362))

§ 19.510 Consignee premises.

(a) *General.* When spirits, denatured spirits, or wines are received by transfer in bond, the consignee proprietor shall examine each conveyance to determine whether the securing devices, if any, are intact upon arrival at his premises. If the securing devices are not intact, he shall immediately notify the area supervisor before removal of any spirits from the conveyance. The proprietor shall follow the provisions of Subpart Q of this part to determine, record, and report losses, if any. After execution on the transfer record as prescribed in § 19.770 or Form 703, as appropriate, of his receipt of the shipment of spirits, denatured spirits, or wines, the consignee shall retain the original of the transfer record and any accompanying documents for his files, or dispose of Form 703 (in the case of wines from a bonded wine cellar), as provided in the instructions on the form. Retained copies of transfer records and Forms 703 shall become deposit records. Spirits which are produced at alcohol fuel plants shall be separately identified and accounted for as for fuel use, and may not be withdrawn, used, sold or otherwise disposed of for other than fuel use.

(b) *Packages.* When spirits are received in packages, the consignee proprietor shall weigh each package, except: (1) when the transfer is made in a secured conveyance and the securing devices are intact on arrival, (2) when the individual packages have been sealed by the consignor proprietor and are intact on arrival, or (3) when the requirement for weighing the packages at the consignor premises has been waived under the provisions of § 19.508(b)(3). The proprietor shall record the receiving weight of each package on the accompanying package gauge record or on a list with temporary package serial numbers prepared by the consignor. A copy of such package gauge record or list shall remain with the original of the transfer record.

(c) *Bulk conveyances and pipelines.* When spirits, denatured spirits, or wines are received in bulk conveyances or by pipeline, the consignee shall gauge the spirits, denatured spirits, or wines and record the gauge on the transfer record prescribed in § 19.770 or, in the case of wines received from a bonded wine cellar, on Form 703. The consignee shall ensure that each conveyance emptied has been thoroughly drained. The regional director (compliance) may waive the requirement for gauging spirits, denatured spirits, or wines on receipt by pipeline if he finds that because of the location of the premises, there will be no jeopardy to the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1380, as amended (26 U.S.C. 5204, 5362); Sec. 807(a), Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5213))

Withdrawals on Determination and Payment of Tax

§ 19.515 Determination and payment of tax.

(a) *General.* Distilled spirits may be withdrawn from bonded premises on determination of tax in approved containers, or, to the contiguous premises of a manufacturer of

nonbeverage products, by pipeline. All tax which is to be prepaid or deferred shall be determined prior to the physical removal of the spirits from bonded premises. The proprietor shall record the results of each tax determination on a record of tax determination as required by § 19.761.

(b) *Payment of tax.* The tax on the spirits shall be paid on Form 5110.32 before removal of the spirits from bonded premises unless the proprietor has furnished a withdrawal or unit bond to secure payment of the tax. Where such bond is in less than the maximum penal sum, the proprietor shall prepay the tax for any withdrawal which would cause the outstanding liability for tax to exceed the limits of coverage under the bond.

(Sec. 807, Pub. L. 96-39, 93 Stat. (26 U.S.C. 5213))

§ 19.516 Bond account.

Where the proprietor has furnished a withdrawal or unit bond to cover the tax on spirits withdrawn on determination of tax, and such bond is in less than the maximum penal sum, he shall maintain an account of his bond and he shall charge the bond with the amount of liability incurred on each withdrawal on determination of tax. He shall credit the bond on payment of the amount of tax required to be remitted with a return and by authorized credits taken on a return. Where a bond in less than the maximum penal sum has been allocated among two or more plants, as provided in §§ 19.243 and 19.244, the proprietor shall maintain an account at each plant of that part of the penal sum allocated to that plant.

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

§ 19.517 Gauge for tax determination.

(a) *Packages.* When spirits in packages are to be withdrawn from bonded premises on determination of tax on the basis of an individual package gauge, each package shall be gauged unless the tax is to be determined on the production or filling gauge. When packages are gauged, the proprietor shall prepare a package gauge record, according to § 19.769, and attach it to the record of tax determination prescribed in § 19.761.

(b) *Tanks.* Spirits in tanks which are to be withdrawn on determination of tax shall be gauged (by weighing and proofing) as prescribed in § 19.93, and the elements of the gauge shall be recorded on the record of tax determination or on a separate record of the gauge for attachment to the record of tax determination.

(c) *Cases.* Cases of distilled spirits to be withdrawn from bonded premises shall be tax determined on the basis of the contents thereof. The proof gallonage contained in cases shall be determined in accordance with 27 CFR Part 30 and the method prescribed in § 19.722.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5204); Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

§ 19.518 Imported spirits.

When spirits which have been imported for nonbeverage purposes and transferred to bonded premises pursuant to 26 U.S.C. 5232 are withdrawn for beverage purposes, there shall be paid, in addition to the internal revenue tax imposed by 26 U.S.C. 5001, a tax equal to the duty which would have been paid had the spirits been imported for beverage purposes, less the duty already paid thereon. The additional tax shall be referred to as "additional tax—less duty", and shall be paid at the time and in the manner that the basic tax is paid. The total quantity in proof gallons withdrawn shall be the basis of computing the tax at the rates indicated. The amount of the "additional tax—less duty" shall be stated separately and identified as such on the tax return.

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

§ 19.519 Methods of tax payment.

The tax on spirits shall be paid pursuant to a return on Form 5110.32 or on Form 5110.35, filed as provided in § 19.523 or § 19.524 and § 19.525. Except for remittance to be effected by electronic fund transfer under § 19.524, remittance for the tax in full shall accompany the return and may be in any form which the district director is authorized to accept under the provisions of 26 CFR 301.6311-1 (Payment by check or money order) and which is acceptable to him. However, where a check or money order tendered in payment for taxes is not paid on presentment, or where the taxpayer is otherwise in default in payment, any remittance made during the period of such default, and until the regional director (compliance) finds that the revenue will not be jeopardized by the acceptance of a personal check (if acceptable to the district director), shall be in cash or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or a money order, as provided in 26 CFR 301.6311-1. Checks and money orders shall be made payable to "Internal Revenue Service".

(Act of August 16, 1954, Ch. 736, 68A Stat. 777, as amended (26 U.S.C. 6311); Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

§ 19.520 Employer identification number.

The employer identification number (defined at 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each return on Form 5110.32 or Form 5110.35 filed pursuant to the provisions of this part. Failure of the taxpayer to include his employer identification number on Form 5110.32 or Form 5110.35 my result in assertion and collection of the penalty specified in 26 CFR 301.6676-1.

(Sec. 1, Pub. L. 87-397, 75 Stat. 828, as amended (26 U.S.C. 6109, 6676))

§ 19.521 Application for employer identification number.

(a) An employer identification number will be assigned pursuant to application on Form SS-4 filed by the taxpayer. Form SS-4 may be obtained from the director of the service center or from the district director.

(b) An application on Form SS-4 for an employer identification number shall be made by every taxpayer who files a return on Form 5110.32 or Form 5110.35, but who prior to the filing of his first return on Form 5110.32 or Form 5110.35 has neither secured an employer identification number nor made application therefor. Such application on Form SS-4 shall be filed on or before the seventh day after the date on which such first return on Form 5110.32 or Form 5110.35 is filed.

(c) Each taxpayer shall make application for and shall be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a tax return under the provisions of this part.

(Sec. 1, Pub. L. 87-397, 75 Stat. 828, as amended (26 U.S.C. 6109))

§ 19.522 Taxes to be collected by returns.

(a) *Semimonthly periods.* The tax on spirits to be withdrawn from bond for deferred payment of tax shall be paid pursuant to a return on Form 5110.35. The periods to be covered by returns on Form 5110.35 shall be semimonthly; such periods to run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month. A return, Form 5110.35, shall be executed and filed to cover each return period notwithstanding that no tax is due for payment for such period. The proprietor of each bonded premises

shall include, for payment, on his return on Form 5110.35 the full amount of distilled spirits tax determined in respect of all spirits released for withdrawal from the bonded premises on determination of tax during the period covered by the return (except spirits on which tax has been prepaid).

(b) *Conditions under which deferral is denied.* Notwithstanding the posting of a withdrawal or unit bond by the proprietor, the tax shall be prepaid as provided in paragraph (c) of this section—

(1) Where a proprietor has defaulted in any payment of tax under this section, during the period of such default and until the regional director (compliance) finds that the revenue will not be jeopardized by deferral; or

(2) Where a proprietor, who, after having been notified of his deficiency by the regional director (compliance) (i) fails to maintain records required by this part to substantiate the correctness of his tax returns or (ii) otherwise fails to comply with any provisions of this part, is so notified by the regional director (compliance).

(c) *Prepaid taxes.* The tax on distilled spirits shall be paid pursuant to a return on Form 5110.32 in all cases where the tax is required to be paid before the spirits are withdrawn from bond. A single return on Form 5110.32 may cover one or more transactions. The proprietor shall note the serial number of the Form 5110.32 and the date and time such return was filed on the individual record of tax determination.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended, 1395, as amended (26 U.S.C. 5061, 5555))

§ 19.523 Time for filing returns.

(a) *Payment pursuant to semimonthly return, Form 5110.35.* Where the proprietor of bonded premises has withdrawn spirits from such premises on determination and before payment of tax, he shall file a tax return covering such spirits on Form 5110.35, and remittance as required by § 19.524 or § 19.525, not later than the last day of the second succeeding return period. Where the due date for filing a return falls on a Saturday, Sunday, or legal holiday, the time for filing is extended to the first succeeding day which is not a Saturday, Sunday, or legal holiday.

(b) *Payment pursuant to prepayment return, Form 5110.32.* If the proprietor of a distilled spirits plant desires to withdraw spirits from bonded premises on determination of tax and does not have on file an approved withdrawal or unit bond of sufficient penal sum to cover the withdrawal, if there is default by him in any payment of tax under this part, or the proprietor is notified by the regional director (compliance) as provided in § 19.522(b)(2), the proprietor shall not remove the spirits from the bonded premises until the tax thereon has been paid. To pay the tax, the proprietor of the bonded premises shall file a prepayment return, Form 5110.32, and remittance as required by §§ 19.523a or 19.524, before removal of the spirits.

(Sec. 201, Pub. L. 85–859, 75 Stat. 1335, as amended (26 U.S.C. 5061))

§ 19.524 Payment of tax by electronic fund transfer.

(a) *General.* (1) Each taxpayer who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and Parts 250 and 251 of this chapter, shall use a commercial bank in making payment by electronic fund transfer (EFT) of distilled spirits taxes during the succeeding calendar year. Payment of distilled spirits taxes by cash, check, or money order, as described in § 19.524, is not authorized for a taxpayer who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is defined as the gross tax liability on all taxable withdrawals and importations (including distilled spirits products brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted by the taxpayer. Overpayments are not taken into account in summarizing the gross tax liability.

(2) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563–1–1.1563–4. These criteria are not the same criteria applied to a controlled group of corporations under Subpart H of this part, for the purposes of filing bonds covering more than one distilled spirits plant.

(3) A taxpayer who is required by this section to make remittances by EFT, shall make a separate EFT remittance and file a separate return, ATF F 5110.32 or ATF F 5110.35, for each distilled spirits plant from which spirits are withdrawn upon determination of tax.

(b) *Requirements.* (1) On or before January 10 of each calendar year, except for a taxpayer already remitting the tax by EFT, each taxpayer who was liable for a gross amount equal to or exceeding five million dollars in distilled spirits taxes during the previous calendar year, combining tax liabilities incurred under this part and Parts 250 and 251 of this chapter, shall notify the regional director (compliance), for each region in which taxes are paid. The notice shall be an agreement to make remittances by EFT.

(2) For each return filed in accordance with this part, the taxpayer shall direct the taxpayer's bank to make an electronic fund transfer in the amount of the taxpayment to the Treasury Account as provided in paragraph (e) of this section. The request shall be made to the bank early enough for the transfer to be made to the Treasury Account by no later than the close of business on the last day for filing the return, prescribed in § 19.523. The request shall take into account any time limit established by the bank.

(3) If a taxpayer was liable for less than five million dollars in distilled spirits taxes during the preceding calendar year, combining tax liabilities incurred under this part and Parts 250 and 251 of this chapter, the taxpayer may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 19.524. Upon filing the first return on which the taxpayer chooses to discontinue remitting the tax by EFT and to begin remitting the tax with the tax return, the taxpayer shall notify the regional director (compliance) by attaching a written notification to ATF F 5110.32 or ATF F 5110.35, stating that no taxes are due by EFT, because the tax liability during the preceding calendar year was less than five million dollars, and that the remittance shall be filed with the tax return.

(c) *Remittance.* (1) Each taxpayer shall show on the return, ATF F 5110.32 or ATF F 5110.35, information about remitting the tax for that return by EFT and shall file the return with the director of the service center, district director, or regional director (compliance), in accordance with the instructions on ATF F 5110.32 or ATF F 5110.35.

(2) Remittances shall be considered as made when a taxpayer unconditionally directs the bank to immediately make an electronic fund transfer in the amount of the taxpayment to the Treasury Account, in accordance with the procedures established by the bank.

(3) When the taxpayer directs the bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section, any transfer data record furnished to the taxpayer, through normal banking procedures, will serve as the record of payment, and shall be retained as part of required records.

(d) *Failure to request an electronic fund transfer message.* The taxpayer is subject to a penalty imposed by 26 U.S.C. 5684, 6651, or 6656, as applicable, for failure to make a taxpayment by EFT on or before the close of business on the prescribed last day for filing.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the regional director (compliance) will issue to the taxpayer an ATF Procedure entitled, Payment of Tax by Electronic Fund Transfer. This publication outlines the procedure a taxpayer is to follow when preparing returns and EFT remittances in accordance with this part. The U.S. Customs Service will provide the taxpayer with instructions for preparing EFT remittances for payments to be made to the U.S. Customs Service.

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

§ 19.525 Manner of filing returns.

(a) Each return on ATF F 5110.32 or 5110.35 shall be filed with the district director, director of the service center, or regional director (compliance), in accordance with the instructions on the form. If the return and remittance are to be filed with a designated ATF Officer, the proprietor shall file the return and remittance no later than 2:00 p.m. on the date the return is required to be filed.

(b) When the proprietor sends the return on Form 5110.32 or Form 5110.35 by U.S. mail, the official postmark of the U.S. Postal Service stamped on the cover in which the return was mailed shall be considered the date of delivery of the remittance. When the postmark on the cover is illegible, the burden of proving when the postmark was made will be on the proprietor. When the proprietor sends the return with or without remittance by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail, as the case may be, shall be treated as the date of delivery of the return and, if accompanied, of the remittance.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302))

§ 19.526 Removal of spirits on tax determination.

No spirits shall be removed from bonded premises, except as otherwise provided by law, unless the tax thereon has been paid or determined. A record of tax determination shall be prepared for each removal of spirits as provided in § 19.76.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205); Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

Withdrawal of Spirits Without Payment of Tax

§ 19.531 Authorized withdrawals without payment of tax.

Spirits may be withdrawn from bonded premises, without payment of tax for:

(a) Export, as authorized under 26 U.S.C. 5214(a)(4);

(b) Transfer to customs manufacturing bonded warehouses, as authorized under 19 U.S.C. 1311;

(c) Transfer to foreign-trade zones, as authorized under 19 U.S.C. 81c;

(d) Supplies for certain vessels and aircraft, as authorized under 19 U.S.C. 1309;

(e) Transfer to customs bonded warehouses, as authorized under 26 U.S.C. 5066 or 5214(a)(9);

(f) Use in wine production, as authorized under 26 U.S.C. 5373;

(g) Transfer to any university, college of learning, or institution of scientific research for experimental or research use as authorized under 26 U.S.C. 5312(a); or

(h) Research, development or testing, as authorized under 26 U.S.C. 5214(a)(10). The withdrawal of spirits as provided in paragraphs (a) through (e) of this section shall be in accordance with the regulations in 27 CFR Part 252.

(Sec. 311, Tariff Act of 1930, 46 Stat. 691, as amended (19 U.S.C. 1311); Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1375, as amended, 1382, as amended (26 U.S.C. 5214, 5312, 5373); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

§ 19.532 Withdrawals of spirits for use in wine production.

Wine spirits may be withdrawn to a bonded wine cellar without payment of tax for use in wine production. When wine spirits are consigned, the proprietor shall prepare a transfer record according to § 19.770. Unless wine spirits in packages are to be withdrawn on the production or filling gauge, the proprietor shall prepare a package gauge record according to § 19.769 and attach it to the transfer record.

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

§ 19.533 Withdrawal of spirits without payment of tax for experimental or research use.

Any scientific university, college of learning, or institution of scientific research (which has qualified under the provisions of § 19.71 to withdraw spirits from a bonded premises), desiring to withdraw a specific quantity of spirits for experimental or research use, shall file a letterhead application with the regional director (compliance) of the region in which the applicant's premises are located.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5312))

Withdrawal of Spirits Free of Tax

§ 19.536 Authorized withdrawals free of tax.

Pursuant to the regulations in this chapter, spirits may be withdrawn from bonded premises free of tax—

(a) On receipt of a valid permit, issued under 27 CFR Part 213, to procure spirits for nonbeverage purposes and not for resale or use in the manufacture of any product for sale, as provided in 26 U.S.C. 5214(a)(3);

(b) On receipt of a valid permit, issued under 27 CFR Part 213, to procure spirits by and for the use of the United States or any governmental agency, any State, any political subdivision of a State, or the District of Columbia, for nonbeverage purposes as provided in 26 U.S.C. 5214(a)(2);

(c) On receipt of a valid permit, issued under this part, to procure spirits by and for the use of the United States, under the provisions of 26 U.S.C. 7510, for purposes other than as provided in paragraph (b) of this section and 26 U.S.C. 5214(a)(2);

(d) After being specially denatured—

(1) On receipt of a valid permit to procure such spirits, issued under 27 CFR Part 211;

(2) For export;

(e) After being completely denatured, for any lawful purpose;

(f) When contained in an article.

(Act of August 16, 1954, Ch. 736, 68A Stat. 900 (26 U.S.C. 7510); Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

§ 19.537 Withdrawal of spirits free of tax.

Spirits withdrawn free of tax under § 19.536 (a), (b), and (c) shall be withdrawn in approved containers and shipped to the consignee designated in the permit. Unless the spirits are in cases or are to be withdrawn on the production or filling gauge, the proprietor shall gauge each container. If the spirits are in packages which are to be gauged, the proprietor shall prepare a package gauge record according to § 19.769, and attach it to Form 1473. Gauges shall be made in accordance with Part 30 or by other methods approved by the Director. For each shipment, the proprietor shall prepare Form 1473 and distribute the form in

accordance with the instructions thereon. Bulk conveyances used to transport spirits withdrawn free of tax under this section shall be secured in accordance with § 19.96.

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

§ 19.538 Withdrawal of spirits by the United States.

(a) *Application.* (1) Application for permit, Form 1444, shall be filed by the United States or a governmental agency thereof intending to procure spirits free of tax for:

(i) nonbeverage purposes under the provisions of 27 CFR Part 213; or

(ii) other purposes under this part.

(2) The application shall be signed by the head or authorized representative of a department, independent bureau or agency.

(3) Signatory authority for persons authorized to sign in lieu of the agency head shall be submitted with the application.

(b) *Shipments under permit.* (1) The permit, Form 1444, shall be submitted to the distilled spirits plant proprietor at the time the spirits are procured.

(2) The proprietor shall return the permit to the agency at the time of shipment unless authorized by the agency to retain the permit for future shipments.

(3) The agency representative shall execute and distribute Form 1473 in accordance with instructions on the form when a shipment is received.

(c) *Use of spirits.* Agencies shall take appropriate precautions to ensure that spirits will be used only for Government purposes.

(d) *Cancellation of permit.* The agency shall return the permit to the Director for cancellation when the procurement of spirits is discontinued.

(Act of August 16, 1954, Ch. 736, 68A Stat. 900 (26 U.S.C. 7510))

§ 19.539 Disposition of excess spirits.

Any excess spirits in the possession of a governmental agency shall be disposed of to another agency of the United States holding a permit, shall be returned to a plant on approval of the regional director (compliance) of the region in which the plant is located, or shall be disposed of otherwise as may be authorized by the regional director (compliance) of the region where the agency is located. In no case may such spirits be disposed of to the general public, or otherwise, than as provided in this section.

(Act of August 16, 1954, Ch. 736, 68A Stat. 900 (26 U.S.C. 7510))

§ 19.540 Removal of denatured spirits and articles.

(a) *Specially denatured spirits.* Specially denatured spirits withdrawn free of tax under § 19.536(d) shall be shipped in approved containers to the consignee designated in the permit. If such spirits are for export or for transfer to a foreign-trade zone, they shall be withdrawn under the applicable provisions of 27 CFR Part 252. If such spirits are for shipment to a qualified user or a bonded dealer, the proprietor shall prepare a notice of shipment on Form 1473 and distribute the copies of the form in accordance with the instructions thereon. Bulk conveyances used to transport specially denatured spirits shall be secured in accordance with the provisions of § 19.96.

(b) *Completely denatured alcohol.* No permit, application, or notice is required for removal of completely denatured alcohol from bonded premises.

(c) *Samples of denatured spirits.* The proprietor may take samples of denatured spirits free of tax which may be necessary for the conduct of business. The proprietor may furnish samples of specially denatured spirits: (1) To dealers in, and users of, specially denatured spirits in advance of sales; and (2) to users and to applicants or prospective applicants for permits to use specially denatured spirits, for experimental purposes or for use in preparing samples of a finished product for submission to the Director. Samples for these purposes, in excess of 1 quart, shall be furnished only after a permit on Form 1512 is issued to the consignee. Form 1473 shall be prepared to cover shipment of samples of a size in excess of 1 quart. Form 1473 shall show the permit number of the Form 1512. The proprietor shall retain the Form 1512 on file as a part of the record transaction. Records of samples of less than 1 quart shall be maintained as provided in § 19.766.

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

(e) *Articles.* Removal of articles from bonded premises shall be in accordance with the provisions of 27 CFR Part 211.

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

§ 19.541 Reconsignment.

When, prior to or on arrival at the consignee's premises, spirits or specially denatured spirits withdrawn free of tax under § 19.536 are not accepted by the consignee or by a carrier, they may be reconsigned by the proprietor making the shipment on notification to the proprietor's regional director (compliance) of the reconsignment. Such reconsignment may be made to himself or to another proprietor for return to bonded premises under the provisions of § 19.685 or to another person holding an industrial use permit authorizing receipt or use of such spirits or specially denatured spirits. In case of reconsignment to bonded premises, the provisions of § 19.685, relating to consents of surety in respect of return of spirits or denatured spirits withdrawn free of tax shall be applicable. Notice of cancellation of Form 1473 covering the shipment to the original consignee shall be given by the proprietor to each person receiving a copy of the form. When reconsignment is to another person as provided in this section, a new Form 1473 shall be prepared and the word "Reconsignment" placed thereon. The entry on the permit covering the original withdrawal shall be voided.

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

Subpart Q—Losses and Shortages

Losses

§ 19.561 Losses in general.

(a) *Allowable losses.* Except as provided in paragraph (b) of this section, tax shall not be collected or, if paid, the tax shall be refunded when spirits, denatured spirits or wines are lost or destroyed while in bond.

(b) *Exceptions.* Tax shall be collected in the case of:

(1) Theft, unless the regional director (compliance) finds that the theft occurred without connivance, collusion, fraud or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(2) Voluntary destruction carried out other than as provided in Subpart U of this part;

(3) Unexplained shortage of bottled spirits.

(c) *Burden of proof.* When it appears that a loss occurred due to theft, the burden of proof shall be on the proprietor or other person liable for the tax to establish to the satisfaction of the regional director (compliance) that the loss did not result from connivance,

collusion, fraud, or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(d) *Claims* for losses allowable under this section shall be filed in accordance with applicable provisions of Subpart C of this part.

(e) *Limitations.* The abatement, remission, credit, or refund of taxes on spirits, denatured spirits, or wines lost by theft shall be allowed only to the extent that the claimant is not indemnified against or recompensed for the taxes.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008,5370))

§ 19.562 Determination of losses in bond.

(a) *General.* (1) Losses (whether by theft, unauthorized voluntary destruction, or otherwise) of spirits, denatured spirits, and wines shall be determined by the proprietor:

(i) Each time a tank or bulk conveyance is emptied;

(ii) On the basis of required physical inventories; and

(iii) Upon discovery of accidents or unusual variations in gauges.

(2) When it appears that any container in bond has sustained a loss resulting from theft or unauthorized voluntary destruction, such loss shall be taxpaid or the container shall be segregated (as necessary) with the loss reported promptly to the area supervisor.

(3) In any instance in which spirits, denatured spirits or wines are lost or destroyed in bond, whether by theft, unauthorized voluntary destruction, or otherwise, the regional director (compliance) may require the proprietor or other person liable for the tax to file a claim for relief from the tax in accordance with § 19.41.

(b) *Missing packages.* Whenever any packages of spirits, denatured spirits, or wine recorded as deposited on bonded premises cannot be located or otherwise accounted for, the proprietor shall promptly report such fact to the area supervisor, and the proprietor shall either pay the tax on the lost spirits, denatured spirits, or wines, or file a claim with respect thereto under the provisions of § 19.41.

(c) *Tampering, material deficiency, or loss of proof.* When it is found that spirits, denatured spirits, or wines in a container have been tampered with, or when a material deficiency in the recorded quantity of such products is found without evidence of loss by leakage or casualty, or when there is a loss of proof of such products not attributable to variations in gauging, the proprietor shall segregate the container (as necessary) and shall promptly report such fact to the area supervisor, unless the proprietor acknowledges liability for the tax on the loss and elects to pay the tax on the quantity lost.

(d) *Excessive in-transit losses.* Losses of spirits, denatured spirits, or wines received in bond in bulk conveyances which exceed one percent of the quantity of a product consigned shall be considered as excessive in-transit losses. However, in the case of transcontinental transfers in bond of wine, only losses in excess of two percent of the quantity of wine consigned shall be considered as excessive in-transit losses. The proprietor shall promptly report all such excessive in-transit losses to the area supervisor.

(e) *Storage account loss limitation.* When the quantity of spirits lost from all the storage tanks and bulk conveyances exceeds 1½ percent of the total quantity contained in the tanks and bulk conveyances during the calendar quarter, the loss shall be taxpaid unless a claim for remission is filed in accordance with the provisions of § 19.41 and is allowed by the regional director (compliance).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370))

§ 19.563 Loss of spirits from packages.

(a) *Original quantity.* Where there is evidence satisfactory to the regional director (compliance) that any loss of spirits (including denatured spirits) from any package deposited on bonded premises is due to theft (except where the regional director (compliance) has made the finding provided for in § 19.561(b)) or is due to unauthorized voluntary destruction, the regional director (compliance) may require the immediate tax payment of the quantity of spirits so lost, except where the extent of any loss from causes other than theft or unauthorized voluntary destruction can be established by the proprietor to the satisfaction of the regional director (compliance), the regional director (compliance) may credit the tax on the loss so established against the tax on the original quantity.

(b) *Alternative method.* Where there is evidence satisfactory to the regional director (compliance) that there has been access, other than as authorized by law, to the contents of packages entered for deposit on bonded premises, and the extent of such access is such as to evidence a lack of due diligence or a failure to employ necessary and effective controls on the part of the proprietor, the regional director (compliance) may (in lieu of the procedure prescribed in paragraph (a) of this section) assess an amount equal to the tax on 5 proof gallons of spirits on each of the total number of such packages as determined by him.

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

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

§ 19.564 Losses after tax determination.

(a) *Applicability.* Pursuant to a claim, the tax on spirits which are lost after determination of tax and before completion of physical removal from bonded premises, may be abated or remitted or refunded or credited without interest to the proprietor of the bonded premises where the loss occurred.

(b) *Conditions.* (1) Claims for losses under this section shall be filed in accordance with Subpart C of this part.

(2) This section shall not apply if the tax would have been collectible by reason of 26 U.S.C. 5008(a)(1) if the loss occurred on bonded premises before determination of tax.

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

Shortages

§ 19.565 Shortages of bottled distilled spirits.

An unexplained shortage of bottled distilled spirits shall be taxpaid: (a) Immediately on Form 5110.32, or (b) on Form 5110.35 for the return period during which the shortage was ascertained. Unexplained shortages shall be determined by comparing the spirits recorded to be on hand with the results of the quantitative determination of the spirits found to be on hand by actual count during the physical inventory required by § 19.402. When the recorded quantity is greater than the quantity determined by the physical inventory, the difference is an unexplained shortage. The records shall be adjusted to reflect the physical inventory.

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

Subpart R—Containers and Marks

Containers

§ 19.581 Authorized containers.

(a) *General.* Proprietors shall use for any purpose of containing, storing, transferring, conveying, removing, or withdrawing spirits or denatured spirits under this part only containers which are authorized by, or under the provisions of this part for such purpose, and a container so authorized will be deemed to be an approved container for such purpose. Except where stated otherwise, the provisions of Part 211 of this chapter apply to containers used for containing, storing and shipping of articles, and the provisions of 27 CFR Part 240 apply to containers used for storage or transfer of wine. Except for liquor bottles, this subpart does not regulate or prohibit the use on plant premises of any container for purposes other than containing alcoholic substances.

(b) *Alternate containers.* In addition to the types of containers specifically authorized by this part for a particular purpose, a container of another type may be authorized for that purpose by the Director on a finding by him that the use of such container will afford protection to the revenue equal to or greater than that afforded by the containers specifically authorized by this part, and that the use will not cause administrative difficulty. If another container is so authorized by the Director, he shall prescribe the detail and manner in which such container shall be constructed, protected, and marked, consistent with the provisions of this part and the extent of such use. Similarly, where a container authorized for a particular purpose is required by this subpart to be made of specified materials, the Director may authorize the use of containers made of other materials which he has found to be suitable for the intended purpose.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1362, as amended, 1374, as amended (26 U.S.C. 5206, 5212, 5214, 5301); Sec. 805, Pub. L. 96–39, 93 Stat. 279 (26 U.S.C. 5002); Sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5213))

§ 19.582 Spirits for nonindustrial use.

(a) *Determination of use.* Containers of spirits of a capacity of 1 gallon (3.875 liters) or less are considered to be for nonindustrial use, except for those which contain:

(1) Anhydrous alcohol; or

(2) Alcohol which may be withdrawn from bond free of tax.

(b) *Containers.* If not inconsistent with the provisions in 27 CFR Part 5, spirits for nonindustrial use may be filled into:

(1) Packages, or

(2) Other containers which are filled during processing operations and contain not more than 10 gallons.

(c) *Bottles and labels.* The provisions of Subpart S of this part govern the liquor bottles and labels to be used in bottling spirits for nonindustrial domestic use.

(d) *Cases.* Spirits for nonindustrial use in containers with a capacity of 1 gallon or less shall be placed in cases which afford reasonable protection against breakage. Such cases shall not be transferred in bond.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1374, as amended (26 U.S.C. 5206, 5212, 5301))

§ 19.583 Spirits for industrial use.

(a) *Containers.* (1) Denatured spirits may be filled into glass or metal containers of a capacity not greater than 10 gallons.

(2) Other spirits for industrial use may be filled into

(i) Containers of 1 gallon or less; or

(ii) Glass or metal containers of a capacity of 1 gallon but not greater than 10 gallons.

(b) *Encased containers.* Unlabeled containers holding from 1 to 10 gallons of denatured spirits and spirits of 190 degrees proof or more for industrial use may be encased in wood, fiberboard, or similar material if:

(1) The cases are constructed so that the surface, including the opening, of the container is not exposed;

(2) Required marks and any required stamps are applied to an exterior surface of the case;

(3) The case is constructed so that the portion containing marks andstamps will remain attached to the inner container until all the contents have been removed; and

(4) A statement reading "Do not remove inner container until emptied" or of similar meaning is placed on the portion of the case bearing the marks and stamps.

(c) *Cases.* Except for encased containers, containers for denatured spirits and spirits for industrial use of a capacity of 1 gallon or less shall be placed in cases which afford reasonable protection against breakage.

(d) *Articles.* Articles shall be packaged and labeled in accordance with the provisions of 27 CFR Part 211.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1374, as amended (26 U.S.C. 5206, 5301))

§ 19.584 Packages.

Packages may be used on bonded premises for original entry of spirits, and for packaging from tanks, storing, transferring in bond, and withdrawing from bonded premises of spirits and denatured spirits. Packages shall be constructed so as to be capable of secure closure.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 19.585 Bulk conveyances.

Bulk conveyances which conform to the requirements of § 19.588 may be used on bonded premises for original entry of spirits, and for filling from tanks, storing, transferring in bond, and withdrawing taxpaid spirits and denatured spirits. Spirits may be withdrawn free of tax, pursuant to the provisions of this part, in a bulk conveyance only for use of the United States, or if the Director has authorized the proprietor, as provided in § 19.581, to so withdraw such spirits to a specified consignee. Spirits may be withdrawn without payment of tax, pursuant to the provisions of this part, in bulk conveyances for the purposes provided in § 19.531 (a), (b), (c), (e), and (f).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 19.586 Tanks.

Tanks which conform to the requirements of § 19.273 may be used on bonded premises as containers for distilled spirits, denatured spirits, articles, and wines.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 19.587 Pipelines.

Pursuant to the provisions of this part, pipelines which conform to the requirements of § 19.274 may be used for (a) the conveyance on bonded premises of spirits, denatured spirits, articles, and wines, and (b) the conveyance to and from bonded premises of spirits, denatured spirits, articles, and wines.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 19.588 Construction of bulk conveyances.

(a) *Construction.* All bulk conveyances authorized by this part shall conform to the following:

(1) If the conveyance consists of two or more compartments, each shall be so constructed or arranged that emptying of any compartment will not afford access to the contents of any other compartment.

(2) The conveyance (or in the case of compartmented conveyances, each

compartment) shall be so arranged that it can be completely drained.

(3) Each tank car or tank truck shall have permanently and legibly marked thereon its number, capacity in wine gallons, and the name or symbol of its owner.

(4) If the conveyance consists of two or more compartments, each compartment shall be identified and the capacity of each shall be marked thereon.

(5) A route board, or other suitable device, for carrying required marks and stamps shall be provided on each bulk conveyance.

(6) Calibrated charts showing the capacity of each compartment in wine gallons for each inch of depth, shall be available for use in measuring the contents of each tank truck, tank ship, or barge.

(b) *Proprietor's responsibility.* Before filling any bulk conveyance, the proprietor shall examine it to ascertain that it meets the requirements of this section and is otherwise suitable for receiving the spirits, denatured spirits, or wines, and he shall refrain from, or discontinue, using any such conveyance found by him or by an ATF officer to be unsuitable.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1362, as amended (26 U.S.C. 5206, 5212, 5214); Sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5213))

§ 19.589 Restrictions on disposition of bulk spirits.

(a) *For nonindustrial use.* Spirits for nonindustrial use may be sold or disposed of in containers holding more than 1 wine gallon only to the persons and for the purposes set forth in 27 CFR Part 3.

(b) *For industrial use.* Shipment or delivery of spirits (other than alcohol or neutral spirits) withdrawn from bond in containers holding more than 1 wine gallon for industrial use shall, as provided in 27 CFR Part 3, be made directly to the user of the spirits.

(Sec. 201, Pub. L. 85–895, 72 Stat. 1356, as amended (26 U.S.C. 5201))

Marks

§ 19.592 General.

Proprietors shall mark, identify, label, and stamp all containers of spirits or denatured spirits as provided by this part. Containers of wine shall be marked in accordance with 27 CFR Part 240. Containers of articles shall be marked in accordance with 27 CFR Part 211.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1360, as amended (26 U.S.C. 5204, 5206))

§ 19.593 Package identification numbers in production and storage.

(a) *General.* Packages of spirits filled during production or storage operations after December 31, 1979, shall be marked with a lot identification representing the date the package is filled, and consisting, in the order shown, as follows:

(1) The last two digits of the calendar year;

(2) An alphabetical designation from "A" through "L", representing January through December, in that order;

(3) The digits corresponding to the day of the month; and

(4) When more than one lot is filled into packages during the same day, for successive lots after the first lot, a letter suffix, in alphabetical order, with "A" representing the second lot, "B" representing the third lot, and so forth.

The first three lots filled into packages on January 2, 1980, would be identified as "80A02", "80A02A", "80A02B".

(b) *Packages constituting a lot.* Packages of spirits received from customs custody or filled during any one day shall be given the same lot identification subject to the following conditions:

(1) They are of the same type and either are of the same rated capacity or are uniformly filled with the same quantity by weight or other method provided in § 19.319;

(2) They are filled with spirits of the same kind and same proof;

(3) They are filled with spirits which are mingled in accordance with § 19.346; and

(4) They are filled with imported spirits, Puerto Rican spirits, or Virgin Islands spirits, as applicable. Any remnant package shall itself constitute a lot.

(c) *Serial numbers.* The regional director (compliance) may require serial numbers on packages of spirits within the same lot in conjunction with the lot identification, at the time of filling, receipt on bonded premises, or withdrawal from bond. Proprietors shall assign temporary serial numbers to packages for control purposes when they are transferred in bond in an unsecured conveyance or gauged after being tampered with in the storage account.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 19.594 Numbering of packages and cases in processing.

(a) *General.* Packages of spirits and denatured spirits filled during processing operations and cases containing bottles or other containers of spirits and denatured spirits shall, when filled, be consecutively numbered in a separate series by the proprietor commencing with "1" in each series of serial numbers, except that any series of such numbers in use may be continued. When the numbering in any series reaches "1,000,000", the proprietor may recommence the series. However, a new series for packages of spirits and denatured spirits filled during processing operations shall be given an alphabetical prefix or suffix. For additional identification, separate series of serial numbers, distinguished from each other by the use of alphabetical prefixes or suffixes, may be established to identify size of bottles, brand names, or other information, on written notice to the regional director (compliance). Remnant cases shall be given the serial number of the last full case followed by the letter R. Where there is a change in the individual, firm, corporate name, or trade name, all series in use at that time shall be continued. However, for a change in proprietorship, a new series shall be commenced.

(b) *Alternative method for spirits, including denatured spirits, for industrial use.* Instead of the numbering required by paragraph (a) of this section, packages and cases of spirits, including denatured spirits, for industrial use filled in processing may be marked with lot identification numbers provided in § 19.593.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 19.595 Specifications for marks.

(a) *Manner.* (1) The proprietor shall place the prescribed marks on cases, encased containers, and packages of spirits and denatured spirits so that they are:

(i) Of sufficient size to be easily read;

(ii) Of a color distinctly in contrast to that of the background;

(iii) Legible; and

(iv) Durable.

(2) Cases, encased containers or packages may be marked by the use of labels which are legible and securely affixed.

(b) *Location.* The required marks shall be placed on one side or head, as applicable.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 19.596 Marks on packages of spirits filled on bonded premises.

(a) *Packages filled in production or storage.* Except as otherwise provided in this part, packages of spirits filled in production or storage shall be marked with:

(1) The name of the producer, or his trade name as required by paragraph (c) of this section;

(2) The plant number of the producer, such as "DSP-KY-708";

(3) The kind of spirits or, in the case of distillates removed under § 19.322, the kind of distillates such as "Grape distillate", "Peach distillate", etc.;

(4) The package identification number;

(5) "BSA" or "OC" when spirits are treated with caramel or oak chips, as the case may be;

(6) The rated capacity of the package in gallons shown as "RC—G".

(7) If packages of spirits of 190 degrees or more of proof are filled by other than the producer, the name (or trade name) and plant number of the packaging proprietor shall be substituted for that of the producer.

(b) *Packages filled in processing.* Except as otherwise provided in this part, packages of spirits filled in processing shall be marked with:

(1) The name of the processor, or his trade name;

(2) The plant number of the processor, such as "DSP-KY-708";

(3) The kind of spirits (in the case of an intermediate, the product name shown on Form 5110.38);

(4) The serial number or lot identification number, as applicable, and date of filling;

(5) Proof of spirits; and

(6) If manufactured under an approved formula, the serial number of the formula.

(c) *Real or trade names.* The producer's real name or any trade name authorized (as provided in § 19.165), at the time of production, may be placed on any package filled at the time of production gauge, or at the time of original packaging of the spirits in wood when, as provided in § 19.320, the spirits were not filled into wooden packages at the time of production gauge. When spirits have been mingled under § 19.346, the proprietor may use any of the names represented in the mingled spirits, but no other name, as the name of the producer to be marked on packages filled with such mingled spirits. However, if the proprietor was the actual producer of the spirits, he may in any case use his real name. The processor's real name or any trade name authorized (as provided in § 19.165) may be placed on any package filled with spirits during processing operations.

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

§ 19.597 Kind of spirits.

(a) *Designation.* The designations as to kind of spirits required by § 19.596 shall be in accordance with the classes and types of spirits set out in 27 CFR Part 5, except that:

(1) Spirits distilled at more than 160 degrees of proof, which lack the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin, and which are substantially neutral in character, may be designated as "Alcohol". When alcohol is withdrawn on determination of tax, the designation shall consist of the word "Alcohol" preceded or followed by a word or phrase descriptive of the material from which the alcohol was produced.

(2) The designations for vodka, neutral spirits, or gin shall include a word or phrase descriptive of the material from which the spirits so designated were produced.

(3) Spirits distilled at less than 190 degrees of proof which lack the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin, may be designated "Spirits", preceded or followed by a word or phrase descriptive of the material from which produced. However, spirits distilled on or after July 1, 1972, as provided in this paragraph may not be designated "Spirits grain" or "Grain spirits".

(4) Spirits distilled from fruit at or above 190 degrees of proof, if intended for use in wine production, shall be designated "Neutral Spirits—Fruit", preceded or followed by the name of the fruit from which produced.

(5) Spirits distilled at not more than 160 degrees of proof from a fermented mash of not less than 51 percent rye, corn, wheat, malted barley, or malted rye grain, packaged in reused cooperage, may be designated "Whisky" if further qualified with the words "Distilled from rye mash" (or bourbon, wheat, malt, or rye malt mash, as the case may be). However, such spirits shall, if distilled from a fermented mash of not less than 80 percent corn, be designated "Corn Whisky."

(b) *Change of designation.* A proprietor may, on written application to, and approval of the regional director (compliance), change the original designation for spirits at any time, before their withdrawal from bonded premises, to a new designation properly describing the spirits in accordance with the provisions of this section.

(c) *Other designations.* If the proprietor proposes to produce spirits for which a designation has not been prescribed, he shall first make written application to the Director for a designation for such spirits and such spirits shall be branded accordingly.

(d) *Spirits for nonindustrial use.* The provisions of this section shall not be construed as authority for applying designations to spirits withdrawn for nonindustrial use which designations do not comply with provisions of 27 CFR Part 5.

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

§ 19.598 [Reserved]

§ 19.599 Change of packages in storage.

When spirits are transferred from one package to another as authorized in § 19.345, each new package shall be given the same package identification number and marks as the original package. The proprietor shall prepare and sign a label to be affixed to the head of each new package in the manner prescribed for affixing distilled spirits stamps. The label shall be in the following form:

The spirits in this _____, (kind of coperage)_____, (Barrel or drum) package identification No._____, were transferred from a_____, _____, (kind of cooperage)_____, (Barrel or drum) on_____, (Date).

_____

(Proprietor)

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

§ 19.600 [Reserved]

§ 19.601 Marks on containers of specially denatured spirits.

(a) *General.* Each package, case, and encased container of specially denatured spirits filled on bonded premises shall be marked or labeled to show:

(1) Quantity in gallons;

(2) Serial number or lot identification number;

(3) Plant number of the proprietor;

(4) Designation or abbreviation of the specially denatured spirits by kind (alcohol or rum);

(5) Formula number; and

(6) Proof of spirits which were denatured at other than 190 degrees of proof.

(b) *Bottles.* Each bottle shall be marked or labeled to show the information prescribed in paragraph (a)(1), (3), (4), (5), and (6) of this section.

(c) *Alternate formulations.* When spirits are denatured under a formula authorizing a choice of types and quantities of denaturants, the container or case shall be marked to show actual types and quantities of denaturants used.

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

§ 19.602 Marks on containers of completely denatured alcohol.

Each container of completely denatured alcohol, except pipelines and bulk conveyances, shall have marked on the head of the package, or side of the can or carton, the name of the proprietor by whom the containers were filled, the plant number where filled, the contents in wine gallons, the apparent proof, the words "Completely Denatured Alcohol", and the formula number.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended) (26 U.S.C. 5206))

§ 19.603 [Reserved]

§ 19.604 Caution label.

Each container of completely denatured alcohol containing 5 gallons or less, sold or offered for sale, shall be labeled to show in plain, legible letters (red or white) the words "Completely Denatured Alcohol" and the following statement: "Completely denatured alcohol; contains ingredients which render the product wholly unfit for beverage purposes; if taken internally, will cause serious consequences to health." The name and address of the denaturer may be printed on such label, but no other extraneous matter will be permitted thereon without the approval of the Director. The word "pure", qualifying denatured alcohol, will not be permitted to appear on the label or the container.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 19.605 Additional marks on portable containers.

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

(1) Without payment of tax, for export, transfer to customs manufacturing bonded warehouses, transfer to foreign-trade zones or supplies for certain vessels and aircraft, shall be marked as provided in 27 CFR Part 252; or

(2) Tax-free alcohol shall be marked with the word "Tax-Free."

(b) The proprietor may show other information such as brand or trade name; caution notices and other material required by Federal, State, or local law or regulations; wine or proof gallons; and plant control data. However, marks or attachments shall not conceal, obscure, interfere with or conflict with the markings required by this subpart.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 19.606 Marks on bulk conveyances.

(a) The proprietor shall securely attach to the route board, or other suitable device, of each bulk conveyance used to transport spirits or denatured spirits, a label to identify each conveyance or compartment as follows:

(1) Name, plant number, and location of the consignor;

(2) Name, plant number, permit number, or registry number (as applicable), and location of the consignee;

(3) Date of shipment;

(4) Quantity (proof gallons for spirits, wine gallons for denatured spirits); and

(5) Formula number for denatured spirits.

(b) The provisions of paragraph (a) of this section shall not apply when the conveyance is accompanied by documentation which contains the information required by paragraph (a) of this section.

(c) In addition, export shipments shall conform to the requirements of 27 CFR Part 252.

(d) Bulk conveyances used to transport wine and articles shall conform to the requirements of 27 CFR Part 240 and 27 CFR Part 211, respectively.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 19.607 Marks on cases.

(a) *Mandatory marks.* Except for cases marked as provided in § 19.608, the following information shall be plainly marked on each case of spirits filled in processing:

(1) Serial number;

(2) Kind of spirits;

(3) Plant number where bottled;

(4) Date filled;

(5) Proof; and

(6) Liters or proof gallons.

Cases removed for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by 27 CFR Part 252.

(b) *Other marks.* In addition to the required marks on cases filled in processing, the proprietor may include other marks such as:

(1) Name or trade name, and location of desired, of the bottler, and in conjunction therewith the word "Bottler";

(2) For products actually distilled or processed by the proprietor, his name or trade name, and location, if desired, and in conjunction therewith the words "Distiller" or "Processor" as applicable;

(3) For products actually imported and bottled by the proprietor, the words "Imported and Bottled By", followed by his name or trade name, and location if desired;

(4) For products bottled for a dealer, the words "Bottled For", followed by the name of such dealer;

(5) Other material required by Federal or State law and regulations; or

(6) Labels or data describing the contents for commercial identification or accounting purposes, or indicating payment of State or local taxes.

The marks authorized by this paragraph shall not interfere with or detract from the mandatory marks prescribed in paragraph (a) of this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206); Sec. 3(a), Pub. L. 91–659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

§ 19.608 Cases of industrial alcohol.

(a) Mandatory marks. Each case, including encased containers, of alcohol bottled for industrial use in accordance with Subpart M of this part shall be marked as applicable, to show—

(1) "Alcohol";

(2) Serial number or lot identification number;

(3) Plant number;

(4) Proof;

(5) Proof gallons;

(6) "Tax-Free"; and

(7) Information required by 27 CFR Part 252, for cases withdrawn for export, transferred to customs bonded warehouses, transferred to foreign-trade zones, or supplies for certain vessels and aircraft.

(b) *Other marks.* Cases may be marked with other marks which do not interfere with or detract from mandatory case marks in the manner permitted by § 19.607.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1369, as amended (26 U.S.C. 5206, 5235))

§ 19.609 [Reserved]

§ 19.610 Destruction of stamps and obliteration of marks.

Except as provided in § 19.597(b), the stamps and marks required by this part to be placed on any container or case shall not be destroyed or altered before the container or case is emptied. When the proprietor empties a container, he shall destroy any distilled spirits stamp which was affixed to the container, or he shall obliterate any mark which was placed on the container in lieu of a distilled spirits stamp. The proprietor is not required to obliterate any other marks on a container.

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

§ 19.611 Relabeling and restamping off bonded premises.

The proprietor of a distilled spirits plant may relabel, affix brand labels, reaffix alternative devices, or restamp bottled taxpaid spirits on wholesale liquor dealer premises or at a taxpaid storeroom on, contiguous to, adjacent to, or in the immediate vicinity of the plant, if such wholesale liquor dealer premises or taxpaid storeroom is operated in connection with the plant. If products which are relabeled under this section were originally bottled by another proprietor, the relabeling proprietor shall have on file a statement from the original bottler consenting to the relabeling.

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

§ 19.612 Authorized abbreviations to identify marks.

In addition to the abbreviations and symbols which are authorized in this part for use in marking containers, the following abbreviations may be used to identify certain marks:

Mark	Abbreviation
Completely Denatured Alcohol	CDA
Distilled Spirits Stamps	DSS
Gallon or Wine Gallon	WG
Gross Weight	G
Proof	P
Specially Denatured:	
Alcohol	SDA
Rum	SDR
Tare	T
Tax Determined	TD
Wine Spirits Addition	WSA

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

Subpart S—Liquor Bottle and Label Requirements

§ 19.631 Scope of subpart.

The provisions of §§ 19.632 through 19.639 of this subpart shall apply only to liquor bottles having a capacity of 200 ml or more except where expressly applied to liquor bottles of less than 200 ml capacity. The provisions of §§ 19.641 through 19.650 of this subpart shall apply to all liquor bottles, regardless of size.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1374, as amended (26 U.S.C. 5206, 5301))

Liquor Bottle Requirements

§ 19.632 Bottles authorized.

Liquor bottles for domestic use shall conform to the applicable standards of fill provided in Subpart E of 27 CFR Part 5, including those for liquor bottles of less than 200 ml capacity. The use of any bottle size other than as authorized in Subpart E of 27 CFR Part 5 is prohibited for the bottling of nonindustrial distilled spirits for domestic purposes.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

§ 19.633 Distinctive liquor bottles.

(a) *Application.* A proprietor desiring approval of domestic liquor bottles of distinctive shape or design, including bottles of less than 200 ml capacity, or, to use such distinctive liquor bottles, shall submit Form 1649/5100.31 to the Director for approval. The applicant shall certify as to the total capacity of a representative sample bottle before closure (expressed in milliliters) on each copy of the form. In addition, the applicant shall affix a readily legible photograph (both front and back of the bottle) to the front of each copy of Form 1649/5100.31, along with the label(s) to be used on the bottle. The applicant shall not submit an actual bottle or an authentic model unless specifically requested to do so.

(b) *Approval.* Properly submitted Forms 1649/5100.31 for approval of distinctive liquor bottles shall be approved by the Director if the bottles are found to—

(1) Meet the requirements of 27 CFR Part 5;

(2) Be distinctive;

(3) Be suitable for their intended purpose;

(4) Not jeopardize the revenue; and

(5) Not be deceptive to the consumer.

The applicant shall keep a copy of the approved Form 1649/5100.31, including an approved photograph (both front and back) of the distinctive liquor bottle, on file at his premises. If Form 1649/5100.31 is disapproved, the applicant shall be notified of the Director's decision and the reasons therefor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

§ 19.634 Receipt and storage of liquor bottles.

No proprietor shall accept shipment or delivery of liquor bottles except from the manufacturer thereof, a supplier abroad, or another proprietor. However, the regional director (compliance) may, pursuant to letterhead application, authorize a proprietor to receive and reuse liquor bottles assembled for such proprietor as provided in 27 CFR § 194.263. Liquor bottles, including those of less than 200 ml capacity, shall be stored in a safe and secure place, either on the proprietor's qualified premises or at another location.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

§ 19.635 Bottles to be used for display purposes.

Liquor bottles may be furnished to liquor dealers for display purposes, provided that each bottle is marked to show that it is to be used for such purpose. Strip stamps may not be used on display bottles. The disposition of such bottles, showing names and addresses of consignees, dates of shipment, and size, quantity, and description of bottles, shall be included in the records required under § 19.747.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

§ 19.636 Bottles for testing purposes.

Proprietors may ship liquor bottles to persons for testing. The disposition of such bottles, showing the name and address of the person to whom the bottles are shipped, date of shipment, and the size and number of bottles shipped, shall be included in the records required under § 19.747.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

§ 19.637 Bottles not consititute approved containers.

The Director shall disapprove for use as a liquor bottle any bottle, including a bottle of less than 200 ml capacity, which he determines to be deceptive. Any such bottle is not an approved container for the purposes of § 19.581 of this part, and shall not be used for packaging distilled spirits for domestic purposes.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

§ 19.638 Disposition of stocks of liquor bottles.

When a proprietor discontinues operations, or permanently discontinues the use of a particular size or type of liquor bottle, the stocks of such bottles on hand shall either be disposed of to another person authorized to receive liquor bottles, or destroyed, including disposition for purposes which will render them unusable as bottles. However, on approval of a written application by the regional director (compliance) of the region in which the proprietor's plant is located, liquor bottles may be otherwise disposed of.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

§ 19.639 Use and resale of liquor bottles.

No proprietor shall use any liquor bottle except for packaging distilled spirits, or dispose of any empty liquor

bottle except to another person authorized to receive liquor bottles or as provided in § 19.638. Bottles may be furnished to others for display and testing purposes as provided in §§ 19.635 and 19.636, respectively.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

Bottle Label Requirements

§ 19.641 Certificate of label approval or exemption.

Proprietors are required by 27 CFR Part 5 to obtain approval of labels, or exemption from label approval, for any label to be used on bottles of spirits for domestic use and shall exhibit evidence of label approval, or of exemption from label approval, on request of an ATF officer.

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

§ 19.642 Statements required on labels under an exemption from label approval.

All labels to be used on bottles of spirits for domestic use under an exemption from label approval shall contain the applicable information required in §§ 19.643 through 19.650. Where a statement of age or age and percentage is required, it shall have the meaning given, and be stated in the manner provided in 27 CFR Part 5.

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

§ 19.643 Brand name, kind, alcohol content, and State of distillation.

The brand name, kind as set out in 27 CFR Part 5, and alcohol content of the distilled spirits, by proof, shall be shown on the label except that on labels for liqueurs, cordials, bitters, cocktails, highballs, or other such specialties, the alcohol content may be stated in percentage by volume. Except in the case of "light whisky", "blended light whisky", "blended whisky", "a blend of straight whiskies", or "spirit whisky", the State of distillation shall be shown on the label of any whisky produced in the United States if the whisky is not distilled in the State given in the address on the brand label. The Director may, however, require the State of distillation to be shown on the label or permit such other labeling as may be necessary to preclude any misleading or deceptive impression which might otherwise be created as to the actual State of distillation. In the case of "light whisky", as defined in 27 CFR 5.22(b)(3), the State of distillation shall not appear in any manner on any label if the Director finds such State is associated by consumers with an American type whisky (as provided in 27 CFR 5.22), except as part of a name and address as set forth in 27 CFR 5.36(a).

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

§ 19.644 Net contents.

The net contents of liquor bottles shall be shown on the label, unless the statement of the net contents is permanently marked on the side, front, or back of the bottle.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as ameded (26 U.S.C. 5201))

§ 19.645 Name and address of bottler.

There shall be stated on the label of distilled spirits the phrase "Bottled by", "packed by", or "Filled by" immediately followed by the name (or trade name) of the bottler and the place where such spirits are bottled. If the bottler is the actual bona fide operator of more than one distilled spirits plant engaged in bottling operations, there may, in addition, be stated immediately following the name (or trade name) of such bottler the addresses of such other plants. However:

(a) Where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase "Bottled by", "Packed by", or "Filled by", followed by the bottler's name (or trade name) and address, the phrase "Distilled by", followed by the name (or trade name) under which the particular spirits were distilled, or any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), and the address (or addresses) of the distiller;

(b) Where distilled spirits are bottled by or for the proprietor of a distilled spirits plant, there may be stated, in lieu of the phrase "Bottled by", "Packed by", or "Filled by", followed by the bottler's name (or trade name) and address, the phrase "Blended by", "Made by", "Prepared by", "Manufactured by", or "Produced by" (whichever may be appropriate to the process involved), followed by the name (or trade name) and the address (or addresses) of the distilled spirits plant proprietor; and

(c) On labels of distilled spirits bottled for a retailer or other person who is not the actual distilled spirits plant proprietor of such distilled spirits, there may also be stated the name and address of such retailer or other person, immediately preceded by the words "Bottled for", or "Distributed by", or other similar statement.

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

§ 19.646 Age of whisky containing no neutral spirits.

In the case of whisky containing no neutral spirits, statements of age and percentage shall be stated on the label as provided in 27 CFR Part 5.

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

§ 19.647 Age of whisky containing no neutral spirits.

In the case of whisky containing neutral spirits, the age of the whisky or whiskies and the respective percentage by volume of whisky or whiskies and neutral spirits, shall be stated on the label as provided in Part 5 of this chapter.

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

§ 19.648 Age of brandy.

If brandy is aged for a period of less than two years, the age thereof shall be shown on the label.

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

§ 19.649 Presence of neutral spirits and coloring, flavoring, and blending materials.

The presence of neutral spirits or coloring, flavoring, or blending materials shall be stated on labels in the manner provided in 27 CFR Part 5.

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

§ 19.650 Country of origin.

On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form: "Product of _____," the blank to be filled in with the name of the country or origin.

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

Subpart T—Stamps

Strip Stamps and Alternative Devices

§ 19.661 General

(a) *Red strip stamps.* Except as provided in paragraph (b) of this section, a red strip stamp or an approved alternative device shall be affixed to each:

(1) Bottle or other container of spirits having a capacity of one gallon or less, except cases, at the time of filling; and

(2) Encased container, metal drum, or other container of spirits having a capacity of more than one gallon but not more than five gallons, before withdrawal, on determination of tax, without payment of tax for the purposes authorized in § 19.531 (a)–(e), or free of

tax for the purposes authorized in § 19.536 (a)–(c).

(b) *Green strip stamps.* A green strip stamp or an approved alternative device shall be affixed to each bottle containing spirits which are labeled as "bottled in bond" under 27 CFR Part 5.

(c) *Overprinting.* (1) Strip stamps or alternative devices affixed to bottles to be exported shall be overprinted with the word "EXPORT." However, upon approval by the Director, strip stamps or alternative devices need not be so overprinted when the label or other information on the bottle clearly indicates that the spirits are intended for export.

(2) Strip stamps or alternative devices may be overprinted with other information if no printing on a strip stamp or mandatory overprinting is obscured, provided that the additional overprinting is otherwise consistent with law and regulations.

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

§ 19.662 Strip stamp format.

All prescribed strip stamps shall be issued in (a) a standard size for bottles or containers of 200 ml capacity or more, and in (b) a small size for bottles or containers of less than 200 ml capacity.

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

§ 19.663 Alternative devices.

(a) *Alternative devices used in lieu of red or green strip stamps.* Distilled spirits plant proprietors who wish to use devices other than red or green strip stamps on containers of distilled spirits may use any device which has been announced by the Director to be an approved alternative device or which has been approved for his use pursuant to application filed in accordance with paragraph (c) of this section.

(b) *Alternative devices.* Alternative devices used in lieu of red or green strip stamps shall be securely affixed to the container, and, unless the container is one that cannot again be used after opening, the alternative devices shall be affixed in such a manner as to leave a portion remaining on the bottle after opening. Alternative devices shall bear no lettering or design which is prohibited by Part 5 of this chapter or which conflicts with information on the label.

(c) *Application.* Distilled spirits plant proprietors who wish to use alternative devices which have not been approved by announcement of the Director shall file application with the Director. The application shall describe the alternative device and the method of affixing it to containers. Two samples of the proposed alternative device, affixed to empty containers, shall accompany the application.

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

§ 19.664 Procurement of strip stamps.

(a) *General.* Strip stamps may be obtained, without charge, by the proprietor, in reasonable anticipation of current needs, from the regional director (compliance) of the region in which the plant is located, by requisition on Form 428 (5100.7). Stamps may not be procured by one proprietor from another or transferred to another plant operated by the same proprietor, except on authorization by the regional director (compliance). Requisitions shall be for full sheets of such stamps. On receipt of the stamps the proprietor shall acknowledge receipt, noting any apparent discrepancies, on both copies of Form 428 returned by the regional director (compliance), forward one copy of the Form 428 (5100.7) to the regional director (compliance) and retain one copy on file. The quantity of strip stamps received may be determined by the exterior markings on the cartons in which they are received.

(b) *Alternative method.* When the regional director (compliance) determines that the interests of the Government will be best served, the stamps may be shipped directly to the proprietor from a location other than the office of the regional director (compliance). In that case, the regional director (compliance) shall notify the proprietor that the strip stamps will be delivered by an alternative method and the minimum quantity, if any, of each size stamp which may be requisitioned on any particular Form 428 (5100.7). Upon approval of Form 428 (5100.7), two copies of the form shall be returned to the proprietor. Upon receipt of the stamps, the proprietor shall (1) acknowledge receipt, noting any apparent discrepancies, on both copies of Form 428 (5100.7) and (2) return one copy to the regional director (compliance), and retain one copy. The quantity of strip stamps received may be determined from the exterior markings on the cartons in which they are received.

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

§ 19.665 Affixing strip stamps or alternative devices.

Strip stamps or alternative devices shall be securely affixed to containers so as to leave a portion remaining on the container when the container is opened unless the container is one that cannot again be used after opening. Proprietors may trim strip stamps provided no printed (or overprinted) information is cut off. Strip stamps or alternative devices affixed to containers shall not be concealed or obscured in any manner except that (a) the Director may authorize labels or State stamps to be so affixed as to partially obscure strip stamps or alternative devices, if a need exists, and (b) a stamp or alternative device may be covered by a cup, cap, seal, carton, wrapping, or other item which can readily be removed without injury to the stamp or alternative device. ATF officers have the right to open the cartons and wrappings and examine the containers.

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

§ 19.666 Restamping.

Bottles of distilled spirits filled on bonded premises may be restamped under the provisions of Subpart M of this part. Bottles of distilled spirits to which strip stamps or alternative devices have been affixed may also be restamped under the provisions of §19.611. Replacement of mutilated or missing strip stamps by persons other than proprietors of plants shall be made in accordance with 27 CFR Part 194.

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

Distilled Spirits Stamps

§ 19.668 General.

(a) *Containers to be stamped.* Except for pipelines for the conveyance of spirits, each container filled with more than 5 gallons of spirits shall be:

(1) Stamped with a distilled spirits stamp when withdrawn on determination of tax, or without payment of tax for the purposes authorized in §19.531(a)-(e); or

(2) Marked with the word—

(i) "TAXPAID" when withdrawn on determination of tax for domestic use; or

(ii) "EXPORT" when exported without payment of the tax for the purposes authorized in §19.531(a)-(e) or with benefit of drawback.

(b) *Information on stamp.* The prescribed distilled spirits stamp is serially numbered. It shall be marked, in the space provided, by the proprietor withdrawing or removing the spirits, to show the name and plant number of such proprietor, the date of affixing the stamp to the container, and the serial number or package identification number, as applicable, of the container. When spirits are withdrawn under the provisions of § 19.531(a)-(e), the

proprietor shall insert the word "Export" on the stamp.

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

§ 19.669 Procurement of distilled spirits stamps.

(a) *General.* Distilled spirits stamps may be obtained by the proprietor, without charge, in reasonable anticipation of current needs, from the regional director (compliance) of the region in which the plant is located, by requisition on Form 428 (5100.7). Such stamps may not be procured by one proprietor from another proprietor or transferred between plants operated by the same proprietor, except on authorization by the regional director (compliance). On receipt of the stamps from the regional director (compliance), the proprietor shall (1) indicate the quantity received, (2) acknowledge receipt thereof, noting any discrepancies on both copies of Form 428 (5100.7) returned by the regional director (compliance), (3) forward one copy of the receipted Form 428 to the regional director (compliance), and (4) retain a copy for his files.

(b) *Alternate method.* When the regional director (compliance) determines that the interests of the Government will be best served, the distilled spirits stamps may be supplied to the proprietor from a location other than the office of the regional director (compliance). In such case, the regional director (compliance) shall notify the proprietor that the stamps will be supplied from an alternate location and inform him of the minimum or maximum quantity, if any, which may be requisitioned on any particular Form 428. Upon approval of Form 428, two copies of the form will be returned to the proprietor. Upon receipt of the stamps, the proprietor shall (1) indicate the quantity received, (2) acknowledge receipt thereof, noting any discrepancies on both copies of Form 428 returned, (3) forward one copy of Form 428 to the regional director (compliance), and (4) retain a copy for his files.

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

§ 19.670 Affixing of distilled spirits stamps or alternative marks.

(a) *Distilled spirits stamps.* Distilled spirits stamps shall be affixed and canceled by the proprietor before packages or conveyances are removed from the bonded premises. The stamps shall be securely affixed to the package, or the route board, or other suitable device of the bulk conveyance, or to an appropriate part of any other approved container, and thereupon canceled by drawing or otherwise imprinting a line (not less than one-eighth inch wide) in durable ink diagonally across the stamp. Such stamps (except in the case of packages to be transferred to contiguous premises) shall be covered with a transparent coating of shellac, lacquer, varnish, or equally suitable material to protect the markings on the stamp. Where the bulk conveyance consists of separate compartments, a separate stamp shall be canceled and affixed to the appropriate route board for each compartment. Distilled spirits stamps shall remain on the containers or conveyances until the spirits therein are emptied. Such stamps shall be destroyed, as provided in § 19.610, when the containers are emptied.

(b) *Alternative marks.* Alternative marks shall be imprinted by the proprietor before packages or conveyances are removed from bonded premises. Alternative marks shall be imprinted on the package, or the route board, or other suitable devices of the bulk conveyance, or to an appropriate part of any other approved container. Where the bulk conveyance consists of separate compartments, a separate mark shall be imprinted on the appropriate route board for each compartment. Alternative marks shall remain on the containers or conveyances until the spirits therein are emptied.

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

§ 19.671 Restamping packages, conveyances, or other containers.

Any package, conveyance, or other container of spirits which has been duly stamped with a distilled spirits stamp, but from which the stamp has been lost or destroyed by accident, shall, except as otherwise provided in this chapter, be restamped with another distilled spirits stamp.

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

Accounting

§ 19.672 Stamp accounting.

Proprietors are responsible for proper control of and accounting for all strip stamps, alternative devices, and distilled spirits stamps. Stamps that have been mutilated shall be destroyed by the proprietor and unused stamps for which the proprietor has no use shall be disposed of in accordance with the instructions of the regional director (compliance). Proprietors shall not transfer or dispose of strip stamps or distilled spirits stamps charged to their account except as provided in this part.

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

Imitation Stamps

§ 19.673 Imitation of prescribed stamps prohibited.

No person shall affix to any container containing or intended to contain distilled spirits, any stamp, mark, brand, or label, in imitation or simulation of any prescribed ATF stamp required to be affixed to any container of distilled spirits.

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

Subpart U—Return of Spirits to Bonded Premises and Voluntary Destruction

Returns

§ 19.681 Return of taxpaid spirits to bonded premises.

(a) *General.* This section and § 19.682 pertain only to taxpaid spirits returned to bonded premises under 26 U.S.C. 5215(a). The return of taxpaid bottled spirits to bonded premises solely for relabeling or restamping is covered in § 19.393.

(b) *Return.* Distilled spirits on which the tax has been paid or determined may only be returned to the bonded premises of a distilled spirits plant under this section for:

(1) Destruction, in accordance with § 19.691;

(2) Denaturation, in accordance with Subpart N;

(3) Redistillation, in accordance with Subpart K;

(4) Reconditioning; or

(5) *Rebottling.*

(c) *Claims.* Claims for credit or refund of tax on spirits returned to bonded premises shall be filed as provided in, and accompanied by the information prescribed by, § 19.42.

(d) *Applicability of 26 U.S.C. Chapter 51.* All provisions of 26 U.S.C. Chapter 51 and this part, applicable to spirits in ATF bond, shall be applicable to spirits when returned to bonded premises under this section. The provisions of this subpart do not apply to taxpaid bottled spirits returned to bond solely for relabeling or restamping and under the provisions of Subpart M of this part.

(Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5215))

§ 19.682 Receipt and gauge of returned taxpaid spirits.

(a) *Dump.* Unless returned in the sealed metal drums in which they were withdrawn, spirits returned to bonded premises shall be immediately dumped.

(b) *Gauge.* Spirits returned under § 19.681 shall be gauged upon receipt on bonded premises. Such gauge may be established on the basis of case markings and label information, as provided in § 19.91.

(c) *Supporting documentation.* Proprietors must have on file at the plant where spirits are returned to bond such documentation as is necessary to establish the amount of tax for which a claim for credit or refund may be allowed. Proprietors shall maintain credit memoranda or comparable financial records evidencing the return of each lot of spirits.

(Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5215))

§ 19.683 Return of recovered denatured spirits and recovered articles.

Recovered denatured spirits and recovered articles may be returned for restoration or redenaturation to the bonded premises of any plant authorized to denature spirits, in accordance with the provisions of 27 CFR Part 211. If restoration requires redistillation, the recovered denatured spirits or recovered articles may be returned for that purpose to bonded premises of a plant authorized to produce or process spirits. Recovered denatured spirits or recovered articles shall be gauged on receipt.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1363, as amended, 1372, as amended (26 U.S.C. 5223, 5273))

§ 19.684 Articles and spirits residues received for redistillation.

Articles manufactured under 27 CFR Part 211, and spirits residues of manufacturing processes related thereto, may be received on the bonded premises of a distilled spirits plant authorized to produce or process distilled spirits, for the recovery by redistillation of the distilled spirits contained in those materials. The proprietor shall gauge the materials when received.

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

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

(a) *General.* Specially denatured spirits withdrawn free of tax under the applicable provisions of 27 CFR Part 252 for exportation or for deposit in a foreign-trade zone, and spirits or denatured spirits withdrawn free of tax under the applicable provisions of 27 CFR Part 211 or 213, may be returned: (1) To bonded premises of any distilled spirits plant authorized to produce or process distilled spirits, for redistillation; or (2) To any bonded premises of a distilled spirits plant pending subsequent lawful withdrawal free of tax. Recovered tax-free spirits may, as provided in 27 CFR Part 213, be returned for redistillation to bonded premises of any distilled spirits plant authorized to produce or process distilled spirits or to any bonded premises of a distilled spirits plant for restoration (not including redistillation). The return shall be made under the applicable provisions of this part and 27 CFR Part 211, 213, or 252, as appropriate.

(b) *Bonding requirements.* Before spirits or denatured spirits are returned to bonded premises, except spirits or denatured spirits returned for redistillation, the proprietor shall file a consent of surety on Form 1533 to extend the terms of the operations or unit bond to cover the return of the spirits. The proprietor may file one consent of surety on the bond to extend the terms thereof to cover all spirits which may be returned.

(c) *Procedure.* If the shipment was reported on a Form 1473, the proprietor shall execute the certificate of receipt on that form and forward the original to the regional director (compliance). When recovered tax-free spirits, spirits, or denatured spirits are received, they shall be gauged. When containers of spirits removed for export are returned to bond, pending subsequent removal for a purpose other than export, the export marks shall be obliterated.

(Sec. 3, Act of June 13, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1365, as amended (26 U.S.C. 5001, 5223))

§ 19.686 Return of spirits withdrawn without payment of tax.

(a) *Spirits withdrawn for export.* Spirits lawfully withdrawn without payment of tax under the provisions of 27 CFR Part 252 for exportation, or for transfer to a customs bonded warehouse or a customs manufacturing bonded warehouse, or for deposit in a foreign-trade zone, or for use on vessels and aircraft, and not so exported, transferred, deposited, or used (or laden for use) on a vessel or aircraft, may be returned, under the applicable provisions of this part and 27 CFR Part 252: (1) To the bonded premises of any plant authorized to produce or process distilled spirits, for redistillation; or (2) To the bonded premises from which withdrawn pending subsequent removal for a lawful purpose.

(b) *Spirits withdrawn for use in wine production.* Wine spirits withdrawn under § 19.532 for use in wine production, and not so used, may be returned to the bonded premises of a distilled spirits plant. The consignee proprietor shall obtain approval, as provided in § 19.506. The wine spirits shall be removed from the winery in accordance with the provisions of 27 CFR Part 240.

(c) *Spirits withdrawn for research, development, or testing.* Spirits withdrawn without payment of tax, under the provisions of Subpart V of this part, for research, development, or testing may be returned to the bonded premises of the distilled spirits plant from which withdrawn. After returning these spirits to bonded premises, they shall be destroyed, returned to containers, or returned to vessels in the distilling system containing similar spirits.

(d) *Procedure.* When spirits are received, they shall be gauged by the proprietor. When spirits which were removed for exportation are returned to bonded premises pending subsequent removal for a purpose other than exportation, any stamps bearing export marks, and all export marks on the containers in which the spirits are returned shall be obliterated.

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

§ 19.687 Return of spirits withdrawn for export with benefit of drawback.

Subject to the provisions of 27 CFR 252.197-199, whole or partial shipments of spirits withdrawn for export with benefit of drawback may be returned to: (a) The bonded premises of the distilled spirits plant, pursuant to § 19.681, or (b) to a wholesale liquor dealer or taxpaid storeroom. Claims filed by proprietors on ATF Form 5110.30 which include the returned spirits shall be reduced by the amount of tax paid or determined on the returned spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062); Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5215))

§ 19.688 Abandoned spirits.

Spirits abandoned to the United States may be sold, without payment of the tax, to a proprietor of a plant for denaturation or for redistillation and denaturation, if the plant is authorized to denature or redistill and denature spirits. These spirits shall be kept apart from all other spirits or denatured spirits until denatured. The receipt and gauging provisions of § 19.683 are applicable to these spirits.

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

Voluntary Destruction

§ 19.691 Voluntary destruction.

(a) *General.* Spirits, denatured spirits, articles, or wines in bond may be voluntarily destroyed as provided in this section. The tax liability on spirits, denatured spirits, articles, or wines so destroyed is extinguished.

(b) *Wine notice.* Wine may be destroyed in bond only after the proprietor has filed notice with the regional director (compliance) stating the kind and quantity of wine to be destroyed and the date and manner in which the wine is to be destroyed. The wine may be destroyed after such notice has been filed.

(c) *Gauging.* A proprietor shall gauge spirits, denatured spirits, articles, or wines to be destroyed. Gauges of spirits in bottles may be established on the basis of legible case markings and label information when:

(1) The bottles are full;

(2) There is no evidence that the bottles have been tampered with.

(d) *Off bonded premises.* Spirits, denatured spirits, articles or wines may be removed and destroyed at a location off bonded premises if the proprietor has filed a consent of surety to cover such removal. If the destruction is accomplished off plant premises, the proprietor shall ensure compliance with applicable Federal, State, and local environmental laws and regulations.

(e) *Record of destruction.* The proprietor shall record the destruction of spirits, denatured spirits, articles, or wines as provided in § 19.767.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370))

Subpart V—Samples of Spirits

§ 19.701 Spirits withdrawn from bonded premises.

(a) *Samples withdrawn from bonded premises.* The proprietor may withdraw spirits without payment of tax, or wine spirits or brandy free of tax, to the proprietor's laboratory, the laboratory of an affiliated or subsidiary corporation, or, if approved by the regional director (compliance), to a recognized commercial laboratory for testing or analysis (other than consumer testing or other market analysis) to determine the quality or character of the finished product. The quantity of spirits so withdrawn shall not exceed the amount necessary for conduct of the proprietor's operations.

(b) *Customer samples.* A quantity of spirits not exceeding 1 liter may be furnished to a prospective purchaser for quality testing (other than consumer testing or other market analysis) only if a bona fide written or oral purchase agreement exists which is contingent upon quality approval by the prospective purchaser; except that a sample not to exceed 1 liter may be furnished to a prospective customer for quality testing in anticipation of a purchase agreement if the customer is authorized to receive bulk spirits for industrial use.

(c) *Research or development.* Spirits may be withdrawn without payment of tax for research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials or equipment relating to distilled spirits or distilled spirits plant operations. The amount withdrawn shall be limited to an amount necessary for conduct of the testing, research or development. If the testing, research or development is to be conducted by other than the proprietor, the proprietor shall secure a written statement, executed by the consignee, agreeing that he will maintain records of the receipt, use, and disposition of all spirits received by him and that those records and operations will be available during regular business hours for inspection by ATF officers.

(d) *Conditions.* (1) Records will be maintained in accordance with § 19.766 of all spirits taken or withdrawn under the provisions of this section.

(2) Remnants or residues of spirits withdrawn but not used during testing, research or development shall be destroyed or returned to the bonded premises for storage with similar products or entry in the continuous distilling system.

(e) *Limitation.* The regional director (compliance) shall proceed to collect the tax on any spirits withdrawn under this section which are found to have been withdrawn, used or disposed of in a manner not authorized by this section.

(f) *Losses.* When spirits are lost prior to being used for the authorized purpose, the proprietor shall either pay the tax or file a claim for remission of tax as prescribed by § 19.41.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5214, 5173))

§ 19.702 Samples used on bonded premises.

The proprietor may take samples of spirits for research, development, testing, or laboratory analysis conducted in a laboratory located on the bonded premises of the distilled spirits plant. The applicable purposes, conditions and limitations for samples taken pursuant to § 19.701 shall also apply to samples taken as authorized by this section.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5008))

§ 19.703 Taxpayment of samples.

When tax is required to be paid on samples:

(a) If the proprietor is qualified to defer payment of tax, the tax shall be included in the proprietor's tax return on Form 5110.35.

(b) If a proprietor is not qualified to defer the payment of tax, the tax shall be prepaid on Form 5110.32.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

§ 19.704 Labels.

(a) On each container of spirits to be withdrawn under the provisions of § 19.701, the proprietor shall affix a label showing the following information:

(1) Purpose for which withdrawn;

(2) Kind of spirits;

(3) Size and the proof of the sample, if known;

(4) If the spirits are removed to other then adjacent or contiguous premises of the proprietor, the name and address of the consignee;

(5) The proprietor's name, and plant number; and

(6) The date taken.

(b) The labeling required by paragraph (a) of this section is not necessary when sample containers bear an approved label pursuant to 27 CFR Part 5 and Subpart S of this part and the sample is removed from bonded premises to the general premises of the same distilled spirits plant.

(c) Strip stamps or alternative devices affixed to sample bottles shall be marked "sample."

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

Subpart W—Records and Reports

General

§ 19.721 Records.

(a) *In General.* (1) The records to be maintained by proprietors shall include:

(i) All individual transaction forms, records, and summaries specifically required by this part;

(ii) All supplemental, auxiliary, and source data utilized in the compilation of required forms, records, and summaries, and for preparation of reports, returns, and claims; and

(iii) Copies of notices, reports, returns, and approved applications and other documents relating to operations and transactions.

(2) The records required by this part may consist of the proprietor's commercial documents, rather than

records prepared expressly to meet the requirements of this part, if such documents contain all the details required by this part to be recorded, are consistent with the general requirements of clarity and accuracy, and do not result in difficulty in their examination.

(b) *Accounts.* The records required by this part to be maintained by proprietors shall be arranged into three primary operational accounts:

(1) Production,

(2) Storage, and

(3) Processing.

Records shall indicate receipts, movements between accounts, transfers in bond, or withdrawals of spirits, denatured spirits, articles, or wines.

(c) *Exceptions.* The term "records" as used in this subpart does not include copies of qualifying documents required under Subpart G,. or of bonds required under Subpart H of this part.

(d) *Special provisions.* See 27 CFR 70.22 for information with respect to ATF examination of financial records and books of account.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.722 Conversion between metric and U.S. units.

When liters are converted to wine gallons, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. Cases containing the same quantity of spirits of the same proof in metric bottles may be converted to U.S. units by multiplying the liters in one case by the number of cases to be converted, as follows: (a) If the conversion from liters to U.S. units is made before multiplying by the number of cases, the quantity in U.S. units shall be rounded to the sixth decimal; or (b) If the conversion is made after multiplying by the number of cases, the quantity in U.S. units shall be rounded to the nearest hundredth. Once converted to wine gallons, the proof gallons of spirits in cases shall be determined as provided in 27 CFR 30.52.

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

§ 19.723 Maintenance and preservation of records.

(a) *Place of maintenance.* Records required by this part shall be prepared and kept by the proprietor at the plant where the operation or transaction occurs and shall be available for inspection by any ATF officer during business hours.

(b) *Reproduction of original records.* (1) Whenever any record, because of its condition, becomes unsuitable for its intended or continued use, the proprietor shall reproduce such record, by a process approved by the regional director (compliance) under § 19.725 for reproducing records, and such reproduction shall be treated and considered for all purposes as though it were the original record.

(2) All provisions of law applicable to the original record shall be applicable to such reproductions.

(c) *Retention of records.* (1) Records required by this part shall be preserved for a period of not less than three years from the date thereof or the date of the last entry required to be made thereon, whichever is later. However, the regional director (compliance) may require records to be kept for an additional period not exceeding three years in any case where such retention is deemed necessary or advisable for the protection of the revenue.

(2) The period for retention of records prescribed in paragraph (c)(1) of this section shall not apply to copies of outstanding approved formulas or to copies of formulas which form the basis for claims for credit or refund of taxes on spirits returned to bonded premises. A copy of any such formula shall be kept by the proprietor at the plant where spirits are processed subject to the formula or at the plant where such spirits are received.

(d) *Data processing.* (1) Notwithstanding any other provision of this section, record data maintained on data processing equipment may be kept at a location other than the plant premises if the original transaction (source) records required by §§ 19.736-19.779 are kept available for inspection at the plant premises.

(2) Data which has been accumulated on cards, tapes, discs, or other accepted record media must be retrievable within five business days.

(3) The applicable data processing program shall be made available for examination if requested by an ATF officer.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.724 Modified forms.

(a) *Application.* Proprietors desiring to modify prescribed forms shall submit an application to the Director, through the regional director (compliance). The application shall be accompanied by:

(1) A copy of each proposed form with typical entries; and

(2) A statement showing the need for use of the modified forms. Modified forms shall not be used until approved by the Director.

(b) *Restrictions.* The use of modified forms shall not relieve a proprietor from any requirement of this part. The Director may require a proprietor to immediately discontinue the use of any modified form when such use is found to pose administrative problems.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.725 Photographic copies of records.

(a) *Application.* Proprietors who desire to record, copy or reproduce records, required by this part, by any process which accurately reproduces or forms a durable medium for so reproducing the original of such records, shall apply to the regional director (compliance) for permission to do so, describing:

(1) The records to be reproduced,

(2) The reproduction process to be employed,

(3) The manner in which the reproductions are to be preserved, and

(4) The provisions to be made for examining, viewing, and using such reproductions.

(b) *Approval.* The regional director (compliance) shall not approve any application unless the manner of preservation of the reproductions and the provisions for examining, viewing, and using such reproductions are satisfactory.

(c) *Conditions.* Whenever records are reproduced under this section, the reproduced records shall be preserved in conveniently accessible files, and provisions shall be made for examining, viewing, and using the reproduced record the same as if it were the original record, and it shall be treated and considered for all purposes as though it were the original record. All provisions of law and regulations applicable to the original shall be applicable to the reproduced record. As used in this section, "original record" shall mean the record required by this part to be maintained or preserved by the proprietor, even though it may be an executed duplicate or other copy of the document.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended, (26 U.S.C 5555))

§ 19.726 Authorized abbreviations to identify spirits.

The following abbreviation may be used, either alone or in conjunction with descriptive words, to identify the kind of spirits on forms or records:

Kinds of spirits	Abbreviations
Alcohol	A
Brandy	BR
Bourbon Whisky	BW
Canadian Whisky	CNW
Completely Denatured Alcohol	CDA
Corn Whisky	CW
Grain Spirits	GS
Irish Whisky	IW

Kinds of spirits	Abbreviations
Light Whisky	LW
Malt Whisky	MW
Neutral Spirits	NS
Neutral Spirits Grain	NSG
Rye Whisky	RW
Scotch Whisky	SW
Specially Denatured Alcohol	SDA
Special Denatured Rum	SDR
Tequila	TEQ
Vodka	V
Whisky	W

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

Records

§ 19.731 General.

(a) *Entries.* (1) Each entry required by this part to be made in daily records shall be made on the day on which the operation or transaction occurs.

(2) When the proprietor prepares supplemental or auxiliary records concurrent with the individual operation or transaction, and these records contain all the required information with respect to the operation or transaction, entries in daily records may be deferred not later than the close of business the third business day succeeding the day on which the operation or transaction occurs.

(b) *Content.* (1) All entries in the daily records required by this subpart shall show the date of the operation or transaction.

(2) Daily records shall accurately and clearly reflect the details of each operation or transaction and, as applicable, contain all data necessary to enable:

(i) Identification and proper marking and labeling of spirits, denatured spirits, or wines;

(ii) Proprietors to prepare summaries, reports, and returns required by this part; and

(iii) ATF officers to:

(A) Verify and trace the quantity and movement of materials, spirits, denatured spirits, wines, or alcoholic flavoring materials involved in each transaction or operation;

(B) Verify tax determinations and claims; and

(C) Ascertain whether there has been compliance with law and regulations.

(c) *Format.* (1) Proprietor's copies of prescribed forms which bear all required details shall be utilized as daily records.

(2) In instances when a form is not prescribed, the records required by this subpart shall be those commercial records used by the proprietor in his accounting system and shall bear all required details.

(3) Daily records required by this part shall be so maintained that they clearly and accurately reflect all mandatory information. Where the format or arrangement of the daily records is such that the information is not clearly or accurately reflected, the regional director (compliance) may require a format or arrangement which will clearly and accurately reflect the information.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.732 Details of daily records.

The daily records required by this part shall conform to the following requirements:

(a) Spirits shall be recorded by kind and by quantity in proof gallons, except as provided in § 19.751.

(b) Denatured spirits shall be recorded by formula number and by quantity in wine gallons.

(c) Distilling materials produced on the premises shall be recorded by kind and by quantity in wine gallons. Chemical byproducts containing spirits, articles, spirits residues, and distilling materials received on the premises shall be recorded by kind, by percent of alcohol by volume, and by quantity in wine gallons. However, when nonliquid distilling materials which are not susceptible to such quantitative determination are received, the quantity of such materials may be determined by weight and shall be so recorded, and the alcohol content need not be recorded. When it can be shown that it is impractical to weigh or otherwise determine the exact quantity of such nonliquid materials, the proprietor may estimate the weight or volume of the material.

(d) Wines shall be recorded by kind, by quantity in wine gallons, and by percent of alcohol by volume.

(e) Alcoholic flavoring materials shall be recorded by kind, formula number (if any) and by quantity in proof gallons.

(f) Containers (other than those bearing lot identification numbers) or cases involved in each operation or transaction shall be recorded by type, serial number, and the number of containers (including identifying marks on bulk conveyances), or cases. However, spirits withdrawn in cases may be recorded without the serial numbers of the cases, unless the regional director (compliance) requires such recording. Package identification numbers, number of packages, and proof gallons per package shall be recorded on deposit record in the storage account reflecting production gauges or filling of packages from tanks, however, only the lot identification, number of packages, and proof gallons per package need be shown for transactions in packages of spirits unless package identification numbers are specifically required by this part.

(g) Materials intended for use in the production of spirits shall be recorded by kind and by quantity, recording liquids in gallons and other materials in pounds, and giving the sugar content for molasses.

(h) The name and address of the consignee or consignor, and if any, the plant number or industrial use permit number of such person, shall be recorded for each receipt or removal of materials, spirits, denatured spirits, articles, spirits residues, and wine.

(i) The serial number of the tank used shall be recorded for each operation or transaction.

(j) The rate of duty paid on imported spirits shall be shown on the transaction forms or records.

(k) Records shall identify imported spirits, spirits from Puerto Rico, and spirits from the Virgin Islands, or the records shall show that a distilled spirits product contains such spirits.

(l) Records shall identify spirits that are to be used exclusively for fuel use.

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207))

Production Account

§ 19.736 Daily production records.

(a) *Spirits production.* Each proprietor shall maintain daily production account records of production operations showing:

(1) The receipt of fermenting material or other nonalcoholic material intended for use in the production of spirits.

(2) The receipt and use of spirits, denatured spirits, articles, and spirits residues received for redistillation.

(3) The fermenting material set in each fermenter or other material used in the production of spirits.

(4) The distilling material produced, received for production, and used in production of spirits, or destroyed or removed from the premises before being distilled (including the residue of beer returned to the producing brewery).

(5) The gauge of spirits in each receiving tank, the production gauge (in proof gallons) of spirits removed from each tank, and the transaction form or record and its serial number covering each removal. The details of individual packages filled pursuant to production gauge for immediate withdrawal from bonded premises shall also be recorded.

(6) The fermenting materials or other nonalcoholic materials used or removed from the premises.

(7) The quantity and testing for alcoholic content of fuel oil or other chemicals removed from the production

system and the disposition thereof with the name of the consignee, if any.

(8) The kind and quantity of distillates removed from the production system pursuant to § 19.322.

(9) The kind and quantity of spirits, lost or destroyed prior to production gauge. Records pertaining to the production account shall be maintained in such a manner that the spirits produced may be traced through the distilling system to the mash or other material from which produced, and the identity of the spirits thus traced may be clearly established.

(b) *Byproduct spirit production.* Each proprietor who manufactures substances other than spirits, in a process which produces spirits as a byproduct, shall maintain daily production records as to each such process showing:

(1) The kind and quantity of materials received, unless included in records maintained under paragraph (a) of this section.

(2) The spirits produced and disposed of.

(3) The kind and quantity of other substances produced.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Storage Account

§ 19.740 Daily storage records.

(a) *General.* Proprietors shall maintain daily records in the storage account which shall show for each kind of spirits or wine, as applicable:

(1) Spirits or wines received for deposit in storage;

(2) Spirits mingled;

(3) Spirits in tanks;

(4) Spirits or wines filled into packages from tanks and retained for storage;

(5) Spirits of less than 190 degrees of proof or wines transferred from one tank to another;

(6) Spirits returned to bond;

(7) Spirits or wines voluntarily destroyed;

(8) Spirits or wines lost during storage;

(9) The transfer of spirits or wine from one package to another;

(10) The addition of oak chips to spirits and the addition of caramel to brandy or rum; and

(11) The disposition of spirits or wines.

(b) *Records covering deposits.* The proprietor's copies of gauge records, transfer records, or tank records of wines or spirits of less than 190 degrees of proof covering: deposit in the storage account of spirits received from the production account, from customs custody, or by return to bond under Subpart U of this part, or of wines or spirits from other bonded premises; packages of spirits or wines filled from tanks and retained in the storage account after mingling; and wines or spirits of less than 190 degrees of proof transferred from one tank to another, shall be utilized by the proprietor to record wines or spirits deposited in the storage account. The proprietor shall enter the date of deposit of the spirits in storage on the record. Files of deposit records shall be maintained for spirits in packages and such files shall be arranged by producers (by warehouseman in the case of blended rums or brandies and for spirits of 190 degrees or more of proof, by the warehouseman who received the spirits from customs custody in the case of imported spirits, and by producer in the Virgin Islands or Puerto Rico in the case of Virgin Islands or Puerto Rican spirits), in chronological order according to the date of deposit in the storage account, and, when possible, in sequence by lot identification for packages. (For the purpose of records under this section spirits produced under trade names shall be treated as being produced under the real name of the proprietor [producer].) Also, files of deposit records shall be maintained, in the manner prescribed by 19.742, for wines and for spirits of less than 190 degress of proof in tanks in the storage account with a separate file for each tank of wines or spirits. In the case of spirits of 190 degrees or more of proof deposited in tanks in the storage account, the proprietor shall maintain a separate consolidated file of deposit records for all tanks, separately as to gin, vodka, and other spirits as applicable, of all such domestic spirits; all such imported spirits duty paid at the beverage rate; all such imported spirits duty paid at the nonbeverage rate; all such Virgin Islands spirits; and all such Puerto Rican spirits. Such files shall be arranged chronologically by date of deposit in the warehouse.

(c) *Records covering withdrawals.* When wines or spirits other than spirits of 190 degrees or more of proof in tanks in the storage account, are withdrawn from the storage account the proprietor shall note on the record of deposit, the date and disposition of the spirits so that the files shall currently reflect the spirits remaining in the storage account. When spirits of 190 degrees or more of proof are withdrawn from tanks in the storage account the record of deposit need not be noted, but semi-annually (as of June 30 and December 31) the proprietor shall remove from his consolidated files of active deposit records all such records in excess of those required to cover the quantity of spirits shown as remaining in tanks. The deposit records so removed shall be those covering spirits first deposited in the storage account.

(Sec. 807, Pub. L. 96-39 93 Stat. 284 (26 U.S.C. 5207))

§ 19.741 Package summary records.

(a) *General.* Each warehouseman shall keep current summary records for each kind of spirits or wines in packages, to show the spirits or wines deposited in, withdrawn from, and remaining in the storage account. Separate accounting records shall be kept for domestic spirits, imported spirits, Virgin Islands spirits, Puerto Rican spirits, and wine. Package accounts for spirits may be kept by either the season or the year the packages were filled with spirits.

(b) *Arrangement.* Package summary records shall be prepared and arranged separately:

(1) For domestic spirits of less than 190 degrees of proof, alphabetically by State and numerically by the plant number and name of the producer or warehouseman.

(2) For domestic spirits of 190 degrees or more of proof, alphabetically by State, and numerically by the plant number and name of the warehouseman.

(3) For imported spirits, alphabetically by State and numerically by the plant number and name of the warehouseman who received the spirits from customs custody.

(4) For Puerto Rican or Virgin Islands spirits, alphabetically by the name of the producer in Puerto Rico or the Virgin Islands.

(5) For wine, by kind and tax rate imposed by 26 U.S.C. 5041.

(c) *Details.* Package summary records shall show the following details:

(1) The date the summarized transactions occurred;

(2) For spirits, the number of packages and the proof gallons contained therein;

(3) For wine, the number of packages and the wine gallons contained therein;

(4) Gains or shortages disclosed by inventory or when an account is closed; and

(5) Gallon balances on summary records for spirits and wines remaining in the account at the end of each month.

(d) *Summarization.* Package summary records shall be consolidated at the end of each month, or for lesser periods when required by the regional director (compliance), to show for all types of containers and kinds of spirits, the total proof gallons received in, withdrawn from, and remaining in the storage account.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.742 Tank record of wine or spirits of less than 190 degrees of proof.

(a) *General.* Proprietors shall keep a record for each tank (including bulk conveyance) containing wine or spirits of less than 190 degrees of proof to show deposits into, withdrawals from, and the balance remaining in each tank in the storage account. A new record shall be prepared each time wine or spirits are deposited in an empty tank. Except as otherwise provided in this section, each transaction shall be recorded on the day the transaction occurs.

(b) *Arrangement.* Tank records shall be prepared and arranged:

(1) For domestic spirits, alphabetically by State, and numerically by (i) the plant number and name of the producer, or, (ii) for blended rums or brandies, the plant number and name of the warehouseman;

(2) For imported spirits, alphabetically by State, and numerically by the plant number and name of the warehouseman;

(3) For Puerto Rican or Virgin Islands spirits, alphabetically by the name of the producer in Puerto Rico or the Virgin Islands; and

(4) For wine, by kind and tax rate imposed by 26 U.S.C. 5041.

(c) *Details.* Tank records shall show the following details:

(1) Tank record serial number, beginning with "1" for each record initiated on or after January 1;

(2) Date of each transaction;

(3) Identification of the tank;

(4) Kind of wine or spirits;

(5) Number and average proof gallon content of packages of spirits dumped in the tank, or a notation indicating the deposit in the tank of spirits by pipeline;

(6) Wine gallons of wine, or proof gallons of spirits deposited;

(7) If subject to age, the age of the youngest spirits in years, months and days, each time spirits are deposited;

(8) Wine gallons of wine, or proof gallons of spirits withdrawn;

(9) Related transaction form or record and its serial number for deposits or withdrawals;

(10) Wine gallons of wine, or proof gallons of spirits remaining in the tank, recorded at the end of each calendar month; and

(11) Gain or loss disclosed by inventory or on emptying of the tank.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.743 Tank summary record for spirits of 190 degrees or more of proof.

(a) *General.* Proprietors shall keep a tank summary record for spirits of 190 degrees or more of proof held in tanks to show the proof gallons deposited into, withdrawn from, and remaining in tanks in the storage account. A separate tank summary record shall be prepared for each kind of spirits of 190 degrees or more of proof. Entries shall be made for each day in which a transaction occurs, and shall be recorded as a summary of the individual transactions shown on the deposit records.

(b) *Arrangement.* Tank summary records shall be prepared and arranged:

(1) For domestic spirits, alphabetically by State, and numerically by the plant number and name of the warehouseman;

(2) For imported spirits, alphabetically by State, and numerically by the plant number of the warehouseman who received the spirits from customs custody; and

(3) For spirits from Puerto Rico or the Virgin Islands, alphabetically by the name of the producer in Puerto Rico or the Virgin Islands.

(c) *Details.* Tank summary records shall show the following details:

(1) Kind of spirits;

(2) Date of transactions summarized;

(3) Proof gallons deposited;

(4) Proof gallons withdrawn;

(5) Proof gallons remaining in tanks; and

(6) Gain or loss disclosed by inventory or on emptying of the tanks summarized on the record.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Processing Account

§ 19.746 Processing.

Each processor shall maintain daily records of transactions and operations with respect to:

(a) Manufacture of distilled spirits products;

(b) Finished products;

(c) Denaturation of spirits; and

(d) Manufacture of articles.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.747 Records of manufacturing.

Each processor shall maintain daily records of the details of manufacturing operations, showing:

(a) The spirits, wines, and alcoholic flavoring materials received. The total receipts shall be summarized showing (1) the spirits received from storage or production at the same plant, (2) the spirits received from other plants by transfer in bond, (3) spirits received from customs custody, (4) wines received from the storage account at the same plant, (5) wines received by transfer in bond, and (6) alcoholic flavoring materials received.

(b) The spirits, wines, alcoholic flavoring materials, and other ingredients used in the manufacture of a distilled spirits products showing the serial number of the dump/batch record covering such dump.

(c) Bottling or packaging of each batch of spirits, showing the serial numbers of the bottling and packaging records covering such bottling or packaging.

(d) The results of bottling proof and fill tests as required by § 19.386.

(e) Receipt, use and disposition of liquor bottles.

(f) The rebottling, relabeling, and restamping (including reaffixing of alternative devices) of bottled products as required by §19.392 and 19.393.

(g) The spirits, wines, and alcoholic flavoring materials removed from the premises.

(h) The spirits moved to the production account for redistillation.

(i) Redistillation of spirits, including the production of gin and vodka by means other than original and continuous distillation.

(j) Record of alcoholic flavoring materials deposited into tanks prior to dumping showing the consignor, the date and quantity received, the name of the product, the date and quantity of each removal from the tank and losses.

(k) Spirits returned to bond.

(l) The voluntary destruction of spirits and wines.

(m) The losses as provided in Subpart Q of this part.

The records required by paragraph (a) of this section shall also show the name and plant number of the producer or processor (warehouseman in the case of blended beverage rums or brandies or spirits of 190 degrees of more of proof received from storage) for domestic spirits, the name of the importer and the country of origin for imported spirits, and the name and address of the producer of wines and alcoholic flavoring materials.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.748 Dump/batch records.

(a) *Format of dump/batch records.* Proprietor's dump/batch records shall contain, as applicable, the following:

(1) Serial number;

(2) Name and distilled spirits plant number of the producer;

(3) Kind and age of spirits used with a notation to indicate treatment with oak chips, addition of caramel, imported spirits, and spirits from Puerto Rico and the Virgin Islands;

(4) Serial number of tank or container to which ingredients are added for use;

(5) Serial or identification number of tank or container from which spirits are removed;

(6) Quantity by ingredient of other alcoholic ingredients used, showing wine in wine gallons, percentage of alcohol by volume and proof, and alcoholic flavoring materials in proof gallons;

(7) Serial number of source transaction record (e.g., record covering spirits previously dumped);

(8) Date of each transaction;

(9) Quantity, by ingredient (other than water), of nonalcoholic ingredients used;

(10) Formula number;

(11) Quantity of ingredients used in the batch that have been previously dumped, reported on dump records, and held in tanks or containers;

(12) Total quantity in proof gallons of all alcoholic ingredients used;

(13) Identification of each record to which spirits are transferred;

(14) Quantity in each lot transferred;

(15) Date of each transfer;

(16) Total quantity in proof gallon of product transferred; and

(17) Gain or loss.

(b) *Redistillation.* (1) Dump/batch records shall be prepared to show spirits to be redistilled in the processing account, including the production of gin or vodka by redistillation. A dump record shall also be prepared to record the finished distillate.

(2) When redistillation requires the use of more than one tank or other vessel in a continuous distilling system, the system may be shown on the record in lieu of preparing a separate record to show each movement of spirits between tanks or vessels.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.749 Bottling and packaging record.

The bottling and packaging record shall be prepared and contain the following information:

(a) Tank number(s);

(b) Serial number (beginning with "1" at the start of each calendar or fiscal year);

(c) Formula number (if any) under which the batch was produced;

(d) Serial number of the dump/batch record from which received;

(e) Kind of product (including age, if claimed);

(f) Details of the tank gauge (including proof, wine gallons, proof gallons, and, if applicable, obscuration);

(g) The date the bottles or packages were filled;

(h) Size of the bottles or packages filled, number of bottles per case, and number of cases or packages filled;

(i) Serial numbers by brand name of cases or other containers filled;

(j) Proof of the spirits bottled or packaged (if different from subsection (f));

(k) Total quantity bottled, packaged or otherwise disposed of in bulk;

(l) Losses or gains; and

(m) Whether the spirits were labeled as bottled in bond.

(Sec. 807(a), Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.750 Proof and fill test record.

(a) Proprietors shall record the results of all proof and fill tests conducted.

(b) The record shall be maintained in a manner and provide information that will enable ATF officers to determine whether the proprietor has complied with the provisions of § 19.386 by:

(1) Monitoring operations by conducting proof and fill tests; and

(2) Employing procedures to correct variations in proof and fill.

(c) Proof and fill test records shall contain, at a minimum, the following information:

(1) Date and time of test;

(2) Bottling tank number;

(3) Serial number of bottling record;

(4) Bottling line designation;

(5) Size of bottle;

(6) Number of bottles tested;

(7) Label proof;

(8) Test proof;

(9) Percentage of variation from 100 percent fill; and

(10) Corrective action taken (if any).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5555); Sec. 807(a), Pub. L. 96-39 (26 U.S.C. 5207))

§ 19.751 Records of finished products.

Each processor shall maintain by proof gallons daily transaction records and a daily summary record of spirits bottled or packaged as follows:

(a) Beginning and ending quantity of bottled or packaged spirits on hand;

(b) Spirits bottled or packaged;

(c) Bottled or packaged spirits disposed of by:

(1) Withdrawal on tax determination;

(2) Transfer in bond;

(3) Withdrawal free of tax or without payment of tax;

(4) Dumping for further processing;

(5) Transfer to the production account for redistillation;

(6) Voluntary destruction;

(7) Accountable losses;

(8) Samples;

(9) Inventory shortages and overages; and

(10) Other dispositions.

In lieu of showing the proof gallons of spirits on daily transaction records of withdrawals from bonded premises, proprietors may show the wine gallons or liters and the proof of spirits in cases. Summary records shall be used to compile the report required by § 19.792.

(Sec. 807, Pub. L. 96-39, 93 Stat. 283, as amended (26 U.S.C. 5207))

§ 19.752 Denaturation records.

(a) *General.* Each processor qualified to denature spirits shall maintain daily records of denaturation showing:

(1) Spirits received for, and used in, denaturation;

(2) Spirits, denatured spirits, recovered denatured spirits, spirits residues, and articles redistilled in the processing account for denaturation;

(3) Kind and quantity of denaturants received, used in denaturation of spirits, or otherwise disposed of;

(4) Conversion of denatured alcohol formulas in accordance with § 19.460;

(5) Denatured spirits produced, received, stored in tanks, filled into containers, removed, or otherwise disposed of;

(6) Recovered denatured spirits or recovered articles received, restored, and/or redenatured;

(7) Packages of denatured spirits filled with a separate record for each formula number and filed in numerical order according to the serial number or lot identification number of the packages;

(8) Losses; and

(9) Disposition of denatured spirits.

(b) *Record of denaturation.* Each time spirits are denatured, a record shall be prepared to show the formula number, the tank in which denaturation takes place, the proof gallons of spirits before denaturation, the quantity of each denaturant used (in gallons, or in pounds or ounces), and wine gallons of denatured spirits produced.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.753 Record of article manufacture.

Each processor qualified to manufacture articles shall maintain daily records arranged by the name and authorized use code of the article to show the following:

(a) Quantity, by formula number of denatured spirits used in the manufacture of the article;

(b) Quantity of each article manufactured; and

(c) Quantity of each article removed, or otherwise disposed of, including the name and address of the person to whom sold or otherwise disposed of.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Tax Records

§ 19.761 Record of tax determination.

A serially numbered invoice or shipping document, signed or initialed by an agent or employee of the proprietor, shall constitute the record of tax determination. While total proof gallons need not be shown on each invoice or shipping document, sufficient information shall be shown to enable calculation of proof gallons. For purposes of this part, the total proof gallons calculated from each invoice or shipping document shall be rounded to the nearest tenth proof gallon and shall constitute a single withdrawal for use in computing the tax.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.762 Daily summary record of tax determinations.

Each proprietor of a distilled spirits plant who withdraws distilled spirits on determination, but before payment, of tax shall maintain a daily summary record of tax determinations. The summary record shall show, for each day on which tax determinations occur, (a) the serial number of each record of tax determination, (b) the total proof gallons rounded to the nearest tenth proof gallon on which tax was determined, and (c) the total tax.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Other Records

§ 19.766 Record of samples.

(a) *Requirement.* The proprietor shall maintain records of all samples taken pursuant to Subpart V of this part.

(b) *Schedule.* (1) When the proprietor takes samples pursuant to an established schedule, such schedule may be maintained as the required record if it contains that information required by paragraphs (c)(2) through (c)(8).

(2) When unanticipated samples are taken, the schedule shall be appropriately supplemented.

(c) *Detail.* Sample records shall show:

(1) Date samples were taken;

(2) Type and identification of container from which taken;

(3) Account from which taken;

(4) Purpose for which taken;

(5) Size and number of samples taken;

(6) Kind of spirits;

(7) Disposition of the sample (e.g., destroyed, returned to containers or the distilling system, retained for library purposes); and

(8) Name and address of the person to whom samples were sent when the samples are to be analyzed or tested elsewhere than at the plant where secured.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.767 Record of destruction.

The proprietor shall record details of the voluntary destruction of spirits, denatured spirits, articles, or wines as follows:

(a) Identification of the spirits, denatured spirits, articles, or wines to include, as applicable, kind, quantity, elements of gauge, name and permit number of the producer, warehouseman or processor, and identification and type of container.

(b) The date, time, place and manner of the destruction;

(c) A statement of whether or not the spirits had previously been withdrawn and returned to bond; and

(d) The name and title of the proprietor's representative who accomplished or supervised the destruction.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.768 Gauge record.

When gauges are required to be made by this part or by the regional director (compliance), the proprietor shall prepare a gauge record to show:

(a) Serial number, commencing with "1" at the start of each calendar or fiscal year;

(b) Reason for making the gauge:

(1) Production gauge and entry for deposit in the storage or processing account at the plant where produced;

(2) Packaging of spirits or wine filled from a tank in the storage account at the same plant;

(3) Transfer from the processing or storage account to the production account for redistillation;

(4) Repackaging of spirits of 190 degrees or more of proof; or

(5) Gauge on return to bond in the production or processing account of spirits, denatured spirits, recovered spirits, recovered denatured spirits, articles, recovered articles, or spirits residues.

(c) Date of gauge;

(d) Related form or record (identification, serial number and date);

(e) Kind of spirits or formula number of denatured spirits;

(f) Proof of distillation (not required for denatured spirits, spirits for redistillation, or spirits of 190 degrees or more of proof);

(g) When containers are to be filled, the type and number of containers;

(h) Age of spirits;

(i) Name and plant number of the producer or warehouseman; and

(j) Gauge data:

(1) Package identification, tank number, volumetric or weight gauge details, proof, and wine gallons;

(2) Cooperage identification ("C" for charred, "REC" for recharred, "P" for plain, "PAR" for paraffined, "G" for glued, or "R" for reused);

(3) Entry proof for whiskey;

(4) Proof gallons per filled package; and

(5) Total proof gallons of spirits or wine gallons of denatured spirits, recovered denatured spirits, articles, spirits residues, or wine.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.769 Package gauge record.

When required by this part and Part 252, a record shall be prepared to document the gauge of packages of spirits and to convey information on package gauges. The following information shall be recorded:

(a) Date prepared;

(b) Identification of the related transaction form or record, and its serial number;

(c) The name and plant number of the producer or processor (For blended rums or brandies enter name(s) and plant number of blending warehouseman. For spirits of 190 degrees or more of proof, name and plant number of the producer or warehouseman, as appropriate; where the packages have already been marked, the name and plant number marked thereon. For imported spirits, the name of the warehouseman who received the spirits from customs custody and name of importer. For Virgin Islands or Puerto Rican spirits, the name of the producer in the Virgin Islands or Puerto Rico);

(d) proof of distillation for spirits not over 190 degrees proof; and

(e) For each package—

(1) Serial or identification number;

(2) Designate wooden barrels as "C" for charred, "REC" for recharred, "P" for plain, "PAR" for paraffined, "G" for glued, "R" for reused, and "PS" if a barrel has been steamed or water soaked before filling;

(3) Kind of spirits;

(4) Gross weight determined at the time of original gauge, regauge, or at time of shipment;

(5) Present tare on regauge;

(6) Net weight for filling gauge or regauge;

(7) Proof;

(8) Proof gallons for regauge;

(9) Original proof gallons;

(10) Distilled spirits stamp serial number; and

(11) Receiving weights, when a material difference appears on receipt after transfer in bond of weighed packages.

(Sec. 807, Pub. L. 93-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.770 Transfer record.

(a) *Consignor.* When required by this part, proprietors shall prepare a transfer record.

The transfer record shall show: (1) Serial number, commencing with "1" on January 1 of each year;

(2) Serial number and date of ATF Form 5100.16 (not required for wine spirits withdrawn without payment of tax for use in wine production);

(3) Name and distilled spirits plant number of consignor;

(4) Name and distilled spirits plant number or bonded wine cellar number of the consignee;

(5) Account from which the spirits or wines were removed for transfer (i.e., production, storage, or processing account);

(6) Description of the spirits, denatured spirits, or wine—

(i) Name and plant number of the producer, warehouseman or processor (Not required for denatured spirits or wine. For imported spirits, record the name and plant number of the warehouseman or processor who received the spirits from customs custody. For transfer of imported spirits from customs custody to ATF bond, record the name of the foreign producer. For Virgin Islands or Puerto Rican spirits, show the name of the producer in the Virgin Islands or Puerto Rico. For spirits of different producers or warehousemen which have been mixed in the processing account, record the name of the processor.);

(ii) Kind of spirits or wines (For denatured spirits, show kind and formula number. For alcohol, show material from which produced. For bulk spirits and for alcohol in packages, show kind and proof. For other spirits and wines, use kind designation as defined in 27 CFR Part 4 or 5 as appropriate);

(iii) Age (in years, months, and days) and year of production;

(iv) Number of packages, with their lot identification numbers or serial numbers and date of fill;

(v) Type of container (If spirits, denatured spirits or wines are to be transferred by pipeline, show "P/L".);

(vi) Proof gallons for spirits or wine gallons for denatured spirits or wine; and

(vii) Conveyance identification.

(7) Notation to indicate when spirits are being transferred in bond from production facility to another plant;

(8) Identification of seals, locks or other devices affixed to the conveyance or package (Permanent seals affixed to a conveyance and which remain intact need not be recorded on the transfer record when a permanent record is maintained);

(9) Date; and

(10) Signature and title of the consignor with the penalties of perjury statement required by § 19.100.

(b) *Consignee.* (1) When a proprietor receives wine from a bonded wine cellar, the consignee shall complete Form 703 covering such transfer in accordance with the instructions thereon.

(2) When a proprietor receives spirits from an alcohol fuel plant or from customs custody, or spirits, denatured spirits and wines from the bonded premises of another distilled spirits plant, he shall record the results of such receipt on the related transfer record as follows:

(i) Date of receipt;

(ii) Notation whether the securing devices on the conveyance were or were not intact on arrival (not applicable to spirits transferred in unsecured conveyances or denatured spirits);

(iii) Gauge of spirits, denatured spirits, or wine showing the tank number, proof (percent of alcohol by volume for wine) and elements of the weight or volumetric determination of quantity, wine gallons or proof gallons received, and any losses or gains;

(iv) Notation of excessive in-transit loss, missing packages, tampering, or apparent theft;

(v) Account into which the spirits, denatured spirits or wines were deposited (i.e., production, storage or processing); and

(vi) Signature and title of the consignee with the penalties of perjury statement required by § 19.100.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.771 [Reserved]

§ 19.772 Record of stamps and alternative devices.

(a) *Strip stamps and alternative devices.* Each proprietor bottling spirits shall maintain a daily record showing separately by size of bottle, the number of red strip stamps, green strip stamps and alternative devices affixed.

(b) *Distilled spirits stamps.* Each proprietor shall maintain, for each day a transaction in distilled spirits stamps occurs, a record of distilled spirits stamps, showing the number:

(1) Received;

(2) Used, with annotation to show the applicable transaction form or record and its serial number;

(3) Destroyed or otherwise disposed of; and

(4) On hand at both beginning and close of business.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.773 Daily record of wholesale liquor dealer and taxpaid storeroom operations.

Where the proprietor, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of general plant premises, or operates taxpaid storage premises at another location from which distilled spirits are not sold at wholesale, he shall maintain daily records of the receipt and disposition of all distilled spirits and wines at such premises, and of all restamping or relabeling operations. The provisions of this section shall also apply to products returned to a wholesale liquor dealer or taxpaid storeroom from the market. A separate record shall be kept for each such premises. The records in respect of the receipt and disposition of distilled spirits and wines shall contain all data necessary (consisting of or supported by records including bills of lading and invoices) to enable ATF officers to identify and trace such receipts and dispositions and to ascertain whether there has been compliance with all laws and regulations relating thereto. In addition to any other information shown therein, such records shall include:

(a) *For receipts and dispositions*—

(1) The date of the transaction (or date of discovery in the case of casualty or theft);

(2) The name and address of each consignor or consignee, as the case may be;

(3) The brand name;

(4) The kind of spirits;

(5) The actual quantity of distilled spirits involved (proof and proof gallons if in packages, wine gallons or liters and proof if in bottles);

(6) The package identification or serial numbers of packages involved;

(7) The name of the producer; and

(8) The country of origin, if imported spirits.

(b) *For case dispositions*—In addition to the requirements listed in paragraph (a) of this section the regional director (compliance) may, upon notice to the dealer, require the recording of case serial numbers for dispositions.

(c) *For restamping or relabeling operations*—

(1) The date of the transaction;
(2) The serial numbers of cases involved;
(3) The total number of bottles;
(4) The name of the bottler; and
(5) The number and kind of strip stamps used and/or the number of alternative devices used.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5555))

§ 19.774 Record of inventories.

(a) *General.* Each proprietor shall make a record of inventories of spirits, denatured spirits, and wines required by §§ 19.329, 19.353, 19.401, 19.402, and 19.464. The following information shall be shown:
(1) Date taken;
(2) Identification of container(s);
(3) Kind and quantity of spirits, denatured spirits, and wines;
(4) Losses (whether by theft, voluntary destruction or otherwise), gains or shortages; and
(5) Signature, under penalties of perjury, of the proprietor or person taking the inventory.

(b) *Production.* Each proprietor shall record the quarterly inventory of spirits as provided in paragraph (a) of this section.

(c) *Storage.* (1) Each proprietor shall record the quarterly inventory of spirits and wines (except those in packages) as provided in paragraph (a) of this section.

(2) Gains or losses disclosed for each container shall be recorded on the current tank record (or summary record for spirits of 190 degrees or more of proof).

(d) *Processing.* Each proprietor shall record inventories as provided in paragraph (a) of this section, and for:
(1) Bulk spirits and wines in process, any gains or losses shall be recorded on the individual dump, batch, or bottling record;
(2) Finished products in bottles and packages, any overages, losses, and shortages for the total quantity inventoried shall be recorded in records required by § 19.751; and
(3) Denatured spirits, any gains or losses shall be recorded in the record prescribed by § 19.752.

(e) *Retention.* Inventory records shall be retained by the proprietor and made available for inspection by ATF officers.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.775 Record of securing devices.

Each proprietor shall maintain a record of securing devices by serial number showing the number received, affixed to conveyances (in serial order), and otherwise disposed of.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.776 Record of scale tests.

Proprietors shall maintain records of results of tests conducted in accordance with § 19.273 and § 19.276.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.777 [Reserved]

§ 19.778 Puerto Rican and Virgin Islands spirits.

(a) *Accounting.* Proprietors shall maintain separate accountings, in proof gallons, of Puerto Rican rum, other Puerto Rican spirits, and Virgin Islands spirits received in the processing account for nonindustrial use. Receipts, for the purpose of these accountings, are limited to Puerto Rican rum, other Puerto Rican spirits, and Virgin Islands spirits received in the processing account from the storage account of the same plant, from the storage account of another plant, and from customs custody.

(b) *Adjustment.* Each month proprietors shall determine the percentage of overall monthly processing gains or losses of spirits. The percentage of overall monthly processing gains or losses can be computed by netting the gains and losses on ATF Form 5110.28 (Part I). The proof gallons of Puerto Rican or Virgin Islands spirits accounted for as received in processing during the month shall be adjusted by the percentage of overall monthly processing gains or losses for that month.

(c) *Report.* As required by § 19.792, proprietors shall file monthly reports on ATF Form 5110.28. That report must show separately the adjusted proof gallons of Puerto Rican rum, other Puerto Rican spirits, and Virgin Islands spirits received in processing.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5555))

§ 19.779 Form 1473.

The proprietor shall prepare Form 1473 when:

(a) Samples of specially denatured spirits are withdrawn in accordance with § 19.540;

(b) Spirits are withdrawn free of tax in accordance with § 19.536(a)-(c); and

(c) Specially denatured spirits are withdrawn free of tax in accordance with § 19.540.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Submission of Forms and Reports

§ 19.791 Submission of transaction forms.

Completed copies of transaction forms which must be submitted to the regional director (compliance) under the provisions of this part shall be submitted by the proprietor no later than the close of business the third business day succeeding the day of the transaction as provided by this part and by instructions on the individual forms.

(Sec. 807, Pub. L. 97-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.792 Reports.

(a) Reports required by this section shall be prepared as of the end of the applicable reporting period. The original shall be submitted to the regional director (compliance) and a copy retained by the proprietor.

(b) Proprietors shall submit the following summary reports of their operations:

Title	Form No.	Reporting period
(1) Production report	5110.40	Monthly.
(2) Storage report	5110.11	Do.
(3) Processing reports—		
(i) Manufacture/bottling	5110.28	Do.
(ii) Denaturation (including articles)	5110.43	Do.
(4) Reports of stamps and their alternatives.	5100.8	Quarterly.

(c) All reports required by this part shall be prepared and submitted to the regional director (compliance) not later than the 15th day of the month following the close of the reporting period.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Subpart X—Production of Vinegar by the Vaporizing Process

Scope of Subpart

§ 19.821 Production of vinegar by the vaporizing process.

The regulations in this subpart relate to the production of vinegar by the vaporizing process. The regulations cover requirements governing the location, qualification, changes after qualification, construction, equipment, plant operations and records of operations at vinegar plants. Except where incorporated by reference, the provisions of Subpart A through W and Subpart Y of this part do not apply to vinegar plants using the vaporizing process. The following provisions of this part shall apply to this subpart: the meaning of terms, § 19.11; other businesses, § 19.68; right of entry and examination, § 19.81; furnishing facilities and assistance, § 19.86; restrictions as to

location, § 19.131; registry of stills, § 19.169; and maintenance and preservation of records, § 19.723.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1390, as amended, 1391, as amended (26 U.S.C. 5501-5505))

Qualification Documents

§ 19.822 Application.

Each person, before commencing the business of manufacturing vinegar by the vaporizing process shall make written application to the regional director (compliance). The application will include:

(a) The applicant's name and principal business address (including the plant address if different from the principal business address);

(b) Description of the extent of the premises;

(c) Description of the type of operations to be conducted; and

(d) Description of the stills including the name and residence of the owner, the kind of still, its capacity and the purpose for which it was set up.

The applicant shall receive and approved application from the regional director (compliance) prior to commencing business.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

§ 19.823 Changes after original qualification.

When there is a change in the information recorded in the original approved application, the proprietor shall make a written notice of the change to the regional director (compliance). The notice will identify the change and the effective date of the change.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

§ 19.824 Notice of permanent discontinuance of business.

A proprietor who intends to permanently discontinue operations shall make written notice to the regional director (compliance). The proprietor shall include in the notice a statement of the status of the stills.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

Construction and Equipment

§ 19.825 Construction and Equipment.

A proprietor of a vinegar plant shall construct and equip the vinegar plant so that—

(a) The distilled spirits vapors that are separated by the vaporizing process from the mash produced by the manufacturer are condensed only by introducing them into the water or other liquid used in making the vinegar; and

(b) The distilled spirits produced can be accurately accounted for and are secure from unlawful removal from the premises or from unauthorized use.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1390, as amended, (26 U.S.C. 5502))

Plant Operations

§ 19.826 Authorized operations.

Vinegar manufacturers qualified under this subpart are authorized to—

(a) Produce vinegar only by the vaporizing process; and

(b) Produce distilled spirits of 30 degrees of proof or less only for use in the manufacture of vinegar on the vinegar plant premises.

§ 19.827 Conduct of operations.

Vinegar manufacturers qualified under this subpart may—

(a) Separate by a vaporizing process the distilled spirits from the mash produced by him; and

(b) Condense the distilled spirits vapors by introducing them into the water or other liquid used in making the vinegar.

§ 19.828 Removals from the premises.

No person shall remove from the vinegar plant premises vinegar or other fluid or material containing more than 2% alcohol by volume.

Records

§ 19.829 Daily records.

Each manufacturer of vinegar by the vaporizing process shall keep accurate and complete daily records of production operations that include—

(a) The kind and quantity of fermenting or distilling materials received on the premises;

(b) The kind and quantity of materials fermented of mashed;

(c) The proof gallons of distilled spirits produced;

(d) The proof gallons of distilled spirits used in the manufacture of vinegar;

(e) The wine gallons of vinegar produced; and

(f) The wine gallons of vinegar removed from the premises.

Separate government records need not be kept as long as commercial records contain all the required information.

Administrative and Miscellaneous

§ 19.830 Application of distilled spirits tax.

The internal revenue tax must be paid on any distilled spirits produced in or removed from the premises of a vinegar plant in violation of law or this subpart.

Subpart Y—Distilled Spirits For Fuel Use

§ 19.901 Scope of subpart.

This subpart implements 26 U.S.C. 5181, which authorizes the establishment of distilled spirits plants solely for producing, processing and storing, and using or distributing distilled spirits to be used exclusively for fuel use. This subpart relates to the qualification and operation of such distilled spirits plants. Distilled spirits plants established under this subpart are designated as alcohol fuel plants.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.902 Waiver for alcohol fuel plants.

All provisions of Subparts A through X of this part and all provisions of 26 U.S.C. Chapter 51 are hereby waived except:

(a) any provision specifically incorporated by reference in this subpart and the cited authority for that provision;

(b) any provision requiring the payment of tax;

(c) any provisions dealing with penalty, seizure, or forfeiture which is applicable to distilled spirits; and

(d) 26 U.S.C. 5181.

(Sec. 232, Pub. L. 93-224, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.903 Alternate methods or procedures.

The proprietor, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this subpart or Subparts A through X of this part where the provisions of those subparts have been incorporated by reference in this subpart. The Director may approve an alternate method or procedure, subject to stated conditions, when he finds that—

(a) Good cause has been shown for the use of the alternate method or procedure;

(b) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(c) The alternate method or procedure will not be contrary to any applicable provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part. No alternate method or procedure relating to the giving of any bond, to the assessment, payment or collection of tax, will be authorized

under this section. Where the proprietor desires to employ an alternate method or procedure, he shall submit a written application to do so to the regional director (compliance), for transmittal to the Director. The application will specifically describe the proposed alternate method or procedure, and will set forth the reasons therefor. The proprietor shall not employ any alternate method or procedure until the application has been approved. The proprietor shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization. As used in this section, alternate methods or procedures include alternate construction or equipment. The proprietor shall retain, as part of the records available for examination by AFT officers, any application approved by the Director under the provisions of this section.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.904 Emergency variations from requirements.

The regional director (compliance) may approve construction, equipment, and methods of operation other than as specified in this part, where he finds that an emergency exists and the proposed variations from the specified requirements are necessary, and the proposed variations—

(a) Will afford the security and protection to the revenue intended by the prescribed specifications;

(b) Will not hinder the effective administration of this part; and

(c) Will not be contrary to any applicable provisions of law. 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 will automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the regional director (compliance) the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where the proprietor desires to employ such variation, he shall submit a written application to do so to the regional director (compliance). The application will describe the proposed variations and set forth the reasons therefor. Variations will not be employed until the application has been approved, except when the emergency requires immediate action to correct a situation that is threatening to life or property. Such corrective action may then be taken concurrent with the filing of the application and notification of the regional director (compliance), via telephone. The proprietor shall retain, as part of the records available for examination by ATF officers, any application approved by the regional director (compliance) under the provisions of this section.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.905 Taxes

(a) *Distilled spirits tax.* Distilled spirits may be withdrawn free of tax from the premises of an alcohol fuel plant exclusively for fuel use in accordance with this subpart. Payment of tax will be required in the case of diversion of spirits to beverage use or other unauthorized dispositions. The provisions of Subpart C of this part are applicable to distilled spirits for fuel use as follows:

(1) Imposition of tax liability (§§ 19.21 through 19.25);

(2) Assessment of tax (§§ 19.31 and 19.32); and,

(3) Claims for tax (§§ 19.41 and 19.44).

(b) *Still tax.* A commodity tax is imposed by 26 U.S.C. 5101 on the manufacturer for each still or condenser for distilling made by him. Manufacturers of stills are subject to a special occupational tax. However, a proprietor manufacturing stills or condensers exclusively for use in his plant or plants is exempt from these taxes. In addition, proprietors of alcohol fuel plants are exempt from the requirement of 26 U.S.C. 5105 to file an application and obtain a permit before setting up distilling apparatus. Provisions relating to stills are contained in 27 CFR Part 196.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1339 (26 U.S.C. 5001, 5101, 5103); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

Definitions

§ 19.907 Meaning of terms.

When used in this subpart, and in forms prescribed under this subpart, terms shall have the meaning given in this section. Words in the plural form include the singular and vice versa, and words indicating the masculine gender include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Alcohol fuel plant or plant. An establishment qualified under this subpart solely for producing, processing and storing, and using or distributing distilled spirits to be used exclusively for fuel use.

Alcohol fuel producer's permit. The document issued pursuant to 26 U.S.C. 5181 authorizing the person named therein to engage in business as an alcohol fuel plant.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this subpart.

Bonded premises. The premises of an alcohol fuel plant where distilled spirits are produced, processed and stored, and used or distributed. Premises of small alcohol fuel plants, which are exempt from bonding under § 19.912(b), shall be treated as bonded premises for purposes of this subpart.

CFR. The Code of Federal Regulations.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

Fuel alcohol. Distilled spirits which have been rendered unfit for beverage use at an alcohol fuel plant as provided in this subpart.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

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

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person qualified under this subpart to operate the alcohol fuel plant.

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

Regional director (compliance). The principal regional official responsible for administering regulations in this subpart.

Render unfit for beverage use. The addition to distilled spirits of materials

which will not impair the quality of the spirits for fuel use as prescribed and authorized by the provisions of this subpart.

Secretary. The Secretary of the Treasury or his delegate.

Spirits or distilled spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced), but not fuel alcohol unless specifically stated. For purposes of this subpart, the term does not include spirits produced from petroleum, natural gas, or coal.

This chapter. Title 27, Code of Federal Regulations, Chapter I [27 CFR Chapter I].

Transfer in bond. The transfer of spirits between alcohol fuel plants or the transfer of spirits to or from a distilled spirits plant qualified under 26 U.S.C. 5171 and an alcohol fuel plant.

Type of plant. The following three types of alcohol fuel plants are recognized in this subpart:

(a) *Small plant.* An alcohol fuel plant which produces (including receipts) not more than 10,000 proof gallons of spirits per calendar year.

(b) *Medium plant.* An alcohol fuel plant which produces (including receipts) more than 10,000 and not more than 500,000 proof gallons of spirits per calendar year.

(c) *Large plant.* An alcohol fuel plant which produces (including receipts) more than 500,000 proof gallons of spirits per calendar year.

U.S.C. The United States Code.

Permits

§ 19.910 Application for permit required.

Any person wishing to establish an alcohol fuel plant shall first make application for and obtain an alcohol fuel producer's permit. The application for a permit will be on Form 5110.74. The application, in duplicate, will be submitted to the regional director (compliance). The description of stills on the approved application constitutes registration of stills as required by 27 CFR 196.45. Alcohol fuel producers' permits are continuing unless automatically terminated under § 19.920, suspended or revoked as provided in § 19.950, or voluntarily surrendered.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1355, as amended (26 U.S.C. 5179); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.911 Criteria for issuance of permit.

In general, an alcohol fuel producer's permit will be issued to any person who completes the required application for permit and who furnishes the required bond (if any). However, the regional director (compliance) may institute proceedings for the denial of the application, if the regional director (compliance) determines that:

(a) 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 business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C. Chapter 51, or regulations issued thereunder; or

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

(c) The premises on which the applicant proposes to conduct the operations are not adequate to protect the revenue. The procedures applicable to denial of applications are set forth in 27 CFR Part 200.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.912 Small plants.

Persons wishing to establish a small plant shall apply for a permit as provided in this section. Except as provided in paragraph (c) of § 19.913, operations may not be commenced until the permit has been issued.

(a) *Application for permit.* The application (Form 5110.74) shall be submitted to the regional director (compliance) and shall set forth the following information:

(1) Name and mailing address of the applicant, and the location of the alcohol fuel plant if not apparent from the mailing address;

(2) A diagram of the plant premises and a statement as to the ownership of the premises (if the premises are not owned by the proprietor, the owner's consent to access by ATF officers must be furnished);

(3) A description of all stills and a statement of their maximum capacity;

(4) The materials from which spirits will be produced; and

(5) A description of the security measures to be used to protect premises, buildings and equipment where spirits are produced, processed, and stored.

(b) *Bond.* No bond is required for small plants.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.913 Action on applications to establish small plants.

(a) *Receipt by the regional director (compliance).*

(1) Notice of receipt—Within 15 days of receipt of the application, the regional director (compliance) shall send a written notice of receipt to the applicant. The notice will include a statement as to whether the application meets the requirements of § 19.912. If the application does not meet those requirements, the application will be returned and a new 15-day period will commence upon receipt by the regional director (compliance) of the amended or corrected application.

(2) Failure to give notice—If the required notice of receipt is not sent, and the applicant has a receipt indicating that the regional director (compliance) has received the application, the 45-day period provided for in paragraphs (b) and (c) of this section will commence on the fifteenth day after the date the regional director (compliance) received the application.

(3) Limitation—The provisions of subparagraphs (1) and (2) of this section apply only to:

(i) the first application submitted with respect to any one small plant in any calendar quarter; and

(ii) an amended or corrected first application.

(b) *Determination by the regional director (compliance).* Within 45 days from the date the regional director (compliance) sent the applicant a notice of receipt of a completed application, the regional director (compliance) shall either (1) issue the permit, or (2) give notice in writting to the applicant, stating in detail the reason that a permit will not be issued. Denial of an application will not prejudice any further application for a permit made by the same applicant.

(c) *Presumption of approval.* If, within 45 days from the date of the notice to the applicant of receipt of a completed application, the regional director (compliance) has not notified the applicant of issuance of the permit or denial of the application, the application shall be deemed to have been approved and the applicant may proceed if a permit had been issued.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.914 Medium plants.

Any person wishing to establish a medium plant shall make application for and obtain in alcohol fuel producer's permit. Operations may not be commenced until the application has been approved and the permit issued.

(a) *Application for permit.* The application (Form 5110.74) shall be submitted to the regional director

(compliance) and shall set forth the following information:

(1) The information required by § 19.912 (a);

(2) Statement of maximum total proof gallons of spirits that will be produced and received during a calendar year;

(3) Information identifying the principal persons involved in the business and a statement as to whether the applicant or any such person has ever been convicted of a felony or misdemeanor under Federal or State law; and,

(4) Statement of the amount of funds invested in the business and the source of those funds.

(b) *Bond.* A bond of sufficient penal sum, as prescribed in § 19.957, is required. The bond must be submitted on Form 5110.56 and approved before a permit may be issued.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.915 Large plants.

Any person wishing to establish a large plant shall make application for and obtain an alcohol fuel producer's permit. Operations may not be commenced until the application has been approved and the permit issued.

(a) *Application for permit.* The application (Form 5110.74) shall be submitted to the regional director (compliance) and shall set forth the following information:

(1) The information required by § 19.912(a);

(2) Statement of the maximum proof gallons of spirits that will be produced and received during a calendar year;

(3) Information identifying the principal persons involved in the business and a statement as to whether the applicant or any such person has ever been convicted of a felony or misdemeanor under Federal or State law;

(4) Statement of the amount of funds invested in the business and the source of those funds;

(5) Statement of the type of business organization and of the persons interested in the business, supported by the items of information listed in § 19.916; and,

(6) List of the offices, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the proprietor or to sign the proprietor's name.

(b) *Bond.* A bond of sufficient penal sum, as prescribed in § 19.957, is required. The bond must be submitted on Form 5110.56 and approved before a permit may be issued.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.916 Organizational documents.

The supporting information required by paragraph (a)(5) of § 19.915, includes, as applicable, copies of—

(a) *Corporate documents.*

(1) Corporate charter or certificate of corporate existence or incorporation.

(2) List of officers and directors, showing their names and addresses. However, do not list officers and directors who have no responsibilities in connection with the operation of the alcohol fuel plant.

(3) Certified extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation.

(4) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, and the voting rights of the respective owners or holders.

(b) *Statement of interest.*

(1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another for him. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names thereof need be furnished only upon request of the regional director (compliance).

(2) In the case of an individual owner or partnership, the name and address of each person interested in the plant, whether the interest appears in the name of the interested party or in the name of another for that person.

(c) *Availability of additional documents.* The originals of documents required to be submitted under this section and additional items required under § 19.918 such as the articles of incorporation, bylaws, State certificate authorizing operations, or articles of partnership or association (in the case of a partnership where required by State law) shall be made available to any ATF officer upon request.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.917 Powers of attorney.

The proprietor of a large plant shall execute and file with the regional director (compliance) a Form 1534 (5000.8), in accordance with instructions on the form, for each person authorized to sign or act on behalf of the proprietor (Not required for persons whose authority is furnished in the application).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.918 Information already on file and supplemental information.

If any of the information required by §§ 19.912 through 19.916 is on file with the regional director (compliance), that information, if accurate and complete, may be incorporated by reference and made a part of the application. When required by the regional director (compliance), the applicant shall furnish as a part of the application for permit, additional information as may be necessary to determine whether the application should be approved.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278, (26 U.S.C. 5181))

Changes Affecting Applications and Permits

§ 19.919 Changes affecting applications and permits.

When there is a change relating to any of the information contained in, or considered a part of, the application on Form 5110.74, the proprietor shall within 30 days file with the regional director (compliance), a written notice, in duplicate, of such change. Where the change affects the terms and conditions of the permit the proprietor shall within 30 days (except as otherwise provided in this subpart), file with the regional director (compliance), in duplicate, an amended application on Form 5110.74.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.920 Automatic termination of permits.

(a) *Permits not transferable.* Permits issued under this subpart shall not be transferred. In the event of the lease, sale, or other transfer of such a permit, or of the authorized operations, the permit automatically terminates.

(b) *Corporations.* In the case of a corporation holding a permit under this subpart, if actual or legal control of the permittee corporation changes, directly or indirectly, whether by reason of change in stock ownership or control (in the permittee corporation or in any other corporation), by operation of law, or in any other manner, the permit may remain in effect until the expiration of 30 days after the change, whereupon the permit will automatically terminate. However, if operations are to be continued after the change in control,

and an application for a new permit is filed within 30 days of the change, then the outstanding permit may remain in effect until final action is taken on the new application. When final action is taken on the application, the outstanding permit automatically terminates.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 19.921 Change in type of alcohol fuel plant.

(a) *Small plants.* If the proprietor of a small plant wishes to increase production (including receipts) to a level in excess of 10,000 proof gallons of spirits per calendar year, the proprietor shall first furnish a bond and obtain an amended permit by filing application under § 19.914 or § 19.915, as applicable. Information filed with the original application for permit need not be resubmitted, but may be incorporated by reference in the new application.

(b) *Medium plants.* Where the proprietor of a medium plant intends to increase production (including receipts) above 500,000 proof gallons of spirits per calendar year, the proprietor shall first obtain an amended permit by filing an application under § 19.915. A new or strengthening bond may be required (see § 19.956). Information already on file may be incorporated by reference in the new application.

(c) *Curtailment of activities.* Proprietors of large or medium plants who have curtailed operations to a level where they are eligible to be requalified as medium or small plants may, on approval of a letter of application by the regional director (compliance), be relieved from the additional requirements incident to their original qualification. In the case of a change to small plant status, termination of the bond and relief of the surety from further liability shall be as provided in Subpart H of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.922 Change in name of proprietor.

Where there is to be a change in the individual, firm, or corporate name, the proprietor shall, within 30 days of the change, file an application to amend the permit; a new bond or consent of surety is not required.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.923 Changes in officers, directors, or principal persons.

Where there is any change in the list of officers, directors, or principal persons, furnished under the provisions of § 19.914, § 19.915 or § 19.916, the proprietor shall submit, within 30 days of any such change, a notice in letter form stating the changes in officers, directors, or principal persons. A new list reflecting the changes will be submitted with the letter notice.

(Sec. 232, Pub. L. 96-233, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.924 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of a plant qualified under this part, the outgoing proprietor shall comply with the requirements of § 19.945 and the successor shall, before commencing operations, apply for and obtain a permit and file the required bond (if any) in the same manner as a person qualifying as the proprietor of a new plant.

(b) *Fiduciary.* A successor to the proprietorship of a plant who is an administrator, executor, receiver, trustee, assignee or other fiduciary, shall comply with the applicable provisions of § 19.186(b).

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

§ 19.925 Continuing partnerships.

If under the laws of the particular State, the partnership is not immediately terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the plant under the prior qualification of the partnership. However, in the case of a large or a medium plant, a consent of surety must be filed, wherein the surety and the surviving partner agree to remain liable on the bond. If the surviving partner acquires the business on completion of the settlement of the partnership, he shall qualify in his own name from the date of acquisition, as provided in § 19.924(a). The rule set forth in this section will also apply where there is more than one surviving partner.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.926 Change in location.

Where there is a change in the location of the plant or of the area included within the plant premises, the proprietor shall file an application to amend the permit and, if a bond is required, either a new bond or a consent of surety on Form 1533 (5000.18). Operation of the plant may not be commenced at the new location prior to issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

Alternate Operations

§ 19.930 Alternating proprietorship.

(a) *General.* (1) An alcohol fuel plant, or a part thereof, may be operated alternately by proprietors if—

(i) The alcohol fuel plant and the proprietors are otherwise qualified under the provisions of this subpart, and

(ii) The necessary operations bonds (if any) and applications covering such operations have been filed with and approved by the regional director (compliance).

(2) Where alternating proprietorship is to be limited to a part of a plant, that part must be suitable for qualification as a separate plant.

(b) *Qualifying Documents.* Each person desiring to operate an alcohol fuel plant as an alternating proprietor shall file with the regional director (compliance):

(1) An application on Form 5110.74 to cover the proposed alternation of premises.

(2) Diagram of premises, in duplicate, showing the arrangement under which the premises will be operated. Diagrams will be prepared in accordance with paragraph (c) of this section.

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

(4) When required by the regional director (compliance), additional information as may be necessary to determine whether the application should be approved.

(c) *Diagram of premises.* Each person filing an application for operation of a plant as an alternating proprietor shall submit a diagram of the premises. Where operations by alternating proprietors are limited to parts of a plant, a diagram which designates the parts of the plant that are to be alternated will be submitted. A diagram will be submitted for each arrangement under which the premises will be operated. The diagram will be in sufficient detail to establish the boundaries of the plant or any part thereof which is to be alternated.

(d) *Alternation Journal.* Once the applications have been approved and

initial operations conducted thereunder, the plant, or parts thereof, may be alternated. The outgoing and incoming proprietor shall enter into an alternation journal the following information:

(1) Name or trade name;

(2) Alcohol fuel plant permit number;

(3) Date and time of alternation; and

(4) Quantity of spirits transferred in proof gallons.

The alternation journal will remain in the possession of the incoming proprietor until the premises are again alternated whereupon it will be transferred to the new incoming proprietor.

(e) *Commencement of operations.* Except for spirits transferred to the incoming proprietor, the outgoing proprietor shall remove all spirits from areas, rooms, or buildings to be alternated, prior to the effective date and time shown in the alternation journal. Fuel alcohol may be either transferred to the incoming proprietor or may be retained by the outgoing proprietor in areas, rooms, or buildings to be alternated when the areas, rooms, or buildings are secured with locks, the keys to which are in the custody of the outgoing proprietor. Whenever operation of the areas, rooms, or buildings is to be resumed by a proprietor following suspension of operations by an alternating proprietor, the outgoing proprietor (except proprietors of small plants) must furnish a consent of surety on Form 1533 (5000.18) to continue in effect the operations bond covering his operations. This is to be done prior to alternating the premises.

(f) *Records.* Each proprietor shall maintain separate records and submit separate reports. All transfers of spirits will be reflected in the records of each proprietor. The quantity of spirits and fuel alcohol transferred will be shown in the production and disposition records of the outgoing proprietor. The quantity of spirits transferred will be shown in the receipt record of the incoming proprietor. Each outgoing and incoming proprietor shall include spirits transferred in determinations of plant size and bond amounts. The provisions of § 19.921 regarding change in type of plant are applicable to each proprietor. Entries into these records will be in the manner prescribed in §§ 19.982, 19.984, and 19.986.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271; Sec. 805(a), Pub. 96–39, 93 Stat. 275 (26 U.S.C. 5171); Sec. 232 Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

Permanent Discontinuance of Business

§ 19.945 Notice of permanent discontinuance.

A proprietor who permanently discontinues operations as an alcohol fuel plant shall, after completion of the operations, file a letterhead notice with the regional director (compliance). The notice shall be accompanied—

(a) By the alcohol fuel producer's permit, and by the proprietor's request that such permit be canceled;

(b) By a written statement disclosing, as applicable, whether (1) all spirits (including fuel alcohol) have been lawfully disposed of, and (2) any spirits are in transit to the premises; and

(c) By a report covering the discontinued operations (the report shall be marked "Final Report").

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

Suspension or Revocation of Permits

§ 19.950 Suspension or revocation.

Whenever the regional director (compliance) has reason to believe that any person holding an alcohol fuel producer's permit—

(a) Has not in good faith complied with the applicable provisions of 26 U.S.C. Chapter 51, or regulations issued thereunder; or

(b) Has violated conditions of the permit; or

(c) Has made any false statements as to any material fact in the 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 Title 26, U.S.C. punishable as a felony or of any conspiracy to commit such offense; or

(f) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years; the regional director (compliance) may institute proceedings for the revocation or suspension of the permit in accordance with the procedures set forth in 27 CFR Part 200.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

Bonds

§ 19.955 Bonds.

An operations bond is required for medium and large plants. The bond will be executed, in duplicate, on Form 5110.56. Surety bonds may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570. However, in lieu of corporate surety the proprietor may pledge and deposit as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR Part 225. The regional director (compliance) will not release such securities until liability under the bond for which they were pledged has been terminated.

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173); CH. 390, Pub. L. 80–280, 61 Stat. 648, 650 (6 U.S.C. 6, 7, 15); Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.956 Amount of bond.

The penal sum of the bond is based on the total quantity of distilled spirits to be produced (including receipts) during a calendar year. If the level of production and/or receipts at the plant is to be increased, and the bond is not in the maximum penal sum, a new or strengthening bond shall be obtained.

(a) *Medium plants.* A medium plant which will produce (including receipts) between 10,000 and 20,000 proof gallons of spirits per year requires a bond in the amount of $2,000. For each additional 10,000 proof gallons (or fraction thereof), the bond amount is increased $1,000. The maximum bond for a medium plant is $50,000.

(b) *Large plants.* The minimum bond for a large plant is $52,000 (more than 500,000, but not more than 510,000 proof gallons annual production (including receipts)). For each additional 10,000 (or fraction) proof gallons, the amount of the bond is increased $2,000. The maximum bond for a large plant is $200,000 (more than 1,240,000 proof gallons).

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173); Sec. 232, Pub. L. 96–233, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.957 Instructions to compute bond penal sum.

(a) *Medium plants.* To find the required amount of your bond, estimate the total proof gallons of spirits to be produced and received in a calendar year. The amount of the bond is $1,000 for each 10,000 proof gallons (or fraction), subject to a minimum of $2,000 and a maximum of $50,000. The following table provides some examples:

ANNUAL PRODUCTION AND RECEIPTS IN PROOF GALLONS

More than	But not over	Amount of bond
10,000	20,000	$2,000
20,000	30,000	3,000
90,000	100,000	10,000
190,000	200,000	20,000
490,000	500,000	50,000

(b) *Large plants.* To find the required amount of your bond, estimate the total proof gallons of spirits to be produced and received in a calendar year. The amount of the bond is $50,000 plus $2,000 for each 10,000 proof gallons (or fraction) over 500,000. The following table provides some examples:

ANNUAL PRODUCTION AND RECEIPTS IN PROOF GALLONS

More than	But not over	Amount of bond
500,000	510,000	$52,000
510,000	520,000	54,000
740,000	750,000	100,000
990,000	1,000,000	150,000
1,240,000		200,000

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173; Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.958 Conditions of bond.

The bond shall be conditioned on payment of all taxes (including any penalties and interest) imposed by 26 U.S.C. Chapter 51, on compliance with all requirements of law and regulations, and on payment of all penalties incurred or fines imposed for violations of any such provisions.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.959 Additional provisions with respect to bonds.

Subpart H of this part contains further provisions applicable to bonds which, where not inconsistent with this subpart, are applicable to bonds of alcohol fuel plants.

Construction, Equipment and Security

§ 19.965 Construction and equipment.

Buildings and enclosures where distilled spirits will be produced, processed, or stored shall be constructed and arranged to enable the proprietor to maintain security adequate to deter diversion of the spirits. Distilling equipment shall be constructed to prevent unauthorized removal of spirits, from the point where distilled spirits come into existence until production is complete and the quantity of spirits has been determined. Tanks and other vessels for containing spirits shall be equipped for locking and be constructed to allow for determining the quantities of spirits therein.

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

§ 19.966 Security.

Proprietors shall provide security adequate to deter the unauthorized removal of spirits. The proprietor shall store spirits either in a building, a storage tank, or within an enclosure, which the proprietor will keep locked when operations are not being conducted.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178); Sec. 806, Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5202))

§ 19.967 Additional security.

If the regional director (compliance) finds that security is inadequate to deter diversion of the spirits, as may be evidenced by the occurrence of break-ins or by diversion of spirits to unauthorized purposes, additional security measures may be required. Such additional measures may include, but are not limited to, the following:

(a) The erection of a fence around the plant or the alcohol storage facility;

(b) Flood lights;

(c) Alarm systems;

(d) Watchman services; or,

(e) Locked or barred windows.

The exact additional security requirements would depend on the extent of the security problems, the volume of alcohol produced, the risk to tax revenue, and safety requirements.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178); Sec. 806, Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5202))

Supervision

§ 19.970 Supervision of operations.

The regional director (compliance) may assign ATF officers to premises of plants qualified under this subpart. The authorities of ATF officers, provided in §§ 19.81 through 19.84, and the requirement that proprietors furnish facilities and assistance to ATF officers, provided in § 19.86, apply to plants qualified under this subpart. The provisions of § 19.75 of this part pertaining to the assignment of ATF officers and hours of operation, to the extent deemed necessary by the regional director (compliance), are applicable to plants qualified under this subpart.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended, 1356, as amended, 1357, as amended, 1358, as amended, 1375, as amended, 1396, as amended (26 U.S.C. 5006, 5201, 5203, 5204, 5213, 5555); Sec. 806, Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5202); Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Accounting for Spirits

§ 19.980 Gauging.

(a) *Equipment and method.* Proprietors shall gauge spirits by accurately determining the proof and quantity of spirits. The proof of the spirits shall be determined using a glass cylinder, hydrometer, and thermometer. Proprietors may account for fuel alcohol in wine gallons. Unless proprietors desire to do so, it is not necessary to determine the proof of fuel alcohol manufactured, on-hand, or removed. The Proprietor may determine quantity either by volume or weight. A tank or receptacle with a calibrated sight glass installed, a calibrated dipstick, conversion charts, meters [subject to approval by the regional director (compliance)], or other devices or methods approved by the Director, may be used to determine quantity by volume. The proprietor shall ensure that hydrometers, thermometers, and other equipment used to determine proof, volume, or weight are accurate. From time to time ATF officers shall verify the accuracy of such equipment. Detailed procedures for gauging spirits are provided in 27 CFR Part 30.

(b) *When Required.* Proprietors shall guage spirits and record the results in their records at the following times:

(1) On completion of production of distilled spirits;

(2) On receipt of spirits at the plant;

(3) Prior to the addition of materials to render the spirits unfit for beverage use;

(4) Before withdrawal from plant premises or other disposition of spirits (including fuel alcohol); and

(5) When spirits are to be inventoried.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1358, as amended (26 U.S.C. 5201, 5204))

§ 19.981 Inventories.

Proprietors shall take actual physical inventory of all spirits (including fuel alcohol) on bonded premises at least once during each period for which a report is required by § 19.988. The results of the inventory shall be posted in the applicable records required by § 19.982.

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

§ 19.982 Records.

(1) *All plants.* All proprietors shall maintain records with respect to: (1) The quantity and proof of spirits produced; (2) The proof gallons of spirits on-hand and received; (3) The quantities and types of materials added to render the

spirits unfit for beverage use; (4) The quantity of fuel alcohol manufactured; and, (5) All dispositions of spirits (including fuel alcohol). Fuel alcohol may be recorded in wine gallons.

(b) *Medium and large plants.* Proprietors of medium and large plants shall also record the kind and quantity of materials used to produce spirits.

(c) *General requirements.*

(1) The records must contain sufficient information to allow ATF officers to determine the quantities of spirits produced, received, stored, or processed and to verify that all spirits have been lawfully disposed of or used.

(2) Records which the proprietor prepares for other purposes (i.e. invoices or other commercial records) may be used to meet the record requirements of this subpart, so long as they show the required information.

(3) Where the format or arrangement of the record is such that the information is not clearly or accurately reflected, the regional director (compliance) may require a format or arrangement which will clearly and accurately reflect the information.

(4) Entries required by this subpart to be made into records will be made on the day on which the operation or transaction occurs. However, these entries may be deferred until the third business day succeeding the day on which the operation or transaction occurs when the proprietor prepares commercial records concurrent with the individual operation or transaction.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.983 Spirits rendered unfit for beverage use in the production process.

Where spirits are rendered unfit for beverage use before removal from the production system, the proprietor shall enter into the production records, in addition to the quantity and proof of spirits produced, the kind and quantity of materials added to each lot of spirits. In such a case, a separate record under § 19.985 is not required. The quantity of spirits produced will be determined by substracting the quantity of materials added to render the spirits unfit for beverage use from the quantity of fuel alcohol produced and multiplying the resulting figure by the proof of each lot of spirits. The proprietor shall determine the proof of each lot of spirits. The proprietor shall procure a representative sample of each lot, prior to the addition of any material for rendering the spirits unfit for beverage use, and proof the sample in accordance with the provisions of § 19.980(a). This paragraph applies to in-line addition of materials and to systems in which, before any spirits come off the production equipment, the proprietor adds materials for rendering the spirits unfit for beverage use to the first receptacle where spirits are to be deposited.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 232, Pub. L. 96-222, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.984 Record of spirits received.

The proprietor's copy of the consignor's invoice or other document received with the shipment, on which the proprietor has noted the date of receipt and quantity received, constitutes the required record.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.985 Record of spirits rendered unfit for beverage use.

The proprietor shall record the kind and quantity of materials added to render each lot of spirits unfit for beverage use and the quantity of fuel alcohol manufactured (which may be given in wine gallons).

Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.986 Record of dispositions.

(a) *Fuel alcohol removed.* For fuel alcohol removed from the plant premises, the commercial record or other document required by § 19.997 constitutes the required record.

(b) *Spirits transferred.* For spirits transferred in bond (including transfers from small plants) to a distilled spirits plant qualified under Subpart G of this part or to another alcohol fuel plant, the commercial invoice or other document required by §§ 19.508 and 19.999 constitutes the required record.

(c) *Other dispositions.* For spirits or fuel alcohol used or otherwise disposed of (e.g., lost, destroyed, redistilled) on the premises of the alcohol fuel plant, the proprietor shall maintain a record as follows:

(1) the quantity of spirits (in proof gallons) or fuel alcohol (in gallons) and the date of disposition; and,

(2) the purpose for which used or the nature of the other disposition.

(d) *Separate records.* Records for dispositions of fuel alcohol and spirits will be maintained separately.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.987 Maintenance and retention of records.

The proprietor shall retain at the plant where an operation or transaction occurs the records required by this subpart for a period of not less than three years from the date thereof or from the date of the last entry made thereon, whichever is later. Whenever any record because of its condition becomes unsuitable for its intended or continued use the proprietor shall reproduce the record by a process approved by the regional director (compliance) under the provisions of § 19.725. The records shall be available for inspectin by any ATF officer during business hours. For records maintained on data processing equipment, the provisions of § 19.723 apply.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

§ 19.988 Reports.

Proprietors shall file reports of their operations, depending on the type of plant, as follows:

Type of plant	Frequency	Closing date of reporting period
Small	Annually	December 31.
Medium	Semiannually	June 30 and December 31.
Large plant	Quarterly	Close of each calendar quarter.

The proprietor shall submit each required report to the regional director (compliance) within 30 days after the close of the applicable reporting period. The report shall be submitted on Form 5110.75.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Redistillation

§ 19.990 Redistillation of spirits or fuel alcohol received on the plant premises.

(a) *Receipts for redistillation.* Proprietors of alcohol fuel plants may receive and redistill spirits. Fuel alcohol may be received on the premises of an alcohol fuel plant for the recovery by redistillation of the spirits contained therein. Spirits and fuel alcohol received for redistillation will be identified as such and will be kept separate from other spirits and fuel alcohol on the premises until redistilled. Spirits originally produced by the plant and subsequently recovered by redistillation will not be included in determinations of plant size and bond amounts. Spirits originally produced at other plants and subsequently recovered by redistillation will be included in determinations of plant size and bond amounts.

(b) *Recordkeeping.*

(1) The proprietor shall record in a separate record the following information for spirits and fuel alcohol received for redistillation.

(i) Date received;

(ii) Whether fuel alcohol or spirits;

(iii) Quantity received;

(iv) From whom received;
(v) Reason for redistillation;
(vi) Date redistilled; and
(vii) Quantity of spirits recovered by redistillation.

(2) The proprietor's commercial record required for spirits by § 19.999 or for fuel alcohol by § 19.997 and any other commercial record received covering spirits or fuel alcohol to be redistilled will be filed separately from other records. These records may be used in lieu of the record required by paragraph (b)(1) of this section when any missing information required to be shown has been entered upon the commercial record by the proprietor.

(c) *Status.* Spirits recovered by redistillation will be treated the same as spirits which have not been redistilled. All provisions of this subpart and 26 U.S.C. Chapter 51 (including liability for tax) applicable to spirits when originally produced are applicable to spirits recovered by redistillation.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1365, as amended, 1370, as amended (26 U.S.C. 5223, 5243); Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

Uses, Withdrawals and Transfers

§ 19.995 Use on premises.

Spirits may be used as a fuel on the premises of the alcohol fuel plant at which produced and need not be rendered unfit for beverage use. Proprietors using spirits on the plant premises shall keep the applicable records concerning such dispositions as provided in § 19.986(c).

(Sec. 232, Pub. L. 96–223, 94 Stat. 278, (26 U.S.C. 5181))

§ 19.996 Withdrawal of spirits.

Before spirits may be withdrawn from the premises of an alcohol fuel plant, they must be rendered unfit for beverage use as provided in this subpart. Spirits rendered unfit for beverage use (fuel alcohol) may be withdrawn free of tax from plant premises exclusively for fuel use.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214); Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.997 Withdrawal of fuel alcohol.

For each shipment or other removal of fuel alcohol from the plant premises the consignor shall prepare a commercial invoice, sales slip, or similar document. The consignor shall enter on the document the date, the quantity of fuel alcohol removed, a description of the shipment (for example, number and size of containers, tank truck, etc.), and the name and address of the consignee. The consignor shall retain a copy of the document as a record.

(Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.998 Transfer in bond of spirits.

(a) *Transfer between alcohol fuel plants.* A proprietor may remove spirits from the bonded premises of an alcohol fuel plant (including the premises of a small plant) for transfer in bond to another alcohol fuel plant. Bulk conveyances in which spirits are transferred shall be secured with locks, seals or other devices as prescribed by § 19.96. The spirits need not be rendered unfit for beverage use prior to transfer. Spirits so transferred may not be withdrawn, used, sold, or otherwise disposed of for other than fuel use.

(b) *Transfer to or from other distilled spirits plants.* Spirits (not including spirits produced from petroleum, natural gas, or coal) may be transferred in bond from distilled spirits plants qualified under Subpart G of this part to alcohol fuel plants. Alcohol fuel plants may transfer spirits in bond to distilled spirits plants qualified under Subpart G of this part. Bulk conveyances in which spirits are transferred shall be secured with locks, seals, or other devices as prescribed by § 19.96. The spirits need not be rendered unfit for beverage use prior to transfer. Spirits so transferred may not be withdrawn, used, sold, or otherwise disposed of for other than fuel use.

(c) *Transfer procedures.* The procedures in §§ 19.999 through 19.1001 pertain only to the transfer of spirits between alcohol fuel plants. The procedures in §§ 19.506 through 19.509 and 19.770 pertain to the transfer of spirits from an alcohol fuel plant to a distilled spirits plant qualified under 26 U.S.C. 5171. The alcohol fuel plant transferring in bond spirits filled into portable containers to the bonded premises of a distilled spirits plant qualified under 26 U.S.C. 5171 shall mark each container as required by § 19.1008(b). The procedures in §§ 19.508, 19.510 and 19.770 pertain to the transfer of spirits from a distilled spirits plant to an alcohol fuel plant.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5212); Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.999 Consignor premises.

The consignor shall prepare, in duplicate, a commerical invoice or shipping document to cover each shipment of spirits. The consignor shall enter on the document the quantity of spirits transferred, the proof of the spirits transferred, a description of the shipment (for example, number and size of drums or barrels, tank truck, etc.), the name, address, and permit number of the consignor and of the consignee, and the serial numbers of seals, locks, or other devices used to secure the conveyance. The consignor shall forward the original of the document to the consignee with the shipment and retain the copy as a record.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5212))

§ 19.1000 Reconsignment in transit.

When, prior to or on arrival at the premises of a consignee, spirits transferred in bond are found to be unsuitable for the intended purpose, were shipped in error, or, for any other bona fide reason, are not accepted by such consignee, or are not accepted by a carrier, they may be reconsigned, by the consignor, to himself, or to another qualified consignee. In such case, the bond, if any, of the proprietor to whom the spirits are reconsigned shall cover such spirits while in transit after reconsignment. In addition, if the spirits are reconsigned to a distilled spirits plant qualified under Subpart G of this part, an application to receive spirits by transfer in bond (on Form 5100.16) must have been previously approved for the consignee. Notice of cancellation of the shipment shall be made by the consignor to the consignee and the consignor shall note the reconsignemnt on his copy of the document covering the original shipment. Where the reconsignment is to another proprietor, a new document shall be prepared and prominently marked with the word "Reconsignment".

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, (26 U.S.C. 5212); Sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.1001 Consignee premises.

(a) *General.* When spirits are received by transfer in bond, the proprietor shall examine each conveyance to determine whether the locks, seals, or other devices are intact upon arrival at his premises. If the locks, seals or other devices are not intact, he shall immediately notify the area supervisor, before removal of any spirits from the conveyance. The consignee shall determine the quantity of spirits received and record the quantity and the date received on the document received with the shipment. The consignee shall retain the document as the record of receipt required by § 19.984.

(b) *Portable containers.* When spirits are received in barrels, drums, or similar portable containers, the proprietor shall examine each container and, unless the transfer was made in a secured conveyance and the seals or other devices are intact on arrival, verify the

contents of each container. The proprietor shall record the quantity received for each container on a list, and shall attach a copy of the list to the invoice or other document received with the shipment.

(c) *Bulk conveyances and pipelines.* When spirits are received in bulk conveyances or by pipeline, the consignee shall gauge the spirits received and shall record the quantity so determined on the invoice or other document received with shipment. However, the regional director (compliance) may waive the requirement for gauging spirits on receipt by pipeline if, because of the location of the premises, there will be no jeopardy to the revenue.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5212); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.1002 Prohibited uses, transfers, and withdrawals.

No person shall withdraw, use, sell, or otherwise dispose of distilled spirits (including fuel alcohol) produced under this subpart for other than fuel use. The law imposes criminal penalties on any person who withdraws, uses, sells or otherwise disposes of distilled spirits (including fuel alcohol) produced under this subpart for other than fuel use.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1398, as amended (26 U.S.C. 5601); Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

Materials for Rendering Spirits Unfit for Beverage Use

§ 19.1005 Authorized Materials.

(a) *General.* The Director shall determine and authorize for use materials for rendering spirits unfit for beverage use which will not impair the quality of the spirits for fuel use. Spirits treated under this section will be considered rendered unfit for beverage use and eligible for withdrawal as fuel alcohol.

(b) *List.* The Director will compile and issue periodically a list of materials authorized for rendering spirits unfit for beverage use. The list will specify for each material (1) name and (2) quantity required to render spirits unfit for beverage use. The list may be obtained at no cost upon request from the ATF Distribution Center, 3800 South Four Mile Run Drive, Arlington, Virginia 22206.

(c) *Authorized material.* Until issuance of the initial list of materials authorized for rendering spirits unfit for beverage use, proprietors are authorized to add to each 100 gallons of spirits any of the following materials in the quantities specified.

(1) 2 gallons or more of—

(i) Gasoline or automotive gasoline (for use in engines which require unleaded gasoline Environmental Protection Agency and manufacturers specifications may require that unleaded gasoline be used to render the spirits unfit for beverage use).

(ii) Kerosene,

(i) Deodorized kerosene,

(iv) Rubber hydrocarbon solvent,

(v) Methyl isobutyl ketone,

(vi) Mixed isomers of nitropropane,

(vii) Heptane, or,

(viii) Any combination of (i) through (vii); or

(2) ⅛ ounce of denatonium benzoate N.F. (Bitrex) and 2 gallons of isopropyl alcohol.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.1006 Other materials.

If a proprietor desires to use a material not authorized under § 19.1005 to render spirits unfit for beverage use, the proprietor shall submit an application to the Director. The application must state the name of the material and the quantity of material that the proprietor proposes to add to each 100 gallons of spirits. The proprietor may be required to submit an 8 ounce sample of the material with the application. Material that impairs the quality of the spirits for fuel use will not be approved. The proprietor shall not use any proposed material prior to its approval. Materials approved for use under this section will appear in the next subsequent issuance of the list of materials authorized for rendering spirits unfit for beverage use provided for under § 19.1005. The proprietor shall retain as part of the records available for inspection by ATF officers, any application approved by the Director under the provisions of this section.

(Sec. 232, Pub. L. 96-233, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.1007 Samples.

A proprietor may take samples of spirits and fuel alcohol for testing and analysis. Samples of spirits may not be removed from the premises of the alcohol fuel plant. Samples of fuel alcohol may be removed from the premises of the alcohol fuel plant to a bona fide laboratory for testing and analysis. The proprietor shall indicate on sample containers that the spirits or fuel alcohol contained therein is a sample. The proprietor shall account for samples in the record provided for in § 19.986.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

Marks

§ 19.1008 Marks.

(a) *Fuel alcohol.* The proprietor shall conspicuously and permanently mark or securely label each container of fuel alcohol containing 55 gallons or less that will be withdrawn from the plant premises, as follows:

WARNING

FUEL ALCOHOL

MAY BE HARMFUL OR FATAL IF SWALLOWED

The mark or label shall be placed on the head or side of the container, and shall be in plain legible letters. Proprietors may place other marks or labels on containers so long as they do not obscure the required mark.

(b) *Spirits.* When barrels, drums or similiar portable containers of spirits are to be transferred by a proprietor to a distilled spirits plant qualified under subpart G of this part, each container will be marked or labeled in plain legible letters on the side or head to show the following information:

(1) Quantity in wine gallons;

(2) Proof;

(3) Serial number of container;

(4) Name, address (city or town and State) and permit number of the alcohol fuel plant; and

(5) The words "Spirits-For Alcohol Fuel Use Only".

Proprietors may place other marks or labels on such containers so long as they do not obscure the required mark. Serial numbers will be assigned consecutively commencing with "1". When the numbering of any series reaches "1,000,000", the proprietor may recommence the series. The recommenced series will be given an alphabetical prefix or suffix. Where there is a change in proprietorship, or in the individual, firm, corporate name or trade name, the series in use at the time of the change may be continued.

(Sec. 232, Pub. L. 96-233, 94 Stat. 278, (26 U.S.C. 5181); Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

Subpart Z—Paperwork Reduction Act

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

(a) *Purpose.* This subpart displays the control numbers assigned to information collection requirements in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511. The Department intends that this subpart comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a

current control number assigned by the Director of the Office of Management and Budget for each agency information collection requirement.

(b) *Display.*

Section where identified	Current OMB control No.
19.41	1512-0141
	1512-0203
19.42	1512-0141
	1512-0203
19.43	1512-0141
	1512-0203
19.44	1512-0141
	1512-0203
19.45	1512-0203
19.46	1512-0203
19.62	1512-0206
19.66	1512-0206
19.67	1512-0206
19.68	1512-0462
19.71	1512-0206
19.72	1512-0206
19.73	1512-0206
19.75	1512-0206
19.91	1512-0206
	1512-0250
19.92	1512-0250
19.93	1512-0250
19.96	1512-0206
19.98	1512-0206
19.99	1512-0206
19.133	1512-0206
19.134	1512-0206
19.151	1512-0206
19.152	1512-0206
19.153	1512-0206
19.154	1512-0206
19.155	1512-0206
19.157	1512-0195
19.158	1512-0195
19.159	1512-0195
19.162	1512-0195
19.165	1512-0195
19.166	1512-0206
19.167	1512-0206
19.168	1512-0206
19.170	1512-0206
19.180	1512-0206
19.182	1512-0206
19.183	1512-0195
19.184	1512-0206
19.185	1512-0206
19.186	1512-0206
19.187	1512-0206
19.189	1512-0206
19.190	1512-0206
19.191	1512-0206
19.192	1512-0206
19.193	1512-0206
19.201	1512-0202
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19.202	1512-0202
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19.203	1512-0202
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19.204	1512-0202
	1512-0206
19.205	1512-0202
	1512-0206
19.211	1512-0206
19.249	1512-0206
19.250	1512-0206
19.251	1512-0206
19.273	1512-0250
19.274	1512-0460
19.276	1512-0250
19.277	1512-0206
19.278	1512-0460
19.280	1512-0460
19.281	1512-0206
19.311	1512-0202
19.312	1512-0205
19.314	1512-0205
19.315	1512-0205
19.316	1512-0205
19.318	1512-0250
19.319	1512-0250
19.320	1512-0192
	1512-0250
19.321	1512-0250
19.322	1512-0250
19.324	1512-0204
	1512-0206
19.326	1512-0205
19.327	1512-0205
	1512-0461
19.329	1512-0250
19.342	1512-0192
	1512-0250
19.343	1512-0250
19.344	1512-0192
	1512-0250
19.345	1512-0461
19.347	1512-0192
19.349	1512-0192
19.353	1512-0250
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19.373	1512-0198
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19.384	1512-0198
19.385	1512-0461
19.386	1512-0196
	1512-0461
19.387	1512-0198
19.388	1512-0461
19.389	1512-0198
19.390	1512-0196
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	1512-0461
19.391	1512-0196
19.392	1512-0198
19.393	1512-0196
19.394	1512-0189
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	1512-0190
	1512-0199
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19.398	1512-0189
	1512-0461
19.400	1512-0198
19.401	1512-0250
19.402	1512-0206
	1512-0250
19.451	1512-0207
19.453	1512-0207
19.454	1512-0250
19.456	1512-0206
19.457	1512-0207
19.458	1512-0207
19.460	1512-0206
19.461	1512-0206
19.462	1512-0250
19.463	1512-0461
19.464	1512-0250
19.467	1512-0141
19.471	1512-0207
	1512-0461
19.483	1512-0192
19.484	1512-0250
	1512-0461
19.485	1512-0461
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19.502	1512-0250
19.503	1512-0250
19.505	1512-0191
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19.510	1512-0061
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19.523	1512-0203
19.524	1512-0203
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19.526	1512-0203
19.532	1512-0250
19.533	1512-0206
19.537	1512-0067
	1512-0250
19.540	1512-0067
19.541	1512-0067
19.561	1512-0141
19.562	1512-0141
	1512-0192
	1512-0206
	1512-0250
19.564	1512-0141
19.565	1512-0198
	1512-0209
	1512-0250
19.583	1512-0461
19.587	1512-0460
19.588	1512-0460
19.592	1512-0461
19.593	1512-0461
19.594	1512-0461
19.595	1512-0461
19.596	1512-0461
19.597	1512-0206
	1512-0461
19.599	1512-0461
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19.602	1512-0461
19.604	1512-0461
19.605	1512-0189
	1512-0461
19.606	1512-0461
19.607	1512-0461
19.608	1512-0461
19.610	1512-0189
19.611	1512-0196
19.633	1512-0092
19.634	1512-0206
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19.638	1512-0206
19.639	1512-0198
19.640	1512-0091
19.641	1512-0204
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19.661	1512-0461
19.662	1512-0461
19.663	1512-0206
19.664	1512-0056
19.666	1512-0189
19.668	1512-0189
19.669	1512-0056
	1512-0189
19.670	1512-0189
19.671	1512-0189
19.672	1512-0189
19.681	1512-0141
	1512-0203
19.682	1512-0203
	1512-0250
19.683	1512-0250
19.684	1512-0250
19.685	1512-0067
19.686	1512-0191
	1512-0250
19.687	1512-0199
19.688	1512-0250
19.691	1512-0250
19.701	1512-0209
	1512-0250
19.702	1512-0250
19.703	1512-0203
19.704	1512-0461
19.721	1512-0189
	1512-0192
	1512-0198
	1512-0203
	1512-0205
	1512-0207
	1512-0250
19.723	1512-0189
	1512-0192
	1512-0198
	1512-0203
	1512-0205
	1512-0207

Section where identified	Current OMB control No.
	1512-0250
	1512-0462
19.724	1512-0206
19.725	1512-0206
19.731	1512-0189
	1512-0192
	1512-0198
	1512-0203
	1512-0205
	1512-0207
	1512-0250
	1512-0189
19.732	1512-0192
	1512-0198
	1512-0203
	1512-0205
	1512-0207
	1512-0250
19.736	1512-0205
19.740	1512-0192
19.741	1512-0192
19.742	1512-0192
19.743	1512-0192
19.747	1512-0198
19.748	1512-0198
19.749	1512-0198
19.750	1512-0198
19.751	1512-0198
19.752	1512-0207
19.753	1512-0207
19.761	1512-0203
19.762	1512-0203
19.766	1512-0250
19.767	1512-0250
19.768	1512-0250
19.769	1512-0250
19.770	1512-0215
	1512-0250
19.772	1512-0189
19.773	1512-0198
19.774	1512-0250
19.775	1512-0250
19.776	1512-0250
19.778	1512-0198
19.779	1512-0067
19.791	1512-0067
	1512-0190
19.792	1512-0189
	1512-0192
	1512-0198
	1512-0205
	1512-0207
19.821	1512-0462
19.822	1512-0462
19.823	1512-0462
19.824	1512-0462
19.829	1512-0462
19.903	1512-0215
19.904	1512-0215
19.905	1512-0141
19.910	1512-0214
19.912	1512-0214
19.914	1512-0214
19.915	1512-0214
19.916	1512-0214
19.919	1512-0215
19.921	1512-0214
	1512-0215
19.922	1512-0214
19.923	1512-0215
19.924	1512-0214
19.926	1512-0214
19.930	1512-0215
19.945	1512-0215
19.960	1512-0215
19.961	1512-0215
19.962	1512-0215
19.963	1512-0215
19.964	1512-0215
19.965	1512-0215
19.966	1512-0215
19.967	1512-0215
19.968	1512-0215
19.990	1512-0215
19.995	1512-0215
19.997	1512-0215
19.998	1512-0191
	1512-0215
19.999	1512-0215
19.1000	1512-0215
19.1001	1512-0215
19.1005	1512-0215
19.1006	1512-0215
19.1007	1512-0215
19.1008	1512-0215

PART 13—[REVISED AND REDESIGNATED AS PART 30]

Section D. Part 13 is revised and redesignated as Part 30 as follows:

1. The regulations in this part supersede 27 CFR Part 13 in its entirety.

2. These regulations do 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.

PART 30—GAUGING MANUAL

Subpart A—Scope of Regulations

Sec.
30.1 Gauging of distilled spirits.

Subpart B—Definitions

30.11 Meaning of terms.

Subpart C—Gauging Instruments

30.21 Requirements.
30.22 Hydrometers and thermometers.
30.23 Use of precision hydrometers and thermometers.
30.24 Specific gravity hydrometers.
30.25 Use of precision specific gravity hydrometers.

Subpart D—Gauging Procedures

30.31 Determination of proof.
30.32 Determination of proof obscuration.

Determination of Quantity

30.36 General requirements.

Determination of Quantity by Weight

30.41 Bulk spirits.
30.42 Denatured spirits.
30.43 Packaged spirits.
30.44 Weighing containers.
30.45 Withdrawal gauge for packages.

Determination of Quantity by Volume

30.51 Procedure for measurement of bulk spirits.
30.52 Procedure for measurement of cased spirits.

Subpart E—Prescribed Tables

30.61 Table 1, showing the true percent of proof spirit for any indication of the hydrometer at temperatures between zero and 100 degrees Fahrenheit.
30.62 Table 2, showing wine gallons and proof gallons by weight.
30.63 Table 3, for determining the number of proof gallons from the weight and proof of spirituous liquor.
30.64 Table 4, showing the fractional part of a gallon per pound at each percent and each tenth percent of proof of spirituous liquor.
30.65 Table 5, showing the weight per wine gallon (at 60 degrees Fahrenheit) and proof gallon at each percent of proof of spirituous liquor.
30.66 Table 6, showing respective volumes of alcohol and water and the specific gravity in both air and vacuum of spirituous liquor.
30.67 Table 7, for correction of volume of spirituous liquors to 60 degrees Fahrenheit.

Subpart F—Optional Gauging Procedures

30.71 Optional method for determination of proof for spirits containing solids of 400 milligrams or less per 100 milliliters.
30.72 Recording obscuration by proprietors using the optional method for determination of proof.

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805, unless otherwise noted.

Subpart A—Scope of Regulations

§ 30.1 Gauging of distilled spirits.

(a) *General.* This part relates to the gauging of distilled spirits. The term "gauging" means the determination of the proof and the quantity of distilled spirits. The procedures prescribed in or authorized under the provisions of this part, except as may be otherwise authorized in this chapter, shall be followed in making any determination of quantity or proof of distilled spirits required by or under the authority of regulations in this chapter. The tables referred to in Subpart E of this part appear in the "Gauging Manual Embracing Instructions and Tables for Determining Quantity of Distilled Spirits by Proof and Weight" as incorporated by reference in this part (see paragraph (c) of this section). These tables, together with their instructions, shall be used, wherever applicable, in making the necessary computations from gauge data.

(b) *Tables referred to in Subpart E of this part.* Table 1 provides a method of correcting hydrometer indications at temperatures between 0 and 100 degrees Fahrenheit to true proof. If distilled spirits contain dissolved solids, temperature correction of the hydrometer reading by the use of this table would result in apparent proof rather than true proof. Tables 2 and 3 show the gallonage of spirituous liquor according to weight and proof. Table 4 shows the gallons per pound at each one-tenth proof from 1 to 200 proof. Table 5 shows the weight per wine gallon and proof gallon at each proof. Table 6 shows the volumes of alcohol and water and the specific gravity (air and vacuum) of spirituous liquor at each proof. Table 7 provides a means of ascertaining the volume (at 60 degree Fahrenheit) of spirits at various temperatures ranging from 18 degrees through 100 degrees Fahrenheit.

(c) *Incorporation by reference.* The "Gauging Manual Embracing

Instructions and Tables for Determining Quantity of Distilled Spirits by Proof and Weight" (ATF Publication 5110.6; November 1978) is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register on March 23, 1981. This publication may be inspected at the Office of the Federal Register, Room 8401, 1100 L Street, NW, Washington, DC, and is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204); 80 Stat. 383, as amended (5 U.S.C. 552(a)))

Subpart B—Definitions

§ 30.11 Meaning of terms.

When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Bulk conveyance. Any tank car, tank truck, tank ship, tank barge, or other similar container approved by the Director, authorized for the conveyance of spirits (including denatured spirits) in bulk.

CFR. The Code of Federal Regulations.

Container. Any receptacle, vessel, or form of package, bottle, tank, or pipeline used, or capable of use, for holding, storing, transferring or conveying distilled spirits.

Denatured spirits or denatured alcohol. Spirits to which denaturants have been added pursuant to formulas prescribed in 27 CFR Part 21.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

I.R.C. The Internal Revenue Code of 1954, as amended.

Package. Any cask, barrel, drum, or similar container approved under the provisions of this chapter.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A United States gallon of proof spirits, or the alcoholic equivalent thereof.

Proof spirits. That liquid which contains one-half its volume of ethyl alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten-thousandths (0.7939) in vacuum at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity.

Regional director (compliance). The principal ATF regional official responsible for administering regulations in this part.

Spirits, spirituous liquor, or distilled spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, but not denatured spirits unless specifically stated. For the sole purpose of gauging wine and alcoholic flavoring materials on the bonded premises of a distilled spirits plant, such alcoholic ingredients shall have the same meaning described herein to spirits, spirituous liquor, or distilled spirits.

This chapter. Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

U.S.C. The United States Code.

Subpart C—Gauging Instruments

§ 30.21 Requirements.

(a) *General.* The proof of distilled spirits shall be determined by the use of gauging instruments as prescribed in this part.

(b) *Proprietors.* Proprietors shall use only accurate hydrometers and thermometers that show subdivisions or graduations of proof and temperature which are at least as delimitated as the instruments described in § 30.22.

(c) *ATF Officers.* ATF officers shall use only hydrometers and thermometers furnished by the Government. However, where this part requires the use of a specific gravity hydrometer, ATF officers shall use precision grade specific gravity hydrometers conforming to the provisions of § 30.24, furnished by the proprietor. However, the Director may authorize ATF officers to use other instruments approved by the Director as being equally satisfactory for determination of specific gravity and for gauging. From time to time ATF officers shall verify the accuracy of hydrometers and thermometers used by proprietors.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 30.22 Hydrometers and thermometers.

The hydrometers furnished to ATF officers are graduated to read the proof of aqueous alcoholic solutions at 60 degrees Fahrenheit; thus, they read, 0 for water, 100 for proof spirits, and 200 for absolute alcohol. Because of temperature-density relationships and the selection of 60 degrees Fahrenheit for reporting proof, the hydrometer readings will be less than the true percent of proof at temperatures below 60 degrees Fahrenheit and greater than the true percent of proof at temperatures above 60 degrees Fahrenheit. Hence, corrections are necessary for hydrometer readings at temperatures other than 60 degrees Fahrenheit. Precision hydrometers shall be used for gauging spirits. Hydrometers and thermometers shall be used and the true percent of proof shall be determined in accordance with § 30.31. Hydrometers are designated by letter according to range of proof and are provided in ranges and subdivisions of stems as follows:

Precision	Range	Subdivision
F	0 to 20	0.2°
G	20 to 40	0.2°
H	40 to 60	0.2°
I	60 to 80	0.2°
K	75 to 95	0.2°
L	90 to 110	0.2°
M	105 to 125	0.2°
N	125 to 145	0.2°
P	145 to 165	0.2°
Q	165 to 185	0.2°
R	185 to 206	0.2°

Thermometers are designated by type according to range of degrees Fahrenheit and are provided in ranges and subdivisions of degrees as follows:

Type	Range	Subdivision
Pencil type	10° to 100°	1°
V-back	10° to 100°	1°
Glass shell (earlier model)	40° to 100°	½°
Glass shell (later model)	40° to 100°	½°

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 30.23 Use of precision hydrometers and thermometers.

Care should be exercised to obtain accurate hydrometer and thermometer readings. In order to accomplish this result, the following precautions should be observed. Bulk spirits should be thoroughly agitated so that the test samples will be representative of the entire quantity. The hydrometers should be kept clean and free of any oily substance. Immediately before readings are taken, the glass cylinder containing the thermometer should be rinsed

several times with the spirits which are to be gauged so as to bring both the cylinder and the thermometer to the temperature of the spirits (if time permits, it is desirable to bring both the spirits and the instruments to room temperature). If the outer surface of the cylinder becomes wet, it should be wiped dry to avoid the cooling effect of rapid evaporation. During the readings the cylinder should be protected from drafts or other conditions which might affect its temperature or that of the spirits which it contains. The hands should not be placed on the cylinder in such a manner as to warm the liquid contained therein. The hydrometer should be inserted in the liquid and the hydrometer bulb raised and lowered from top to bottom 5 or 6 times to obtain an even temperature distribution over its surface, and, while the hydrometer bulb remains in the liquid, the stem should be dried and the hydrometer allowed to come to rest without wetting more than a few tenths degrees of the exposed stem. Special care should be taken to ascertain the exact point at which the level of the surface liquid intersects the scale of proof in the stem of the hydrometer. The hydrometer and thermometer should be immediately read, as nearly simultaneously as possible. In reading the hydrometer, a sighting should be made slightly below the plane of the surface of the liquid and the line of sight should then be raised slowly, being kept perpendicular to the hydrometer stem, until the appearance of the surface changes from an ellipse to a straight line. The point where this line intersects the hydrometer scale is the correct reading of the hydrometer. When the correct readings of the hydrometer and the thermometer have been determined, the true percent of proof shall be ascertained from Table 1. Another sample of the spirits should then be taken and be tested in the same manner so as to verify the proof originally ascertained. Hydrometer readings should be made to the nearest 0.05 degree and thermometer readings should be made to the nearest 0.1 degree, and instrument correction factors, if any, should be applied. It is necessary to interpolate in Table 1 for fractional hydrometer and thermometer readings.

Example. A hydrometer reads 192.85° at 72.10° F. The correction factors for the hydrometer and the thermometer, respectively are minus 0.03° and plus 0.05°. The corrected reading, then, is 192.82° at 72.15° F.

From Table 1:	
193.0° at 72.0° F.=	190.2°
192.0° at 72.0° F.=	189.1°
Difference=1.1°	
192.0° at 72.0° F.=	189.1°
192.0° at 73.0° F.=	189.9°
Difference=	0.2°

The hydrometer difference (1.1°) multiplied by the fractional degree of the hydrometer reading (0.82°)=0.902.

The temperature difference (0.2°) multiplied by the fractional degree of the temperature reading (0.15°)=0.03°.

Proof at 60° F.=189.1+0.902−0.03=189.972°=190.0°.

As shown, the final proof is rounded to the nearest tenth of a degree of proof. In such cases, if the hundredths decimal is less than five, it will be dropped; if it is five or over, a unit will be added.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 30.24 Specific gravity hydrometers.

(a) The specific gravity hydrometers furnished by proprietors to ATF officers shall conform to the standard specifications of the American Society for Testing and Materials (ASTM) for such instruments. Such specific gravity hydrometers shall be of a precision grade, standardization temperature 60°/60° F., and provided in the following ranges and subdivisions:

Range	Subdivision
1.0000 to 1.0500	0.0005
1.0500 to 1.1000	0.0005
1.1000 to 1.1500	0.0005
1.1500 to 1.2000	0.0005
1.2000 to 1.2500	0.0005

No instrument shall be in error by more than 0.0005° specific gravity.

(b) A certificate of accuracy prepared by the instrument manufacturer for the instrument shall be furnished to the ATF officer.

(c) *Incorporation by reference.* The "Standard Specification for ASTM Hydrometers," (E 100–72 (1978)), published in the "1980 Annual Book of ASTM Standards" (STP 25 1062 (1980)), is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register on March 23, 1981. This publication may be inspected at the Office of Federal Register, Room 8401, 1100 L Street, NW, Washington, DC, and is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204); 80 Stat. 383, as amended (5 U.S.C. 552(a)))

§ 30.25 Use of precision specific gravity hydrometers.

The provisions of § 30.23 respecting the care, handling, and use of precision instruments shall be followed with respect to the care, handling, and use of precision grade specific gravity hydrometers. Specific gravity hydrometers shall be read to the nearest subdivision. Because of temperature density relationships and the selection of the standardization temperature of 60°/60° F., the specific gravity readings will be greater at temperatures below 60 degrees Fahrenheit and less at temperatures above 60 degress Fahrenheit. Hence, correction of the specific gravity readings will be made for temperature other than 60 degrees Fahrenheit. Such correction may be ascertained by dividing the specific gravity hydrometer reading by the applicable correction factor in Table 7.

Example: The specific gravity hydrometer reading is 1.1525, the thermometer reading is 68 degrees Fahrenheit, and the true proof of the spirits is 115 degrees. The correct specific gravity reading will be ascertained as follows:

(a) From Table 7, the correction factor for 115° proof at 68° F. is 0.996.

(b) 1.1525 divided by 0.996=1.1571, the corrected specific gravity.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Subpart D—Gauging Procedures

§ 30.31 Determination of proof.

(a) *General.* The proof of spirits shall be determined to the nearest tenth degree which shall be the proof used in determining the proof gallons.

(b) *Solids content not more than 600 milligrams.* Except as otherwise authorized by the Director, the proof of spirits containing not more than 600 milligrams of solids per 100 milliliters of spirits shall be determined by the use of a hydrometer and thermometer in accordance with the provisions of § 30.23 except that if such spirits contain solids in excess of 400 milligrams but not in excess of 600 milligrams per 100 milliliters at gauge proof, there shall be added to the proof so determined the obscuration determined as prescribed in § 30.32.

(c) *Solids content over 600 milligrams.* If such spirits contain solids in excess of 600 milligrams per 100 milliliters at gauge proof, the proof shall be determined on the basis of true proof determined as follows:

(1) By the use of a hydrometer and a thermometer after the spirits have been distilled in a small laboratory still and restored to the original volume and

temperature by the addition of pure water to the distillate; or

(2) By a recognized laboratory method which is equal or superior in accuracy to the distillation method.

(d) *Initial proof.* Except when the proof of spirits is used in making the guage prescribed in 27 CFR 19.383 or in making a gauge for determination of tax, the initial determination of proof made on the bonded premises of a distilled spirits plant for such spirits may be used whenever a subsequent gauge is required to be made at that same plant provided that no material has been added to change the proof of the spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

§ 30.32 Determination of proof obscuration.

(a) *General.* Proof obscuration of spirits containing more than 400 but not more than 600 milligrams of solids per 100 milliliters shall be determined by one of the following methods. The evaporation method may be used only for spirits in the range of 80–100 degrees at gauge proof.

(b) *Evaporation method.* Evaporate the water and alcohol from a carefully measured 25 milliliter sample of spirits, dry the residue at 100 degrees centigrade for 30 minutes and then weigh the residue precisely. Multiply the weight of the residue by 4 to determine the weight of solids in 100 milliliters. The resulting weight per 100 milliliters multiplied by 4 will give the obscuration. Experience has shown that 0.1 gram (100 milligrams) of solids per 100 milliliters of spirits in the range of 80–100 degrees proof will obscure the true proof by 0.4 of one degree of proof. For example, if the weight of solids remaining after evaporation of 25 milliliters 0.125 gram, the amount of solids present in 100 milliliters of the spirits is 0.50 gram (4 times 0.125). The obscuration is 4 times 0.50, which is two degrees of proof. This value added to the temperature corrected hydrometer reading will give the true proof.

(c) *Distillation method.* Determine the apparent proof and temperature of the sample of spirits and then distill a carefully measured sample in a small laboratory still, and collect a quantity of the distillate, 1 or 2 milliliters less than the original sample. The distillate is adjusted to the original temperature and restored to the original volume by addition of distilled water. The proof of the restored distilate is then determined by use of a precision hydrometer and thermometer in accordance with the provisions of § 13.23 to the nearest 0.1 degree of proof. The difference between the proof so determined and the apparent proof of the undistilled sample is the obscuration; or

(d) *Pycnometer method.* Determine the specific gravity of the undistilled sample, distill and restore the samples as provided in paragraph (c) of this section and determine the specific gravity of the restored distillate by means of a pycnometer. The specific gravities so obtained will be converted to degrees of proof by interpolation of Table 6 to the nearest 0.1 degree of proof. The difference in proof so obtained is the obscuration.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Determination of Quantity

§ 30.36 General requirements.

The quantity determination of distilled spirits that are withdrawn from bond in bulk upon tax determination or payment shall be by weight. The quantity of other distilled spirits or denatured spirits may be determined by weight or by volume. When the quantity of distilled spirits or denatured distilled spirits is determined by volume, such determination may be by meter as provided in 27 CFR Part 19, or when approved by the Director, another method or device.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Determination of Quantity by Weight

§ 30.41 Bulk spirits.

When spirits (including denatured spirits) are to be gauged by weight in bulk quantities, the weight shall be determined by means of weighing tanks, mounted on accurate scales. Before each use, the scales shall be balanced at zero load; thereupon the spirits shall be run into the weighing tank and proofed as prescribed in § 30.31. However, if the spirits are to be reduced in proof, the spirits shall be so reduced before final determination of the proof. The scales shall then be brought to a balanced condition and the weight of the spirits determined by reading the beam to the nearest graduation mark. From the weight and the proof thus ascertained, the quantity of the spirits in proof gallons shall be determined by reference to Table 4. However, in the case of spirits which contain solids in excess of 600 milligrams per 100 milliliters, the quantity in proof gallons shall be determined by first ascertaining the wine gallons per pound of the spirits and multiplying the wine gallons per pound by the weight, in pounds, of the spirits being gauged and by the true proof (determined as prescribed in § 30.31) and dividing the result by 100. The wine gallons per pound of spirits containing solids in excess of 600 milligrams per 100 milliliters shall be ascertained by:

(a) Use of a precision hydrometer and thermometer, in accordance with the provisions of § 30.23, to determine the apparent proof of the spirits (if specific gravity at the temperature of the spirits is not more than 1.0) and reference to Table 4 for the wine gallons per pound, or

(b) Use of a specific gravity hydrometer, in accordance with the provisions of § 30.25, to determine the specific gravity of the spirits (if the specific gravity at the temperature of the spirits is more than 1.0) and dividing that specific gravity (corrected to 60 degrees Fahrenheit) into the factor 0.120074 (the wine gallons per pound for water at 60 degrees Fahrenheit). When withdrawing a portion of the contents of a weighing tank, the difference between the quantity (ascertained by proofing and weighing) in the tank immediately before the removal of the spirits and the quantity (ascertained by proofing and weighing) in the tank immediately after the removal of the spirits shall be the quantity considered to be withdrawn.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 30.42 Denatured spirits.

The quantity, in gallons, of any lot or package of specially denatured spirits may be determined by weighing it and then dividing its weight by the weight per gallon of the formula concerned, as given in the appropriate tables in Subpart H of 27 CFR Part 21. In the case of completely denatured spirits, the gallonage of any lot or package may be ascertained by determining its weight and apparent proof (hydrometer indication, corrected to 60 degrees Fahrenheit) and then multiplying the weight of the wine gallons per pound factor shown in Table 4 for the (apparent) proof.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 30.43 Packaged spirits.

When the quantity of spirits (including denatured spirits when gauged by weight) in packages, such as barrels, drums, and similar portable containers, is to be determined by gauge of the individual packages, such quantity shall, except as provided in paragraph (b) of this section, be determined by weighing each package on an accurate weighing beam or platform scale having a beam or dial showing weight in pounds and half pounds, where packages having a capacity in excess of 10 wine gallons are to be gauged, or in pounds and ounces,

or pounds and hundredths of a pound, where packages designed to hold 10 wine gallons or less are to be gauged. In either case the tare must be determined and subtracted from the gross wight to obtain the net weight. From the proof and weight ascertained, the quantity of the spirits in proof gallons shall be determined by reference to Table 2, 3, or 4. However, if the spirits contain solids in excess of 600 milligrams per 100 milliliters, the proof gallons shall be determined as prescribed for such spirits in § 30.41. Notwithstanding the provisions of this section or of § 30.44, (a) gross weights and tares of packages being filled need not be taken in any case where the gauge of the spirits is not derived from such weights under the gauging procedure being utilized, and (b) meters, other devices, or other methods may be used for determining the quantity of spirits in individual packages, when such meter is used as provided in 27 CFR Part 19, or, when such other device or method has been approved by the Director.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

§ 30.44 Weighing containers.

(a) *Weighing containers of more than 10 wine gallons.* The weight of containers having a capacity in excess of 10 wine gallons shall be determined and recorded in pounds and half pounds.

(b) *Weighing containers of 10 wine gallons or less.* The weight for containers of a capacity of 10 wine gallons or less shall be determined in pounds and ounces, or pounds and hundredths of a pound, and shall be recorded in pounds and hundredths of a pound. The equivalent pounds and hundredths of pounds and the corresponding wine gallons and proof gallons shall be expressed as shown in the following table for the respective weights in pounds and ounces and proofs shown therein or, as applicable, computed in accordance with rules in this section.

WEIGHT OF CONTENTS

Size of container, wine gallons	Pounds	Ozs.	Weight in pounds and hundredths of a pound	Contents in wine gallons	Proof gallons
190 proof spirits:					
1	6	13	6.81	1	1.9
2	13	10	13.63	2	3.8
5	34	00	34.00	5	9.5
10	68	00	68.00	10	19.0
192 proof spirits:					
1	6	13	6.81	1	1.9
2	13	9	13.56	2	3.8

WEIGHT OF CONTENTS—Continued

Size of container, wine gallons	Pounds	Ozs.	Weight in pounds and hundredths of a pound	Contents in wine gallons	Proof gallons
5	33	13	33.81	5	9.6
10	67	10	67.63	10	19.2
200 proof spirits:					
1	6	10	6.63	1	2.0
2	13	4	13.25	2	4.0
5	33	1	33.06	5	10.0
10	66	2	66.12	10	20.0

(c) *Containers of other proofs or sizes.* Where containers of proofs or sizes not shown above are to be filled, the following rule may be used for ascertaining the weight of the spirits to be placed in the container: Divide the number of gallons representing the quantity of spirits to be placed in the container by the fractional part of a gallon equivalent to 1 pound, to obtain the weight of the spirits in pounds and fractions of a pound to two decimal places. Reduce the decimal fraction of a pound to ounces by multiplying by 16, calling any fraction of an ounce a whole ounce. The pounds and ounces thus obtained will determine the point to which the spirits must be weighed to produce the results desired. If the weight must be marked on the container in pounds and decimal fractions of a pound, it will be necessary to convert the ounces to hundredths of a pound. The fraction of a gallon equivalent to 1 pound at any given proof shall be ascertained by reference to Table 4. However, if the spirits contain solids in excess of 600 milligrams per 100 milliliters, the fraction of a gallon equivalent to 1 pound shall be determined as prescribed for such spirits in § 30.41.

Example. It is desired to fill a 1-gallon can with precisely 1 wine gallon of 194 proof spirits:

1.00 divided by 0.14866 = 6.73 pounds.

0.73 multiplied by 16 = 11.68 ounces, rounded to 12 ounces.

Weight of spirits—6 pounds, 12 ounces.

Weight, if required, to be marked on can—6.75 pounds.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

§ 30.45 Withdrawal gauge for packages.

When wooden packages are to be individually gauged for withdrawal, actual tare of the packages shall be determined. The actual tare of a package shall be determined by weighing it after its contents (including rinse water, if any) have been temporarily removed to a separate container or vessel. Where the contents of packages have been temporarily removed for determination of tare, the proof, if any rinse water is added to the spirits, shall be determined after a thorough mixing of the rinse water and the spirits and before return of the spirits to the rinsed packages, and the gross weight shall be determined after the spirits and any added rinse water have been returned to the packages. In the case of metal packages the tare established at the time of filling may be used unless it appears to be incorrect. From the proofs and the net weights of the packages, the wine gallons (if desired) and the proof gallons of spirits shall be determined by the use of Table 2. However, if the spirits contain solids in excess of 600 milligrams per 100 milliliters, the wine gallon and proof gallon contents shall be determined as prescribed for such spirits in § 30.41. If either the weight or the proof is beyond the limitations of Table 2, either Table 3 or Table 4 may be used.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Determination of Quantity by Volume

§ 30.51 Procedures for measurement of bulk spirits.

Where the quantity of spirits (including denatured spirits) in bulk is to be determined by volume as authorized by this chapter, the measurement shall be made in tanks, by meters as provided in 27 CFR Part 19, or by other devices or methods authorized by the Director, or as otherwise provided in this chapter, or such measurement may be made in tank cars or tank trucks if calibration charts for such conveyances are provided and such charts have been accurately prepared, and certified as accurate, by engineers or other persons qualified to calibrate such conveyances. Volumetric measurements in tanks shall be made only in accurately calibrated tanks equipped with suitable measuring devices, whereby the actual contents can be correctly ascertained. If the temperature of spirits (including denatured spirits) is other than the standard of 60 degrees Fahrenheit, gallonage determined by volumetric measurements shall be corrected to the standard temperature by means of Table 7. In the case of denatured spirits, the temperature-correction factor for the proof of the spirits used in denaturation will give sufficiently accurate results, except that the temperature-correction factor used for specially denatured spirits, Formula No. 18, should be that given in Table 7 for 100 proof spirits. When the quantity of spirits, in wine gallons, has been determined by

volumetric measurement, the number of proof gallons shall be obtained by multiplying the wine gallons by the proof of the spirits as determined under § 30.31.

Example

Gauge glass reading inches—68.
Wine gallons per inch—48.96.
Temperature °F—72.
Proof of spirits—868.
Temperature correction factor (Table 7)—995.
48.96 W.G. × 88 = 4308.48 wine gallons.
4308.48 W.G. × 0.995 = 4286.94 wine gallons.
4286.94 W.G. × 0.868 = 3721.06392 = 3721.1 proof gallons.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 30.52 Procedure for measurement of cased spirits.

Where the quantity of spirits in a case is to be determined by volume, such determination shall be made by ascertaining the contents of one bottle in the case and multiplying that figure by the number of bottles in the case. For cases containing bottles filled according to the metric system of measure, the quantity determined shall be converted to wine gallons, as provided in § 19.722 of this chapter. The wine gallons of spirits thus determined for one case may then be multiplied by the number of cases containing spirits at the same proof when determining the quantity of spirits for more than one case. The proof gallons of spirits in cases shall be determined by multiplying the wine gallons by the proof (divided by 100).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Subpart E—Prescribed Tables

Note.—The tables referred to in this subpart appear in their entirety in the "Gauging Manual Embracing Instructions and Tables for Determining Quantity of Distilled Spirits by Proof and Weight" which is incorporated by reference in this part (see § 30.1).

§ 30.61 Table 1, showing the true percent of proof spirit for any indication of the hydrometer at temperatures between zero and 100 degrees Fahrenheit.

This table shows the true percent of proof of distilled spirits for indications of the hydrometer likely to occur in practice at temperatures between zero and 100 degrees Fahrenheit and shall be used in determining the proof of spirits. The left-hand column contains the reading of the hydrometer and on the same horizontal line, in the body of the table, in the "Temperature" column corresponding to the reading of the thermometer is the corrected reading or "true percent of proof." The table is computed for tenths of a percent.

Example.

Temperature, °F	75
Hydrometer reading	193
True percent of proof	189.5

Where fractional readings are ascertained, the proper interpolations will be made (see § 30.23). If the distilled spirits contain dissolved solids, temperature-correction of the hydrometer reading by the use of this table would result in apparent proof rather than true proof.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 30.62 Table 2, showing wine gallons and proof gallons by weight.

The wine and proof gallon content by weight and proof of packages of distilled spirits usually found in actual practice will be ascertained from this table. The left-hand column contains the weights. The true percent of proof is shown on the heading of each page in a range from 90 degrees to 200 degrees. Under the true percent of proof and on the same horizontal line with the weight will be found the wine gallons (at 60 degrees Fahrenheit) and the proof gallons respectively. Where either the weight or the proof of a quantity of spirits is beyond the limitations of this table, the number of proof gallons may be ascertained by reference to Table 3. This table may also be used to ascertain the wine gallons (at 60 degrees Fahrenheit) and proof gallons of spirituous liquor containing dissolved solids where the weight, apparent proof (hydrometer indication corrected to 60 degrees Fahrenheit), and obscuration factor have been determined.

Example.

334 lbs. of distilled spirits.
Apparent proof—96.0°.
Obscuration—0.8°.
True Proof 96.0° + 0.8° = 96.8°.
334 lbs. at 96.0° apparent proof = 42.8 wine gallons.
42.8 wine gallons x 96.8° = 41.4 proof gallons.

In addition this table may be used to obtain the wine gallons, at the prevailing temperature, of most liquids within the range of the table, from the weight of the liquid and the uncorrected reading of the hydrometer stem. An application of this would be in determining the capacity of a package.

Example. It is desired to determine, or to check the rated capacity of a package having a net weight of 395 pounds when completely filled with spirits having an uncorrected hydrometer reading of 113.0°. The full capacity of the package, 51.5 wine gallons, would be found by referring to the table at 395 pounds and 113° proof (hydrometer reading).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

§ 30.63 Table 3, for determining the number of proof gallons from the weight and proof of spirituous liquor.

When the weight or proof of a quantity of distilled spirits is not found in Table 2, the proof gallons may be ascertained from Table 3. The wine gallons (at 60 degrees Fahrenheit) may be ascertained by dividing the proof gallons by the proof.

Example. A tank car of spirits of 190 degrees of proof weighed 60,378 pounds net. We find—

	Proof gallons
60,000 pounds equal to	16,778.4
300 pounds equal to	83.9
70 pounds equal to	19.6
8 pounds equal to	2.2
Total	16,884.1

That is, the total weight of 60,378 pounds of spirits at 190 proof is equal to 16,884.1 proof gallons. The equivalent gallonage for 70 pounds is found from the column 700 pounds by moving the decimal point one place to the left; that for 8 pounds from the column 800 pounds by moving the decimal point two places to the left.

Example. A package of spirits at 86 proof weighed 321½ pounds net. We find—

	Proof gallons
300 pounds equal to	32.7
20 pounds equal to	2.2
1 pound equal to	.1
½ pound equal to	.1
Total	35.1

That is, 321½ pounds of spirits at 86 proof is equal to 35.1 proof gallons. The equivalent gallonage for 20 pounds is found from the column 200 pounds by moving the decimal point one place to the left; that for 1 pound from the column 100 pounds by moving the decimal point two places to the left; that for the ½ pound from the column 500 pounds by moving the decimal point three places to the left.

Fractional gallons beyond the first decimal ascertained through use of this table will be dropped if less than 0.05 or will be added as 0.1 if 0.05 or more. The wine gallons (at 60 degrees Fahrenheit) may be determined by dividing the proof gallons by the proof. For example: 35.1 divided by 0.86 equals 40.8 wine gallons.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C.5204))

§ 30.64 Table 4, showing the fractional part of a gallon per pound at each percent and each tenth percent of proof of spirituous liquor.

This table provides a method for use in ascertaining the wine gallon (at 60 degrees Fahrenheit) and/or proof gallon contents of containers of spirits by multiplying the net weight of the spirits by the fractional part of a gallon per pound shown in the table for spirits of the same proof. Fractional gallons beyond the first decimal will be dropped if less than 0.05 or will be added as 0.1 if 0.05 or more.

Example. It is desired to ascertain the wine gallons and proof gallons of a tank of 190 proof spirits weighing 81,000 pounds.

81,000 × 0.14718 = 11,921.58 = 11,921.6 wine gallons.

81,000 × 0.27964 = 22,650.84 = 22,650.8 proof gallons.

This table may also be used for ascertaining the quantity of water required to reduce to a given proof. To do this, divide the proof gallons of spirits to be reduced by the fractional part of a proof gallon per pound of spirits at the proof to which the spirits are to be reduced, and subtract from the quotient the net weight of the spirits before reduction. The remainder will be the pounds of water needed to reduce the spirits to the desired proof.

Example. It is desired to ascertain the quantity of water needed to reduce 1,000 pounds of 200 proof spirits, 302.58 proof gallons, to 190 proof:

302.58 divided by 0.27964 equals 1,082.03 pounds, weight of spirits after reduction.

1,082.03 minus 1,000 equals 82.03 pounds, weight of water required to reduce to desired proof.

The slight variation between this table and Tables 2, 3, and 5 on some calculations is due to the dropping or adding of fractions beyond the first decimal in those tables. This table may also be used to determine the wine gallons (at 60 degrees Fahrenheit) of distilled spirits containing dissolved solids from the total weight of the liquid and its apparent proof (hydrometer indication, corrected to 60 degrees Fahrenheit). The proof gallons may then be found by multiplying the wine gallons by the true proof.

Example.

5,350 pounds of blended whisky containing added solids

Temperature °F	75.0°
Hydrometer reading	92.0°
Apparent proof	85.5°
Obscuration	0.5°
True proof	86.0°

5,350.0 lbs. × 0.12678 (W.G. per pound factor for apparent proof of 85.5°) = 678.2 wine gallons

678.2 W.G. × 0.86 = 583.3 proof gallons

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended 1362, as amended (26 U.S.C. 5204, 5211))

§ 30.65 Table 5, showing the weight per wine gallon (at 60 degrees Fahrenheit) and proof gallon at each percent of proof of spirituous liquor.

This table may be used to ascertain the weight of any given number of wine gallons (at 60 degrees Fahrenheit) or proof gallons of spirits by multiplying the pounds per gallon by the given number of gallons of the spirits. The table should be especially useful where it is desired to weigh a precise quantity of spirits.

Example. It is desired to ascertain the weight of 100 wine gallons of 190 proof spirits:

6.79434 × 100 equals 679.43 pounds, net weight of 100 wine gallons of 190 proofs spirits.

Example. It is desired to ascertain the weight of 100 proof gallons of 190 proof spirits.

3.57597 × 100 equals 357.60 pounds, net weight of 100 proof gallons of 190 proof spirits.

The slight variation between this table and Tables 2 and 3 on some calculations is due to dropping or adding of fractions beyond the first decimal on those tables. This table also shows the weight per wine gallon (at the prevailing temperature) corresponding to each uncorrected reading of a proof hydrometer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 30.66 Table 6, showing respective volumes of alcohol and water and the specific gravity in both air and vacuum of spirituous liquor.

This table provides an alternate method for use in ascertaining the quantity of water needed to reduce the strength of distilled spirits by a definite amount. To do this, divide the alcohol in the given strength by the alcohol in the required strength, multiply the quotient by the water in the required strength, and subtract the water in the given strength from the product. The remainder is the number of gallons of water to be added to 100 gallons of spirits of the given strength to produce a spirit of a required strength.

Example. It is desired to reduce spirits of 191 proof to 188 proof. We find that 191 proof spirits contains 95.5 parts alcohol and 5.59 parts water, and 188 proof spirits contains 94.0 parts alcohol and 7.36 parts water.

95.5 (the strength of 100 wine gallons of spirits at 191 proof) divided by 94.0 (the strength of 100 wine gallons of spirits at 188 proof) equals 1.01.

7.36 (the water in 188 proof) multiplied by 1.01 equals 7.43.

7.43 less 5.59 (the water in 191 proof spirits) equal 1.84 gallons of water to be added to each 100 wine gallons of 191 proof spirits to be reduced.

This rule is applicable for reducing to any proof; but when it is desired to reduce to 100 proof, it is sufficient to point off two decimals in the given proof, multiply by 53.73, and deduct the water in the given strength. Thus, to reduce 112 proof spirits to 100 proof:

1.12 × 53.73–47.75 equals 12.42 gallons of water to be added to each 100 wine gallons of spirits to be reduced.

This table may also be used to obtain the proof gallonage of spirituous liquor according to weight and percent of proof.

Example. It is desired to determine the number of gallons in 400 pounds of spirits of 141 percent of proof. Multiply the weight of one gallon of water in air by the specific gravity in air of the spirits—8.32823 by 0.88862—the product (7.40063) divided into 400 gives 54.049 wine gallons, which rounded to the nearest hundredth is 54.05 and multiplied by 1.41 gives 76.2 proof gallons. In rounding off where the decimal is less than five, it will be dropped; if it is five or over a unit will be added.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§ 30.67 Table 7, for correction of volume of spirituous liquors to 60 degrees Fahrenheit.

This table is prescribed for use in correcting spirits to volume at 60 degrees Fahrenheit. To do this, multiply the wine gallons of spirits which it is desired to correct to volume at 60 degrees Fahrenheit by the factor shown in the table at the percent of proof and temperature of the spirits. The product will be the corrected gallonage at 60 degrees Fahrenheit. This table is also prescribed for use in ascertaining the true capacity of containers where the wine gallon contents at 60 degrees Fahrenheit have been determined by weight in accordance with Tables 2, 3, 4, or 5. This is accomplished by dividing the wine gallons at 60 degrees Fahrenheit by the factor shown in the table at the percent of proof and temperature of the spirits. The quotient will be the true capacity of the container.

Example. It is desired to ascertain the volume at 60 degrees Fahrenheit of 1,000 wine gallons of 190 proof spirits at 76 degrees Fahrenheit:

1,000 × 0.991 equals 991 wine gallons, the corrected gallonage at 60 degrees Fahrenheit.

Example. It is desired to ascertain the capacity of a container of 190 proof spirits at 78 degrees Fahrenheit, shown by Table 2 to contain 55.1 wine gallons at 60 degrees Fahrenheit:

55.1 divided by 0.991 equals 55.6 wine gallons, the true capacity of the container when filled with spirits of 60 degrees temperature.

It will be noted the table is prepared in multiples of 5 percent of proof and 2 degrees temperature. Where the spirits to be corrected are of an odd temperature, one-half of the difference, if any, between the factors for the next higher and lower temperature, should be added to the factor for the next higher temperature.

Example. It is desired to correct spirits of 180 proof at 51 degrees temperature:

1.006 (50°) − 1.005 (52°) = 0.001 divided by 2 = 0.0005

0.0005 + 1.005 = 1.0055 correction factor at 51 °F.

Example. It is desired to correct spirits of 180 proof at 53 degrees temperature:

1.005 (52°) − 1.003 (54°) = 0.002 divided by 2 = 0.001

0.001 + 1.003 = 1.004 correction factor at 53 °F.

Where the percent of proof is other than a multiple of five, the difference, if any, between the factors for the next higher and lower proofs should be divided by five and multiplied by the degrees of proof beyond the next lower proof, and the fractional product so obtained should be added to the factor for the next lower proof (if the temperature is above 60 degrees Fahrenheit, the fractional product so obtained must be subtracted from the factor for next lower proof), or if it is also necessary to correct the factor because of odd temperature, to the temperature corrected factor for the next lower proof.

Example. It is desired to ascertain the correction factor for spirits of 112 proof at 47 degrees temperature:

1.006 (46°) − 1.005 (48°) = 0.001 divided by 2 = 0.0005

0.0005 + 1.005 = 1.0055 corrected factor at 47 °F.

1.007 (115 proof) − 1.006 (110 proof) = 0.001

0.001 divided by 5 = 0.0002 (for each percent of proof) × 2 (for 112 proof) = 0.0001

0.0004 = 1.0055 (corrected factor at 47 °F.) = 1.0059 correction factor to be used for 112 proof at 47 °F

Example. It is desired to ascertain the correction factor for spirits of 97 proof at 93 degrees temperature:

0.986 (92°) − 0.985 (94°) = 0.001 divided by 2 = 0.0005

0.0005 + 0.985 = 0.9855 corrected factor at 93 °F.

0.986 (95 proof) − 0.985 (100 proof) = 0.001

0.001 divided by 5 = 0.0002 (for each percent of proof) × 2 (for 97 proof) = 0.0004

0.9855 (corrected factor at 93 °F.) = 0.0005 = 0.9851 correction factor to be used for 97 proof at 93 °F.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

Subpart F—Optional Gauging Procedures

§ 30.71 Optional method for determination of proof for spirits containing solids of 400 milligrams or less per 100 milliliters.

The proof of spirits shall be determined to the nearest tenth degree which shall be the proof used in determining the proof gallons and all fractional parts thereof to the nearest tenth proof gallon. The proof of spirits containing solids of 400 milligrams or less per 100 milliliters shall be determined by the use of a hydrometer and a thermometer in accordance with the provisions of § 30.23. However, notwithstanding the provisions of § 30.31, the proprietor may, at his option, add to the proof so determined the obscuration determined as prescribed in § 30.32.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5211))

§ 30.72 Recording obscuration by proprietors using the optional method for determination of proof.

Any proprietor using the optional method for determination of proof for spirits containing solids of 400 milligrams or less per 100 milligrams as provided in § 30.71 shall record the obscuration so determined on the record of gauge required by 27 CFR Part 19.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5211))

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Section E. Part 170 is amended as follows:

Section 170.303 is amended by revising the defintions of Tax and United States to read as follows:

§ 170.303 Meaning of terms.

* * * * *

Tax. (a) With respect to distilled spirits, "tax" means the internal revenue tax that is paid or determined on the spirits.

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

(c) 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.

* * * * *

PART 194—LIQUOR DEALERS

Section F. Part 194 is amended as follows:

Paragraph 1. The table of sections is amended to reflect a change in title in § 194.254, and the deletion of § 194.255.

Sec.

* * * * *

194.254 Affixing strip stamps on containers found to have missing strip stamps.

194.255 [Removed]

* * * * *

Par. 2. Section 194.231 is revised to read as follows:

§ 194.231 Conversion between metric and U.S. units.

When liters are converted to wine gallons, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. Cases containing the same quantity of spirits of the same proof in metric bottles may be converted to U.S. units by multiplying the liters in one case by the number of cases to be converted, as follows:

(a) If the conversion from liters to U.S. units is made before multiplying by the number of cases, the quantity in U.S. units shall be rounded to the sixth decimal.

(b) If the conversion is made after multiplying by the number of cases, the quantity in U.S. units shall be rounded to the nearest hundredth.

Once converted to wine gallons, the proof gallons of spirits in cases shall be determined as provided in 27 CFR 30.52.

Par. 3. Sections 194.252, 194.253 and 194.254 are revised to read as follows:

§ 194.252 Breaking of strip stamp or alternative device on opening bottle.

The strip stamp or alternative device affixed to a container of distilled spirits (whether affixed over the mouth of the container or in some other authorized manner) shall be broken on opening the container.

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

§ 194.253 Mutilated or missing strip stamps or alternative devices.

Any unopened bottle or other approved container of distilled spirits—

(a) From which the strip stamp or alternative device is missing,

(b) On which the strip stamp or alternative device is mutilated to the extent that the genuineness of the stamp or device cannot be determined, or

(c) The contents of which are accessible without breaking the stamp or device, shall be: (1), in the case of strip stamps, restamped under § 194.254 or returned to a distilled spirits plant for restamping, and (2), in the case of alternative devices, returned to a distilled spirits plant to have alternative

devices replaced. Where the containers of distilled spirits are to be returned to a distilled spirits plant for restamping or to have devices replaced, the dealer shall record the transaction in his record of disposition and include in this record an accurate description of the containers of distilled spirits to be restamped or to have devices replaced, and the name and address of the proprietor who has agreed to accept the liquors for restamping or for reaffixing alternative devices.

(Approved by the Office of Management and Budget under control number 1512-0353)

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

§ 194.254 Affixing strip stamps on containers found to have mutilated or missing strip stamps.

Containers requiring restamping with strip stamps, as described in § 194.253, shall be set aside by the dealer and an application for necessary stamps submitted with Form 428 (5100.7), Requisition for Bottle Strip Stamps, to the regional director (compliance). Copies of Form 428 may be obtained from the regional director (compliance). The application shall state the cause of mutilation or absence of stamps and contain evidence that the spirits are eligible for stamping under 26 U.S.C. 5205. The evidence may consist of invoices covering purchase of the spirits, in addition to other available documents. The application shall be signed by the dealer or his authorized agent under the penalties of perjury immediately below a declaration, worded as follows:

I declare under the penalties of perjury that I have examined this application and to the best of my knowledge and belief it is true and correct.

If the regional director (compliance) is satisfied from the evidence submitted that the mutilation or absence of the strip stamps has been satisfactorily explained, he will approve the requisition for stamps, Form 428, and deliver the stamps to the applicant by mail or by a representative of his office.

(Approved by the Office of Management and Budget under control number 1512-0056)

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

§ 194.255 [Removed]

Par. 4. Section 194.255 is removed.

PART 195—[REMOVED]

Section G. Part 195 is removed.

Section H. Part 197 is amended as follows:

PART 197—DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Paragraph 1. Sections 197.112 and 197.113 are revised to read as follows:

§ 197.112 Distilled spirits received in tank cars or tank trucks.

Each claim covering distilled spirits received in tank cars or tank trucks shall be accompanied by a statement showing in respect of each shipment received: The date of receipt; the name and address of the vendor; the number or other identification mark of the tank car or tank truck; the name of the producer or warehouseman, and the kind, quantity, and proof of the spirits. If the tank car or tank truck is received without a distilled spirits stamp affixed or without being marked with the word "TAXPAID," the vendee shall note the fact on the bill of lading and immediately notify the regional director (compliance). (When the tank car or tank truck is emptied, any distilled spirits stamps or marks in lieu of distilled spirits stamps (i.e., the word "TAXPAID") shall be obliterated.)

(Approved by the Office of Management and Budget under control number 1512-0378)

§ 197.113 Distilled spirits received in barrels, drums, or other portable containers.

Each claim covering distilled spirits received in barrels, drums, or other portable containers shall be accompanied by a statement showing: the date of receipt; the name and address of the vendor; the serial number, if any, of the container; the name of the producer or warehouseman as shown on the commercial invoice provided for in § 197.130b; and the kind, quantity, and proof of the spirits. (When the container is emptied, any distilled spirits stamp or mark in lieu of a distilled spirits stamp (i.e., the word "TAXPAID") shall be obliterated.)

(Approved by the Office of Management and Budget under control number 1512-0379)

Par. 2. Paragraph (c) of § 197.130 is revised to read as follows:

§ 197.130 Nature of records.

* * * * *

(c) Kind and serial or package identification number of container (such as tank car, drum, case of bottles.)

* * * * *

§ 197.130a [Amended]

Par. 3. Paragraph (b) of § 197.130a is amended to remove the phrase "Part 13 of this chapter and § 13.67" and to insert in lieu thereof the phrase "Part 30 of this chapter and § 30.67".

Par. 4. Section 197.130b is amended by revising (a)(5) and (a)(6) and by removing (a)(7) to read as follows:

§ 197.130b Evidence of tax payment of distilled spirits.

(a) *Domestic spirits.*

* * * * *

(5) The serial or package identification number of the container; and

(6) The kind of spirits, proof, and proof gallons in the container.

* * * * *

PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS

Section I. Part 200 is amended as follows:

Section 200.5 is amended by revising the definition of *Permit* to read as follows:

§ 200.5 Meaning of terms.

* * * * *

Permit—(a) *Alcohol fuel permit.* "Alcohol fuel permit" shall mean the document issued pursuant to 26 U.S.C. 5181, authorizing the person named therein to engage in the business described therein.

(b) *Basic permit.* The document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

(c) *Industrial use permit.* A document issued pursuant to 26 U.S.C. 5271(a), authorizing a person named therein to use distilled spirits free of tax, deal in or use specially or completely denatured spirits, as described therein.

(d) *Operating permit.* "Operating permit" shall mean the document issued pursuant to 26 U.S.C. 5171, authorizing the person named therein to engage in the business described therein.

(e) *Tobacco permit.* The document issued pursuant to 26 U.S.C. 5713(a), authorizing the person named therein to engage in the business described therein.

(f) *Withdrawal permit.* The document issued pursuant to 26 U.S.C. 5271(a), authorizing the person named therein to withdraw tax-free spirits or specially denatured spirits, as specified therein.

* * * * *

PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Section J. Part 211 is amended as follows:

Paragraph 1. The table of sections is revised to reflect the removal of § 211.114 and the addition of § 211.245.

Sec.

* * * * *

211.114 [Removed]

* * * * *

211.245 Claims for incomplete shipments.

* * * * *

§ 211.114 [Removed]

Par. 2. Section 211.114 which prescribed an application requirement for a consignee receiving completely denatured spirits by pipeline from a denaturer is removed.

§ 211.185a [Amended]

Par. 3. Section 211.185a(c) is amended to replace "Form 1480" with "Form 1480/5150.20 or the operations or unit bond required by 27 CFR Part 19".

Par. 4. Section 211.219 is revised to read as follows:

§ 211.219 Shipment of articles and spirits residues for redistillation.

Articles, containing denatured spirits, manufactured under this part, and spirits residues of manufacturing processes related thereto, may be shipped to a distilled spirits plant for redistillation. Packages of articles or spirits residues shall be identified as to contents and shall otherwise be marked and serially numbered in the manner provided in § 211.217. Notice of shipment shall be prepared on Form 1473 (5110.16), appropriately modified, in the manner provided in § 211.218.

(Approved by the Office of Management and Budget under control number 1512-0067)

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

Par. 5. A new § 211.245 is added to permit the shipper of specially denatured spirits to file claim for losses in transit if the shipment is returned to him. That section reads as follows:

§ 211.245 Claims for incomplete shipments.

Subject to the provisions of this part and Part 19 of this chapter, when containers of specially denatured spirits have sustained losses in transit other than by theft, and the shipment will not be delivered to the consignee, the carrier may return the shipment to the shipper. When shipments are returned to a bonded dealer, the dealer shall file a consent of surety as required in § 211.252. When shipments are returned to a distilled spirit plant, the proprietor of the distilled spirits plant shall file a consent of surety as required in § 19.685 of this chapter. Consents of surety for specially denatured spirits returned under this paragraph must further stipulate that the dealer or proprietor will be liable under his bond for all taxes for which he may become liable on the quantity of alcohol originally shipped from his premises. Subject to the limitations for loss prescribed in § 211.242, the dealer or proprietor shall file claim for allowance of the entire quantity lost, in the same manner provided in that section. The claim shall include the applicable data in § 211.244.

(Approved by the Office of Management and Budget under control number 1512-0141)

Par. 6. Section 211.252 is amended by revising the first sentence and reads as follows:

§ 211.252 Return to denaturer or bonded dealer.

When specially denatured spirits are to be returned to a denaturer or bonded dealer the permittee shall obtain the denaturer's or bonded dealer's agreement to accept the return of the specially denatured spirits, and the regional director (compliance) permission to so return such spirits.* * *

PART 213—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Section K. Part 213 is amended as follows:

Paragraph 1. The table of sections is amended to reflect the addition of § 213.155.

Sec.

* * * * *

213.155 Claims for incomplete shipments.

* * * * *

Par. 2. Section 213.3 is revised due to recodification of Part 13 as 27 CFR Part 30. As revised, § 213.3 reads as follows:

§ 213.3 Related regulations.

Regulations related to this part are listed below:

27 CFR Part 19—Distilled Spirits Plants.
27 CFR Part 30—Gauging Manual.
27 CFR Part 196—Stills.
27 CFR Part 200—Rules of Practice in Permit Proceedings.
27 CFR Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.
27 CFR Part 251—Importation of Distilled Spirits, Wines, and Beer.
31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds.

Par. 3. A new § 213.155 is added to permit the shipper of tax-free alcohol to file claim for losses in transit if the shipment is returned to the distilled spirits plant.

§ 213.155 Claims for incomplete shipments.

Subject to the provisions of this part and Part 19 of this chapter, when containers of tax-free alcohol have sustained losses in transit other than by theft, and the shipment will not be delivered to the consignee, the carrier may return the shipment to the shipping plant. The consent of surety required in § 19.685 of this chapter must further stipulate that the proprietor will be liable under his bond for all taxes for which he may become liable on the quantity of alcohol originally shipped from his distilled spirits plant. Subject to the limitations for loss prescribed in § 213.152, the proprietor shall file claim for allowance of the entire quantity lost, in the same manner provided in that section for in-transit losses. The claim shall include the applicable data in § 213.154.

(Approved by the Office of Management and Budget under control number 1512-0141)

PART 240—WINE

Section L. Part 240 is amended as follows:

Paragraph 1. The table of sections is amended to reflect a change in the wording of a subpart and sections, and the removal of several sections.

Sec.

* * * * *

240.617 [Removed]

* * * * *

Subpart OO—Return of Taxpaid Wine

Return of Unmerchantable Taxpaid Wine To Bonded Wine Cellar

240.800 General.

* * * * *

240.809 Insurance coverage.

Return of Taxpaid Wine Withdrawn for Export

240.810 Return of taxpaid wine withdrawn for export with benefit of drawback.

* * * * *

240.822 Withdrawal from distilled spirits plant.

Receipt of Wine Spirits

240.823 Record of receipt.
240.824 Transfer of wine spirits by pipeline for immediate use.

* * * * *

240.828 Receipt of wine spirits in packages.

* * * * *

240.832 Report of addition of wine spirits.

Disposition of Unused Wine Spirits

240.836 Application to dispose of wine spirits.

* * * * *

240.904 Gauge record.
240.904a Record of wine spirits added to wine.

* * * * *

240.1042 [Removed]

* * * * *

Par. 2. Section 240.130 is revised to read as follows:

§ 240.130 Activity on bonded wine cellar premises.

Except as authorized in this subpart, bonded wine cellar premises shall be used exclusively for (a) the receipt, production, blending, packaging, repackaging and removal of untaxpaid wine, and (b) the receipt, preparation, use, or removal of fruit, concentrated or unconcentrated fruit juice, or other materials authorized by this part or an approved formula under Subpart U of this part, for use in the production and cellar treatment of wine.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended, 1386, as amended (26 U.S.C. 5351, 5361))

Par. 3. Section 240.140 is revised to give proprietors flexibility in separating wine cellar premises from other adjacent premises. As revised, § 240.140 reads as follows:

§ 240.140 Buildings or rooms of bonded wine cellars.

Bonded wine cellars shall be so located, constructed, and equipped, subject to approval by the regional director (compliance), as to be suitable for the production or storage of wine, and to afford protection to the revenue. The buildings, outside tanks, or rooms in which wines are stored or treated shall be securely constructed of substantial material. All doors, windows, or other openings shall be so arranged that they may be locked or fastened, and shall be kept locked in the absence of the proprietor or his agents. The wine cellar shall be separated from adjacent premises in a manner which satisfies the regional director (compliance) that the revenue will not be jeopardized.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5357))

Par. 4. Section 240.143 is revised to liberalize the requirements for the location of Government cabinets for proprietors of bonded wine cellars using wine spirits. As revised, § 240.143 reads as follows:

§ 240.143 Office facilities.

Where wine spirits are to be used in the production of wine, other than use in small quantities for dosages or preparation of essences, the proprietor shall provide and maintain on the wine cellar premises, or the premises of an adjacent distilled spirits plant, in a convenient location a secure cabinet of adequate strength and size, suitably equipped for locking with a Government lock, for use in safe-guarding Government property. Each cabinet shall contain shelving or compartments of proper size for the filing of Government records. The cabinet shall be subject to approval by the regional director (compliance).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5357))

Par. 5. Section 240.169 is revised to delete the requirement for brazing or welding joints in pipelines for wine spirits. As revised, § 240.169 reads as follows:

§ 240.169 Wine spirits pipelines.

Pipelines used for the conveyance of wine spirits from the bonded premises of a distilled spirits plant to wine spirits storage tanks, measuring tanks, weighing tanks, and wine spirits addition tanks shall be constructed in accordance with the requirements of regulations prescribed in 27 CFR Part 19. If wine spirits are to be received by tank car or tank truck, a secure pipeline shall be provided from the unloading point to the storage tank, measuring tank, weighing tank, or wine spirits addition tank. Where wine spirits are stored in wine spirits storage tanks, a fixed pipeline, unbroken except for necesary short hose connections to pumps or weighing tanks, shall be provided from the wine spirits storage tank to the wine spirits addition tank. Valves, suitably equipped for locking, shall be provided to control the flow of the wine spirits from or into each tank.

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

§ 240.221 [Amended]

Par. 6. Section 240.221 is amended to replace the phrase "authorized to be withdrawn under approved applications" with the term "withdrawn".

§ 240.460 [Amended]

Par. 7. Section 240.460 is amended to replace "§ 240.131" with the phrase "the regional director (compliance) in § 240.131".

Par. 8. Section 240.491 is revised to reflect the elimination of Form 5120.38. As revised, § 240.491 reads as follows:

§ 240.491 Notice to use distillates containing aldehydes.

Where a distillate containing aldehydes is to be used in fermentation of wine to be used as distilling material, the proprietor of the bonded wine cellar, unless he is also the proprietor of the distilled spirits plant from which the distillates are to be withdrawn, shall submit a notice to the regional director (compliance) stating: (a) The name, address, and registry number of the distilled spirits plant from which the distillate is to be withdrawn, (b) the kind of distillate, (c) the kind of wine in which the distillate will be used, and (d) a statement describing the method by which the distillate will be added in fermentation of wine to be used as distilling material. Distillates containing aldehydes shall be received and used as provided by Subpart YY of this part. Record of receipt and use of distillates shall be kept in accordance with Subpart UU of this part and report on Form 5120.17(702).

Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended 1382, as amended (26 U.S.C. 5367, 5373))

(Approved by the Office of Management and Budget under control number 1512-0292)

§ 240.615 [Amended]

Par. 9. Section 240.615 is amended to replace "Form 5110.27" with the phrase "the transfer record as prescribed in Subpart W of 27 CFR Part 19", and the notation "(Approved by the Office of Management and Budget under control number 1512-0298)" is added at the end of the section.

§ 240.617 [Removed]

Par. 10. Section 240.617 is removed.

Par. 11. Section 240.618 is revised to make minor clarification changes. As revised, § 240.618 reads as follows:

§ 240.618 Reconsignment by consignor.

When a consignor reconsigns a shipment of wine while in transit, the consignor shall notify the regional director (compliance) of the consignor region by preparing a new Form 703 and attaching a statement of diversion. The substitute consignee is liable for the tax on all losses sustained in shipment, and shall file a consent of surety with the regional director (compliance) of his region, in accordance with § 240.231, extending the terms of his bond to cover any losses.

(Approved by the Office of Management and Budget under control number 1512-0061)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

§ 240.619 [Amended]

Par. 12. Section 240.619 is amended to replace "Form 5110.27" with the phrase "the transfer record as prescribed in Subpart W of 27 CFR Part 19", and the notation "(Approved by the Office of Management and Budget under control number 1512-0298.)" is added at the end of the section.

§ 240.634 [Amended]

Par. 13. Section 240.634 is amended to remove the term "standard wine" and to insert in lieu thereof the phrase

"standard wine or wine made with materials not authorized for use in standard wine".

Par. 14. Section 240.783 is revised to provide for flexible scheduling of actual inventories of untaxpaid wine. As revised, § 240.783 reads as follows:

§ 240.783 Losses during a year.

Any losses on bonded wine cellar premises during the year shall be entered on monthly report Form 5120.17 (702) when determined. The proprietor shall take an actual inventory of all untaxpaid wine on-hand in the bonded wine cellar as of the close of business June 30 of each year or where a period different from July 1 to June 30 has been established, the inventory shall be taken at the end of that period. Inventories may be taken within a period of a few days before or after June 30 or the end of the established period, if such period does not include more than one weekend. In each case, necessary adjustments must be made to reflect pertinent transactions so that the recorded inventories will agree with the actual quantities of wines on hand at the prescribed times. The inventory shall be recorded as required by § 240.903, and losses disclosed by an inventory shall be reported on Form 5120.17 (702) for the appropriate month. No claim for allowance of loss is required for losses in production or storage provided (a) there are no circumstances indicating that all or a part of the wine reported lost was unlawfully removed, and (b) the loss did not exceed 3 percent of the aggregate quantity of wine on-hand at the beginning of the year and received in bond during the year, 6 percent of the still wine produced by fermentation, 6 percent of the sparkling wine produced by fermentation in bottles, 3 percent of the special natural wine produced under § 240.444 or wine produced under § 240.468, 3 percent of the artificially carbonated wine produced, and 3 percent of the bulk process sparkling wine produced, at the bonded wine cellar during the annual period.

(Approved by the Office of Management and Budget under control number 1512-0216 and 1512-0298)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

Par. 15. The title of Subpart OO is revised, and an undesignated center heading is added immediately after the title of Subpart OO. As revised and added, the title of Subpart OO and the new undesignated center heading read as follows:

Subpart OO—Return of Taxpaid Wine

Return of Unmerchantable Taxpaid Wine To Bonded Wine Cellar

Par. 16. A new undesignated center heading and a new § 240.810 are added immediately following § 240.809. As added, the undesignated center heading and § 240.810 read as follows:

Return of Taxpaid Wine Withdrawn for Export

§ 240.810 Return of taxpaid wine withdrawn for export with benefit of drawback.

Subject to the provisions in 27 CFR 252.219-252.221, whole or partial shipments of wine withdrawn for export with benefit of drawback may be returned to a taxpaid storeroom at a bonded wine celler. Claims filed by exporters on ATF Form 5110.30 which include the returned wine shall be reduced by the amount of tax paid or tax determined on the returned wine.

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

Par. 17. Section 240.822 is revised to read as follows:

§ 240.822 Withdrawal from distilled spirits plant.

The proprietor of any bonded wine cellar may withdraw and receive wine spirits without payment of tax from the bonded premises of a distilled spirits plant for: (a) Use in the production of natural wine, special natural wine, sparkling wine, artifically carbonated wine, or any other wine products for which wine spirits are required for dosage; (b) Preparation of approved essences or similar approved flavorings; (c) Addition to concentrated or unconcentrated juice for use in wine production; or (d) Other use as authorized in this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended 1383, as amended (26 U.S.C. 5373, 5382))

Par. 18. A new undesignated center heading is added immediately following § 240.822, and § 240.823 is revised. As added and revised, the center heading and § 240.823 read as follows:

Receipt of Wine Spirits

§ 240.823 Record of receipt.

When wine spirits are received at the bonded wine celler, the proprietor shall satisfy himself that the wine spirits are the same as described on the transfer record prescribed by 27 CFR 19.770. A copy of the transfer record, annotated to show any difference between the description of spirits and spirits received, shall be maintained by the properietor as a record of receipt.

(Approved by the Office of Management and Budget under control number 1512-0298)

Par. 19. The undesignated center heading, "RECEIPT OF WINE SPIRITS," immediately following § 240.823 is removed.

§ 240.825 [Amended]

Par. 20. Section 240.825 is amended to replace "adjacent bonded premises" with "bonded premises".

§ 240.827 [Amended]

Par. 21. Section 240.827 is amended to replace "Form 5110.26" with the phrase "a copy of the transfer record (prescribed in Subpart W of 27 CFR Part 19) accompanying the shipment", and the notation "(Approved by the Office of Management and Budget under control number 1512-0298.)" is added at the end of the section.

Par. 22. Sections 240.828, 240.830, 240.831 and 240.832 are revised to read as follows:

§ 240.828 Receipt of wine spirits in packages.

The proprietor shall examine packages of wine spirits received at the bonded wine cellar to determine if the packages are the same as those described on the transfer record (prescribed in Subpart W of Part 19) accompanying the shipment. Any package which appears to have been tampered with or from which wine spirits appear to have been removed or lost shall be gauged by the proprietor, and the proprietor shall prepare and submit to the regional director (compliance) a statement setting forth fully the circumstances and apparent cause of any loss.

(Approved by the Office of Management and Budget under control numbers 1512-0292 and 1512-0298)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5367, 5368, 5373))

§ 240.830 Wine spirits added to wine.

Prior to the addition of wine spirits, the wine shall be placed in tanks (approved for the addition of wine spirits) located, equipped, and calibrated as provided in Subpart F of this part. The proprietor shall accurately measure the wine, determine its alcohol content, determine the proof of the wine spirits to be added, calculate the quantity of wine spirits required, and enter the details on the record of wine spirits added to wine. The alcohol content of the wine after the addition of

wine spirits shall not exceed 24 percent by volume.

(Approved by the Office of Management and Budget under control number 1512-0298

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5367, 5373))

§ 240.831 Gauge of wine spirits.

(a) If the wine spirits to be used are in a wine spirits storage tank on the bonded wine cellar premises, or received immediately prior to use from a distilled spirits plant not adjacent to the bonded wine cellar, the proprietor shall determine the proof of the spirits and the quantity used, by volume gauge or by weight. Upon completion of the transfer of wine spirits from the wine spirits storage tank to the wine spirits addition tank, the proprietor shall lock the wine spirits storage tank. The proprietor shall prepare a gauge record as prescribed in Subpart UU of this part.

(b) If the wine spirits are received from the adjacent bonded premises of a distilled spirits plant and are transferred directly into a wine spirits addition tank, the gauge of the wine spirits made on the distilled spirits plant premises shall be used. The proprietor at the distilled spirits plant premises shall deliver a transfer record as prescribed in Subpart W of 27 CFR Part 19 to the proprietor of the bonded wine cellar who shall acknowledge receipt of the wine spirits on such transfer record.

(c) If the wine spirits are received in packages, and the quantity of wine spirits needed for the addition is not equal to the contents of full packages, a portion of one package may be used and the remnant package returned to the wine spirits storage room. The proprietor shall gauge the remnant package and attach to it a label showing the date of gauge, serial number of the record of wine spirits added to wine, the gross weight, and proof. The remnant package shall be used at the first opportunity. The proprietor shall prepare a gauge record each time wine spirits are used.

(Approved by the Office of Management and Budget under control number 1512-0298)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5367, 5368, 5373))

§ 240.832 Report of addition of wine spirits.

After the wine spirits have been added to the wine, the proprietor shall thoroughly agitate the contents of the tank to assure a complete mixture of the wine and wine spirits. The proprietor shall then measure the quantity of wine in the tank, take a representative sample of the wine, and test for alcohol content. The result of the measurement and test and the quanity of wine spirits added as shown by the gauge record or transfer record shall be recorded on the record on wine spirits added to wine. The quantity of wine and wine spirits used, and the quantity of wine resuting from addition of wine spirits, shall be entered in the cellar records.

(Approved by the Office of Management and Budget under control number 1512-0298)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended, 1383, as amended (26 U.S.C. 5367, 5373, 5382))

Center Heading and § 240.835 [Removed]

Par. 23. The undesignated center heading immediately preceding § 240.835, and § 240.835 are removed.

Par. 24. A new undesignated center heading is added immediately preceding § 240.836. As added the new undesignated center heading immediately preceding § 240.836 reads as follows:

Disposition of Unused Wine Spirits

§ 240.838 [Amended]

Par. 25. Section 240.838 is amended to replace "shipped and whether the spirits will be used for beverage or nonbeverage purposes" with "shipped".

Par. 26. Section 240.854 is revised to delete Form 5110.26 and provide for a gauge record. As revised, § 240.854 reads as follows:

§ 240.854 Losses in wine cellar.

Losses by theft, or from other causes, in the bonded wine cellar, shall be determined and reported at the time the losses are discovered. A physical inventory of wine spirits storage tanks shall be taken at the close of the month during which wine spirits are used in wine production, or upon completion of the use for the month and at any other time required by the regional director (compliance). Any losses which have not previously been reported shall be determined by the inventory. Where a loss is discovered requiring filing of a claim as provided in § 240.855, the proprietor shall gauge the contents of the container from which the loss occurred and record such gauge on the gauge record prescribed in Subpart UU of this part.

(Approved by the Office of Management and Budget under control number 1512-0298)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5006))

Par. 27. Section 240.904 is revised to read as follows:

§ 240.904 Gauge record.

Each proprietor of a bonded wine cellar using wine spirits in the production of wine shall prepare a gauge record at the time wine spirits are gauged. Gauge records for wine spirits shall show the date, related transfer or wine spirits addition record, quantity and proof of spirits by container serial number, and all necessary data respecting the gauge, including weight or volume information. Gauge records shall be serially numbered beginning with "1" each January 1.

(Approved by the Office of Management and Budget under control number 1512-0298)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

Par. 28. Section 240.904a is added to read as follows:

§ 240.904a Record of wine spirits added to wine.

Proprietors of bonded wine cellars shall prepare a record of wine spirits added to wine for each day wine spirits are added to wine. A separate record will be used for each kind (grape, apple, berry, etc.) of wine. Each record of wine spirits added to wine shall contain the following information:

(a) Date;

(b) Serial number of each wine spirits addition, commencing with "1" on July 1 of each year;

(c) Tank number;

(d) Wine used by:

(1) Kind (i.e., Port, Blackberry, Sherry, Orange, etc.);

(2) Registry number of bonded premises where wine was produced;

(3) Wine gallons;

(4) Percent of alcohol; and

(5) Desired percent of alcohol in the finished product;

(e) Wine spirits used by wine gallons and proof gallons and the serial number of gauge record or, if the wine spirits are received from adjacent distilled spirits plant premises and used immediately, the serial number of the transfer record;

(f) Wine produced (i.e., after the addition of wine spirits to wine) in wine gallons and percent of alcohol by volume.

(Approved by the Office of Management and Budget under control number 1512-0298)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 240.1042 [Removed]

Par. 29. Section 240.1042 is removed.

PART 245—BEER

Section M. Part 245 is amended as follows:

Section 245.210 is revised to delete any reference to ATF officers supervising certain operations. As revised, § 245.210 reads as follows:

§ 245.210 Beer removed to contiguous distilled spirits plants.

Beer may be conveyed by pipeline without tax payment from the brewery to the bonded premises of a distilled spirits plant which is authorized to produce distilled spirits and which is located contiguous to the brewery. The quantity of beer conveyed to a contiguous distilled spirits plant shall be included in the brewer's daily records of both production and removals. If any residue is returned from such plant to the brewery, the brewer's daily records of cereal beverage transactions shall reflect the quantity thereof. The totals of the various quantities involved shall be appropriately reported on Form 103.

(Approved by the Office of Management and Budget under control number 1512-0333)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended, 1389, as amended (26 U.S.C. 5222, 5412))

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Section N. Part 250 is amended as follows:

Paragraph 1. The table of sections for Part 250 is amended as follows:

Sec.

* * * * *

250.66a [Removed]

* * * * *

250.79 Inspection or gauge and computation of tax.

* * * * *

250.91a Alternative marks.

* * * * *

250.127 Report of red strip stamps or alternative devices used.

250.128 * * *

Subpart G—Procurement and Use of Red Strip Stamps or Alternative Devices for Distilled Spirits from Puerto Rico

250.135 Containers of distilled spirits to bear red strip stamps or alternative devices.

250.136 Persons authorized to affix red strip stamps or alternative devices.

250.137 * * *

250.138 Affixing strip stamps or alternative devices.

* * * * *

250.144 Alternative devices.

250.145 [Reserved]

250.146 Record and report of red strip stamps or alternative devices.

* * * * *

250.164a Package gauge record.

* * * * *

250.198 [Reserved]

* * * * *

250.199e [Reserved]

* * * * *

Subpart L—Red Strip Stamps or Alternative Devices for Distilled Spirits From the Virgin Islands

General

250.230 Containers of distilled spirits to bear red strip stamps or alternative devices.

250.231 Persons authorized to affix red strip stamps or alternative devices.

250.232 * * *

250.233 Affixing strip stamps or alternative devices.

250.234 * * *

250.235 Disapproval of strip stamp requisitions.

* * * * *

250.242 [Reserved]

250.243 Alternative devices.

250.244 [Reserved]

250.245 Strip stamps on distilled spirits deposited in a foreign-trade zone.

250.246-250.251 [Reserved]

* * * * *

Red Strip Stamps and Alternative Devices To Be Affixed at Port of Entry Under Customs Supervision

250.255 Conditions.

250.256 * * *

250.258 Expense of affixing red strip stamps or alternative devices.

Disposition of Red Strip Stamps

250.259 Procedure.

Subpart M—* * *

* * * * *

Subpart N—* * *

Record and Report of Red Strip Stamps and Alternative Devices

250.270 Record of strip stamps and alternative devices.

250.271 Report of stamps and alternative devices, Form 5110.6.

* * * * *

250.273a Transfer record.

250.273b Package gauge record.

* * * * *

250.276 * * *

Subart O—* * *

* * * * *

250.301 Preparation of transfer record.

* * * * *

250.305 Receipt by consignee.

* * * * *

Par. 2. Section 250.11 is amended by revising the definitions of *Article, Chief, Puerto Rico Operations, Denatured spirits, Industrial spirits,* and *Red strip stamps* and by adding the definition of *kind* to read as follows:

§ 250.11 Meaning of terms.

* * * * *

Article. Any preparation unfit for beverage use, made with or containing:

(1) Wine or beer;

(2) Distilled spirits or industrial spirits; or

(3) Denatured spirits when such preparation is not manufactured under the provisions of this chapter.

* * * * *

Chief, Puerto Rico Operations. The primary representative in Puerto Rico of the Bureau of Alcohol, Tobacco and Firearms. His complete address is: Chief, Puerto Rico Operations, Bureau of Alcohol, Tobacco and Firearms, U.S. Courthouse and Federal Building, Room 329, Avenida Carlos Chardon, Hato Rey, Puerto Rico 00919.

* * * * *

Denatured spirits. Industrial spirits denatured in accordance with approved formulas in distilled spirits plants established and operated under the provisions of this chapter relating to the establishment and operation of plants qualified to denature spirits in the United States or, in respect of a product of the Virgin Islands, shall also mean spirits denatured in accordance with approved formulas in plants established under the provisions of the Virgin Islands regulations and shall include, unless otherwise limited, both completely and specially denatured spirits.

* * * * *

Industrial spirits. As to products of Puerto Rico, distilled spirits produced and warehoused at and withdrawn from distilled spirits plants established and operated under the provisions of this chapter relating to the establishment of such plants and the production, bonded warehousing, and withdrawal from bond of distilled spirits in the United States, or as to products of the Virgin Islands, distilled spirits produced, warehoused, and withdrawn under Virgin Islands regulations.

* * * * *

Kind. As applied to spirits, kind shall mean class and type as prescribed in 27 CFR Part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR Part 4.

Red strip stamps. The stamp prescribed under the authority of 26 U.S.C. 5205.

* * * * *

§ 250.36a [Amended]

Par. 3. Section 250.36a is amended to remove the term "subchapter" wherever it appears and insert, in lieu thereof the term "chapter".

Par. 4. Section 250.41 and 250.42 are revised to read as follows:

§ 250.41 Destruction of marks and brands.

The marks, brands, and serial numbers required by this part to be placed on barrels, casks, or similar

containers, or cases, shall not be removed or obscured or obliterated before the contents thereof have been removed.

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

§ 250.42 Destruction of stamps

All stamps or alternative marks used in lieu of distilled spirits stamps, must remain on packages until the contents are emptied. When a package of distilled spirits is emptied, the internal revenue stamp or alternative mark thereon must be completely effaced and obliterated.

(68A Stat. 830, 72 Stat. 1358; 26 U.S.C. 6804, 5205)

Par. 5. Section 250.50 is revised to read as follows:

§ 250.50 Formula for liquors.

(a) *Distilled spirits products.* Except for products which are exempt from tax, as specified in § 250.36, formulas are required by Part 5 of this chapter for distilled spirits products shipped to the United States from Puerto Rico. If a formula is submitted to cover only the production of spirits which are to be transferred to the bonded premises of a DSP under 26 U.S.C. 5232, the formula shall include a statement to that effect. If any product contains liquors made outside of Puerto Rico, the country of origin for each such liquor shall be stated on the formula. These formulas shall be submitted on ATF Form 5110.38, in accordance with § 250.54.

(b) *Wine.* Persons in Puerto Rico who ship wine to the United States shall comply with the formula requirements of 27 CFR Part 240. If any wine contains liquors made outside of Puerto Rico, the country of origin for each such liquor shall be stated on the formula. All formulas required by this paragraph shall be submitted on ATF Form 698 Supplemental, in accordance with § 250.54.

(Approved by the Office of Management and Budget under control number 1512-0204)

§ 250.66a [Removed]

Par. 6. Section 250.66a is removed as it applies to an obsolete transitional rule in the conversion to all-in-bond.

Par 7. Section 250.79 is revised to read as follows:

§ 250.79 Inspection or gauge and computation of tax.

On receipt of permit to compute the tax on ATF Form 5110.51, the revenue agent shall:

(a) In the case of spirits in packages, prepare a gauge record as provided in § 250.164a in quintuplicate, compute the tax thereon, and attach all copies of the gauge record to ATF Form 5110.51;

(b) In the instance of spirits in cases, verify by inspection the quantity of spirits described on the form; or

(c) In the case of spirits in a bulk conveyance, verify by gauge or inspection the quantity of spirits described on the form.

If the revenue agent determines any variation between his gauge and the quantity of spirits described on Form 5110.51, he shall amend and initial the data in Part I of the form. The revenue agent shall deliver all copies of Form 5110.51 and any accompanying package gauge record to the proprietor. The proprietor shall then compute and enter the amount of tax on all copies of Form 5110.51.

(Approved by the Office of Management and Budget under control number 1512-0250)

Par. 8. Sections 250.80 and 250.81 are revised to eliminate ATF Form 5110.45 and to remove forms filing instructions. As revised, §§ 250.80 and 250.81 read as follows:

§ 250.80 Deferred payment of tax—release of spirits.

(a) *Action by proprietor.* Where the proprietor has furnished bond on ATF Form 5110.50, and payment of the tax is to be deferred, he shall execute an agreement on ATF Form 5110.51 to pay the amount of tax which has been computed and entered on the form. He shall also certify, under the penalties of perjury, that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the distilled spirits described on the form in addition to all other amounts chargeable agains this bond. The proprietor shall deliver all copies of ATF Form 5110.51 and any package gauge record as provided in §250.164a to the revenue agent.

(b) *Action by revenue agent.* On receipt of ATF Form 5110.51 and any package gauge record, the revenue agent shall verify the computation of the tax entered on the ATF Form 5110.51, and if the proprietor has on file a good and sufficient bond, ATF Form 5110.50, so indicate on ATF Form 5110.51. The revenue agent shall then execute his report of release on the ATF Form 5110.51 and release the spirits for shipment to the United States. He shall distribute ATF Form 5110.51 and any package gauge record according to the instructions of ATF Form 5110.51. Where the revenue agent finds that the proprietor does not have good and sufficient bond coverage, or where the revenue agent has received information that the proprietor is in default of payment of any taxes previously charged to his bond, he shall return all copies of ATF Form 5110.51 and any package gauge record to the proprietor, giving his reasons for such action.

(Approved by the Office of Management and Budget under control number 1512-0250)

§ 250.81 Prepayment of tax and release of spirits.

(a) *Action by proprietor.* Where the distilled spirits are to be released after payment of the computed tax, the proprietor shall enter the amount of such computed tax on all copies of ATF Form 5110.51 and execute the statement that such tax is being prepaid. He shall then prepare ATF Form 5110.53 in quadruplicate, and send the original and two copies, with all copies of ATF Form 5110.51 and any package gauge record as provided in § 250.164a and his remittance in full for the tax, to the Officer-in-Charge.

(b) *Action by Officer-in-Charge.* On receipt of ATF Forms 5110.51, 5110.53, and any package gauge record, with remittance covering prepayment of tax, the Officer-in-Charge shall execute his receipt on all copies of ATF Form 5110.53 and his report of prepaid taxes on all copies of ATF Form 5110.51. He shall then distribute the forms according to the instructions on the respective forms.

(c) *Action by revenue agent.* On receipt of ATF Form 5110.51 executed by the Officer-in-Charge to show receipt of ATF Form 5110.53 and remittance, and a copy of the ATF Form 5110.53, the revenue agent shall execute his report of release on the ATF Form 5110.51 and release the spirits for shipment to the United States. He shall distribute the forms according to the instructions on the respective forms.

(Approved by the Office of Management and Budget under control number 1512-0210 and 1512-0212)

Par. 9. Section 250.84, relating to the stamping of bottles is revised to clarify language relating to strip stamps. As revised, § 250.84 reads as follows:

§ 250.84 Stamping of bottles and bulk containers.

(a) *Bottles.* Every bottle of distilled spirits of Puerto Rican manufacture to be shipped to the United States shall be affixed with a red strip stamp or alternative device.

(b) *Bulk containers.* Where taxpaid distilled spirits intended for shipment to the United States are in containers of more than 1 gallon (3.785 liters), distilled spirits stamps shall be procured and

affixed as provided in §§ 250.88 through 250.91a.

(Approved by the Office of Management and Budget under control number 1512-0189)

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

Par. 10. Section 250.91a is added to authorize the use of alternative marks in lieu of distilled spirits stamps as follows:

§ 250.91a Alternative marks.

Notwithstanding other provisions of this part, the proprietor may, in lieu of affixing distilled spirits stamps to containers of more than 1 gallon which are taxpaid for shipment to the United States, mark such containers with the word, "TAXPAID."

(Approved by the Office of Management and Budget under control number 1512-0189)

Par. 11. Section 250.110 is revised to reflect the elimination of ATF Form 5110.45 and replacement of the form number with "package gauge record". As revised, § 250.110 reads as follows:

§ 250.110 Release of articles or liquors.

After determining that the proprietor has good and sufficient bond coverage, or, in the case of prepayment, on receipt of ATF Form 5110.51 or Form 2900 executed by the Officer-in-Charge to show receipt of ATF Form 5110.53, 2928, or 2930, and remittance, the revenue agent shall execute his report of release on ATF Form 5110.51 or Form 2900 and release the articles containing distilled spirits, or release the wine and/or beer for use in the manufacture of articles. He shall forward one copy of ATF Form 5110.51 or Form 2900, and any package gauge record as provided in § 250.164a, to the Bureau of Alcoholic Beverage Taxes and one copy of each to the District Revenue Agent (Commonwealth of Puerto Rico), deliver one copy of each to the applicant, and retain one copy of each for his file. In the case of deferred payment, the original ATF Form 5110.51 or Form 2900 and any package gauge record shall be forwarded to the Officer-in-Charge. A permit shall be obtained as provided in §§ 250.114 through 250.116 before the articles manufactured from such liquors may be shipped to the United States.

(Approved by the Office of Management and Budget under control numbers 1512-0149, 1512-0151, 1512-0153, 1512-0210, 1512-0212 and 1512-0250)

Par. 12. Section 250.112(f) is revised to delete references to return periods. As revised, paragraph (f) of § 250.112 reads as follows:

§ 250.112 Taxes to be collected by returns for semimonthly periods.

* * * * *

(f) *Last day for filing ATF Form 5110.52.* The last day for filing ATF Form 5110.52, distilled spirits deferred tax return, shall be not later than the last day of the second succeeding return period.

* * * * *

§ 250.113 [Amended]

Par. 13. Section 250.113(c) is amended to replace "Form 2925" with "Form 5110.53".

Par. 14. Section 250.126 is revised to read as follows:

§ 250.126 Taxpayment in Puerto Rico.

Liquors upon which all Federal internal revenue taxes have been paid in Puerto Rico may be brought into the United States for personal consumption without payment of additional taxes. Red strip stamps on bottles in possession of tourists shall be evidence to customs authorities at the port of departure and at the port of arrival that the tax on the spirits has been paid. When distilled spirits, wines, or beer are purchased by a tourist for consumption in the United States, the internal revenue tax due may be paid to the United States Internal Revenue Service office, and an internal revenue receipt obtained, or the tax may be paid to the U.S. Customs authorities, who will issue a customs receipt. The tax on articles purchased by tourists may be paid in the same manner. The receipt received from the United States Internal Revenue Service office or from the customs officer shall be presented, as required, as evidence that the tax has been paid.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended, 1358, as amended (26 U.S.C. 5061, 5205))

Par. 15. Sections 250.127 and 250.128 are revised to allow the use of alternative devices. As revised §§ 250.127 and 250.128 read as follows:

§ 250.127 Report of red strip stamps or alternative devices used.

The insular revenue agent will record and report the use of red strip stamps or alternative devices on taxpaid spirits bottled for sale to tourists in Puerto Rico as provided in § 250.146.

§ 250.128 Taxpayment at port of arrival.

If the internal revenue tax on liquors and articles is not paid in Puerto Rico, it shall be paid by the tourists at the port of arrival prior to release of the liquors or articles from customs custody. The tax may be paid to the district director of internal revenue, and an internal revenue receipt obtained, or the tax may be paid to the director of customs, who will issue a customs receipt. If payment is to be made to the district director of internal revenue, the director of customs will notify the district director of the amount of tax due. On payment of the tax to the director of customs, or on submission to him of the internal revenue receipt for the tax, the director of customs will release the liquors or articles. Liquors brought into the United States by tourists for personal consumption are not required to have strip stamps or alternative devices placed on the containers when taxpaid by the tourist, whether at the port of departure in Puerto Rico or on arrival in the United States.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended, 1358, as amended (26 U.S.C. 5061, 5205))

Par. 16. Sections 250.135, 250.136, 250.138, 250.143, 250.144, 250.146 and the heading of Subpart G are revised to allow the use of alternative devices. In addition, § 250.143 is amended to clarify form requirements. As revised, the sections and title read as follows:

Subpart G—Procurement and Use of Red Strip Stamps or Alternative Devices for Distilled Spirits From Puerto Rico

§ 250.135 Containers of distilled spirits to bear red strip stamps or alternative devices.

Containers of 1 gallon (3.785 liters) or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or deferred in Puerto Rico under the provisions of this part, shall have red strip stamps or alternative devices affixed in accordance with the provisions of this part, prior to shipment to the United States.

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

§ 250.136 Persons authorized to affix red strip stamps or alternative devices.

Red strip stamps or alternative devices shall be affixed to containers of distilled spirits by the distiller, bottler, or rectifier in Puerto Rico as prescribed in §§ 250.141 through 250.146.

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

§ 250.138 Affixing strip stamps or alternative devices.

Strip stamps or alternative devices shall be securely affixed to containers so as to leave a portion remaining on the container when the container is opened unless the container is one that cannot again be used after opening. Portions of strip stamps may be trimmed provided

no printed (or overprinted) information is cut off. Strip stamps or alternative devices affixed to containers shall not be concealed or obscured in any manner except that (a) the Director may authorize labels to be affixed so as to partially obscure strip stamps or alternative devices, if a need exists, and (b) any such stamp or alternative device may be covered by a cup, cap, seal, carton, wrapping, or other item which can be readily removed without injury to the stamp or alternative device. ATF and customs officers have the right to open such cartons or wrappings and examine the container.

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

§ 250.143 Procurement and custody of red strip stamps.

(a) *General.* The distiller, rectifier, or boottler, or his duly authorized agent, shall submit the original and two copies of the approved Form 428 (5100.7) to the Chief, Puerto Rico Operations, who will issue the quantity of stamps coverd by the approved requisition, enter the quantity of stamps issued, and stamp the date of issue on all copies of Form 428. The issuing office will retain the original for its files, send one copy with the strip stamps to the revenue agent at the bottling plant, and one copy to the Secretary. The revenue agent will issue stamps to the bottler for affixing to bottles of taxpaid distilled spirits as desired upon application from the proprietor.

(b) *Alternative method.* When the Chief, Puerto Rico Operations, determines that the interest of the Government will be best served, the stamps may be shipped directly to the Commonwealth revenue agent at the plant from a location other than the office of the Chief, Puerto Rico Operations. In such case, the Chief, Puerto Rico Operations shall notify the distiller, rectifier, or bottler, or his duly authorized agent, that the stamps will be supplied from an alternative location and inform him of the minimum or maximum quantity, if any, which may be requisitioned on any particular Form 428.

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

§ 250.144 Alternative devices.

(a) *Alternative devices used in lieu of red or green strip stamps.* Distillers, bottlers or rectifiers who wish to use devices other than red or green strip stamps on containers of distilled spirits may use any device which has been announced by the Director to be an approved alternative device or which has been approved for his use pursuant to application filed with the Director.

(b) *Alternative devices.* Alternative devices used in lieu of red or green strip stamps shall be securely affixed to the bottle in such a manner as to leave a portion of the device remaining on the bottle after opening, unless the container is one that cannot again be used after opening. Alternative devices shall bear no lettering or design which is prohibited by Part 5 of this chapter or which conflicts with information on the label.

(c) *Application.* Distillers, bottlers or rectifiers who wish to use alternative devices which have not been approved by announcement of the Director shall file application with the Director. The application shall describe the alternative device and the method of affixing it to containers. Two samples of the proposed alternative device, affixed to empty containers, shall accompany the application.

(Approved by the Office of Management and Budget under control number 1512–0206)

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

§ 250.146 Record and report of red strip stamps or alternative devices.

Revenue agents shall maintain, for each day a transaction in red strip stamps or alternative devices occurs, a daily record of such stamps or alternative devices showing the number and size of bottles to which stamps or alternative devices were affixed. No form is prescribed for the daily records but such records shall be in sufficient detail and retained to support the quarterly report. Within 15 days following the close of business March 31, June 30, September 30, and December 31, of each year, the revenue agent will prepare a separate report of the strip stamps or alternative devices used during the period on Form 5100.8.

(Approved by the Office of Management and Budget under control number 1512–0352)

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

§ 250.164 [Amended]

Par. 17. Section 250.164 is amended to replace "subchapter" with "chapter."

Par. 18. Section 250.164a is added immediately following § 250.164 to set forth the requirements for the package gauge record. As added, § 250.164a reads as follows:

§ 250.164a Package gauge record.

When required in this part, with respect to Puerto Rican spirits, a package gauge record shall be prepared to show:

(a) The date prepared;

(b) The related transaction form and its serial number;

(c) The producer or rectifier (processor) of the spirits, and his name, address, and plant registration number; and

(d) For each package, the:

(1) Package identification or serial number;

(2) Kind of spirits;

(3) Gross weight;

(4) Tare;

(5) Net weight;

(6) Proof gallons; and

(7) Proof.

(Approved by the Office of Management and Budget under control number 1512–0250)

§§ 250.191 and 250.193 [Amended]

Par. 19. Sections 250.191 and 250.193 are amended to replace "subchapter" with "chapter".

Par. 20. Section 250.197 is revised to read as follows:

§ 250.197 Furnishing formula to consignee.

Prior to the first shipment, the person shipping the spirits to the United States shall furnish a reproduced copy of the approved formula covering such spirits to the regional director (compliance) of each region in which a consignee's distilled spirits plant is located, and to the proprietor of each distilled spirits plant to receive the spirits.

(Approved by the Office of Management and Budget under control number 1512–0204)

§§ 250.198 and 250.199e [Removed]

Par. 21. Sections 250.198 and 250.199e are removed.

Par. 22. Sections 250.199a, 250.199b, 250.199d and 250.199f are revised to reflect the elimination of "ATF Form 5110.45"and the replacement of the form number with "package gauge record". As revised, the sections read as follows:

§ 250.199a Action by revenue agent.

(a) *Gauge.* Puerto Rican spirits to be withdrawn for shipment to the United States as provided in this subpart shall be gauged by the revenue agent prior to withdrawal from the consignor premises. The revenue agent shall record the quantity and proof of the spirits gauged on ATF Form 5110.31. If the spirits are in packages, the revenue agent shall prepare in sextuplicate a package gauge record according to § 250.164a, attach the package gauge record to ATF Form 5110.31, and dispose of the form (and any attachments) according to the instructions thereon.

(b) *Sealing bulk conveyances.* When a shipment is made in a tank, van, or other bulk conveyance (other than barrels,

drums, or similar packages that are not containerized), all openings affording access to the spirits shall be sealed by the Puerto Rican revenue agent is such manner as will prevent unauthorized removal of spirits without detection.

(Approved by the Office of Management and Budget under control number 1512-0250)

§ 250.199b Issuance and disposition of permit.

When the Secretary receives an application on ATF Form 5110.31 and he finds that the applicant is in compliance with law and regulations, he will execute the permit to ship on all copies of ATF Form 5110.31, retain one copy, and any accompanying package gauge record as provided in § 250.164a, and return the remaining copies to the consignor who shall distribute them in accordance with the instructions on ATF Form 5110.31.

(Approved by the Office of Management and Budget under control number 1512-0250)

§ 250.199d Customs inspection and release.

On receipt of a properly executed ATF Form 5110.31 from the consignor, the customs officer at the port of arrival in the United States shall inspect the corresponding shipment of spirits:

(a) If a shipment is in a bulk conveyance, and:

(1) The seals are intact, he shall release the shipment; or

(2) If the seals are broken, he shall, before release of the spirits, affix customs seals.

(b) If a shipment in packages does not arrive in a sealed conveyance, the packages shall be inspected, and if it appears that any package has sustained a loss, the package shall be weighed and its new gross weight shall be entered in contrasting color on the package gauge record attached to the related ATF Form 5110.31. The serial numbers of any seals affixed by the customs officers shall be reported on ATF Form 5110.31 under remarks with an explanation and description of any evidence of loss. After completing his inspection, the customs officer shall execute his certificate on each copy of ATF Form 5110.31 and show thereon any exceptions found at the time of his release for transfer of the spirits to internal revenue bond. Missing packages should be reported separately from packages which have sustained losses. The customs officer shall then release the spirits to the consignee's representative and distribute all forms in accordance with the instructions on ATF Form 5110.31.

(Approved by the Office of Management and Budget under control number 1512-0250)

§ 250.199f Consignee premises.

(a) *General.* When Puerto Rican spirits are received from customs custody under the provisions of this subpart, the consignee proprietor shall execute the certificate of receipt on ATF Form 5110.31 and examine all containers for evidence of loss. If it appears that spirits were lost by theft or unusual event, the proprietor shall determine the quantity of spirits lost and report the loss according to 27 CFR 19.562.

(b) *Packages.* Packages shall be received on bonded premises by the proprietor on the basis of the most recent official gauge.

(c) *Distribution of forms.* The proprietor shall retain the original of ATF Form 5110.31 (and any attachments) and submit the copy of each to the regional director (compliance).

(Approved by the Office of Management and Budget under control numbers 1512-0200 and 1512-0250)

§ 250.201a [Amended]

Par. 23. Section 250.201a is amended to delete the term "subchapter" wherever it appears and insert, in lieu thereof, the term "chapter".

Par. 24. A new section 250.204 is added, and section 250.205 is revised to read as follows:

§ 250.204 Regauge.

Distilled spirits withdrawn from insular bonded warehouses for shipment to the United States may be gauged at the time of withdrawal by an insular gauger. When such gauges are made, a record of gauge shall be prepared by the insular gauger showing the name of the distiller; and the serial number, the proof of the spirits, and the wine and proof gallon contents of each package gauged. The report of gauge shall be attached to the certificate prescribed in § 250.205.

(Approved by the Office of Management and Budget under control number 1512-0250)

§ 250.205 Certificate.

Every person bringing liquors or articles under this part into the United States from the Virgin Islands, except tourists, shall obtain a certificate in the English language from the manufacturer showing, for each shipment, the following information:

(a) The name and address of the consignee;

(b) The kind and brand name;

(c) The quantity thereof as follows:

(1) If distilled spirits, the proof gallons, or liters and degree of proof.

(2) If wine, the taxable grade and wine gallons.

(3) If beer, the gallons, liquid measure, and the percent of alcohol by volume.

(4) If articles, the kind, quantity, and proof of liquors used therein.

(d) The number and date of the approved formula;

(e) A declaration that it has been manufactured in accordance with the formula;

(f) The name and address of the person filing such formula;

(g) A certification by the insular gauger that the spirits covered by such certificate were or were not regauged by him when withdrawn from the insular bonded warehouse and, if regauged, were at that time at the proofs indicated on the attached record of gauge.

(h) The name and address of the producer;

(i) For liquor or articles containing liquors produced outside of the Virgin Islands, the country of origin for each such liquor. The person bringing the liquors or articles into the United States shall file the certificate and record of gauge with the district director of customs at the port of entry, as provided in §§ 250.260 and 250.302.

(Approved by the Office of Management and Budget under control number 1512-0352)

Par. 25. Sections 250.270 and 250.208 are revised to read as follows:

§ 250.207 Destruction of marks and brands.

The marks, brands, and serial numbers required by this part to be placed on barrels, casks, or similar containers, or cases, shall not be removed, obscured or obliterated before the contents thereof have been removed.

§ 250.208 Destruction of stamps.

All stamps or alternative marks used in lieu of distilled spirits stamps, must remain on packages until the contents are emptied. When a package of distilled spirits is emptied, the internal revenue stamp or alternative mark thereon must be completely effaced and obliterated.

(68A Stat. 830, 72 Stat. 1358; [26 U.S.C. 6804, 5205])

§ 250.220 [Amended]

Par. 26. Section 250.220 is amended to replace "Form 698-A" with "Form 698".

Par. 27. The heading of Subpart L and the introductory text of § 250.230 are revised to allow the use of alternative devices. As revised, the title of Subpart L and the introductory text of § 250.230 read as follows. The undesignated center heading "General" remains unchanged.

Subpart L—Red Strip Stamps or Alternative Devices for Distilled Spirits From the Virgin Islands

General

§ 250.230 Containers of distilled spirits to bear red strip stamps or alternative devices.

No person shall transport, possess, buy, sell, or transfer any distilled spirits brought into the United States from the Virgin Islands unless the immediate container has a red strip stamp or alternative device evidencing the determination or payment of all internal revenue taxes. The provisions of this section shall not apply to:

* * * * *

§ 250.231 [Amended]

Par. 28. Section 250.231 is amended to replace "stamps", wherever it appears, with "stamps or alternative devices".

Par. 29. Section 250.233 is revised to allow the use of alternative devices. As revised, § 250.233 reads as follows:

§ 250.233 Affixing strip stamps or alternative devices.

Strip stamps or alternative devices shall be securely affixed to containers so as to leave a portion remaining on the container when the container is opened unless the container is one that cannot again be used after opening. Portions of strip stamps may be trimmed provided no printed (or overprinted) information is cut off. Strip stamps or alternative devices affixed to containers shall not be concealed or obscured in any manner except that (a) the Director may authorize labels to be affixed so as to partially obscure strip stamps or alternative devices, if a need exists, and (b) any such stamp or alternative device may be covered by a cup, cap, seal, carton, wrapping, or other item which can be readily removed without injury to the stamp or alternative device. ATF and customs officers have the right to open such cartons or wrappings and examine the container.

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

§ 250.234 [Amended]

Par. 30. Section 250.234 is amended to replace "Form 96" and "Forms 96" wherever they appear, with "Form 5100.8" and "Forms 5100.8" respectively.

Par. 31. Section 250.235 is revised to reflect the use of alternative devices. As revised, § 250.235 reads as follows:

§ 250.235 Disapproval of strip stamps requisitions.

The regional director (compliance) shall refuse to approve any further requisition, Form 428 (5100.7), when he has knowledge that the importer has failed to satisfactorily report the use of strip stamps or alternative devices, as prescribed in this part, or has failed to comply with any of the provisions of this part.

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

§ 250.237 [Amended]

Par. 32. Section 250.237 is amended by removing the last sentence.

Par. 33. Sections 250.240 and 250.240a are revised to modify forms requirements. As revised, these sections read as follows:

§ 250.240 Approval of requisition and issuance of stamps.

The regional director (compliance) will approve Form 428 (5100.7) and issue the stamps if he:

(a) Is satisfied that the importer is the holder of an importer's permit issued under the Federal Alcohol Administration Act and the regulations in Part 1 of this chapter;

(b) Believes that the quantity requisitioned is reasonable and necessary; and

(c) Has no information on which a denial of requisition should be made under the provisions of § 250.235.

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

§ 250.240a Alternative method for issuance of stamps.

(a) *Action by regional director (compliance).* When the regional director (compliance) determines that the interest of the Government will be best served thereby, strip stamps may be shipped directly to the applicant, as shown on Form 428, from a location other than the office of the regional director (compliance). In such case, the regional director (compliance) shall notify the applicant that strip stamps will be delivered by an alternative method and inform him of the minimum quantity, if any, of each size of stamps which may be requisitioned on any particular Form 428. Upon approval of Form 428, the distribution will be in accordance with the instructions on the form.

(b) *Action by applicant.* Upon receipt of the stamps, the applicant shall (1) acknowledge receipt of the stamps, noting any apparent discrepancies, on both copies of Form 428, and (2) return one copy to the regional director (compliance) to whom the Form 428 was submitted for approval and, if an agent, one copy to the importer.

(Approved by the Office of Management and Budget under control number 1512–0056)

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

§ 250.242 [Removed]

Par. 34. Section 250.242 is removed.

Par. 35. Section 250.243 is added to allow the use of alternative devices. As added, § 250.243 reads as follows:

§ 250.243 Alternative devices.

(a) *Alternative devices used in lieu of red or green strip stamps.* Importers or owners who wish to use devices other than red or green strip stamps on containers of distilled spirits may use any device which has been announced by the Director to be an approved alternative device or which has been approved for his use pursuant to application filed with the Director.

(b) *Alternative devices.* Alternative devices used in lieu of red or green strip stamps shall be securely affixed to the bottle in such a manner as to leave a portion of the device remaining on the bottle after opening, unless the container is one that cannot again be used after opening. Alternative devices shall bear no lettering or design which is prohibited by Part 5 of this chapter or which conflicts with information on the label.

(c) *Application.* Importers who wish to use alternative devices which have not been approved by announcement of the Director shall file application with the Director. The application shall describe the alternative device and the method of affixing it to containers. Two samples of the proposed alternative device, affixed to empty containers, shall accompany the application.

(Approved by the Office of Management and Budget under control number 1512–0352)

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

Par. 36. Section 250.245 is revised to delete the requirement for Form 1627. As revised, § 250.245 reads as follows:

§ 250.245 Strip stamps on distilled spirits deposited in a foreign-trade zone.

When red strip stamps are affixed in the Virgin Islands to containers of distilled spirits and, on arrival in the United States, the spirits are deposited in a foreign-trade zone, the importer or his agent shall ensure that the stamps will be effectively destroyed or voided under customs supervision prior to exportation. The district director of customs will not approve exportation and will not execute a permit of delivery until the stamps have been effectively destroyed or voided as provided in § 250.252a.

(Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85–

859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

§§ 250.246 and 250.249 [Removed]

Par. 37. Sections 250.246 and 250.249 are removed.

Par. 38. Section 250.252 is revised to modify forms requirements. As revised, § 250.252 reads as follows:

§ 250.252 Destruction or transfer of red strip stamps in the Virgin Islands.

When for any reason a Virgin Islands bottler or exporter has on hand a quantity of red strip stamps which are not to be affixed to containers for shipment to the United States, and it is impractical to return the stamps to the importer from whom they were received or to transfer them to another bottler or exporter conducting operations for the importer, the Virgin Islands bottler or exporter may destroy the stamps.

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

Par. 39. Sections 250.255 and 250.258 and the undesignated center heading immediately preceding § 250.255 are revised to allow the use of alternative devices. As revised, the undesignated center heading and §§ 250.255 and 250.258 read as follows:

Red Strip Stamps and Alternative Devices To Be Affixed at Port of Entry Under Customs Supervision

§ 250.255 Conditions.

Distilled spirits in containers coming into the United States from the Virgin Islands without having red strip stamps or alternative devices attached may not be released from customs custody until a stamp or alternative device has been affixed to each container, under the supervision of a customs officer.

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

§ 250.258 Expense of affixing red strip stamps or alternative devices.

Expenses of cartage, storage, repacking, handling, or other labor connected with the opening of cases and affixing of red strip stamps or alternative devices to the containers shall be borne by the importer, or by the person having title to the distilled spirits, as the case may be.

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

Par. 40. A new center heading and § 250.259 are added to Subpart L to read as follows:

Disposition of Red Strip Stamps

§ 250.259 Procedure.

The importer who discontinues or sells his business shall:

(a) Destroy the stock of unused stamps, or

(b) Request instructions from the regional director (compliance) on the disposition of such stamps.

The same procedure may be followed by an importer who has unused stamps for which he has no further use for any reason.

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

§ 250.262 [Amended]

Par. 41. Section 250.262 is amended to replace the phrase "covers distilled spirits" with the phrase "covers distilled spirits and such distilled spirits are not being transferred under Subparts O or Oa of this part".

§ 250.266 [Amended]

Par. 42. Section 250.266 is amended to replace the word "liquors" with the phrase "liquors (except spirits transferred under Subparts O or Oa of this part)".

Par. 43. Sections 250.270 and 250.271 and the undesignated center heading immediately preceding § 250.270 are revised to include alternative devices. As revised, the undesignated center heading and §§ 250.270 and 250.271 read as follows:

Record and Report of Red Strip Stamps and Alternative Devices

§ 250.270 Record of strip stamps and alternative devices.

(a) *General.* Each importer shall maintain a daily record of red strip stamps and alternative devices covering all locations where the importer or his agent brings Virgin Islands spirits into the United States.

(b) *Shipments.* The record shall show the number of red strip stamps by size (small or standard) sent to bottlers or exporters in the Virgin Islands to be affixed to bottles of spirits.

(c) *Stamps and devices affixed.* (1) The record shall account for strip stamps and alternative devices affixed to bottles under customs supervision and affixed to bottles that are otherwise brought into the United States.

(2) Accounting shall show strip stamps and alternative devices separately, by the number affixed to bottles.

(Approved by the Office of Management and Budget under control number 1512–0352)

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

§ 250.271 Report of stamps and alternative devices, Form 5100.6.

The importer shall prepare Form 5100.6 for the periods ending March 31, June 30, September 30, and December 31. The report shall cover all locations where the importer or his agents bring Virgin Islands spirits into the United States. The report shall be submitted to the regional director (compliance) of the region in which the importer's principal place of business is located.

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

Par. 44. Sections 250.273a and 250.273b are added to provide requirements for the details of the transfer record and package gauge record which replaces ATF Forms 5110.27 and 5110.45 respectively. As added, §§ 250.273a and 250.273b read as follows:

§ 250.273a Transfer record.

The transfer record for Virgin Islands spirits prescribed in § 250.301 shall show the:

(a) Date prepared;

(b) Serial number of the transfer record, beginning with "1" each January 1;

(c) Name of the proprietor and distilled spirits plant number to which consigned;

(d) Name and address of the consignor;

(e) Kind of spirits;

(f) Name of the producer;

(g) Age (in years, months and days) of the spirits;

(h) Proof of the spirits;

(i) Type and serial number of containers; and

(j) Proof gallons of spirits in the shipment.

(Approved by the Office of Management and Budget under control number 1512–0250)

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207))

§ 250.273b Package gauge record.

When required in this part with respect to Virgin Islands spirits, a package gauge record shall be prepared to show:

(a) The date prepared;

(b) The related transaction record and its serial number;

(c) The producer, his name and address; and

(d) For each package, the:

(1) Package identification or serial number;

(2) Kind of spirits;

(3) Gross weight;

(4) Tare;

(5) Net weight;

(6) Proof gallons; and

(7) Proof.

(Approved by the Office of Management and Budget under control number 1512-0250)

Center Heading and § 250.277 [Removed]

Par. 45. The undesignated center heading immediately preceding § 250.277 and § 250.277 are removed.

Par. 46. Section 250.301 is revised to provide for the preparation of a transfer record and to delete the requirement for ATF Form 5110.16. As revised, § 250.301 reads as follow:

§ 250.301 Preparation of transfer record.

The person bringing spirits into the United States from the Virgin Islands under this subpart shall prepare a transfer record, in triplicate, according to § 250.273a, and present the record to the customs officer responsible for inspection and release of the spirits. A separate transfer record shall be prepared for each conveyance.

(Approved by the Office of Management and Budget under control number 1512-0250)

Par. 47. Section 250.302 is revised to reflect the elimination of ATF Form 5110.27. As revised, § 250.302 reads as follows:

§ 250.302 Gauge and certification.

(a) *Gauge.* If Virgin Islands spirits to be transferred from customs custody to internal revenue bond as provided in this subpart are not gauged by an insular gauger at the time of their withdrawal from an insular bonded warehouse, as provided in § 250.204 of this chapter, the insular consignor shall effect a gauge of each bulk container and shall prepare a record of such gauge, in duplicate, and attach both copies to the certificate required by § 250.205 of this chapter. If the gauge is made by the insular gauger his record of gauge shall be prepared in duplicate and both copies shall be attached to the certificate.

(b) *Certification.* The certification prescribed by § 250.205 of this chapter shall be prepared in duplicate if the Virgin Islands spirits are to be transferred from customs custody to internal revenue bond. Both copies of the certificate, with the applicable record of gauge attached, shall be filed with the district director of customs at the port of entry. The original of the certificate and related record of gauge shall be attached by the customs officer to the original of the transfer record received as provided in § 250.301 from the importer.

(Approved by the Office of Management and Budget under control number 1512-0250)

Par. 48. Section 250.303 is revised to reflect the elimination of ATF Forms 5110.27 and 5110.45. As revised, § 250.303 reads as follows:

§250.303 Customs inspection and release.

The customs officer shall not release distilled spirits under this subpart until he inspects the spirits, and, if it appears that losses in transit were sustained from any container, he shall gauge the spirits in such container. If the spirits are in a bulk conveyance, the customs officer shall record the elements of his gauge on the transfer record, or, if the spirits are in packages, on the gauge record required by § 250.302, and attach it to the transfer record. The customs officer shall also record on the transfer record the port of entry, carrier identification, and warehouse entry number. When the consignee has complied with all customs requirements, the customs officer shall release the spirits for transfer to the distilled spirits plant, by dating and signing the transfer record with his title the statement: "To the best of my knowledge the information hereon is accurate and the spirits are released". The customs officer shall retain a copy of the transfer record and any attachment, forward a copy of the transfer record and any attachments to the regional director (compliance), and give the original of the transfer record with any attachments to the consignee.

Par. 49. Section 250.305 is revised to read as follows:

§ 250.305 Receipt by consignee.

Proprietors of distilled spirits plants who receive Virgin Islands spirits under this subpart shall follow the requirements in 27 CFR Part 19 for spirits received by transfer in bond. However, proprietors are not required to file application on ATF Form 5100.16 to receive Virgin Islands spirits from customs custody.

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER

Section O—Part 251 is amended as follows:

Paragraph 1. The table of sections for Part 251 is amended as follows:

Sec.

* * * * *

251.60 * * *

Red Strip Stamps or Alternative Devices for Containers of Distilled Spirits

251.61 Containers of distilled spirits to bear red strip stamps or alternative devices.
251.62 Persons authorized to affix red strip stamps or alternative devices.

* * * * *

251.67 Alternative devices.
251.68 [Reserved]
Sec.
251.69 Affixing strip stamps or alternative devices.

* * * * *

251.73 Withdrawal free of tax: red strip stamps.

Exemptions

251.74 Exemption from requirements pertaining to stamps or alternative devices, marks, bottles, and labels.
251.75 * * *

Subpart F—Red Strip Stamps or Alternative Devices To Be Affixed in a Foreign Country

251.80 * * *
251.85a Strip stamps on distilled spirits deposited in a foreign-trade zone.
251.89a * * *
251.92 Disapproval of strip stamp requisitions.

Subpart G—Red Strip Stamps or Alternative Devices Affixed Under Customs Supervision

* * * * *

251.112 Expense of affixing red strip stamps or alternative devices.

* * * * *

251.122 Red strip stamps or alternative devices.

Subpart I—* * *

Record and Report of Red Strip Stamps and Alternative Devices

251.130 Record of strip stamps and alternative devices.
251.131 Report of strip stamps and alternative devices, Form 5100.6.

* * * * *

251.137 * * *

Other Records

251.138 Transfer record.
251.139 Package gauge record.

* * * * *

251.172 Preparation of transfer record and package gauge record.
251.173 Inspection and release.

* * * * *

251.175 Receipt by consignee.

* * * * *

251.184 Tank cars and tank trucks to be secured.
251.185 Release from Customs Custody.
251.186 [Removed]

* * * * *

Par. 2. Section 251.11 is amended by revising the definitions of *Distilled spirits or spirits and red strip stamps and by adding a definition of Kind* to read as follows:

§ 251.11 Meaning of terms.

* * * * *

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, and all mixtures or dilutions thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, gin, rum, and vodka, but not

including wine as defined in this subpart.

* * * * *

Kind. As applied to spirits, kind shall mean class and type as prescribed in 27 CFR Part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR Part 4.

* * * * *

Red strip stamps. The stamps prescribed under the authority of 26 U.S.C. 5205.

* * * * *

§ 251.56 [Amended]

Par. 3. Section 251.56 is amended to replace "stamped" with "stamped or have alternative devices affixed".

Par. 4. The introductory text of § 251.61 and the undesignated center heading immediately preceding § 251.61 are revised to allow the use of alternative devices. As revised, the undesignated center heading and the introductory text of § 251.61 read as follows:

Red Strip Stamps or Alternative Devices for Containers of Distilled Spirits

§ 251.61 Containers of distilled spirits to bear red strip stamps or alternative devices.

No person shall transport, buy, possess, sell, or transfer any imported distilled spirits, unless the immediate container thereof is stamped with a red strip stamp or has affixed thereto an alternative device, evidencing the determination or payment of all internal revenue taxes. The provisions of this section shall not apply to:

* * * * *

§ 251.62 [Amended]

Par. 5. Section 251.62 is amended to replace "stamps", wherever it appears, with "stamps or alternative devices".

§ 251.64 [Amended]

Par. 6. Section 251.64 is amended by removing the last sentence.

§ 251.64a [Amended]

Par. 7. Section 251.64a is amended to replace "Form 96", wherever it appears, with "Form 5100.6".

Par. 8. Sections 251.66 and 251.66a are revised to eliminate filing instructions for Form 428. Sections 251.66 and 251.66a, as revised, read as follows:

§ 251.66 Approval of requisition and issuance of stamps.

The regional director (compliance) will approve Form 428 (5100.7) and issue the stamps if:

(a) The importer is the holder of an importer's permit issued under the Federal Alcohol Administration Act and the regulations in 27 CFR Part 1;

(b) The quantity requisitioned is reasonable and necessary; and

(c) There is no information on which a denial of a requisition should be made under the provisions of § 251.92.

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

§ 251.66a Alternative method for issuance of stamps.

(a) *Action by regional director (compliance).* When the regional director (compliance) determines that the interest of the Government will be best served, strip stamps may be shipped directly to the applicant, as shown on Form 428 (5100.7), from a location other than the office of the regional director (compliance). In that case, the regional director (compliance) shall notify the applicant that strip stamps will be delivered by an alternative method and state the minimum quantity, if any, of each size of stamp which may be requisitioned on any particular Form 428 (5100.7). Upon approvl of Form 428, distribution will be in accordance with the instructions on the form.

(b) *Action by applicant.* Upon receipt of the stamps, the applicant shall (1) acknowledge receipt of the stamps, noting any apparent discrepancies, on both copies of Form 428, and (2) return one copy to the regional director (compliance) to whom the Form 428 was submitted for approval and, if an agent, one copy to the importer.

(Approved by the Office of Management and Budget under control number 1512-0056)

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

Par. 9. A new § 251. 67 has been added to permit the use of alternative devices by importers. As added, § 251.67 reads as follows:

§ 251.67 Alternative devices.

(a) *Alternative devices used in lieu of red or green strip stamps.* Importers who wish to use devices other than red strip stamps on containers of distilled spirits may use any device which has been announced by the Director to be approved alternative device or which has been approved for his use pursuant to application filed with the Director.

(b) *Alternative devices.* Alternative devices used in lieu of red strip stamps shall be securely affixed to the bottle in such a manner as to leave a portion of the device remaining on the bottle after opening, unless the container is one that cannot again be used after opening. Alternative devices shall bear no lettering or design which is prohibited by Part 5 of this chapter or which conflicts with information on the label.

(c) *Application.* Importers who wish to use alternative devices which have not been approved by announcement of the Director shall file application with the Director. The application shall describe the alternative device. Two samples of the proposed alternative device affixed to empty containers, shall accompany the application.

(Approved by the Office of Management and Budget under control number 1512-0352)

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

§ 251.68 [Removed]

Par. 10. Section 251.68 is removed.

§ 251.73 [Amended]

Par. 11. Section 251.73 is amended to replace "without payment" with "free".

Par. 12. Sections 251.69, 251.74, and 251.75 have been revised to permit the use of alternative devices by importers. As revised, §§ 251.69, 251.74 and 251.75 read as follows:

§ 251.69 Affixing strip stamps or alternative devices.

Strip stamps or alternative devices shall be securely affixed to containers so as to leave a portion remaining on the container when the container is opened unless the container is one that cannot again be used after opening. Portions of strip stamps may be trimmed provided no printed information is cut off. Strip stamps or alternative devices affixed to containers shall not be concealed or obscured in any manner except that (a) the Director may authorize labels to be affixed so as to partially obscure strip stamps or alternative devices, if a need exists, and (b) any such stamp or alternative devices may be covered by a cup, cap, seal, carton, wrapping, or other item which can be readily removed without injury to the stamp or alternative device. ATF and customs officers have the right to open such cartons or wrappings and examine the container.

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

§ 251.74 Exemption from requirements pertaining to stamps or alternative devices, marks, bottles, and labels.

The provisions of this part relating to the affixing of red strip stamps or alternative devices and the labeling of containers as prescribed by 27 CFR Part 5 are not applicable to imported distilled spirits (a) not for sale or for any other commercial purpose whatever; (b) on which no internal revenue tax is required to be paid or determined on or

before withdrawal from customs custody; (c) for use as ship stores; or (d) for personal use. Samples of distilled spirits, other than those provided for in § 251.49 and § 251.75, imported for any purpose are not exempt from the requirements pertaining to stamps or alternative devices, marks, bottles, and labels. Samples of wine and beer brought into the United States pursuant to § 251.49 are exempt from the labeling requirements of 27 CFR Parts 4 and 7, respectively. Exemptions from the requirement that imported distilled spirits, wines, and beer be marked to indicate the country of origin are set forth in customs regulations (19 CFR Part 11).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1374, as amended (26 U.S.C. 5205, 5301))

§ 251.75 Samples of distilled spirits, wine, and beer for quality control purposes.

Samples of distilled spirits, wine, and beer in containers of a capacity of not more than 1.75 liters, imported solely for quality control purposes (laboratory testing and analysis) and not for sale or for use in the manufacture or production of any article for sale, shall be exempt from any requirements relating to stamps or alternative devices, marks, bottles, labels, and standards of fill. Samples imported for quality control purposes shall not be exempt from the payment of any internal revenue tax imposed on, or by reason of, importation.

Par. 13. The heading of Subpart F is revised to include alternative devices. As revised, the title of Subpart F read as follows:

Subpart F—Red Strip Stamps or Alternative Devices To Be Affixed in a Foreign Country

Par. 14. Section 251.85a is revised to eliminate Form 1627 and strip stamp accounting in foreign trade zones. As revised, § 251.85a reads as follows:

§ 251.85a Strip stamps on distilled spirits deposited in a foreign-trade zone.

When red strip stamps are affixed abroad to containers of imported distilled spirits and, on arrival in the United States, the spirits are deposited in a foreign-trade zone, the importer or his agent shall ensure that the stamps will be effectively destroyed or voided under customs supervision prior to exportation. The district director of customs will not approve such exportation and will not execute a permit of delivery until the stamps have been effectively destroyed or voided as provided in § 251.72.

(Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended, (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

§§ 251.86 and 251.88 [Removed]

Par. 15. Sections 251.86 and 251.88 are removed to reflect the elimination of unnecessary records requirements.

Par. 16. Section 251.89a is revised to reflect the elimination of Form 1627. As revised § 251.89a reads as follows:

§ 251.89a Destruction or transfer of red strip stamps abroad.

When for any reason a foreign bottler or exporter has on hand a quantity of red strip stamps which are not to be affixed to containers for export to the United States, and it is impractical to return the stamps to the importer from whom they were received or to transfer them to another bottler or exporter conducting operations for the importer, the foreign bottler or exporter may destroy the stamps.

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

Par. 17. Section 251.92 is revised to remove unnecessary accounting procedures for strip stamps. As revised § 251.92 reads as follows:

§ 251.92 Disapproval of strip stamps requisitions.

The regional director (compliance) shall refuse to approve any further requisitions, Form 428 (5100.7), when he has knowledge that the importer has failed to satisfactorily report the use of strip stamps or alternative devices, as prescribed in this part, or has failed to comply with any of the provisions of this part.

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

Par. 18. Section 251.110 and the heading for Subpart G are revised to permit the use of alternative devices. As revised, § 251.110 and the title for Subpart G read as follows:

Subpart G—Red Strip Stamps or Alternative Devices Affixed Under Customs Supervision

§ 251.110 Conditions.

Distilled spirits in containers imported without having red strip stamps or alternative devices attached may not be released from customs custody until a stamp or alternative device has been affixed to each container, under the supervision of a customs officer.

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

§ 251.111 [Amended]

Par. 19. Section 251.111 is amended to replace "§ 251.66a, and § 251.68" with "§ 251.66a".

Par. 20. Sections 251.112 and 251.122 are revised to reflect the use of alternative devices and eliminate the reference to overprinting. As revised, these sections read as follows:

§ 251.112 Expense of affixing red strip stamps or alternative devices.

Expenses of cartage, storage, repacking, handling, or other labor connected with the opening of cases and affixing of red strip stamps or alternative devices to the containers, shall be borne by the importer, or by the subsequent purchaser of the distilled spirits, as the case may be.

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

§ 251.122 Red strip stamps or alternative devices.

Red Strip stamps or alternative devices shall be affixed to containers of imported distilled spirits bottled in a class 8 customs bonded warehouse.

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

Par. 21. Sections 251.130, 251.131, and the undesignated center heading immediately preceding § 251.130 are revised to reflect simplification of recordkeeping requirements for strip stamps and to provide for alternative devices. As revised, the sections and center heading read as follows:

Record and Report of Red Strip Stamps and Alternative Devices

§ 251.130 Record of strip stamps and alternative devices.

(a) *General.* Each importer shall maintain a daily record of strip stamps and alternative devices covering all locations where the importer or his agent imports spirits into the United States.

(b) *Shipments.* The record shall show the number of strip stamps by size (small or standard) sent to bottlers or exporters in a foreign country to be affixed to bottles of spirits.

(c) *Stamps and devices affixed.* (1) The record shall account for strip stamps and alternative devices affixed to bottles under customs supervision and affixed to bottles that are otherwise imported into the United States.

(2) Accounting shall show strip stamps and alternative devices separately, by the number affixed to bottles.

(Approved by the Office of Management and Budget under control number 1512-0352)

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

§ 251.131 Report of strip stamps and alternative devices, Form 5100.6.

The importer shall prepare Form 5100.6 for the periods ending March 31, June 30, September 30, and December 31. The report shall cover all locations where the importer or his agents imported spirits into the United States. The report shall be submitted to the regional director (compliance) of the region in which the importer's place of business is located.

(Approved by the Office of Management and Budget under control number 1512-0049)

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

Par. 22. Sections 251.138, 251.139 and an undesignated center heading immediately preceding § 251.138 are added to Subpart I to provide requirements for the details of the transfer record and package gauge record which replaces ATF Forms 5110.27 and 5110.45 respectively. As added, the sections and the undesignated center heading read as follows:

Other Records

§ 251.138 Transfer record.

The transfer record for imported spirits prescribed in § 251.172 shall show the:

(a) Date prepared;

(b) Serial number of the transfer record, beginning with "1" each January 1;

(c) Name and distilled spirits plant number of the proprietor who received the spirits from customs custody;

(d) Country of origin;

(e) Name of foreign producer;

(f) Kind of spirits;

(g) Age, in years, months and days of the spirits;

(h) Proof of the spirits;

(i) Type and number of containers; and

(j) Proof gallons of spirits in the shipment.

(Approved by the Office of Management and Budget under control number 1512-0250)

§ 251.139 Package gauge record.

When required in this part, a package gauge record shall be prepared to show:

(a) The date prepared;

(b) The related transaction record and its serial number; and

(c) For each package:

(1) Package identification or serial number;

(2) Kind of spirits;

(3) Gross weight;

(4) Proof;

(5) Proof gallons;

(6) Name of warehouseman who received the spirits from customs custody; and

(7) Name of importer.

(Approved by the Office of Management and Budget under control number 1512-0250)

Par. 23. Section 251.160 is revised to reflect the simplification of records of destruction for strip stamps. As revised, § 251.160 reads as follows:

§ 251.160 Disposition of strip stamps.

The importer who discontinues or sells his business shall; (a) destroy the stocks of unused stamps, or (b) request instructions from the regional director (compliance) on the disposition of such stamps. The same procedure may be followed by an importer who has unused stamps for which he has no further use for any reason.

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

§ 251.171 [Amended]

Par. 24. Section 251.171 is amended to replace "Part 19 of this chapter. The" with "27 CFR Part 19. However, distilled spirits plant proprietors are not required to file application on ATF Form 5100.16 to receive imported spirits from customs custody. The".

Par. 25. Section 251.172 is revised to provide for the preparation of a transfer record and to delete the requirement for ATF Form 5100.16. As revised, § 251.172 reads as follows:

§ 251.172 Preparation of transfer record and package gauge record.

The person importing spirits under this subpart shall prepare a transfer record according to § 251.138. A separate transfer record shall be prepared for each conveyance. If the spirits are in packages he shall prepare a package gauge record according to § 251.139 and attach it to the transfer record. The transfer record and the package gauge record shall be prepared in triplicate, and, upon release of the spirits from customs custody one copy will be given to the customs officer, one copy will be forwarded to the regional director (compliance) of the region in which the consignee is located, and the original will be forwarded to the consignee.

(Approved by the Office of Management and Budget under control number 1512-0250)

Par. 26. Section 251.173 is revised to reflect the elimination of ATF Forms 5110.27 and 5110.45. As revised, § 251.173 reads as follows:

§ 251.173 Inspection and release.

The customs officer shall not release distilled spirits under this subpart until he inspects the spirits. If it appears that losses in transit were sustained from any container, the customs officer shall gauge the spirits in such container and enter the elements of gauge on the transfer record if the spirits are in a bulk conveyance or on the package gauge record if the spirits are in packages. The customs officer shall enter on the transfer record the port of entry, carrier identification, warehouse entry number, applicable rate of duty, and serial number of any customs seals affixed to bulk conveyances. When all customs requirements are complied with, he shall release the spirits for transfer to the distilled spirits plant by dating and signing on the transfer with his title the statement: "To the best of my knowledge the information hereon is accurate and the spirits are released." The original of the transfer record with any attachments shall be retained by the consignee.

(Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232))

Par. 27. Section 251.175 is revised to read as follows:

§ 251.175 Receipt by consignee.

Proprietors of distilled spirits plants who receive imported spirits under this subpart shall follow the requirements in 27 CFR Part 19 for spirits received by transfer in bond. However, proprietors are not required to file application on ATF Form 5100.16 to receive imported spirits from customs custody.

Par. 28. Sections 251.182, 251.184 and 251.185 are revised to reflect the elimination of ATF Form 5110.26. As revised, the sections read as follows:

§ 251.182 Application and permit, Form 1444.

(a) *Application.* (1) Application on Form 1444 shall be filed by the United States or a governmental agency thereof for a permit to procure and withdraw imported spirits free of tax for nonbeverage use.

(2) A separate application shall be filed for each port of entry.

(3) The application shall be signed by a person authorized to sign for the department or agency. Documentation of authority to sign shall be furnished with the application.

(b) *Use of spirits.* Agencies shall ensure that spirits are used only for Government purposes.

(c) *Cancellation of permit.* All permits on Form 1444, shall remain in force until surrendered or canceled.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

§ 251.184 Tank cars and tank trucks to be secured.

When a shipment of distilled spirits from customs custody is made in a tank car or tank truck, all openings affording access to the spirits shall be secured in such manner as will prevent unauthorized removal of spirits through such openings without detection.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

§ 251.185 Release from customs custody.

(a) *Release.* When the appropriate Form 1444 is filed with the district director of customs, spirits may be released free of tax to the United States or governmental agency named in the permit.

(b) *Shipments under permit.* When the spirits are released from customs custody for shipment, Form 1473 shall be prepared and distributed as follows:

(1) A copy to the consignee agency; and

(2) A copy for the Customs files.

If the customs officer gauged the spirits, he shall certify and distribute the report of gauge as required in § 251.173 with Form 1473.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

§ 251.186 [Removed]

Par. 29. Section 251.186 is removed.

PART 252—EXPORTATION OF LIQUORS

Section P, Part 252 is amended as follows:

Paragraph 1. The table of sections for Part 252 is amended as follows:

Sec.

* * * * *

252.99 [Reserved]
252.100 [Reserved]

* * * * *

252.104a Certificate of authenicity.

* * * * *

252.195 [Reserved]

* * * * *

252.197 Return of spririts withdrawn for export with benefit of drawback.
252.198 Notice of return.
252.199 Responsibility for return of spirits withdrawn for export with benefit of drawback.

* * * * *

252.219 Return of wine withdrawn for export with benefit of drawback.
252.220 Notice of return.
252.220a Responsibility for return of wine withdrawn for export with benefit of drawback.

* * * * *

252.263 [Reserved]

* * * * *

Customs Gauge

252.291 Customs Form 6001.

* * * * *

Par. 2. Section 252.3 is revised due to recodification of Part 13 as 27 CFR Part 30. As revised, § 252.3 reads as follows:

§ 252.3 Related regulations.

Procedural and substantive instructions dealing with operations which are related to the regulations in this part will be found in the regulations listed below:

19 CFR Chapter I—Customs Regulations
27 CFR Part 19—Distilled Spirits Plants
27 CFR Part 21—Formulas for Denatured Alcohol and Rum
27 CFR Part 30—Gauging Manual
27 CFR Part 194—Liquor Dealers
27 CFR Part 211—Distribution and Use of Denatured Alcohol and Rum
27 CFR Part 231—Taxpaid Wine Bottling Houses
27 CFR Part 240—Wine
27 CFR Part 245—Beer
27 CFR part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act
27 CFR Part 4—Wine Labeling and Advertising
31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds.

§ 252.36 [Amended]

Par. 3. Section 252.36 is amended to replace "1582-B, 1629" with "1582-B."

§ 252.65 [Amended]

Par. 4. Section 252.65 is amended to eliminate "Form 1582" and substitute "ATF Form 5110.30" in lieu thereof wherever it appears and to eliminate ",252.201," wherever it appears.

§ 252.71 [Amended]

Par. 5. Section 252.71 is amended to eliminate "252.201," wherever it appears.

Par. 6. Section 252.92 is revised to delete unnecessary forms instructions. As revised, § 252.92 reads as follows:

§ 252.92 Application or notice, ATF Form 5100.11.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone or a customs bonded warehouse.* Application for or notice of the withdrawal of distilled spirits without payment of tax for exportation from the United States, or for use on vessels and aircraft, or for transfer to a customs bonded warehouse or a foreign-trade zone, shall be made by the exporter on ATF Form 5100.11. If the exporter is not the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, the exporter shall prepare ATF Form 5100.11 as an application, in accordance with the instructions on the form, and shall forward all copies of the form to the regional director (compliance) of the region in which the distilled spirits plant is located. If the exporter is the proprietor of the bonded premises of the distilled spirits plant from which the spirits are withdrawn, the exporter shall prepare ATF Form 5100.11 as a notice in accordance with the instructions on the form.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of distilled spirits without payment of tax for transportation to and deposit in a manufacturing bonded warehouse shall be made by the proprietor of such warehouse on ATF Form 5100.11, in accordance with the instructions on the form.

(Approved by the Office of Management and Budget under control number 152-0190)

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

§ 252.96 [Amended]

Par. 7. Section 252.96 is amended to replace "If" with "When filed as an application, and".

Par. 8. Section 252.98 is revised to delete ATF Form 5110.45, which is eliminated, and substitute, in lieu thereof, reference to the package gauge record and to clarify the language. As revised, § 252.98 reads as follows:

§ 252.98 Inspection and regauge.

The proprietor shall inspect all containers to be withdrawn pursuant to ATF Form 5100.11 and shall regauge all packages, except those which are to be withdrawn on the filling or production gauge as authorized in 27 CFR Part 19. If the withdrawal is to be made subject to regauge, the proprietor shall prepare a package gauge record as provided in 27 CFR Part 19, enter the total proof gallons regauged on ATF Form 5100.11, and attach a copy of the package gauge record to each copy of ATF Form 5100.11. If a proprietor wishes to reduce the proof of spirits contained in packages to be withdrawn pursuant to ATF Form 5100.11, he shall make such proof reduction incident to regauge of the packages.

(Approved by the Office of Management and Budget under control number 1412-0190 and 1512-0250)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

§§ 252.99 and 252.100 [Removed]

Par. 9. Sections 252.99 and 252.100 are removed.

Par. 10. Section 252.101 is revised to allow for export marks to be placed on containers in lieu of distilled spirits stamps. As revised, § 252.101 reads as follows:

§ 252.101 Packages to be stamped.

Each package and authorized bulk conveyance of spirits (including tank cars and tank trucks but not pipelines) withdrawn without payment of tax under the provisions of this subpart shall be stamped with a distilled spirits stamp or marked with the word "EXPORT" in accordance with the provisions of 27 CFR Part 19 prior to its removal from the bonded premises.

(Approved by the Office of Management and Budget under control number 1512-0189)

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

Par. 11. Section 252.102 is revised to provide an exemption from overprinting strip stamps or alternative devices in certain instances. As revised, § 252.102 reads as follows:

§ 252.102 Bottles to be stamped or have alternative devices affixed.

Every bottle containing distilled spirits to be withdrawn under the provisions of this subpart shall have a strip stamp or alternative device procured and affixed in accordance with the provisions of 27 CFR Part 19. The strip stamp or alternative device shall be legibly and permanently overprinted or stamped with the work "EXPORT". However, upon approval by the Director, strip stamps or alternative devices need not be so overprinted when the label or other information on the bottle clearly indicates that the spirits are intended for export.

(Approved by the Office of Management and Budget under control number 1512-0189)

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

Par. 12. Section 252.14 is revised to delegate the certification of Form 2177 to ATF officers and to clarify language. As revised, § 252.104 reads as follows:

§ 252.104 Certificates of origin.

The entry of distilled spirits at ports in certain foreign countries is permitted only upon the filing by the importer of an official certificate showing the origin and age of such spirits. An ATF officer may, on request of the applicant, furnish a certificate showing the origin and age of the spirits described on ATF Forms 5100.11 or 5110.30. The issuing officer may require supporting documentation to be provided by the applicant. Certificates of origin and age shall be furnished on Form 2177. Form 2177 may also be issued for distilled spirits removed to a foreign-trade zone, in which case the number and location of the foreign-trade zone shall be shown on the form in lieu of the name of the foreign country.

Par. 13. Section 252.107 is revised to delete "ATF Form 5110.45", which is obsolete, and substitute in lieu thereof, "package gauge record". As revised, § 252.107 reads as follows:

§ 252.107 Disposition of forms.

ATF Form 5100.11 and any accompanying package gauge record shall be distributed by the proprietor in accordance with the instruction on ATF Form 5100.11.

(Approved by the Office of Management and Budget under control number 1512-0250)

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

Par. 14. Section 252.115 is revised to liberalize the requirements for returning spirits to a distilled spirits plant after withdrawal for exploration. As revised § 252.115 reads as follows:

§ 252.115 General.

Spirits which have been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for deposit in a foreign-trade zone, a manufacturing bonded warehouse, or a customs bonded warehouse, or for use on vessels and aircraft may, subject to the requirements of § 252.116, be returned:

(a) To the bonded premises of a distilled spirits plant for redistillation; or

(b) To the bonded premises from which withdrawn, pending subsequent removal for lawful purposes. However, such spirits may only be returned before they are exported, deposited in a foreign-trade zone, a manufacturing bonded warehouse, or a customs bonded warehouse, or laden as supplies upon or used on vessels or aircraft, as the case may be.

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

Par. 15. Section 252.122 is revised to delete unnecessary forms instructions. As revised § 252.122 reads as follows:

§ 252.122 Application or notice, ATF Form 5100.11.

(a) *Export, use on vessels and aircraft, transfer to a customs bonded warehouse, and transfer to a foreign-trade zone.* The exporter shall, where he is not the proprietor of the bonded wine cellar from which the wine is to be withdrawn, make application on ATF Form 5100.11 to the regional director (compliance) of the region in which the bonded wine cellar is located, for approval of the withdrawal. Where the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn, he shall, at the time of withdrawal of the wine, prepare a notice of the withdrawal and shipment on ATF For 5100.11. Prior approval by the regional director (compliance) is not required when the withdrawal is by the proprietor of the bonded wine cellar.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of wine without payment of tax for transportation to and deposit in a manufacturing bonded warehouse, shall be made by the proprietor of such warehouse on ATF Form 5100.11. The proprietor shall forward all copies of the application to the regional director (compliance) of the region in which is located the bonded wine cellar from which the wine is to be withdrawn, for approval prior to withdrawal of the wine.

(c) *Action by regional director (compliance).* Where, under the provisions of paragraphs (a) and (b) of this section, an ATF Form 5100.11 is submitted to the regional director (compliance) for approval, the regional director (Compliance) shall, if satisfied that the application is in order and that the applicant has on file a good and sufficient bond, approve the application and forward it to the proprietor of the premises from which the wines are to be withdrawn.

(d) *Restriction on shipment.* Where, under the provisions of paragraphs (a) and (b) of this section, prior approval of ATF Form 5100.11 by the regional director (compliance) is required, the proprietor of the bonded wine cellar may not ship the wine until the approved ATF Forms 5100.11 have been received by him. In such cases, the proprietor of the bonded wine cellar shall, on removal of the wines, execute his certificate of removal on ATF Form 5100.11.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5326))

Par. 16. Section 252.152 is revised to delete unnecessary forms instructions and to clarify language. As revised, § 252.152 reads as follows:

§ 252.152 Notice, ATF Form 5100.11.

Notice of withdrawal of specially denatured spirits, as authorized in § 252.151 shall be made on ATF Form 5100.11 by the proprietor of the distilled spirits plant from which the denatured spirits are to be withdrawn.. Upon removal of the denatured spirits from the bonded premises, a copy of the form

shall be submitted to the regional director (compliance).

Par. 17. Section 252.160 is revised to liberalize the requirements for returning denatured spirits to a distilled spirits plant after withdrawal for exportation. As revised, § 252.160 reads as follows:

§ 252.160 General.

Specially denatured spirits, which have been lawfully withdrawn free of tax under the provisions of this part for exportation, or for deposit in a foreign-trade zone, may, subject to the requirements of § 252.161, be returned:

(a) To the bonded premises of a distilled spirits plant for redistillation; or

(b) To the bonded premises of any distilled spirits plant pending subsequent lawful withdrawal free of tax. However, such specially denatured spirits may only be returned before they are exported, or deposited in a foreign-trade zone. If the specially denatured spirits are to be returned to bonded premises for storage without redistillation, the proprietor shall also execute a consent of surety Form 1533 to extend the terms of his operations or unit bond to cover the return and storage of such specially denatured spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

Par. 18. Section 252.161 is amended to remove the flush paragraph at the end of the section .

Par. 19. The introductory text of § 252.171 is revised to reflect the use of export markings in lieu of distilled spirits stamps on containers of distilled spirits. As revised, the introductory text of § 252.171 reads as follows:

§ 252.171 General.

Distilled spirits manufactured, produced, bottled in bottles, packed in containers, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which have been marked or stamped, including the affixing of alternative devices, under the provisions of 27 CFR Part 19 and of this part, as applicable, especially for export with benefit of drawback may be:

* * * * *

Par. 20. Section 252-190 is revised to eliminate unnecessary forms instructions. As revised, § 252.190 reads as follows:

§ 252.190 Notice, ATF Form 5110.30.

Notice of shipment of distilled spirits for export, for use as supplies on vessels or aircraft, for deposit in a foreign-trade zone, or for deposit in a customs bonded warehouse, shall be prepared by the exporter on ATF Form 5110.30, in accordance with the instructions on the form.

(48 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

Par. 21. Section 252.192 is revised to read as follows:

§ 252.192 Packages of distilled spirits to be gauged.

Except for spirits which may be tax determined on the basis of the original gauge, spirits in packages which are to be removed for export with benefit of drawback, shall be gauged by the distilled spirits plant proprietor prior to preparation of notice on ATF Form 5110.30. When spirits in packages are gauged, a package gauge record shall be prepared by the proprietor, as provided in 27 CFR Part 19, and a copy of the package gauge record shall be attached to each copy of ATF Form 5110.30 and considered a part of the claim.

(Approved by the Office of Management and Budget under control number 1512-0250 and 1512-0199)

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

§ 252.195 [Removed]

Par. 22. Section 252.195 is removed.

Par. 23. Section 252.195a is revised to eliminate forms filing instructions. As revised, § 252.195a reads as follows:

§ 252.195a Claims on spirits tax determined before January 1, 1980.

The bottler or packager of the spirits shall compute the drawback rate, unless the regional director (compliance) established a standard drawback rate before January 1, 1980. The bottler or packager shall complete Parts II and III on both copies of ATF Form 5110.30. If a standard drawback rate was established, the date of approval of the formula and the number shall be shown in any available space in Part II of ATF Form 5110.30. The bottler or packager shall file one copy as the claim for drawback of tax with the regional director (compliance) of the region in which the claimant's premises are located, and retain one copy on file. Each claim on ATF Form 5110.30 shall be supported by applicable records and supporting documents are required by the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512-0250 and 1512-0199)

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

Par. 24. Section 252.195b is revised to delete "ATF Form 5110.45", which is obsolete, and substitute, in lieu thereof, "package gauge record", and to clarify language. As revised, § 252.195b reads as follows:

§ 252.195b Claims on spirits tax determined on and after January 1, 1980.

(a) *Preparation.* Claims for drawback of tax on spirits tax determined on and after January 1, 1980, and withdrawn for any purpose authorized by § 252.171, shall be prepared in duplicate by the bottler or packager on Parts II and III of ATF Form 5110.30.

(b) *Supporting documents.* Each claim shall be supported by an invoice, bill of lading or other document which identifies the date of tax determination, unless the bill of lading required by § 252.250 identifies this date. Additional supporting documents are required if the claim covers distilled spirits products on which the claimed drawback rate exceeds $10.50 per proof gallon (e.g., a product containing alcoholic flavoring materials on which drawback has been claimed by the manufacturer of the material under 26 U.S.C. 5131-5134). For each such product, the additional supporting documents shall consist of a copy of each related dump and batch record, package gauge record as prescribed in 27 CFR Part 19, and/or bottling and packaging record. The regional director (compliance) may also require these or other supporting documents for any distilled spirits product.

(c) *Filing.* One copy of the claim, with supporting documents, if required, shall be filed with the regional director (compliance). The bottler or packager shall retain the other copy on file.

(Approved by the Office of Management and Budget under control number 1512-0198)

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

Par. 25. Sections 252.197, 252.198 and 252.199 are added to Subpart I to incorporate provisions for the return by exporters of spirits that were withdrawn on determination of tax for export with benefit of drawback, to the bonded premises of the plant where bottled or packaged or to the wholesale liquor dealer premises or taxpaid storeroom operated in conjunction with such plant. As added, §§ 252.197, 252.198 and 252.199 read as follows:

§ 252.197 Return of spirits withdrawn for export with benefit of drawback.

When notice is filed by an exporter as provided in § 252.198, spirits on which the tax has been paid or determined, and which were withdrawn especially for export with benefit of drawback as provided in § 252.171, but which spirits have not been laden for export, laden

for use, or deposited in a customs bonded warehouse or foreign-trade zone, may for good cause be returned under the applicable provisions of this part and 27 CFR Part 19:

(a) To the bonded premises of the distilled spirits plant for purposes authorized under 26 U.S.C.; or

(b) To a wholesale liquor dealer; or

(c) To a taxpaid storeroom.

The export marks on spirits returned under this section shall be removed by obliteration, restamping, relabeling or recasing.

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

§ 252.198 Notice of return.

If an exporter desires to return spirits to a distilled spirits plant, wholesale liquor dealer or taxpaid storeroom, as provided in § 252.197, he shall file a notice, executed under the penalties of perjury, with the regional director (compliance) for the region in which the claim for drawback of tax was filed. The notice shall be prepared in triplicate for submission to the customs official as required in § 252.199. The notice shall show the:

(a) Name, address, and plant number of the distilled spirits plant which packaged or bottled the spirits;

(b) Date and serial number of the ATF Form 5110.30 on which the spirits were withdrawn;

(c) Present location of the spirits to be returned;

(d) Number, size and identification of the containers;

(e) Proof of spirits;

(f) Reason for the return; and

(g) Planned disposition of the returned spirits.

(Approved by the Office of Management and Budget under control number 1512-0206)

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

§ 252.199 Responsibility for return of spirits withdrawn for export with benefit of drawback.

The exporter shall be responsible for arranging the return of the spirits under this subpart to the proprietor or wholesale liquor dealer who will receive them. The exporter or his agent shall submit the original and copies of the notice required by § 252.198 to the appropriate customs official. If the spirits are returned before ATF Form 5110.30 has been filed with the customs official, the exporter shall submit Form 5110.30 with the notice. The customs officer shall, if the spirits are eligible for return under § 252.197, accept the notice as authority for the return of the spirits to the premises identified in the notice. The customs official shall acknowledge receipt on the notice, retain a copy, and return the original and one copy of the notice to the exporter. The exporter shall retain the copy of the notice and file the original of the notice with the regional director (compliance) identified thereon.

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

Par. 26. Sections 252.219, 252.220 and 252.220a are added to Subpart K to incorporate provisions in regulations for the return by exporters of wine that was withdrawn on determination of tax for export with benefit of drawback, to a taxpaid storeroom on the bonded wine cellar from which withdrawn, or to a wholesale liquor dealer. As added §§ 252.219, 252.220 and 252.220a read as follows:

§ 252.219 Return of wine withdrawn for export with benefit of drawback.

When notice is filed by an exporter as provided in § 252.220, wine on which the tax has been paid or determined, and which was withdrawn especially for export with benefit of drawback as provided in § 252.211, but which wine has not been laden for export, laden for use, or deposited in a foreign-trade zone, may for good cause be returned under the applicable provisions of this part and 27 CFR Part 240:

(a) To a taxpaid storeroom at a bonded wine celler; or

(b) To a wholesale liquor dealer.

The export marks on wines returned under this section shall be removed from the containers.

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

§ 252.220 Notice of return.

If an exporter desires to return wine to a bonded wine cellar or wholesale liquor dealer as provided in § 252.119, he shall file a notice, executed under the penalties of perjury, with the regional director (compliance) for the region in which the claim for drawback of tax was filed. The notice shall be prepared in triplicate for submission to the customs official as required in § 252.220a. The notice shall show the:

(a) Name, address, and registration number of the bonded wine cellar from which withdrawn;

(b) Date and serial number of the Form 1582-A on which the wine was withdrawn;

(c) Present location of the wine to be returned;

(d) Number, size and identification of the containers;

(e) Total wine gallons for each tax class of wine; and

(f) Reason for the return.

(Approved by the Office of Management and Budget under control number 1512-0292)

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

§ 252.220a Responsibility for return of wine withdrawn for export with benefit of drawback.

The exporter shall be responsible for arranging the return of wine under this subpart to the proprietor or wholesale liquor dealer receiving the wine. The exporter or his agent shall submit the original and copies of the notice required by § 252.220 to the appropriate customs official. If the wine is returned before Form 1582-A has been filed with the customs official, the exporter shall submit ATF Form 1582-A with the notice. The customs officer shall, if the wine is eligible for return under § 252.219, accept the notice as authority for the return of the wine to the premises identified in the notice. The customs officer shall acknowledge receipt of the notice, retain a copy, and return the original and one copy of the notice to the exporter. The exporter shall retain the copy and file the original of the notice with the regional director (compliance) identified thereon.

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

§ 252.263 [Removed]

Par. 27. Section 252.263 is removed.

Par. 28. Section 252.264 is revised to read as follows:

§ 252.264 Lading for exportation.

On receipt of the notifcation required in § 252.261, the district director of customs shall deliver both copies of the application, claim, or notice, ATF Form 5100.11, 5110.30, 1582-A, 1582-B, or 1689, as the case may be, covering the shipment, together with any forms which may be attached thereto, to a customs officer for inspection and supervision of lading. Such shipment shall be subject to the same requirements for inspection and supervision of lading at the port of exportation as may be required by Customs Regulations (19 CFR Ch. I) in the case of similar shipments of imported merchandise to be exported in customs bond. When an inspection of the shipment is made before it is laden on board the exporting carrier and such inspection discloses any discrepancy, the customs officer shall make note of the nature and extent of the discrepancy on each copy of the application, claim, or notice, ATF Form 5110.11, 5110.30, 1582-A, 1582-B, or 1689, as the case may be, and where the discrepancy involves one or more packages of distilled spirits or wine, he shall prepare customs Form

6001 in accordance with the instructions in § 252.291, and attach the original and copy of customs Form 6001 to the original and copy of the appropriate transaction form. The forms shall be disposed of according to the instructions thereon.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1335, as amended, 1336, as amended, 1362, as amended, 1380, as amended (26 U.S.C. 5053, 5055, 5062, 5214, 5362))

Par. 29. Section 252.267 is revised to reflect the removal of § 252.263. As revised, § 252.267 reads as follows:

§ 252.267 Exportation from interior port.

Where a shipment made under this part is to be exported to a contiguous foreign country through a frontier port, and it is desired to avoid the delay of customs inspection at such port, the shipment may, subject to approval of the district director of customs, be entered for exportation at an interior customs port. Subject to such approval, the inspection and supervision of lading, and the affixing of customs seals, shall be done by a customs officer in accordance with the provisions of U.S. Customs regulations (19 CFR Chapter I). On completion of the lading, the seals shall be affixed and the customs officer shall execute the certificate of lading on both copies of the application, notice, or claim, ATF Form 5100.11, 5110.30, 1582–A, 1582–B or 1689, as the case may be, and forward them, with attachments (if any), to the district director of customs at the interior port of entry. The district director of customs shall forward both copies of the form, with attachments (if any), to the customs officer at the frontier port. When the customs officer at the frontier port is satisfied that the shipment as described on the appropriate form has been exported, he shall execute his certificate on both copies of the form and return them with attachments (if any), to the district director of customs at the interior port of entry.

Par. 30. Section 252.285 is revised to delete "ATF Form 5110.45", which is obsolete, and substitute, in lieu thereof, "package gauge record". As revised § 252.285 reads as follows:

§ 252.285 Receipt in manufacturing bonded warehouse.

On receipt of the distilled spirits or wines, the related ATF Form 5100.11 (with any attachments), such inspection as is necessary will be made to establish that the shipment corresponds with its description on ATF Form 5100.11 (and any attachments) and customs Form 6001 will be prepared according to § 252.291. Any discrepancy disclosed by the inspection and gauge will be noted on each copy of ATF Form 5100.11. When the shipment corresponds with the description of ATF Form 5100.11 (and any attachments), the certificate of deposit will be executed on both copies of ATF Form 5100.11 and the original of ATF Form 5100.11 (and any attachments) and the original of his customs Form 6001 will be forwarded to the regional director (compliance). The remaining copies shall be kept on file.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5214, 5362))

Par. 31. Section 252.290 is revised to read as follows:

§ 252.290 Receipt in foreign trade zone.

On receipt at the zone, the shipment shall be inspected by the customs officer in charge of the zone who shall determine if the shipment agrees with the description thereof on the application, notice, or claim, ATF Form 5100.11, 5110.30, 1582–A, 1582–B, or 1689, as the case may be. If the customs officer regauges spirits or wine in the course of his inspection, he shall prepare customs Form 6001 according to § 252.291. The customs officer shall note on both copies of the ATF Form 5100.11, 5110.30, 1582–A, 1582–B, or 1689, as the case may be any deficiency in quantity or discrepancy between the merchandise inspected or gauged and that described in the form. Where the inspection or gauge discloses no loss, or where a loss is disclosed by such inspection or gauge and there is no evidence to indicate fraud, the officer shall execute his certificate on both copies of the form covering the deposit, and forward to the regional director (compliance):

(a) Original of the deposit from (with any attachments); and

(b) Original of the officer's customs Form 6001, if any. The remaining copy of the deposit form (with any attachments), and the copy of any customs Form 6001, shall be retained by the customs officer for his files.

(48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85–859, 72 Stat. 1336, as amended, 1362, as amended, 1380, as amended (26 U.S.C. 5062, 5214, 5362))

Par. 32. A new center heading and § 252.291 are added to Subpart N immediately after § 252.290 to provide for a gauge record for use by customs officers. As added, the new centerheading and § 252.291, read as follows:

Customs Gauge

§ 252.291 Customs Form 6001.

When spirits or wines are gauged as required in §§ 252.264, 252.285, or 252.290, the customs officer shall prepare in duplicate customs Form 6001 to show:

(a) Date;

(b) Name of exporter;

(c) Serial number and designation of the related transaction form;

(d) Kind of liquor (show whether alcohol, whiskey, brandy, rum, gin, vodka, wine, etc.);

(e) Name and registry number of producer;

(f) If gauged under § 252.264, the location of the port;

(g) If gauged under § 252.285, the location and number of the manufacturing bonded warehouse;

(h) If gauged under 252.290, the location and number of the foreign-trade zone;

(i) Kind and serial numbers or lot identification numbers of containers; and

(j) For each container:

(1) Proof of spirits, or percent of alcohol by volume in wine;

(2) Proof gallons, if spirits;

(3) Wine gallons, if wine; and

(4) Variation from the last gauge (proof, percent of alcohol by volume or wine gallons).

Signed: July 3, 1984.

W.T. Drake,

Acting Director.

Approved: September 7, 1984.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 85–4200 Filed 2–28–85; 8:45 am]

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Friday
March 1, 1985

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wage for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Idaho: ID85–5013; ID85–5014

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Iowa:	
IA84–4043	June 15, 1984.
IA84–4109	Dec. 21, 1984.
Louisiana: LA84–4055	Sept. 28, 1984.
New Mexico: NM84–4099	Oct. 19, 1984.
Minnesota: MN84–5015	May 25, 1984.
Nevada:	
NV84–5012	May 18, 1984.
NV84–5014	June 8, 1984.
NV84–5017	June 29, 1984.
NV83–5121	Sept. 23, 1983.
New York: NY84–3045.1	Dec. 7, 1984.
Pennsylvania:	
PA84–3015	June 1, 1984.
PA84–3002	Feb. 10, 1984.
PA84–3017	June 15, 1984.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

North Dakota: ND81–5131 (ND85–5009)	July 6, 1981.

Cancellation of General Wage Determination Decision

General Wage Determination NY84–3048, dated January 11, 1985, in 49 FR 47963 is cancelled. Agencies with construction projects pending to which the cancelled decision would have been applicable should utilize the project determination procedure by submitting form SF–308. See Regulations Part 1 (29 CFR 1.5). Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR 1.6(a)(2)(i)(A), the incorporation of the cancelled decisions in contract specifications, the opening of bids which is within ten (10) days of this notice, need not be affected.

Signed at Washington, D.C. this 22nd day of February 1985.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

NEW DECISION

STATE: IDAHO
DECISION NUMBER: ID85-5013
COUNTIES: *SEE BELOW
DATE: Date of Publication
DESCRIPTION OF WORK: Building projects (does not include single family homes and apartments up to and including 4 stories)

* ADAMS, BANNOCK, BEAR LAKE, BINGHAM, BLAINE, BOISE, BONNEVILLE, BUTTE, CAMAS, CARIBOU, CASSIA, CLARK, CUSTER, ELMORE, FRANKLIN, FREMONT, GEM, GOODING, IDAHO (South of the 46th Parallel), JEFFERSON, JEROME, LEMHI, LINCOLN, MADISON, MINIDOKA, ONEIDA, OWYHEE, PAYETTE, POWER, TETON, TWIN FALLS, VALLEY, and WASHINGTON

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS:		
Area 1	$10.00	
Area 2	11.75	
CARPENTERS:		
Area 1	9.91	1.91
Area 2	11.70	4.02
CEMENT MASONS:		
Area 1	8.00	2.41
Area 2	10.91	3.27
ELECTRICIANS:		
Area 1	12.04	1.13
Area 2	15.75	2.88
GLAZIERS:		
Area 2	8.00	1.23
LABORERS:		
Area 1	8.17	
Area 2	7.54	
PAINTERS:		
Area 1	10.46	
PLUMBERS:		
Area 1	11.53	
Area 2	10.54	3.41
ROOFERS:		
Area 1	11.76	2.05
Area 2	12.95	1.55
SHEET METAL WORKERS:		
Area 1	11.05	1.19
Area 2	11.90	2.36
POWER EQUIPMENT OPERATORS:		
Area 2:		
Backhoes	14.70	4.20
Cranes	13.60	
Loaders and Rollers	10.00	1.39
TRUCK DRIVERS:		
Area 2	8.40	1.39
WELDERS receive rate for craft performing operation to which welding is incidental		

AREA DEFINITIONS

AREA 1:

Adams, Blaine, Boise, Camas, Cassia, Elmore, Gem, Gooding, Idaho (South of the 46th Parallel), Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin-Falls, Valley, and Washington Counties

AREA 2:

Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Custer, Clark, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, and Teton

UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLY AS PROVIDED IN THE LABOR STANDARDS CONTRACT CLAUSES (29 CFR, 5.5(a)(1)(ii))

NEW DECISION

STATE: IDAHO
DECISION NUMBER: ID85-5014
COUNTIES: ADA AND CANYON
DATE: Date of Publication
DESCRIPTION OF WORK: Building projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS:		
Area 1	$14.08	$2.40
Area 2	11.73	
CARPENTERS:		
Area 1 (See footnote"a")	13.17	5.08
Area 2 (See footnote"a")	13.17	5.08
CEMENT MASONS:		
Area 1 (See footnote"a")	12.52	5.07
Area 2 (See footnote"a")	12.52	5.07
DRYWALL HANGERS & FINISHERS:		
Area 1		
Hangers	10.00	
Finishers	12.25	
Area 2		
Finishers	12.25	.99
ELECTRICIANS:		
Area 1	15.05	2.25+4%
Area 2	11.18	1.50
ELEVATOR CONSTRUCTORS:		
Area 1:		
Mechanics	15.95	3.29+b
Helpers	70%JR	3.29+b
Probationary Helpers	50%JR	
GLAZIERS:		
Area 1	14.16	1.32
IRONWORKERS:		
Area 1	16.12	3.19
LABORERS:		
Area 1 (See footnote"a"):		
General Laborers, Asphalt Laborer, Landscaper	10.92	4.84
Air Tampers	11.02	4.84
Pipelayer, Jackhammer, Gunnite Gunman, Vibrator (4" and over)	11.12	4.84
Hod Carrier, Mason Tender, Plaster Tender, Tile Setter Tender	11.22	4.84
Area 2 (See footnote"a")		
General Laborer, Asphalt Laborer, Landscaper	10.92	4.84
Air Tampers	11.02	4.84
LABORERS (CONT'D)		
Pipelayer, Jackhammer, Gunnite Gunman, Vibrator (4" and over)	$11.12	$4.84
Hod Carrier, Mason Tender, Plaster Tenders, Tile Setter Tender	11.22	4.84
PAINTERS:		
Area 1	12.25	1.78
Area 2	12.25	1.78
PLUMBERS:		
Area	14.17	3.86
Area 2	14.05	
ROOFERS:		
Area 1	13.90	2.15
Area 2	13.90	2.15
SHEET METAL WORKERS:		
Area 1	16.97	2.29+3%
Area 2	12.00	1.22
TILE SETTERS: Area 1	12.99	1.64
POWER EQUIPMENT OPERATORS:		
Area 1: (See footnote"a")		
Air Compressor, Rubber Tired Tractor with attachments	13.53	4.05
Front-end & Overhead Loaders up to 4 yds, Spreaders;Tractor, rubber tired with backhoe; Trenching machine	14.23	4.05
Power Shovels & Draglines under 1 yd	14.40	4.05
Asphalt Paver self propelled;Cranes up to 50 tons; Derrick, Loaders (Front-end & Overhead) over 4 yds to 7 yds, Shovels & Draglines 1 yd to 3½ yds, Crawler type tractor w/attachments	14.58	4.05
TRUCK DRIVERS:		
Area 1	10.18	
Area 2	11.23	
SOFT FLOOR LAYERS:		
Area 1	10.91	

AREA DEFINITIONS

AREA 1: Ada County

AREA 2: Canyon County

a. On all projects involving one or more of the components listed below where the dollar value of the component is less than the amount shown, the rate to be paid for work on that component shall be 85% of the basic hourly rate plus full fringe benefits; any other component in excess of the amounts shown shall be paid the full rate on that component.

Paving	$2,000,00
Crushing	2,000,000
Grading & Clearing	2,000,000
Bridges & Related Work	2,000,000
Utilities	Unlimited (Pipelines & Dams excluded)
Buildings	2,000,000 (Excluding mechanical & electrical)

b. Employer contributes 8% of basic hourly rate for vacation pay credit for employees with 5 or more years of service and 6% for 6 months to 5 years of service. Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, The Friday after Thanksgiving Day, and Christmas Day.

UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLYAS PROVIDED IN THE LABOR STANDARDS CONTRACT CLAUSES (29 CFR, 5.5(a)(1)(ii)

DECISION #IA84-4043-MOD.#6 (49 FR 24856 - 6/15/84)

Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn, and Polk Counties, Iowa

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Carpenters:		
All other construction: Millwrights		
Zone 3	$16.48	$3.25
Zones 6 and 7	15.48	3.25
Electricians:		
Zone 6	14.90	2.35+ 3.75%
Elevator Constructors:		
Zones 1,5,6, and 7:		
Mechanics	12.69	3.29 + a
Helpers	70%JR	"
Helpers (Prob.)	50%JR	"
Ironworkers		
Zone 3 & Southeast part of Dubuque	16.20	3.335
Line Construction (excluding Zones 3 and 5)		
Group 1	16.74	1.25+c +7.5%
Group 2	13.39	"
Group 3	13.89	"
Group 4	11.13	"
Group 5	11.05	"
Group 6	10.71	"
Group 7	12.89	"
Plasterers		
Zones 6 and 7	14.04	.57
Plumbers and Pipefitters		
Zones 6 and 7	14.05	2.27
Sheet Metal Workers		
Zones 2 and 8	16.13	2.44
Zones 3,4, and 5	14.02	3.08 + 3%

DECISION #IA84-4109-MOD. # 1 (49 FR 49811-Dec. 21, 1984)

SCOTT COUNTY, IOWA

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Carpenters:		
All other work: Millwrights	$16.48	$3.25
Ironworkers	16.20	3.335
Sheet Metal Workers	14.02	3.08 + 3%

DECISION #LA84-4055-MOD.#2 (49 FR 38445-9/28/84)

STATEWIDE, LOUISIANA

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Cement Masons		
Zone 3	$13.15	$1.90
Asbestos Workers		
Zone 4	14.94	2.05
Plumbers and Pipefitters		
Zone 5	12.46	3.00
Roofers		
Zone 1		
New Construction:		
Roofers	15.06	.20
Roofer's helpers remove old roofing, hustle material and cleanup under supervision of a journeyman.	11.79	.20
All Other Construction:		
Roofers	12.90	.20
Roofer's helpers remove old roofing, hustle material and cleanup under supervision of a journeyman	8.10	.20

DECISION #NM84-4189-MOD.#3
(49 FR 41140-Oct. 18, 1984)

Statewide (excluding Eddy and Lea Cos. for Building Construction in New Mexico)

ADD:

	Basic Hourly Rates	Fringe Benefits
Plumbers, Pipefitters, and Leadburners:		
Light Commercial - all remodel work up to $120,000 in volume, motels not over 2 stories in height, refrigeration-limited to 40 tons per unit or less for comfort refrigeration only, or a project of 150 fixture units or less:		
Bernalillo County	$10.00	$2.31
Remainder of New Mexico	9.00	2.31
All Irrination and Lawn Sprinkler Work	7.00	2.31

DECISION NUMBER MN84-5015 - MOD. #3
(49 FR 22184 - May 25, 1984)
Aitkin, Becker,...Wright and Yellow Medicine Counties, Minnesota

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Stonemasons: Area 11	$12.86	$1.10
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers: Area 15:		
Millwrights	16.36	3.87
Cement Masons; Plasterers: Area 15	12.10	1.10

DECISION NUMBER MN85-5006 - MOD. #2
(50 FR 4837 - February 1, 1985)
Anoka, Benton, Carlton, Carver, Cook, Dakota, Hennepin, Itasca, Koochiching, Lake, Ramsey, St. Louis, Scott, Sherburne, Stearns, & Washington Counties, Minnesota

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:		
Building Construction:		
Area 1:		
Millwrights	16.36	3.87

DECISION NO. NV84-5012 - MOD. #3
(49 FR 21261 - May 18, 1984)
Nevada Test Site including Tonopah Test Range in Clark, Lincoln and Nye Counties, Nevada

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers	$20.12	$4.51
Carpenters:		
Change Fringe Benefits for all classifications to read		4.05
Cement Masons	13.42	6.95
Elevator Constrators:		
Mechanics	23.14	3.29+a
Mechanics' helpers	16.20	3.29+a
Probationary helpers	11.57	
LABORERS:		
Group 1	$13.19	$5.22
Group 2	13.24	5.22
Group 3	13.27	5.22
Group 4	13.29	5.22
Group 5	13.31	5.22
Group 6	13.32	5.22
Group 7	13.34	5.22
Group 8	13.37	5.22
Group 9	13.38	5.22
Group 10	13.40	5.22
Group 11	13.45	5.22
Group 12	13.48	5.22
Group 13	13.50	5.22
Group 14	13.53	5.22
Group 15	13.55	5.22
Group 16	13.62	5.22
Group 17	13.64	5.22
Group 18	13.71	5.22

DECISION NO. NV84-5014 - MOD. #7
(49 FR 21968 - June 8, 1984)
Statewide (does not include the Nevada test site and Tonopah test range, and Highway Construction in Douglas County), Nevada

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Stonemasons: Area 2	$15.65	$2.06
Sheet Metal Workers:		
Area 1	20.24	6.37
Area 2	16.94	10%+6.00
Omit:		
Roofers:		
Area 1		
Add:		
Terrazzo Finishers:		
Douglas, Lyon, Storey and Washoe Counties		
Terrazzo Finishers	16.02	3.95
Base Machine Operator	16.72	3.95

DECISION NO. NV84-5017 - MOD. #4
(49 FR 26874 - June 29, 1984)
Washoe County, Nevada

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers; Stonemason	$13.65	$2.66
Sheet Metal Workers	16.94	6.00+10%

DECISION NO. PA84-3017
MOD. NO. 3
(49 FR 24859 - June 15, 1984)
Berks, Lehigh & Northampton Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS		
ZONE 1	13.18	2.22
Millwrights		
ZONE 2	15.70	2.22
SOFT FLOOR LAYERS		
ZONE 1	13.18	2.22

DECISION NO. NV83-5121 - MOD. #7
(48 FR 43532 - September 23, 1983)
Clark County (does not include the Nevada test site), Nevada

	Basic Hourly Rates	Fringe Benefits
Change:		
Sheet Metal Workers	$20.24	$5.17
Omit:		
Roofers		

DECISION NO. NY84-3045 - MOD. #2
(49 FR 47964 - December 7, 1984)
ST. LAWRENCE, LEWIS & JEFFERSON COUNTIES, NEW YORK

OMIT:

JEFFERSON COUNTY from the Counties to which the decision applies

DECISION NO. PA84-3015
MOD. NO. 6
(49 FR 22976 - June 1, 1984)
Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS	$14.50	1.55

DECISION NO. PA84-3002
MOD. NO. 8
(49 FR 5295 - February 10, 1984)
Adams & York Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
ADD:		
ROOFERS:		
Slate	14.35	1.74

SUPERSEDEAS DECISION

STATE: North Dakota
DECISION NO. ND85-5009
COUNTIES: Burleigh, Morton & Ward
DATE: Date of Publication
Supersedes Decision No. ND81-5131 dated July 6, 1981, in 46 FR 35008.
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.03	1.88
BOILERMAKERS	17.345	2.25
BRICKLAYERS: STONEMASON		
Burleigh & Morton Cos.	13.85	.50
Ward County	13.90	.80
CARPENTERS		
Burleigh & Morton Cos.	11.87	.67
Ward County	11.75	2.43
CEMENT MASONS:		
Burleigh & Morton Cos.	13.15	
Ward County	9.50	
ELECTRICIANS		
Burleigh, Morton & Ward Cos.		
Electricians	14.00	10%+ 1.90
Cable Splicers	14.40	10%+ 1.90
ELEVATOR CONSTRUCTORS	17.99	2.68+a
ELEVATOR CONSTRUCTORS HELPERS	70%JR	
ELEVATOR CONSTRUCTORS PROBATIONARY HELPERS	50%JR	
GLAZIERS		
Burleigh and Morton Cos.	8.91	.30
IRONWORKERS:		
Ornamental, Reinforcing & Structural	14.63	3.16
MILLWRIGHTS	16.36	3.62
LABORERS:		
Group 1	9.00	.95
Group 2	9.10	.95
Group 3	9.20	.95
PAINTERS:		
Burleigh & Morton Cos.		
Brush, Roller	12.16	.20
Spray	13.40	.20
Ward County		
Brush	9.75	
Spray	10.10	
PLASTERERS:		
Burleigh and Morton Cos.	11.00	
Ward County	9.50	
PLUMBERS:		
Burleigh & Morton Cos.	15.26	1.84
Ward County	15.40	2.00
ROOFERS	12.50	
SHEET METAL WORKERS	15.29	3%+1.73
SOFT FLOOR LAYERS		
Burleigh County	8.80	
SPRINKLER FITTERS	15.47	3.33
TRUCK DRIVERS:		
Group 1:		
Off road heavy duty and dump over 20 yrds.	11.45	1.25
Group 2:		
Low boy	11.00	1.25
Group 3:		
Slide off box	10.85	1.25
Group 4:		
Agitator; Dumpcrete off road heavy duty and dump under 20 yrds., Ready-mix truck and tandem axle semi	10.80	1.25
Group 5:		
Farm tractor op.(when used in pulling a tractor for purpose of hauling material; Fuel truck-single axle semi; Tandem truck; Warehouse fork-lift op.(within warehouse or warehouse yard)	10.65	1.25
Group 6:		
Pick-up Truck	10.30	1.25
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.		

DECISION NO. ND85-5009

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS		
Building Construction		
Group 1	12.07	1.35
Group 2	10.95	1.35
Group 3	10.25	1.35
Group 4	9.08	1.35
Site Preparation Excavation and Incidental		
Paving		
Group 1	11.22	1.35
Group 2	11.05	1.35
Group 3	10.88	1.35
Group 4	10.82	1.35
Group 5	10.53	1.35
Group 6	10.26	1.35
Group 7	9.18	1.35
Group 8	9.00	1.35
Group 9	8.88	1.35
Group 10	8.48	1.35

LABORERS
Burleigh, Morton and Ward Counties

Group 1: Laborers, Concrete Bucket Man

Group 2: All power tool Operators of tools that come under the Laborers' jurisdiction; Mortar Mixer; Brick and Plasterer Tenders

Group 3: Hod Carriers, Non-metallic Pipelayers; Gas Line Wrapping or Taping; Cutting Torch for demolition

POWER EQUIPMENT OPERATORS
Building Construction

Group 1: Helicopter Operator, hoisting material; Truck and Crawler Cranes over 150 ft. boom, excluding jib; Traveling Tower Cranes

Group 2: Derrick, Guy or Stiff Leg; Tower Cranes; Overhead Cranes; Hoist Operator - 2 drums or more; All-Terrain Vehicle Cranes (Cherry Picker, etc.); Tractors with boom attachments; Drill Rigs - Rotary or Churn; Locomotive Operators; Hydraulic and Cable-type Backhoes 3/4 yards and over; Truck and Crawler Cranes 150 ft. boom and under, excluding jibs

Group 3: Mechanic Welder; Hoist Operator 1 drum; Boom Truck Operators; Tractor over 75 HP; Straddle Carrier or Forklift, 3,000 lbs. or over; Concrete Batch Plant Operator; Concrete Batch Mixer or Concrete Pump Operator; Boiler Operator; R/T Tractor Backhoe, 3/8 or 3/4 yards; Front End Loader Operator over 1-1/2 yards; Any air compressor operation over 300; Well Points; Power Plant Engineer, Oiler

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction (Cont'd)

Group 4: Greaser; Forklift under 3,000 lbs., Self-propelled Scissor Jax; Front End Loader 1½ yards and under; Self-propelled Compactors; Tractor 75 HP and under; Pickup Sweeper; Pump Operator over 3"; Gunite Operator; Brakeman; Air Compressor 300 and under

Site Preparation Excavation and Incidental Paving

Group 1: Cableway Operator; Crane Operator with over 135' boom, all types; Derrick (Guy and Stiff Leg) (power) (skids and stationary); Front End Loader, over 10 cu. yds.; Gantry Crane Operator; Helicopter Operator; Hole Operator, including power supply or Tunnel Mucking Machine; Power Shovel and/or other equipment with shovel type controls 3½ cu. yds.

Group 2: Concrete Mixer Stationary Plant Operator over 34E; Dredge Operator (power and engineer); Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (paving); Concrete Paving Operator, road; Power Shovel and/or other equipment with Shovels, and/or other equipment with shovel type controls up to 3½ cu. yds.; Scraper Tandem; Tandem Pusher, Quad 9 or similar; Tractor Operator (pipeline); Side Boom; Truck Crane Hydrocrane Operator, 15 ton and over

Group 3: Dope Machine Operator (pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. and over; Locomotive, all types; Pipeline wrapping, cleaning, and bending Machine Operator; Power actuated Horizontal Boring Machine, over 6" Operator (pipeline); Pumpcrete Operator; Refrigeration Plant Engineer; Slip Form Operator (power driven) (paving); Tandem Scraper - twin engine, 50 cu. yds. struck and over

Group 4: Asphalt Paving Machine Operator, Asphalt Plant Operator and Console Board Operator; CMI Grading Operator; Crushing Plant Operator (gravel and stone or gravel washing, crushing and screening Plant Operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, finishing earth work and bituminous; Mechanic or Welder (heavy duty); Rubber-tired Industrial Tractor with Backhoe attachment (water main sanitary sewer and storm sewer, truck line construction); Scraper Operator; Tractor type or rubber tired Dozer, D-6 and over; Trenching Machine Operator, sewer and water (except Ditch Witch or similar, use Oiler rates); Turnapull Operator (or similar type)

POWER EQUIPMENT OPERATORS (Cont'd)
Site Preparation Excavation and Incidental Paving (Cont'd)

Group 5: Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator and Spray Operator, Concrete Mixer Operator on job site 16S or over Paving Breaker or Tamping Machine Operation including Machine with power shovel attachment (power driven), power actuated Jack Operator, Power Plant Engineer 10 K.W.H. and over (when an Engineer is in charge of crushing or blacktop plant with the operation of these plants no poere plant engineer shall be required); Push Tractor, self-propelled Traveling Soil Cement Stabilizer, Truck Mechanic

Group 6: Concrete Saw Operator (multiple blade)(power operated); Distributor Operator; Fine Grade Machine; Roller, steel and self-propelled rubber, on hot mix asphalt paving; Sheepsfoot Baker with Dozer attachment tractor type or rubber tired Dozer under D-6 HP

Group 7: Brakeman or Switchman; Concrete Batch Plant Operator (cement, rock and sand); Electronic; Concrete Mixer Operator on job site under 16S; Crane Truck Oiler; Grader Operator (Motor Patrol)(hauling road); Gravel Screening Plant Operator (portable unit, crushing or washing); Greaser (truck or tractor); Gunnite Operator, gunall; Hoist Engineer (power); Launchman (Tankerman or Pilot license); Pick-up Sweeper, 1 yd. and over Hopper capacity; Shouldering Sand Chip Spreader; Flaherty or similar; Sheepsfoot Roller or Compactor (self-propelled)

Group 8: Boom Truck Operator, Crawler type and/or Steiger or similar tractor pulling compaction or areating equipment, farm type rubber tired tractor with Backhoe attachment, off-road self-propelled rubber, on other than hot mix asphalt paving self-propelled Vibrating Packer Operator, pad type 35 HP and over)

Group 9: Concrete batch Operator (cement, rock and sand)(manual); Form Trench Digger (power); Front and Loader Operator, up to 1 cu. yd.; Hyster Carrier or Forklift, Leverman; Oiler (power Shovel, Crane, Dragline); Pugmill Operator; Pump Operator (Well Points); Self-propelled Broom

Group 10: Conveyor Operator; Curb Machine Operator (manual); Dredge Deck, hand; Farm Tractors, rubber-tired for compacting and areating; Front End Loader (Farm type rubber tired tractor); Paint Machine Striping Operator, Stump Chipper Operator; Tie Tamper and Ballast Machine Operator

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

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