# Sunshine Act Meetings

Federal Register
Vol. 50, No. 44
Wednesday, March 6, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## CONTENTS



1

### FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, March 11, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

South Coast Thrift and Loan Association, an operating noninsured industrial bank located at 1421 West MacArthur Boulevard, Santa Ana, California.

Parker Industrial Bank, an operating noninsured industrial bank located at 6524 E. Parker Road, Parker, Colorado.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,187–L (Amended)
Banco Creditory Ahorro Ponceno, Ponce, Puerto Rico
Case No. 46,188–NR
Penn Square Bank, National Association, Oklahoma City, Oklahoma

Memorandum regarding the Liquidation Asset Management Information System Project.

Memorandum and resolution re: Final amendments to Parts 332 and 337 of the Corporation's rules and regulation, entitled "Powers Inconsistent With Purposes of Federal Deposit Insurance Law," and "Unsafe or Unsound Banking Practices," respectively, which permit insured State nonmember banks to offer check guaranty services to retail banking deposit customers and to sponsor such customers in credit card agreements with other banks.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to autority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Proposed amendments to Part 338 of the Corporation's rules and regualtions, entitled "Fair Housing," which would provide that insured State nonmember banks having assets of $50 million or less and having received fewer than 25 home loan applications in the prior calendar year would no longer be required to collect and record in a log-sheet certain data concerning home loan applications, with the Corporation's baord of Directors retaining the right to required such recordkeeping by a bank if it has reason to believe the bank may be engaged in discriminatory home loan practices (including illegal prescreening).

Memorandum and resolution re: Final amendment to Part 333 of the Corporation's rule and regualtions, entitled "Extension of Corporate Powers," which would permit insured nonmember banks to offer and administer, with certain limitations, self-directed Individual Retirement and Keogh Plan accounts.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: March 4, 1985.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[FR Doc. 85-5501 Filed 3–4–85; 3:47 pm]

BILLING CODE 6714-01-M

2

### FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, March 11, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enfrocement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liqudating agent of those assets:

Case No. 46,177 (Amended)
Costa Mesa Subregional Office, Costa Mesa, California

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552 (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389–4425.

Dated: March 4, 1985.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[FR Doc. 85-5502 Filed 3-4-85; 3:47 pm]

BILLING CODE 6714-01-M

3

**NUCLEAR REGULATORY COMMISSION**

**DATE:** Weeks of March 4, 11, 18, and 25, 1985.

**PLACE:** Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

**STATUS:** Open and Closed.

**MATTERS TO BE CONSIDERED:**

**Week of March 4**

*Wednesday, March 6*

9:30 a.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)

10:30 a.m.
Discussion/Possible Vote on Full Power Operating License for Waterford-3 (Public Meeting) (*postponed* from February 28)

2:00 p.m.
Briefing on EEO Program (Public Meeting)

*Thursday, March 7*

2:00 p.m.
Meeting with Advisory Panel on TMI-2 Cleanup (Public Meeting)

3:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

**Week of March 11—Tentative**

*Tuesday, March 12*

2:00 p.m.
Briefing by Staff on Use of Check Pilot Approach for Reactor Operator Requalification (Public Meeting)

*Thursday, March 14*

10:00 a.m.
Briefing on Further Actions on Source Term (Public Meeting)

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6) (Tentative)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

**Week of March 18—Tentative**

*Wednesday, March 20*

2:00 p.m.
Briefing by NUMARC on Status of NUMARC Initiatives (Public Meeting)

*Thursday, March 21*

10:00 a.m.
Discussion of Proposed Revisions to Part 35 (Public Meeting)

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

**Week of March 25—Tentative**

*Tuesday, March 26*

2:00 p.m.
Discussion of Motion to Disqualify in TMI-1 Restart Case (Closed—Ex. 10)

*Thursday, March 28*

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

**ADDITIONAL INFORMATION:** "Status Report and Discussion of Options on Shoreham" title changed to "Discussion of Options Concerning Shoreham Formal Adjudication," meeting held on February 25.

Discussion of Pending Investigations and Possible Enforcement Action (Closed—Ex. 5, 7 & 10) was held February 28.

**TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING):** (202) 634–1498.

**CONTACT PERSON FOR MORE INFORMATION:** Julia Corrado (202) 634–1410.

**Andrew L. Bates,**

*Office of the Secretary.*

[FR Doc. 85-5408 Filed 3-1-85; 5:01 pm]

BILLING CODE 7590-01-M

4

**PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL (NORTHWEST POWER PLANNING COUNCIL)**

**ACTION:** Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

**STATUS:** Open.

**TIME AND DATE:** March 13–14, 1985, 9:00 a.m.

**PLACE:** Council Offices, 850 SW. Broadway, Suite 1100, Portland, Oregon.

**MATTERS TO BE CONSIDERED:**

*March 13, 1985*

- Public Comment on Washington Public Power Supply System Nuclear Plants Nos. 1 and 3 Issue Paper.
- Council Decision on Washington Public Power Supply System Nuclear Plants Nos. 1 and 3 Cost Assumptions.
- Staff Presentation on Re-Evaluation of the Model Conservation Standards Issue Paper.
- Staff Presentation on Cost and Availability of Resources Issue Paper.
- Staff Presentation and Public Comment on Analysis of Conservation Availability and Cost (Conservation Supply Function Issue Paper).

*March 14, 1985*

- Staff Presentation on Analysis of Forecast Loads Staff Report.
- Public Comment on Preliminary Load Forecast.
- Staff Presentation on Proposed Council Intertie Access Policy Issue Paper.
- Staff Presentation on Critical Water Planning Issue Paper.
- Staff Presentation on Combustion Turbine Cost-Effective Issue Paper.
- Public Comment on Status Report on Hood River, End Use Load and Conservation Assessment Project (ELCAP), and Elmhurst Conservation Demonstration Project.
- Status Report on 1985 Fish Passage Plan.
- Council Business.

Public comment will follow each item.

**FOR FURTHER INFORMATION CONTACT:** Ms. Bess Wong (503) 222–5161.

**Edward Sheets,**

*Executive Director.*

[FR Doc. 85-5420 Filed 3-4-85; 10:09 am]

BILLING CODE 0000-00-M

federal register

Wednesday
March 6, 1985

# Part II

# Department of the Treasury

## Bureau of Alcohol, Tobacco and Firearms

**27 CFR Parts 19, 20, 21, 22, 170, 200, 211, 213, 250, 251, and 252**

**Distribution and Use of Denatured Alcohol and Rum, and Tax-Free Alcohol; Final Rule**

**DEPARTMENT OF THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Parts 19, 20, 21, 22, 170, 200, 211, 213, 250, 251 and 252**

**[T.D. ATF-199; Re: Notice No. 389]**

## Distribution and Use of Denatured Alcohol and Rum, and Tax-Free Alcohol

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Treasury.

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

**SUMMARY:** This final rule amends and recodifies regulations relating to distribution and use of denatured alcohol and rum, and tax-free alcohol. This final rule also liberalizes qualification, bonding, operational, recordkeeping and reporting requirements for users and dealers of denatured alcohol and rum, and users of tax-free alcohol.

**EFFECTIVE DATE:** This final rule is effective on June 4, 1985. New permits will be issued to current permittees and the new procedures for withdrawal of specially denatured spirits or tax-free alcohol will apply to these new permits. Until the new permits are issued, current withdrawal permits remain valid.

**FOR FURTHER INFORMATION CONTACT:** John A. Linthicum, FAA, Wine and Beer Branch, 202-566-7626.

**SUPPLEMENTARY INFORMATION:**

### Background

This final rule revises and recodifies regulations in 27 CFR Parts 211 and 213 relating to the acquisition, disposition and use of denatured and tax-free spirits. Denatured spirits are used in the manufacture of many industrial products, while tax-free spirits are normally limited to medical and scientific use. Both denatured and tax-free spirits are acquired free of the excise tax imposed on alcohol intended for beverage use. Persons wishing to deal in or use specially denatured alcohol or rum, and use tax-free alcohol are required by law to apply for and receive a permit. Under previous regulations, users were also required to apply for and obtain a withdrawal permit which set forth the maximum amount of spirits authorized to be on-hand, in transit or unaccounted for at any one time. This authorized amount was based on the estimated quantity of spirits required for one month. In most cases a user could withdraw, during a given month, up to twice the amount authorized by the withdrawal permit. However, the total quantity withdrawn in any one year could not exceed a quantity equal to 12 times the amount authorized by the withdrawal permit.

Users and dealers were required to file a bond, except States, any political subdivision thereof, the District of Columbia, the United States or any of its governmental agencies, and small users withdrawing 120 gallons or less of denatured spirits annually, or 240 proof gallons or less of tax-free spirits annually. The penal sum of the bond was based on the tax on all spirits on-hand, in transit or unaccounted for at one time.

In addition to the limitations on withdrawals and limitations of the amount on-hand, users of specially denatured spirits were required to submit a formula and a label for each article made. A person who purchased an article in bulk for bottling, labeling, reprocessing, resale, or simply to use, was required to obtain written authorization on Form 2622. Users and dealers were required to submit annual reports of transactions in specially denatured spirits or tax-free alcohol.

In general, users of tax-free alcohol or specially denatured spirits have not historically posed a serious jeopardy to the revenue. Therefore, ATF believes that liberalization of the regulatory requirements imposed on these individuals is justified, to the extent that the revenue and the public safety are not jeopardized.

### Published Documents

On October 23, 1981, ATF published a notice of proposed rulemaking, Notice No. 389, in the **Federal Register** (46 FR 51929). This notice proposed to recodify 27 CFR Parts 211 and 213 into 27 CFR Parts 20 and 22, respectively. In addition, the notice proposed numerous liberalizing changes relating to qualification, bonding, operational, and recordkeeping/reporting requirements affecting users of specially denatured spirits and tax-free alcohol. In response to this notice, ATF received 17 comments.

On May 25, 1982, ATF published a final rule, T.D. ATF-103, in the **Federal Register** (47 FR 22522) eliminating the annual expiration of withdrawal permits issued to users. That final rule, based on Notice No. 389, eliminated an annual requalification requirement for more than 6,200 user permittees.

On June 21, 1982, ATF issued Industry Circular 82-7 which reported the issuance of ATF Rul. 82-5, A.T.F.Q.B. 1982-2, 44, allowing distilled spirits plant proprietors, dealers of specially denatured spirits, and others to apply for variances to use commercial records in lieu of Government forms covering the transfer of nontaxpaid commodities to qualified recipients. After this ATF Ruling was issued, several suppliers of specially denatured spirits or tax-free alcohol applied for and received permission to discontinue using Form 1473 covering shipments to user permittees.

This final rule implements all of the remaining changes proposed in Notice No. 389.

### Revisions Affecting Both Specially Denatured Spirits and Tax-Free Alcohol

#### *Withdrawal Procedures and Allowances*

The new regulations on withdrawal of specially denatured spirits and tax-free alcohol provide greater cost benefits to users than any other provision of this final rule. ATF is eliminating the limitation on the quantity authorized to be on-hand, in transit, or accounted for at any one time. ATF is also eliminating the requirement that only a specified quantity is authorized to be withdrawn in one calendar month. These requirements are replaced with an annual withdrawal allowance, enabling users to purchase up to a one-year supply at one time. This will result in user savings in shipping charges, punitive charges for small orders imposed by some suppliers, and volume purchase discounts. These cost savings will be a benefit to small businesses and small government agencies, enabling them to purchase specially denatured spirits or tax-free alcohol at the same unit cost as large businesses and government agencies. An intangible benefit to the general economy is reduced energy consumption since several thousand users will be able to reduce shipments from as many as 12 annually to as few as one. Although these regulations will result in larger quantities in transit and on-hand, ATF believes that any increased jeopardy to the revenue is outweighed by the overall beneficial impact on the economy.

The new regulations eliminate the annual withdrawal permit. A user or dealer will show its eligibility to receive specially denatured spirits or tax-free alcohol by providing a copy of the user's/dealer's permit to each prospective supplier. This procedure eliminates the operational burden of obtaining the withdrawal permit from the current supplier and forwarding it to another supplier in order to change suppliers. Also, since the old withdrawal permit forms had shipments recorded on them, the new procedure protects the privacy of the user's purchasing history from access by other suppliers.

*Qualification*

Limited Industrial Use Permits are eliminated because all of the benefits of the Limited Industrial Use Permit system are extended to all users, large and small, as discussed above.

The amount of information requested on qualifying documents is now considered to be the minimum possible amount which is necessary to identify the applicant and to determine that the applicant's intended use of specifically denatured spirits or tax-free alcohol is permitted by law. Storage facilities and other equipment are no longer described on the application except for stills and related equipment used in recovery operations. Thus, a change in storage facilities no longer requires notification or approval by ATF.

The underlying statute, 26 U.S.C. 5271, specifically requires that officers directors, principal stockholders, partners, and sole proprietors meet certain personal and professional criteria in order to hold an industrial alcohol permit. ATF conducts background investigations, including criminal records checks of these individuals. The previous regulations, and ATF policies, waived these investigations for many individuals except for those persons who were directly involved in permit operations or who held a 10% proprietary interest in the permittee entity. These policies are carried into the new regulations more clearly, so that applicants will find it easier to identify which individuals or which titles of offices need to be listed on the application. This will reduce the amount of information submitted to the Government.

*Bonding*

Notice No. 389 proposed to change the method for computing the penal sum of the surety bond filed by users and dealers. The previous method to determine the penal sum was to multiply the maximum quantity authorized to be on-hand, in transit, and unaccounted for at any one time by its tax value. Since there no longer is a limitation on the quantity authorized to be on-hand, in transit, and unaccounted for at any one time, the new method to determine the penal sum is based on annual withdrawals. The tiered scales of penal sums proposed in Notice No. 389 are adopted unchanged, giving an advantage to users which are small entities. The percentage of users of specially denatured spirits who are exempted from filing a surety bond increases from 43%, under previous regulations, to 75%, under the new regulations. The percentage of users of tax-free alcohol who are exempt from filing a surety bond increases from 36%, under previous regulations, to 75%, under the new regulations.

The changes revising amounts and methods of computing penal sums of bonds, would not relieve a permittee of tax liability, as established by law, if any specially denatured spirits or tax-free alcohol is misused.

ATF received one comment criticizing the liberalized bonding requirements from the Surety Association of America. The Surety Association believes that increasing the lower limit for unbonded permittees from 120 gallons to 5,000 gallons "seems a bit too high." The comment also states, "The proposed rules may have overlooked the important role underwriters have played in producing the favorable history of these bonds by protecting the excise taxes due to the government. Eliminating bonds could unleash unfavorable results upon the losses incurred by the government in the future if underwriters do not have an opportunity to exert their control and selectivity." However, as stated in Notice No. 389, the lower limit of 5,000 gallons per annum is based on the bonding threshold established by law for small Fuel Alcohol Plants. Under the Crude Oil Windfall Profits Tax Act of 1980, Pub. L. 96–223, a small Fuel Alcohol Plant may produce up to 10,000 proof gallons per annum of potable alcohol for fuel use without a surety bond. ATF believes that an equivalent amount (*i.e.* 5,000 gallons at 200° proof) of nonpotable specially denatured spirits does not pose a greater jeopardy to the revenue. Therefore, an annual limit of 5,000 gallons of specially denatured spirits is established as the lower threshold requiring a surety bond.

*Form 1473 (5110.16)*

Notice No. 389 proposed to eliminate the requirement for distilled spirits plant (DSP) proprietors and bonded dealers of specially denatured spirits to prepare, and users to complete, ATF Form 1473 (5110.16), Shipment and Receipt of Specially Denatured, Tax-Free, or Recovered Spirits. Under previous regulations, each shipment of denatured spirits, recovered spirits, or tax-free alcohol was accompanied by an ATF Form 1473 (5110.16). In addition, DSP's and bonded dealers normally prepare and forward a commercial invoice or shipping memo which duplicates most of the information on ATF Form 1473 (5110.16). ATF regional offices receive and maintain a copy of each ATF Form 1473 (5110.16). A random check of the ATF file copies has not uncovered any major problem. Therefore, the Government derives very little practical utility from requiring users to submit this form to ATF.

In lieu of preparing ATF Form 1473 (5110.16), DSP's and bonded dealers will use commercial invoices or other shipping/receipt records. These commercial records routinely contain sufficient information for ATF personnel to identify and trace the quantity and kind of spirits removed, received, reconsigned or returned. Preparation of ATF Form 1473 is replaced with a requirement to prepare a "Record of Shipment," a commercial record showing the kind of information routinely used on invoices or shipping records. The requirement to submit a record of shipment to ATF is removed.

*Destruction and Reconsignment/Return of Shipments*

The previous requirement to obtain written approval in order to destroy specially denatured spirits has been replaced with a requirement to prepare a record of the destruction. The previous requirement to obtain written approval in order to destroy tax-free alcohol has been replaced with a requirement to file a written notice of intent to destroy.

The previous requirements relating to returning or reconsigning shipments are substantially liberalized. Written approval is no longer required for either of these activities. In addition, a user of specially denatured spirits may now ship to another user. However, the regional director (compliance) may require a user to obtain a dealer's permit if shipments to other users are excessive. A user of tax-free alcohol may ship to another user, but only in case of an emergency. In these cases, the user must file a written notice of intent describing the emergency. However, these shipments must be made without remuneration, since the law does not permit dealing in tax-free alcohol.

*Annual Reports*

Users of tax-free alcohol and dealers in specially denatured spirits will no longer be required to submit annual reports. Each user of specially denatured spirits will continue to be required to submit a reduced annual report containing data used by ATF to identify the types of products made with specially denatured spirits (previously, ATF Form 1482, Part III). This information is necessary for protection of the revenue and public safety. It identifies which permittees are making the articles that are most likely to be diverted to illegal use, *i.e.* the articles which are most easily recovered and the articles which are most likely to be identified as containing beverage alcohol. However, the remaining data previously submitted in the annual report of users of specially denatured spirits has been eliminated (previously, ATF Form 1482, Parts I and II).

The balanced accountings of specially denatured spirits or tax-free alcohol prepared and submitted annually by users and dealers will no longer be submitted to ATF: ATF Form 1451, for users of tax-free alcohol, ATF Form 1482, Parts I and II, for users of specially denatured spirits, and ATF Form 1478, for dealers of specially denatured spirits. The requirement to perform and record an annual balanced accounting is retained. However, this requirement is considered to be a usual and customary business record.

*Use of Alcohol by United States*

Agencies of the United States Government may obtain specially denatured spirits or tax-free alcohol for nonbeverage purposes using withdrawal procedures similar to those discussed previously for other permittees. The application forms and permit forms have been merged for specially denatured spirits and tax-free alcohol. Thus, a Federal agency may file one application for both specially denatured spirits and tax-free alcohol, and ATF will issue one permit authorizing withdrawal and use of both kinds of spirits. The requirement for a permit for beverage use of spirits by a Federal agency has been eliminated, since a permit is not specifically mandated by law.

**Revisions Affecting Only Specially Denatured Spirits**

*Samples of Specially Denatured Spirits for Applicants and Prospective Applicants*

There is a continuing need for a system to allow applicants and prospective applicants to obtain samples of specially denatured spirits for development of articles in order to determine if an Industrial Use Permit is desired. The underlying statute, 26 U.S.C. 5271, requires an application and a permit to receive and use specially denatured spirits. Under the previous regulations, a sample permit system using ATF Form 1512, provided applicants and prospective applicants with an opportunity to obtain samples of specially denatured spirits. However, the previous regulations permitted samples of 1 quart to be obtained without a permit, based on a longstanding policy that dispensing 1 quart to a nonpermittee does not circumvent the permit system required by law. ATF now believes that this amount can be increased to 5 gallons with no increased jeopardy to the revenue. However, suppliers will not be allowed to dispense more than 5 gallons per annum to nonpermittees. In addition, the regional director (compliance) may waive the requirement for a permit if a prospective applicant can demonstrate that more than 5 gallons is necessary to determine if a permit is desired.

*Withdrawal of Specially Denatured Spirits*

In addition to the liberalized withdrawal procedures previously discussed, the new regulations do not control which specific formulas of specially denatured spirits may be withdrawn. Under previous regulations, withdrawal permits specified which formulas of specially denatured spirits could be withdrawn. A user who wanted to develop a new article requiring a formula of specially denatured spirits which was not authorized by the withdrawal permit, was required to obtain an amended withdrawal permit authorizing withdrawal of the new formula of specially denatured spirits. Under the new regulations, a user permittee may withdraw any formula of specially denatured spirits. Thus, development of a new article does not require an amended permit.

*ATF Form 1467 (5110.15)*

Notice No. 389 proposed to eliminate the requirement for bonded dealers to prepare ATF Form 1467 (5110.15), Details of Packages Filled With Denatured Spirits. Implementing regulations for the Distilled Spirits Tax Revision Act of 1979 (27 CFR Part 19) eliminated the need for DSP proprietors to prepare this form by authorizing the use of commercial records. Therefore, the requirement to prepare ATF Form 1467 is removed as proposed. Commercial records of packages filled are usual and customary business records.

*Formulas for Articles*

*General.* Notice No. 389 proposed to modernize regulations governing formula approval for articles made with specially denatured spirits. Previous regulations required formula approval for each article made with specially denatured spirits. This requirement dates from the Prohibition era and was oriented toward the prevention of illicit diversion of denatured spirits to beverage use.

In regulating the use of specially denatured spirits in recent years, experience has failed to indicate any significant effort to divert spirits to avoid tax payment. Therefore, the legal obligation to protect the revenue has shifted toward protecting the public safety. Protecting public safety, with respect to articles made with denatured spirits, includes prohibiting from the marketplace any article which could be mistaken for a product intended for internal human use or beverage use.

Some types of articles are more likely to be suitable for conversion to beverage use. These articles include perfume, cologne, aftershave lotion, other body type lotions, mouthwash, some types of hair tonic, and similar articles. Most of these articles will continue to require formula approval by ATF.

Most other articles are less likely to be identified as containing alcohol suitable for conversion to beverage use. These articles include ink, shampoo, and some types of soaps, detergents and cleaning solvents. Many of these articles can now be made without filing a formula for approval by ATF.

*General-use formulas.* Since the underlying statute, 26 U.S.C. 5273, requires that articles be made in accordance with an approved formula, ATF is establishing, in the Code of Federal Regulations, a series of general-use formulas which would include broad categories of articles. An article made in accordance with an approved general-use formula would be exempt from the requirement to file a formula for approval with ATF. Articles containing the ingredients prescribed in approved general-use formulas contain sufficient denaturing materials to be fully denatured beyond easy recovery of beverage alcohol.

This final rule establishes general-use formulas for proprietary solvents, special industrial solvents, reagent alcohol and rubbing alcohol, based on previous regulations. Based on an analysis of currently approved formulas, general-use formulas are also established for inks, tobacco flavors, articles with low alcohol content and toilet preparations containing 10% essential oils. The Director will authorize new general-use formulas by approving them as alternate methods. Approval of new general-use formulas may also be made through ATF Rulings published in the ATF Bulletin.

Notice No. 389 requested comments proposing general-use formulas and ATF received one such comment from National Distillers and Chemical Company. Their proposed general-use formula reads, "For every 100 parts of SDA Formula 3–A there shall be added *no* less than 3 parts of one or any combination of (1) methyl isobutyl ketone, (2) methyl *n*-butyl ketone, (3) nitropropane (mixed isomers), (4) ethyl acetate, (5) isopropyl alcohol, (6) methyl alcohol, (7) rubber hyrdrocarbon solvent (gasoline), (8) *n*-propanol, (9) ethylene glycol monoethyl ether, or (10) toluene." ATF believes that some of these proposed ingredients are not suitable in a general-use formula because they do not have sufficient denaturing properties at the level of 3 parts per 100. However, many of these possible combinations fit within the general-use formulas prescribed in the new regulations.

*Other changes relating to formulas.* A new regulation has been added which describes when a change of process or ingredients does not require submission of a revised formula.

New regulations have been added enumerating longstanding formula approval policies, some of which were previously issued as Revenue Rulings, Revenue Procedures, or ATF Rulings.

Samples of articles submitted with a formula for approval have been eliminated, except when requested by the Director. However, samples of essential oils used in perfumes and similar products made with S.D.A. Formula No. 39-C are still required to be submitted to ensure that they possess sufficient denaturing properties. This requirement also applies to any other ingredient which is not adequately described in the formula. This provision allows manufacturers to protect proprietary secrets by using generic terms in formulas (*e.g.* "essential oil") while still providing for adequate protection of the revenue.

Formulas, statements of process, and other proprietary information submitted for examination are considered to be trade secrets. This kind of information is protected from public disclosure under the Freedom of Information Act, Pub. L. 93-502, 88 Stat. 1563, 5 U.S.C. 552(b)(4). ATF will continue to employ the same safeguards which have been successful, for many years, in protecting this information from public disclosure.

### *Labels for Articles*

ATF's main emphasis for requiring label approval for articles was to ensure that the labels did not imply that the article was suitable for internal human use or beverage use. It is unlawful to manufacture, sell, or offer for sale any article containing denatured spirits which is intended for internal human use or beverage use (26 U.S.C. 5273). A criminal penalty of $10,000 and/or 5 years imprisonment is imposed on the distribution of articles made with denatured spirits for internal human use or beverage use (26 U.S.C. 5607). ATF's review of labels for articles has disclosed so few labels in noncompliance that retaining the requirement is no longer deemed necessary. ATF further believes that manufacturers are concerned about product integrity and that they would not make an overt attempt to imply that an article was suitable for internal human use or beverage use.

Therefore, the new regulations eliminate the requirement that manufacturers of articles file and obtain label approval from ATF. However, standards for minimum labeling information are retained. Manufacturers may voluntarily submit labels to ATF for a determination that the label complies with the requirements of the law.

### *Rebottlers and Reprocessors*

The previous regulations required reprocessors and rebottlers of articles to obtain written permission from ATF in order to receive bulk shipments of articles, to file formulas for reprocessing, to file labels for approval, and to maintain records available for ATF inspection.

Reprocessors and rebottlers receive articles which have already been produced in accordance with approved formulas by user permittees. Therefore, except where it is determined that an article poses jeopardy to the revenue or a threat to public safety, ATF is eliminating the requirements described above for all reprocessors and rebottlers of articles. Reprocessors and rebottlers may voluntarily submit article labels to ATF for a determination that the label complies with the requirements of the law.

This revision eliminates a large paperwork burden on both industry and the Government. ATF Form 2622 (5150.26), Application to Procure, Reprocess, Bottle, Repackage, or Resell Products Containing Specially Denatured Alcohol, is eliminated. However, a letter application reporting the same information may still be required if ATF has reason to believe that an article being reprocessed or rebottled poses jeopardy to the revenue or a threat to public safety.

### Miscellaneous Amendments

This final rule makes conforming changes in regulation references to 27 CFR Part 212 which was recodified as Part 21, Formulas for Denatured Alcohol and Rum, in T.D. ATF-133, published in the **Federal Register** on June 2, 1983 (48 FR 24672). In addition, Part 21 is amended to allow for the use of S.D.A. Formula 3-A in the manufacture of Proprietary Solvents, and to change the names of two product codes which are affected by the establishment of general-use formulas.

Conforming changes in Parts 19 and 251 eliminate the requirement for preparation and submission of ATF Form 1473 (5110.16) and provide for the use of commercial documents in lieu of the form. Conforming changes in Part 200 reflect the elimination of the withdrawal permit as an enumerated category of permit. Conforming changes in Part 250 retain equal tax treatment for industrial spirits, denatured spirits, and products made with denatured spirits entering the United States from Puerto Rico or the Virgin Islands. Conforming changes throughout the chapter reflect the new part numbers for the recodified regulations.

A new regulation has been added in Part 252 to allow exporters of liquors to apply for and use alternate methods and procedures. This regulation is patterned after similar provisions throughout the chapter. An exporter may now be granted a variance from a requirement of Part 252 if the exporter's alternative method or procedure provides equal protection of the revenue and does not pose a burden to the Government in administering Part 252. The notice and public procedure requirements of 5 U.S.C. 553(b) are deemed unnecessary in this case because the new regulation is a rule of procedure which gives exporters the same privilege of obtaining a regulation variance which applies to all other persons regulated by ATF.

Certain Revenue Rulings, ATF Rulings, and Revenue Procedures are made obsolete by this final rule because they relate to subjects which are no longer regulated, or because they have been incorporated in the new regulations. These are listed after the Derivation and Distribution Tables, below.

Numerous minor editorial, clarifying, and implementing changes are contained in the recodified Parts 20 and 22.

### *Effect on Public-Use Forms*

The following forms have been made obsolete by the new regulations:

ATF Form 133 (5150.29)—Manufacturing Record of Products Containing Specially Denatured Alcohol

ATF Form 1450 (1550.13)—Application and Withdrawal Permit to Procure Spirits Free of Tax

ATF Form 1451 (5150.28)—Report of Tax-Free Alcohol User

ATF Form 1467 (5110.15)—Details of Packages Filled with Denatured Spirits

ATF Form 1473 (5110.16)—Shipment and Receipt-Specially Denatured, Tax-Free or Recovered Spirits
ATF Form 1477 (5150.15)—Application and Withdrawal Permit of Bonded Dealer to Procure Specially Denatured Spirits
ATF Form 1478 (5150.10)—Bonded Dealer's Report of Specially Denatured Alcohol or Rum
ATF Form 1485 (5150.12)—Application and Withdrawal Permits of User to Procure Specially Denatured Spirits
ATF Form 1512 (5150.14)—Application and Permit to Procure Samples of Specially Denatured Spirits
ATF Form 2622 (5150.26)—Application to Procure, Reprocess, Bottle, Repackage, or Resell Products Containing Specially Denatured Alcohol
ATF Form 4326 (5150.21)—Application for Limited Industrial Use and Withdrawal Permit
ATF Form 4327 (5150.11)—Limited Withdrawal Permit to Procure Specially Denatured Spirits or Tax-Free Alcohol
ATF Form 5150.34—Redenaturation of Recovered Denatured Spirits

The following forms have been consolidated, revised, and renumbered by the new regulations:

ATF Form 1474 (5150.30)—Application for Permit to Deal in Specially Denatured Spirits, ATF Form 1479 (5150.23)—Application for Permit to Use Specially Denatured Spirits, and ATF Form 2600 (5150.22)—Application for Permit to Use Alcohol Free of Tax, are consolidated as ATF Form 5150.22—Application for Industrial Alcohol User Permit.

ATF Form 1447 (5150.9)—Permit to Use Alcohol Free of Tax, ATF Form 1476 (5150.16)—Permit to Deal in Specially Denatured Alcohol or Rum, and ATF Form 1481 (5150.17)—Permit to Use Specially Denatured Alcohol or Rum, are consolidated as ATF Form 1550.9—Industrial Alcohol User Permit.

ATF Form 1448 (5150.25)—Tax-Free Alcohol User's Bond, ATF Form 1475 (5150.24)—Bond of Dealer in Specially Denatured Alcohol and/or Rum, and ATF Form 1480 (5150.20)—Bond of User of Specially Denatured Alcohol or Rum, are consolidated as ATF Form 5150.25—Industrial Alcohol Bond.

ATF Form 1444 (5150.33)—Tax-Free Spirits for Use of the United States, and ATF Form 1486—Specially Denatured Spirits for Use of the United States, are consolidated as ATF Form 5150.33—Alcohol for Use of the United States.

ATF Form 1479-A (5150.19)—Formula for Article Made with Specially Denatured Alcohol or Rum, has been renumbered as ATF Form 5150.19.

As previously discussed, ATF Form 1482 (5150.18)—User's Report of Denatured Alcohol or Rum, has been revised by eliminating Parts I and II, and making the entire report consist only of the previous Part III. This form is renumbered as ATF Form 5150.18.

## Executive Order 12291

It has been determined that this final rule 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 government 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.

## Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. This final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. This final rule is not expected to have significant secondary or incidental effects 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 this final rule will not have a significant economic impact on a substantial number of small entities.

## Paperwork Reduction Act

The collections of information contained in this final rule have been reviewed and approved by the Office of Management and Budget (OMB). In response to Notice No. 389, ATF received 17 comments, 12 of which discussed paperwork burdens. In accordance with 5 CFR Part 1320, the following is a discussion of those comments.

GATX Terminals Corporation's offices in Carteret, NJ, and San Pedro, CA, Block Drug Company, Inc., Procter & Gamble Co., and National Distillers and Chemical Corporation were in favor of the proposed elimination of withdrawal permits.

Baltimore County General Hospital and Block Drug Company, Inc., were in favor of the proposed elimination of annual reports.

Good Samaritan Medical Center, Milwaukee, WI, was in favor of reduced filing of Power of Attorney forms.

GATX Terminals Corporation's office in San Pedro, CA, Block Drug Company, Inc., Procter & Gamble Co., and National Distillers and Chemical Corporation were in favor of the proposed elimination of Form 1473.

Publicker Industries, Inc., was in favor of the proposed elimination of the requirement to obtain written approval for returning shipments to a supplier.

Procter & Gamble Co., and National Distillers and Chemical Corporation were in favor of the proposed elimination of mandatory label approval, and the proposed establishment of general-use formulas as a means of reducing the number of formulas which must be filed for approval.

Shell Chemical Company was in favor of reduced filing of Form 1512, and the elimination of the requirement to obtain written approval for a chemical distributor to repackage special industrial solvents.

In addition to the comments by National Distillers and Chemical Corporation discussed above, they were also in favor of the proposed elimination of limited-use permits, the proposed elimination of requirements relating to rebottlers and reprocessors of articles, and the proposed elimination of Form 1467.

The following organizations were generally in favor of the proposed reductions in paperwork, without commenting on specific paperwork burdens: American Pharmaceutical Association, Monsanto Plastics & Resins Co., and American Society of Hospital Pharmacists.

All of the suggested improvements related to recordkeeping and/or reporting contained in public comments are implemented in this final rule. Moreover, this final rule fulfills the purpose of the Paperwork Reduction Act because it does not impose a single new recordkeeping or reporting requirement, it eliminates many of the previous requirements, and it streamlines nearly all of the remaining requirements to fit within usual and customary business records maintained by regulated industry members.

## Drafting Information

The principal author of this document is John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

DERIVATION TABLE FOR PART 20

| The requirements of— | Are derived from— |
|---|---|
| **Subpart A** | |
| § 20.1 | § 211.1. |
| § 20.2 | § 211.2 |
| § 20.3 | § 211.3 |
| **Subpart B** | |
| § 20.11 | § 211.11. |
| **Subpart C** | |
| § 20.21 | § 211.21. |
| § 20.22 | § 211.22. |
| § 20.23 | § 211.23. |
| § 20.24 | § 211.24. |
| § 20.25 | § 211.25. |
| § 20.26 | § 211.26. |
| § 20.27 | § 211.27. |
| § 20.28 | § 211.28. |
| § 20.31 | § 211.31. |
| § 20.33 | § 211.33. |
| § 20.36 | § 211.34. |
| § 20.37 | § 211.35. |
| **Subpart D** | |
| § 20.41 | §§ 211.41, 211.42. |
| § 20.42 | §§ 211.43, 211.52. |
| § 20.43 | § 211.44. |
| § 20.44 | § 211.48. |
| § 20.45 | § 211.53. |
| § 20.48 | § 211.45. |
| § 20.49 | § 211.46. |
| § 20.50 | § 211.49. |
| § 20.51 | § 211.50. |
| § 20.52 | § 211.51. |
| § 20.53 | § 211.54. |
| § 20.54 | New. |
| § 20.55 | § 211.47. |
| § 20.56 | § 211.55. |
| § 20.57 | § 211.56. |
| § 20.58 | § 211.60. |
| § 20.59 | § 211.63. |
| § 20.60 | § 211.57. |
| § 20.61 | § 211.58. |
| § 20.62 | § 211.59. |
| § 20.63 | § 211.62. |
| § 20.64 | New. |
| § 20.66 | § 211.64. |
| § 20.68 | § 211.65. |
| **Subpart E** | |
| § 20.71 | §§ 211.71, 211.72. |
| § 20.72 | New. |
| § 20.73 | § 211.73. |
| § 20.74 | § 211.73a. |
| § 20.75 | § 211.73b. |
| § 20.76 | § 211.74. |
| § 20.77 | § 211.75. |
| § 20.78 | § 211.76. |
| § 20.79 | § 211.77. |
| § 20.80 | § 211.78. |
| § 20.81 | § 211.79. |
| § 20.82 | § 211.80. |
| **Subpart F** | |
| § 20.91 | § 211.101. |
| § 20.92 | § 211.107. |
| § 20.93 | New. |
| § 20.94 | § 211.105. |
| § 20.95 | Rev. Rul. 71-410. |
| § 20.100 | § 211.108. |
| § 20.101 | New. |
| § 20.102 | § 211.192. |
| § 20.103 | § 211.192. |
| § 20.104 | ATF Rul. 75-14. |
| § 20.111 | New. |
| § 20.112 | §§ 211.180, 211.181, 211.182. |
| § 20.113 | § 211.170. |
| § 20.114 | New. |
| § 20.115 | Do. |
| § 20.116 | Do. |

DERIVATION TABLE FOR PART 20—Continued

| The requirements of— | Are derived from— |
|---|---|
| § 20.117 | § 211.199. |
| § 20.118 | § 211.187. |
| § 20.119 | New. |
| **Subpart G** | |
| § 20.131 | New. |
| § 20.132 | §§ 211.30, 211.198. |
| § 20.133 | §§ 211.104, 211.193, 211.194, 211.266. |
| § 20.134 | §§ 211.195, 211.186-211.188. |
| § 20.135 | § 211.196. |
| § 20.136 | § 211.33a. |
| § 20.137 | New. |
| **Subpart H** | |
| § 20.141 | § 211.111. |
| § 20.142 | § 211.112. |
| § 20.143 | § 211.115. |
| § 20.144 | § 211.116. |
| § 20.145 | § 211.117. |
| § 20.146 | § 211.118. |
| § 20.147 | § 211.121. |
| § 20.148 | § 211.122. |
| § 20.149 | § 211.125. |
| **Subpart I** | |
| § 20.161 | §§ 211.136, 211.166. |
| § 20.162 | §§ 211.138, 211.167. |
| § 20.163 | §§ 211.139, 211.168. |
| § 20.164 | § 211.91. |
| § 20.165 | §§ 211.92, 211.93. |
| § 20.166 | § 211.94. |
| § 20.167 | § 211.95. |
| § 20.170 | § 211.243. |
| § 20.171 | § 211.148. |
| § 20.172 | §§ 211.149, 211.202. |
| § 20.175 | § 211.137. |
| § 20.176 | § 211.140. |
| § 20.177 | § 211.141. |
| § 20.178 | § 211.142. |
| § 20.179 | § 211.143. |
| § 20.180 | § 211.145. |
| § 20.181 | § 211.146. |
| § 20.182 | § 211.147. |
| § 20.189 | § 211.169. |
| § 20.190 | § 211.169. |
| § 20.191 | §§ 211.193, 211.194. |
| § 20.192 | § 211.265. |
| **Subpart J** | |
| § 20.201 | § 211.241. |
| § 20.202 | § 211.242. |
| § 20.203 | § 211.243. |
| § 20.204 | § 211.245. |
| § 20.205 | § 211.244. |
| **Subpart K** | |
| § 20.211 | § 211.211. |
| § 20.212 | § 211.212. |
| § 20.213 | § 211.213. |
| § 20.214 | § 211.217. |
| § 20.215 | § 211.219. |
| § 20.216 | § 211.218. |
| **Subpart L** | |
| § 20.221 | § 211.251. |
| § 20.222 | § 211.251. |
| **Subpart M** | |
| § 20.231 | §§ 211.252, 211.255. |
| § 20.232 | §§ 211.253, 211.255. |
| § 20.233 | § 211.256. |
| § 20.234 | §§ 211.254, 211.257. |

DERIVATION TABLE FOR PART 20—Continued

| The requirements of— | Are derived from— |
|---|---|
| § 20.235 | § 211.255. |
| **Subpart N** | |
| § 20.241 | § 211.232. |
| § 20.242 | § 211.231. |
| § 20.243 | § 211.233. |
| § 20.244 | § 211.235. |
| § 20.245 | § 211.236. |
| § 20.246 | § 211.237. |
| **Subpart O** | |
| § 20.251 | § 211.281. |
| § 20.252 | §§ 211.282, 211.283. |
| § 20.253 | § 211.284. |
| **Subpart P** | |
| § 20.261 | § 211.261. |
| § 20.262 | § 211.264. |
| § 20.263 | § 211.265. |
| § 20.264 | § 211.266. |
| § 20.265 | § 211.267. |
| § 20.266 | § 211.272. |
| § 20.267 | § 211.273. |
| § 20.268 | § 211.274. |

DISTRIBUTION TABLE FOR PART 211

| The requirements of— | Are now found in— |
|---|---|
| **Subpart A** | |
| § 211.1 | § 20.1. |
| § 211.2 | § 20.2. |
| § 211.3 | § 20.3. |
| **Subpart B** | |
| § 211.11 | § 20.11. |
| **Subpart C** | |
| § 211.21 | § 20.21. |
| § 211.22 | § 20.22. |
| § 211.23 | § 20.23. |
| § 211.24 | § 20.24. |
| § 211.25 | § 20.25. |
| § 211.26 | § 20.26. |
| § 211.27 | § 20.27. |
| § 211.28 | § 20.28. |
| § 211.29 | Obsolete. |
| § 211.30 | § 20.132. |
| § 211.31 | § 20.31. |
| § 211.33 | § 20.33. |
| § 211.33a | § 20.136. |
| § 211.34 | § 20.36. |
| § 211.35 | § 20.37. |
| **Subpart D** | |
| § 211.41 | § 20.41. |
| § 211.42 | § 20.41. |
| § 211.42a | Obsolete. |
| § 211.43 | § 20.42. |
| § 211.43a | Obsolete. |
| § 211.44 | § 20.43. |
| § 211.45 | § 20.48. |
| § 211.46 | § 20.49. |
| § 211.47 | § 20.55. |
| § 211.48 | § 20.44. |
| § 211.49 | § 20.50. |
| § 211.50 | § 20.51. |
| § 211.51 | § 20.52. |
| § 211.52 | § 20.42(a)(9). |
| § 211.53 | § 20.45. |
| § 211.54 | § 20.53. |
| § 211.55 | § 20.56. |
| § 211.56 | § 20.57. |
| § 211.57 | § 20.60. |
| § 211.58 | § 20.61. |
| § 211.59 | § 20.62. |
| § 211.60 | § 20.58. |
| § 211.61 | § 20.57. |
| § 211.62 | § 20.63. |
| § 211.63 | § 20.59. |
| § 211.64 | § 20.66. |
| § 211.65 | § 20.68. |

DISTRIBUTION TABLE FOR PART 211—Continued

| The requirements of— | Are now found in— |
|---|---|
| **Subpart E** | |
| § 211.71 | § 20.71. |
| § 211.72 | § 20.71. |
| § 211.73 | § 20.73. |
| § 211.73a | § 20.74. |
| § 211.73b | § 20.75. |
| § 211.74 | § 20.76. |
| § 211.75 | § 20.77. |
| § 211.76 | § 20.78. |
| § 211.77 | § 20.79. |
| § 211.78 | § 20.80. |
| § 211.79 | § 20.81. |
| § 211.80 | § 20.82. |
| **Subpart F** | |
| § 211.91 | § 20.164. |
| § 211.92 | § 20.165. |
| § 211.93 | § 20.165. |
| § 211.94 | § 20.166. |
| § 211.95 | § 20.167. |
| § 211.96 | Obsolete. |
| **Subpart G** | |
| § 211.101 | § 20.91. |
| § 211.102 | Obsolete. |
| § 211.103 | Do. |
| § 211.104 | § 20.133. |
| § 211.105 | § 20.94. |
| **Subpart H** | |
| § 211.106 | Obsolete. |
| § 211.107 | § 20.92. |
| § 211.108 | § 20.100. |
| § 211.111 | § 20.141. |
| § 211.112 | § 20.142. |
| § 211.113 | Obsolete. |
| § 211.114 | Do. |
| § 211.115 | § 20.143. |
| § 211.116 | § 20.144. |
| § 211.117 | § 20.145. |
| § 211.118 | § 20.146. |
| § 211.119 | Obsolete. |
| § 211.120 | Do. |
| § 211.121 | § 20.147. |
| § 211.122 | § 20.148. |
| § 211.123 | Obsolete. |
| § 211.124 | Do. |
| § 211.125 | § 20.149. |
| **Subpart I** | |
| § 211.131 | Obsolete. |
| § 211.132 | Do. |
| § 211.134 | Do. |
| § 211.135 | Do. |
| § 211.136 | § 20.161. |
| § 211.137 | § 20.175. |
| § 211.138 | § 20.162. |
| § 211.139 | § 20.163. |
| § 211.140 | § 20.176. |
| § 211.141 | § 20.177. |
| § 211.142 | § 20.178. |
| § 211.143 | § 20.179. |
| § 211.144 | Obsolete. |
| § 211.145 | § 20.180. |
| § 211.146 | § 20.181. |
| § 211.147 | § 20.182. |
| § 211.148 | § 20.171. |
| § 211.149 | § 20.172. |
| **Subpart J** | |
| § 211.161 | Obsolete. |
| § 211.162 | Do. |
| § 211.163a | Do. |
| § 211.164 | Do. |
| § 211.165 | Do. |
| § 211.166 | § 20.161. |
| § 211.167 | § 20.162. |
| § 211.168 | § 20.163. |
| § 211.169 | § 20.189. |
| § 211.170 | § 20.113. |
| § 211.171 | Obsolete. |
| § 211.172 | Do. |
| § 211.173 | Do. |
| § 211.174 | Do. |
| § 211.175 | Do. |
| § 211.176 | Do. |

DISTRIBUTION TABLE FOR PART 211—Continued

| The requirements of— | Are now found in— |
|---|---|
| § 211.177 | Do. |
| § 211.178 | Do. |
| § 211.179 | Do. |
| § 211.180 | § 20.112. |
| § 211.181 | § 20.112. |
| § 211.182 | § 20.112. |
| § 211.183 | Obsolete. |
| § 211.183a | Do. |
| § 211.184 | Do. |
| § 211.185 | Do. |
| § 211.185a | Do. |
| § 211.185b | Do. |
| § 211.186 | § 20.134. |
| § 211.187 | §§ 20.118, 20.134. |
| § 211.188 | § 20.134. |
| § 211.190 | Obsolete. |
| § 211.190a | Do. |
| § 211.190b | Do. |
| § 211.190c | Do. |
| § 211.190d | Do. |
| § 211.190e | Do. |
| § 211.191 | Do. |
| § 211.192 | §§ 20.102, 20.103. |
| § 211.193 | §§ 20.133, 20.191. |
| § 211.194 | §§ 20.133, 20.191. |
| § 211.195 | § 20.134. |
| § 211.196 | § 20.135. |
| § 211.197 | Obsolete. |
| § 211.198 | § 20.132. |
| § 211.199 | § 20.117. |
| § 211.200 | Obsolete. |
| § 211.201 | § 20.133. |
| § 211.202 | § 20.172. |
| **Subpart K** | |
| § 211.211 | § 20.211. |
| § 211.212 | § 20.212. |
| § 211.213 | § 20.213. |
| § 211.214 | Obsolete. |
| § 211.215 | Redundant. |
| § 211.217 | § 20.214. |
| § 211.218 | § 20.216. |
| § 211.219 | § 20.215. |
| **Subpart L** | |
| § 211.231 | § 20.242. |
| § 211.232 | § 20.241. |
| § 211.233 | § 20.243. |
| § 211.234 | Obsolete. |
| § 211.235 | § 20.244. |
| § 211.236 | § 20.245. |
| § 211.237 | § 20.246. |
| **Subpart M** | |
| § 211.241 | § 20.201. |
| § 211.242 | § 20.202. |
| § 211.243 | §§ 20.170, 20.203. |
| § 211.244 | § 20.205. |
| § 211.245 | § 20.204. |
| **Subpart N** | |
| § 211.251 | §§ 20.221, 20.222. |
| § 211.252 | § 20.231. |
| § 211.253 | § 20.232. |
| § 211.254 | § 20.234. |
| § 211.255 | §§ 20.231, 20.232, 20.235. |
| § 211.256 | § 20.233. |
| § 211.257 | § 20.234. |
| § 211.258 | Obsolete |
| **Subpart O** | |
| § 211.261 | § 20.261. |
| § 211.262 | Obsolete. |
| § 211.263 | Do. |
| § 211.264 | § 20.262. |
| § 211.265 | §§ 20.192, 20.263. |
| § 211.266 | Obsolete. |
| § 211.267 | § 20.265. |

DISTRIBUTION TABLE FOR PART 211—Continued

| The requirements of— | Are now found in— |
|---|---|
| § 211.268 | Obsolete. |
| § 211.269 | Do. |
| § 211.270 | Do. |
| § 211.271 | § 20.264. |
| § 211.272 | § 20.266. |
| § 211.273 | § 20.267. |
| § 211.274 | § 20.268. |
| § 211.275 | Obsolete |
| **Subpart P** | |
| § 211.281 | § 20.251. |
| § 211.282 | § 20.252. |
| § 211.283 | § 20.252. |
| § 211.284 | § 20.253. |
| § 211.285 | Obsolete. |

DERIVATION TABLE FOR PART 22

| The Requirements of— | Are derived from— |
|---|---|
| **Subpart A** | |
| § 22.1 | § 213.1. |
| § 22.2 | § 213.2. |
| § 22.3 | § 213.3. |
| **Subpart B** | |
| § 22.11 | § 213.11. |
| **Subpart C** | |
| § 22.21 | § 213.21. |
| § 22.22 | § 213.22. |
| § 22.23 | § 213.23. |
| § 22.24 | § 213.24. |
| § 22.25 | § 213.25. |
| § 22.26 | § 213.26. |
| § 22.27 | § 213.27. |
| § 22.31 | § 213.28. |
| § 22.33 | § 213.30. |
| § 22.35 | § 213.31. |
| § 22.36 | § 213.32. |
| **Subpart D** | |
| § 22.41 | § 213.41. |
| § 22.42 | §§ 213.42, 213.51. |
| § 22.43 | § 213.43. |
| § 22.44 | § 213.47. |
| § 22.45 | § 213.52. |
| § 22.48 | § 213.44. |
| § 22.49 | § 213.45. |
| § 22.50 | § 213.48. |
| § 22.51 | § 213.49. |
| § 22.52 | § 213.50. |
| § 22.53 | § 213.53. |
| § 22.54 | § 213.114. |
| § 22.55 | § 213.46. |
| § 22.57 | § 213.54. |
| § 22.58 | §§ 213.55, 213.58. |
| § 22.59 | § 213.56. |
| § 22.60 | § 213.57. |
| § 22.61 | § 213.59. |
| § 22.62 | § 213.60. |
| § 22.63 | § 213.61. |
| § 22.64 | § 213.63. |
| § 22.66 | § 213.62. |
| § 22.68 | § 213.69. |
| **Subpart E** | |
| § 22.71 | § 213.71. |
| § 22.72 | New. |
| § 22.73 | § 213.72. |
| § 22.74 | § 213.72a. |
| § 22.75 | § 213.72b. |
| § 22.76 | § 213.73. |
| § 22.77 | § 213.74. |
| § 22.78 | § 213.75. |
| § 22.79 | § 213.76. |
| § 22.80 | § 213.77. |
| § 22.81 | § 213.78. |
| § 22.82 | § 213.79. |

DERIVATION TABLE FOR PART 22—Continued

| The Requirements of— | Are derived from— |
|---|---|
| **Subpart F** | |
| § 22.91 | § 213.91. |
| § 22.92 | §§ 213.92, 213.93. |
| § 22.93 | §§ 213.94, 213.95. |
| **Subpart G** | |
| § 22.101 | § 213.101. |
| § 22.102 | § 213.108. |
| § 22.103 | § 213.102. |
| § 22.104 | § 213.103. |
| § 22.105 | § 213.104. |
| § 22.106 | § 213.105. |
| § 22.107 | § 213.106. |
| § 22.108 | § 213.107. |
| **Subpart H** | |
| § 22.111 | § 213.114. |
| § 22.112 | § 213.115. |
| § 22.113 | § 213.116. |
| § 22.114 | § 213.117. |
| **Subpart I** | |
| § 22.121 | § 213.151. |
| § 22.122 | § 213.152. |
| § 22.123 | § 213.153. |
| § 22.124 | § 213.155. |
| § 22.125 | § 213.154. |
| **Subpart J** | |
| § 22.131 | § 213.131. |
| § 22.132 | § 213.132. |
| § 22.133 | § 213.133. |
| § 22.134 | § 213.134. |
| **Subpart K** | |
| § 22.141 | New. |
| § 22.142 | § 213.161. |
| **Subpart L** | |
| § 22.151 | § 213.162. |
| § 22.152 | § 213.163. |
| § 22.153 | § 213.166. |
| § 22.154 | § 213.164. |
| § 22.155 | New. |
| **Subpart M** | |
| § 22.161 | § 213.171. |
| § 22.162 | § 213.172. |
| § 22.163 | § 213.174. |
| § 22.164 | § 213.175. |
| § 22.165 | § 213.176. |
| **Subpart N** | |
| § 22.171 | § 213.141. |
| § 22.172 | § 213.142. |
| § 22.173 | § 213.143. |
| § 22.174 | § 213.144. |
| § 22.175 | § 213.145. |
| § 22.176 | § 213.146. |

DISTRIBUTION TABLE FOR PART 213

| The Requirements of— | Are now found in— |
|---|---|
| **Subpart A** | |
| § 213.1 | § 22.1. |
| § 213.2 | § 22.2. |
| § 213.3 | § 22.3. |
| **Subpart B** | |
| § 213.11 | § 22.11. |
| **Subpart C** | |
| § 213.21 | § 22.21. |
| § 213.22 | § 22.22. |
| § 213.23 | § 22.23. |
| § 213.24 | § 22.24. |
| § 213.25 | § 22.25. |

DISTRIBUTION TABLE FOR PART 213—Continued

| The Requirements of— | Are now found in— |
|---|---|
| § 213.26 | § 22.26. |
| § 213.27 | § 22.27. |
| § 213.28 | § 22.31. |
| § 213.30 | § 22.33. |
| § 213.31 | § 22.35. |
| § 213.32 | § 22.36. |
| **Subpart D** | |
| § 213.41 | § 22.41. |
| § 213.41a | Obsolete. |
| § 213.42 | § 22.42. |
| § 213.42a | Obsolete. |
| § 213.43 | § 22.43. |
| § 213.43a | Obsolete. |
| § 213.44 | § 22.48. |
| § 213.45 | § 22.49. |
| § 213.46 | § 22.55. |
| § 213.47 | § 22.44. |
| § 213.48 | § 22.50. |
| § 213.49 | § 22.51. |
| § 213.50 | § 22.52. |
| § 213.51 | § 22.42(a)(9). |
| § 213.52 | § 22.45. |
| § 213.53 | § 22.53. |
| § 213.54 | § 22.57. |
| § 213.55 | § 22.58. |
| § 213.56 | § 22.59. |
| § 213.57 | § 22.60. |
| § 213.58 | § 22.58(c). |
| § 213.59 | § 22.61. |
| § 213.60 | § 22.62. |
| § 213.61 | § 22.63. |
| § 213.62 | § 22.66. |
| § 213.63 | §§ 22.64, 22.68. |
| **Subpart E** | |
| § 213.71 | § 22.71. |
| § 213.72 | § 22.73. |
| § 213.72a | § 22.74. |
| § 213.72b | § 22.75. |
| § 213.73 | § 22.76. |
| § 213.74 | § 22.77. |
| § 213.75 | § 22.78. |
| § 213.76 | § 22.79. |
| § 213.77 | § 22.80. |
| § 213.78 | § 22.81. |
| § 213.79 | § 22.82. |
| **Subpart F** | |
| § 213.91 | § 22.91. |
| § 213.92 | § 22.92(a). |
| § 213.93 | § 22.92(b). |
| § 213.94 | § 22.93(b)(1). |
| § 213.95 | § 22.93(b)(2). |
| **Subpart G** | |
| § 213.101 | § 22.101. |
| § 213.102 | § 22.103. |
| § 213.103 | § 22.104. |
| § 213.104 | § 22.105. |
| § 213.105 | § 22.106. |
| § 213.106 | § 22.107. |
| § 213.107 | § 22.108. |
| § 213.108 | § 22.102. |
| § 213.109 | Osolete. |
| § 213.110 | Do. |
| § 213.111a | Do. |
| § 213.112 | Do. |
| § 213.113 | Do. |
| § 213.114 | §§ 22.54, 22.111. |
| § 213.115 | § 22.112. |
| § 213.116 | § 22.113. |
| § 213.117 | § 22.114. |
| § 213.118 | Redundant. |
| **Subpart H** | |
| § 213.131 | § 22.131. |
| § 213.132 | § 22.132. |
| § 213.133 | § 22.133. |
| § 213.134 | § 22.134. |
| **Subpart I** | |
| § 213.141 | § 22.171. |
| § 213.142 | § 22.172. |
| § 213.143 | § 22.173. |
| § 213.144 | § 22.174. |

DISTRIBUTION TABLE FOR PART 213—Continued

| The Requirements of— | Are now found in— |
|---|---|
| § 213.145 | § 22.175. |
| § 213.146 | § 22.176. |
| **Subpart J** | |
| § 213.151 | § 22.121. |
| § 213.152 | § 22.122. |
| § 213.153 | § 22.123. |
| § 213.154 | § 22.125. |
| § 213.155 | § 22.124. |
| **Subpart K** | |
| § 213.161 | § 22.142. |
| § 213.162 | § 22.151. |
| § 213.163 | § 22.152. |
| § 213.164 | § 22.154(a). |
| § 213.165 | § 22.139. |
| § 213.166 | § 22.153. |
| § 213.167 | § 22.154(b). |
| **Subpart L** | |
| § 213.171 | § 22.161. |
| § 213.172 | § 22.162. |
| § 213.173 | Obsolete. |
| § 213.174 | § 22.163. |
| § 213.175 | § 22.164. |
| § 213.176 | § 22.165. |

## Obsolete Rulings and Procedures

The following Revenue Rulings and ATF Rulings are obsolete because they have been incorporated in the new regulations:

Rev. Rul. 57–429, 1957–2, C.B. 962
Rev. Rul. 58–22, 1958–1 C.B. 597
Rev. Rul. 64–298, 1964–2 C.B. 564
Rev. Rul. 64–317, 1964–2 C.B. 317
Rev. Rul. 71–410, 1971–2 C.B. 454
ATF Rul. 74–14, 1974 ATF C.B. 38
ATF Rul. 75–3, 1975 ATF C.B. 48
ATF Rul. 75–14, 1975 ATF C.B. 47
ATF Rul. 79–5, A.T.F.Q.B. 1979–1, 24
ATF Rul. 79–19, A.T.F.Q.B. 1979–4, 9
ATF Rul. 80–1, A.T.F.Q.B. 1980–1, 17

The following Revenue Rulings, Revenue Procedures, and ATF Rulings are obsolete because they relate to subjects which are no longer regulated:

Rev. Rul. 54–160, 1954–1 C.B. 320
Rev. Rul. 57–86, 1957–1 C.B. 606
Rev. Rul. 58–31, 1958–1 C.B. 595
Rev. Proc. 60–21, 1960–2 C.B. 991
Rev. Rul. 60–343, 1960–2 C.B. 611
Rev. Proc. 61–4, 1961–1 C.B. 890
Rev. Rul. 61–50, 1961–1 C.B. 811
Rev. Rul. 61–132, 1961–2 C.B. 276
Rev. Rul. 61–154, C.B. 1961–2 277
Rev. Rul. 62–36, 1962–1 C.B. 352
Rev. Rul. 65–160, 1965–1 C.B. 587
Rev. Rul. 65–306, 1965–2 C.B. 508
Rev. Rul. 66–228 1966–2 C.B. 536
Rev. Proc. 68–43, 1968–1 C.B. 146
Rev. Rul. 70–646, 1970–2 C.B. 319
Rev. Rul. 72–56, 1972–1 C.B. 420
ATF. Rul. 77–9, 1977 ATF C.B. 176
ATF. Rul. 77–22, 1977 ATF C.B. 173.

**List of Subjects in 27 CFR Parts 19, 20, 21, 22, 170, 200, 211, 213, 250, 251 and 252**

Administrative practice and procedure, Advertising, Alcohol, Authority delegations, Chemicals claims, Cosmetics, Labeling, Packaging containers, Reporting and recordkeeping requirements, Surety bonds, Transportation.

**Authority and Issuance**

This regulation is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Accordingly, Title 27, CFR, is amended as follows:

## PART 19—DISTILLED SPIRITS PLANTS

Section A. Part 19 is amended as follows:

**Paragraph 1.** The Table of Sections for Part 19 is amended by revising the heading of § 19.779 as follows:

Sec.

* * * * *

19.779 Record of shipment of spirits and specially denatured spirits withdrawn free of tax.

* * * * *

**Par. 2.** Section 19.3 is revised to read as follows:

**§ 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—Wine Labeling and Advertising.
27 CFR Part 5—Labeling and Advertising Distilled Spirits.
27 CFR Part 20—Distribution and Use of Denatured Alcohol and Rum.
27 CFR Part 21—Formulas for Denatured Alcohol and Rum.
27 CFR Part 22—Distribution and Use of Tax-Free Alcohol.
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 Manfacturing Nonbeverage Products.
27 CFR Part 200—Rules of Practice in Permit Proceedings.
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, Wine, 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.

**§ 19.11 [Amended]**

**Par. 3.** The definitions of *Article, Recovered article,* and *Spirits residue* in § 19.11 are amended by replacing "Part 211" with "Part 20".

**§ 19.69 [Amended]**

**Par. 4.** The first sentence of § 19.69 is amended by replacing "Part 211" with "Part 20".

**§ 19.186 [Amended]**

**Par. 5.** Paragraph (a) of § 19.186 is amended by replacing the words "Forms 5110.38 and 1479–A" with the word "formulas".

**Par. 6.** Paragraph (b) of § 19.187 is amended to read as follows:

**§ 19.187 Adoption of formulas.**

* * * * *

(b) *Form 5150.19.* The adoption by a successor of approved Forms 5150.19 (or previously approved Forms 1479–A) shall be in accordance with § 20.63 of this chapter.

* * * * *

**Par. 7.** Paragraph (a) of § 19.460 is revised to conform to the new formula for SDA Formula No. 1. As revised, § 19.460(a) reads as follows:

**§ 19.460 Conversion of denatured alcohol formulas.**

(a) *Conversion of 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 either denatonium-benzoate, N.F. (BITREX), methyl isobutyl ketone, mixed isomers of nitropropane, or methyl *n*-butyl ketone in accordance with the formulation 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 one of the other ingredients prescribed in § 21.32 of this chapter.

* * * * *

**§ 19.471 [Amended]**

**Par. 8.** Section 19.471 is amended by replacing "Part 211" with "Part 20".

**Par. 9.** Paragraphs (a), (b), and (d)(1) of § 19.536 are amended to read as follows:

**§ 19.536 Authorized withdrawals free of tax.**

* * * * *

(a) On receipt of a signed photocopy of a permit, issued under Part 22 of this chapter, 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 signed photocopy of a permit, issued under Part 22 of this chapter, to procure spirits by and for the use of the United States or any governmental agency, any State, any political division of a State, or the District of Columbia, for nonbeverage purposes as provided in 26 U.S.C. 5214(a)(2);

* * * * *

(d) * * *

(1) On receipt of a signed photocopy of a permit to procure specially denatured spirits, issued under Part 20 of this chapter.

* * * * *

**Par. 10.** Section 19.537 is revised by deleting the requirement to prepare Form 1473, and providing for the use of commercial documents. As revised, § 19.537 reads as follows:

**§ 19.537 Withdrawal of spirits free of tax.**

Spirits withdrawn free of tax under § 19.536 (a), (b), or (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 the record of shipment. For each shipment the proprietor shall prepare a record of shipment (shipping invoice, bill of lading, or another document intended for the same purpose) and forward the original to the consignee, in accordance with § 19.779. Bulk conveyances used to transport spirits withdrawn free of tax under this section shall be secured in accordance with § 19.96.

(Approved by the Office of Management and Budget under control number 1512–0334)

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

**Par. 11.** Section 19.538 is revised to read as follows:

**§ 19.538 Withdrawal of spirits by the United States.**

(a) *Nonbeverage use.* (1) Government agencies of the United States, intending to procure specially denatured spirits or spirits free of tax for nonbeverage purposes, shall make application for and receive a permit, Form 5150.33, from the Director. Permits may be issued to Government agencies of the United States for:

(i) Withdrawal and use of specially denatured spirits, in accordance with Part 20 of this chapter;

(ii) Withdrawal and use of alcohol free of tax for nonbeverage purposes, in accordance with Part 22 of this chapter; or

(iii) Importation and use of alcohol free of tax for nonbeverage purposes, in accordance with Part 251 of this chapter.

(2) All permits previously issued to Government agencies of the United States for use of spirits or specially denatured spirits on Form 1444 shall remain valid and will be regulated by the same provisions of this chapter as it refers to permits on Form 5150.33.

(3) A Government agency shall forward a signed copy of its permit, Form 5150.33, for retention by the proprietor of the distilled spirits plant for the initial purchase. Subsequent orders with the same vendor shall refer to the permit number.

(4) In the case of a Government agency holding a single permit for use of other sub-agencies, the signed copy of the permit shall contain an attachment listing all other locations authorized to procure spirits under that permit.

(5) For each shipment under this section, the proprietor shall prepare a record of shipment and forward the original to the consignee agency, in accordance with § 19.779.

(b) *Beverage use.* (1) Distilled spirits may be withdrawn free of tax, under 26 U.S.C. 7510, for use for beverage purposes by Government agencies of the United States on receipt of a proper Government purchase order signed by the head of the agency, or an authorized delegate.

(2) For each withdrawal under paragraph (b)(1) of this section, each case removed shall be plainly marked "For Use of the United States" in addition to the marks required by Subpart R of this part.

(3) For each withdrawal under paragraph (b)(1) of this section, the proprietor shall prepare a record containing the information required by § 19.761 for a record of tax determination. The proprietor shall mark this record "Free of Tax For Use of the United States."

(Act of August 16, 1954, Ch. 736, 68A Stat. 900 (26 U.S.C. 7510); sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended, 1375, as amended (26 U.S.C. 5271, 5313))

**Par. 12.** Section 19.539 is amended by revising the first sentence to eliminate the requirement of obtaining approval of the regional director (compliance) for shipment. As amended, § 19.539 reads as follows:

### § 19.539 Disposition of excess spirits.

Upon discontinuance of use of spirits or specially denatured spirits withdrawn free of tax under § 19.538, a Government agency may dispose of excess spirits (a) to another Government agency (the receiving agency is required to have a permit under Part 20 or 22 if the spirits were withdrawn for nonbeverage purposes), (b) by returning the spirits to the proprietor of a distilled spirits plant, or (c) in any manner authorized by the Director. 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); Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended, 1375, as amended (26 U.S.C. 5271, 5313))

**Par. 13.** Section 19.540 is revised to provide for the use of commercial records of disposition in lieu of preparing Form 1473, increasing the authorized size of a sample from one quart to five gallons, eliminating Form 1512, and other conforming and editorial changes. As revised, § 19.540 reads as follows:

### § 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 approval containers to the consignee designated on the permit. If such spirits are for export or for transfer to a foregin-trade zone, they shall be withdrawn under the applicable provisions of Part 252 of this chapter. If such spirits are for shipment to a qualified user, dealer, or an applicant or prospective applicant under paragraph (c)(2)(ii) of this section, the proprietor shall prepare a record of shipment in accordance with § 19.779. 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.* (1) The proprietor may take samples of denatured spirits free of tax which may be necessary for the conduct of business.

(2) The proprietor may furnish samples of specially denatured spirits:

(i) To dealers in, and users of, specially denatured spirits in advance of sales; or

(ii) 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 on request by the Director.

(A) Proprietors shall maintain records to ensure that samples of specially denatured spirits dispensed to nonpermittees do not exceed five gallons per calendar year. Records of samples of less than five gallons shall be maintained as provided in § 19.766.

(B) Samples in excess of five gallons may be furnished to nonpermittees only after the consignee provides the proprietor with a letterhead application approved by the regional director (compliance) under § 20.252 of this chapter. The proprietor shall retain the approved letterhead application on file as a part of the record of transaction.

(C) For each shipment of a sample in excess of five gallons under paragraph (c)(2)(ii)(B) of this section, the proprietor shall prepare a record of shipment and forward the original to the consignee, in accordance with § 19.779.

(3) Each sample of specially denatured spirits withdrawn under the provisions of paragraph (c)(2) of this section shall have a label affixed showing the following information:

(i) The word "Sample", and the words "Specially Denatured Alcohol", or "Specially Denatured Rum", whichever is applicable;

(ii) The name, address, and plant number of the proprietor; and

(iii) The formula number.

(d) *Articles.* Removal of articles from bonded premises shall be in accordance with the provisions of Part 20 of this chapter.

(Approved by the Office of Management and Budget under control number 1512-0337)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1370, as amended (26 U.S.C. 5214, 5271))

**Par. 14.** Section 19.541 is revised to incorporate conforming changes to read as follows:

### § 19.541 Reconsignment.

(a) *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, the spirits may be reconsigned (1) to the consignor, (2) to another proprietor for return to the bonded premises under the provisions of § 19.685, or (3) to another permittee holding a valid permit issued under Part 20 or 22 of this chapter, as applicable.

(b) *Consent of surety*. In case of reconsignment to bonded premises, the provisions of § 19.685, relating to consent of surety in respect to return of spirits or specially denatured spirits withdrawn free of tax, are applicable.

(c) *Records of reconsignment*. In the case of reconsignment, the consignor shall cancel the initial record of shipment and prepare a new record of shipment, if shipment is to another permittee or proprietor. The new record of shipment shall be marked "Reconsignment." File copies of the canceled and the new record of shipment will be annotated to cross reference each other.

(Records relating to tax-free alcohol approved by the Office of Management and Budget under control number 1512-0334; records relating to specially denatured spirits approved by the Office of Management and Budget under control number 1512-0337)

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

**§§ 19.581, 19.583 and 19.592 [Amended]**

**Par. 15.** Sections 19.581, 19.583, and 19.592 are amended by replacing "Part 211" with "Part 20", wherever it appears.

**Par. 16.** The first sentence of § 19.604 is revised to conform the caution label requirement with the revised requirement of Part 20. As revised, § 19.604 reads as follows:

**§ 19.604 Caution label.**

Each container of completely denatured alcohol containing five gallons or less, sold or offered for sale, shall be labeled to show, in plain, legible letters, the words "Completely Denatured Alcohol" and the following statement "Caution—contains poisonous ingredients." * * *

**Par. 17.** Paragraph (d) of § 19.606 is amended to read as follows:

**§ 19.606 Marks on bulk conveyances.**

* * * * *

(d) Bulk conveyances used to transport articles or wine shall conform to the requirements of Part 20 or 240 of this chapter, as applicable.

* * * * *

**§§ 19.683 and 19.684 [Amended]**

**Par. 18.** Sections 19.683 and 19.684 are amended by replacing "Part 211" with "Part 20", wherever it appears.

**§ 19.685 [Amended]**

**Par. 19.** (a) Paragraph (a) of § 19.685 is amended by replacing "Part 211 or 213" with "Part 20 or 22", by replacing "Part 213" with "Part 22", and by replacing "Part 211, 213, or 252" with "Part 20, 22, or 252". (b) The first sentence of paragraph (c) of § 19.685 is removed since it refers to Form 1473 which has been eliminated.

**Par. 20.** Section 19.779 is revised by changing the section heading and incorporating the use of commercial documents in lieu of Form 1473. As revised § 19.779 reads as follows:

**§ 19.779. Record of shipment of spirits and specially denatured spirits withdrawn free of tax.**

(a) *General*. The proprietor shall prepare a record of shipment, and forward the original to the consignee and file a copy, when:

(1) Samples of specially denatured spirits in excess of five gallons are withdrawn in accordance with § 19.540(c)(2);

(2) Spirits are withdrawn free of tax in accordance with § 19.536(a)—(c); and

(3) Specially denatured spirits are withdrawn free of tax in accordance with §§ 19.536(d) and 19.540.

(b) *Form of record*. (1) The record of shipment prescribed in this section may consist of a proprietor's commercial invoice, bill of lading, or another document intended for the same purpose. Any commercial document used as a record of shipment shall:

(i) Be preprinted with the name and address of the proprietor,

(ii) Be sequentially numbered, and

(iii) Be consistently used for the intended purpose.

(2) In addition to any other information on the document, the record of shipment shall contain, as applicable, the following information:

(i) Date of shipment;

(ii) Name, address, and permit number of consignee;

(iii) Kind of spirits;

(iv) Proof of spirits;

(v) Formula number(s), for specially denatured spirits;

(vi) Number and size of containers;

(vii) Package identification numbers or serial numbers of containers; and

(viii) Total wine gallons (specially denatured spirits) or total proof gallons (tax-free alcohol).

(Records relating to tax-free alcohol approved by the Office of Management and Budget under control number 1512-0334; records relating to specially denatured spirits approved by the Office of Management and Budget under control number 1512-0337)

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

## PART 211—[REVISED AND REDESIGNATED PART 20]

Section B. Part 211 is revised and redesignated as Part 20 as follows:

1. The regulations in this part supersede 27 CFR Part 211 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.

3. The regulations in this part are effective on June 4, 1985.

## PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Authority: August 16, 1954, Chapter 736, 68A Stat. 917, as amended (26 U.S.C. 7805); Sec. 201, Pub. L. 85-859, 72 Stat. 1370-1373, as amended (26 U.S.C. 5271-5275), unless otherwise noted.

## Subpart A—Scope

### § 20.1 General.

The regulations in this part relate to denatured distilled spirits and cover the procurement, use, disposition, and recovery of denatured alcohol, specially denatured rum, and articles containing denatured spirits.

### § 20.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia and to denatured spirits and articles coming into the United States from Puerto Rico or the Virgin Islands.

### § 20.3 Related regulations.

Regulations related to this part are listed below:

16 CFR Chapter I—Federal Trade Commission.
16 CFR Chapter II—Consumer Product Safety Commission.
21 CFR Chapter I—Food and Drug Administration, Department of Health and Human Services.
27 CFR Part 19—Distilled Spirits Plants.

27 CFR Part 21—Formulas for Denatured Alcohol and Rum.
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.

## Subpart B—Definitions

### § 20.11 Meaning of terms.

When used in this part and in forms prescribed under this part, the following terms have the meanings given in this section. Words in the plural form include the singular, and vice versa, and words importing 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.* Those spirits known as ethyl alcohol, ethanol, or spirits of wine, from whatever source or by whatever process produced; the term does not include such spirits as whisky, brandy, rum, gin, or vodka.

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

*Article.* Any substance or preparation in the manufacture of which denatured spirits are used, including the product obtained by further manufacture or by combination with other materials, if the article subjected to further manufacture or combination contained denatured spirits.

*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, or tank barge, or a compartment of any such conveyance, or any other container approved by the Director for the conveyance of comparable quantities of denatured spirits or articles.

*CFR.* The Code of Federal Regulations.

*Completely denatured alcohol.* Those spirits known as alcohol, as defined in this section, denatured under the completely denatured alcohol formulas prescribed in Subpart C of Part 21 of this chapter.

*Dealer.* A person who holds a permit to deal in specially denatured alcohol or specially denatured rum for resale to persons authorized to purchase or receive specially denatured alcohol or specially denatured rum in accordance with this part.

*Denaturant.* Any one of the materials authorized under Part 21 of this chapter for addition to spirits in the production of denatured spirits.

*Denatured spirits.* Alcohol or rum to which denaturants have been added as provided in Part 21 of this chapter.

*Denaturer.* The proprietor of a distilled spirits plant who denatures alcohol or rum under Part 19 of this chapter.

*Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC 20226.

*Distributor.* Any person who sells completely denatured alcohol, other than a proprietor of a distilled spirits plant who sells such alcohol at the plant premises, and any person who sells articles containing completely or specially denatured alcohol or specially denatured rum, other than the manufacturer, except where otherwise specifically restricted in this part.

*Executed under penalties of perjury.* Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the claim, form, or other document or, where no form of declaration is prescribed, with the declaration—

I declare under the penalties of perjury that this ——— (insert type of document, such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

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

*Gallon.* The liquid measure equivalent to the volume of 231 cubic inches.

*Liter or litre.* A metric unit of capacity equal to 1,000 cubic centimeters of alcohol, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. The symbol for milliliter or milliliters is "ml".

*Manufacturer or user.* A person who holds a permit to use specially denatured alcohol or specially denatured rum to recover completely or specially denatured alcohol, specially denatured rum, or articles.

*Permit.* The document issued under 26 U.S.C. 5271(a), authorizing a person to withdraw and deal in or use specially denatured alcohol or specially denatured rum or to recover denatured alcohol, specially denatured rum, or articles under specified conditions.

*Permittee.* Any person holding a permit, Form 5150.9, issued under this part to withdraw and deal in or use (including recover) denatured spirits.

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

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

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

*Proprietary solvents.* Solvents which are manufactured with specially denatured alcohol under the proprietary solvent general-use formula in this part.

*Recover.* To salvage, after use, specially denatured spirits, completely denatured alcohol without all of its original denaturants, or any article containing denatured spirits, if (1) the original article was made with specially denatured spirits and the salvaged article does not contain all of the original ingredients of the article, or (2) the original article was made with completely denatured alcohol and the salvaged article does not contain all of the original denaturants of the completely denatured alcohol.

*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 original denaturants of the completely denatured alcohol.

*Recovered denatured alcohol.* Denatured alcohol (except completely denatured alcohol containing all of its original denaturants) which has been recovered.

*Recovered denatured rum.* Denatured rum which has been recovered.

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

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

*Restoration.* Restoring to the original state (except that the restored material may or may not contain denaturants to the same extent as the original material) of recovered denatured alcohol, recovered specially denatured rum, or recovered articles containing denatured alcohol or specially denatured rum. Restoration includes bringing the alcohol content of the recovered product to 190° of proof or more or to not less than the original proof if less than 190°.

Restoration also includes the removal of foreign materials by any suitable means.

*Rum.* Any spirits produced from sugar cane products and distilled at less than 190° proof in such manner that the spirits possess the taste, aroma, and characteristics generally attributed to rum.

*Secretary.* The Secretary of the Treasury or his delegate.

*Special industrial solvents.* Solvents which are manufactured with specially denatured alcohol under special industrial solvent general-use formula in this part.

*Specially denatured alcohol or S.D.A.* Those spirits known as alcohol, as defined in this section, denatured under the specially denatured alcohol formulas prescribed in Part 21 of this chapter.

*Specially denatured rum or S.D.R.* Those spirits known as rum, as defined in this section, denatured under the specially denatured rum formula prescribed in Part 21 of this chapter.

*Specially denatured spirits.* Specially denatured alcohol or specially denatured rum.

*Spirits or distilled spirits.* Alcohol or rum as defined in this part.

*Tank truck.* A tank-equipped semi-trailer, trailer, or truck, conforming to the requirements of this part.

*This chapter.* Chapter I, Title 27, Code of Federal Regulations.

*U.S.C.* The United States Code.

## Subpart C—Administrative Provisions

### Authorities

#### § 20.21 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part, including bonds, applications, notices, claims, reports, and records. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) ATF Publication 1322.1, Public Use Forms, is a numerical listing of forms issued by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC. 20402.

(c) Requests for forms should be mailed to the ATF Distribution Center, 3800 South Four Mile Run Drive, Arlington, Virginia 22206.

#### § 20.22 Alternate methods or procedures; and emergency variations from requirements.

(a) *Alternate methods or procedures.*—(1) *Application.* A permittee, after receiving approval from the Director, may use an alternate method or procedure (including alternate construction or equipment) in lieu of a method or procedure prescribed by this part. A permittee wishing to use an alternate method or procedure may apply to the regional director (compliance). The permittee shall describe the proposed alternate method or procedure and shall set forth the reasons for its use.

(2) *Approval by Director.* The Director may approve the use of an alternate method or procedure if:

(i) The applicant shows good cause for its use;

(ii) It is consistent with the purpose and effect of the procedure prescribed by this part, and provides equal security to the revenue;

(iii) It is not contrary to law; and

(iv) It will not cause an increase in cost to the Government and will not hinder the effective administration of this part.

(3) *Exceptions.* The Director will not authorize an alternate method or procedure relating to the giving of a bond.

(4) *Conditions of approval.* A permittee may not employ an alternate method or procedure until the Director has approved its use. The permittee shall, during the terms of the authorization of an alternate method or procedure, comply with terms of the approved application.

(b) *Emergency variations from requirements.*—(1) *Application.* When an emergency exists, a permittee may apply to the regional director (compliance) for a variation from the requirements of this part relating to construction, equipment, and methods of operation. The permittee shall describe the proposed variation and set forth the reasons for using it.

(2) *Approval by regional director (compliance).* The regional director (compliance) may approve an emergency variation from requirements if:

(i) An emergency exists;

(ii) The variation from the requirements is necessary;

(iii) It will afford the same security and protection to the revenue as intended by the specific regulations;

(iv) It will not hinder the effective administration of this part; and

(v) It is not contrary to law.

(3) *Conditions of approval.* A permittee may not employ an emergency variation from the requirements until the regional director (compliance) has approved its use. Approval of variations from requirements are conditioned upon compliance with the conditions and limitations set forth in the approval.

(4) *Automatic termination of approval.* If the permittee fails to comply in good faith with the procedures, conditions or limitations set forth in the approval, authority for the variation from requirements is automatically terminated and the permittee is required to comply with prescribed requirements of regulations from which those variations were authorized.

(c) *Withdrawal of approval.* The Director may withdraw approval for an alternate method or procedure, or the regional director (compliance) may withdraw approval for an emergency variation from requirements, approved under paragraph (a) or (b) of this section, if the Director or the regional director (compliance) finds that the revenue is jeopardized or the effective administration of this part is hindered by the approval.

(Approved by the Office of Management and Budget under control number 1512–0336)

(Act of August 16, 1954, Ch. 736, 68A Stat. 917 (26 U.S.C. 7805); Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

#### § 20.23 Approval of formulas and statements of process.

The Director is authorized to approve all formulas for articles and statements of process relating to recovery operations or other activities required to be submitted on Form 5150.19.

#### § 20.24 Allowance of claims.

The regional director (compliance) is authorized to allow claims for losses of specially denatured alcohol or specially denatured rum.

#### § 20.25 Permits.

The Director shall issue permits covering the use of specially denatured alcohol by the United States or a Governmental agency as provided in § 20.222. The regional director (compliance) shall issue the industrial alcohol user permit, Form 5150.9, required under this part.

#### § 20.26 Bonds and consents of surety.

The regional director (compliance) is authorized to approve all bonds and consents of surety required by this part.

#### § 20.27 Right of entry and examination.

An ATF officer may enter, during business hours or at any time operations are being conducted, any premises on which operations governed by this part are conducted to inspect the records and reports required by this part to be kept on those premises. An ATF officer may also inspect and take samples of distilled spirits, denatured alcohol, specially denatured rum or articles (including any substance for use in the manufacture of denatured alcohol, specially denatured rum or articles) to which those records or reports relate.

### § 20.28 Detention of containers.

(a) *Summary detention.* An ATF officer may detain any container containing, or supposed to contain, spirits (including denatured spirits and articles), when the ATF officer believes those spirits, denatured spirits, or articles were produced, withdrawn, sold, transported, or used in violation of law or this part. The ATF officer shall hold the container at a safe place until it is determined if the detained property is liable by law to forfeiture.

(b) *Limitations.* Summary detention may not exceed 72 hours without process of law or intervention of the regional director (compliance). The person possessing the container immediately before its detention may prepare a waiver of the 72 hours limitation to have the container kept on his or her premises during detention.

(Sec. 201, Pub. L. 85-859, Stat. 1375, as amended (26 U.S.C. 5311))

## Liability For Tax

### § 20.31 Applicable laws and regulations; persons liable for tax.

(a) All laws and regulations regarding alcohol or rum that is not denatured, including those requiring payment of the distilled spirits tax, apply to completely denatured alcohol, specially denatured alcohol, specially denatured rum, or articles produced, withdrawn, sold, transported, or used in violation of laws or regulations pertaining to those substances.

(b) Any person who produces, withdraws, sells, transports, or uses completely denatured alcohol, specially denatured alcohol, specially denatured rum, or articles in violation of laws or regulations shall be required to pay the distilled spirits tax on those substances.

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

## Marks and Brands

### § 20.33 Time of destruction of marks and brands.

(a) Any person who empties a package containing denatured alcohol, specially denatured rum, or articles made from denatured alcohol or specially denatured rum shall immediately destroy or obliterate the marks, brands, and labels required by this chapter to be placed on packages containing those materials.

(b) A person may not destroy or obliterate the marks, brands or labels until the package or drum has been emptied.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5206))

## Document Requirements

### § 20.36 Execution under penalties of perjury.

(a) When any form or document prescribed by this part is required to be executed under penalties of perjury, the dealer or user or other authorized person shall:

(1) Insert the declaration "I declare under the penalties of perjury that I have examined this ——— (insert the type of document such as claim, application, statement, report, certificate), including all supporting documents, and to the best of my knowledge and belief, it is true, correct, and complete"; and

(2) Sign the document.

(b) When the required document already bears a perjury declaration, the dealer or user or other authorized person shall sign the document.

(Act of August 16, 1954, 68A Stat. 745 (26 U.S.C. 6065))

### § 20.37 Filing of qualifying documents.

All documents returned to a permittee or other person as evidence of compliance with requirements of this part, or as authorization, shall except as otherwise provided, be kept readily available for inspection by an ATF officer during business hours.

## Subpart D—Qualification of Dealers and Users

## Application For Permit, Form 5150.22

### § 20.41 Application for industrial alcohol user permit.

(a) *Dealers.* A person who desires to withdraw and deal in specially denatured spirits shall, before commencing business, file an application on Form 5150.22 for, and obtain a permit, Form 5150.9.

(b) *Users.* A person who desires to withdraw and use or recover specially denatured spirits shall, before commencing business, file an application of Form 5150.22 for, and obtain a permit, Form 5150.9. The provisions of this paragraph also apply to persons desiring to recover denatured spirits from articles.

(c) *Filing.* All applications and necessary supporting documents, as required by this subpart, shall be filed with the regional director (compliance). All data, written statements, certifications, affidavits, and other documents submitted in support of the application are considered a part of the application.

(1) Applications filed as provided in this section, shall be accompanied by evidence establishing the authority of the officer or other person to execute the application.

(2) A State, political subdivision thereof, or the District of Columbia, may specify in the application that it desires a single permit authorizing the withdrawal and use of specially denatured spirits in a number of institutions under it control. In this instance, the application, Form 5150.22, or an attachment, shall clearly show the method of distributing and accounting for the specially denatured spirits to be withdrawn.

(d) *Exceptions.* (1) The proprietor of a distilled spirits plant qualified under Part 19 of this chapter, who sells specially denatured spirits stored at the plant premises is not required to qualify as a dealer under this part.

(2) A permittee who was previously qualified on the effective date of this regulation shall not be required to requalify under this part.

### § 20.42 Data for application, Form 5150.22.

(a) Unless waived under § 20.43, each application on Form 5150.22 shall include as applicable, the following information:

(1) Serial number and purpose for which filed.

(2) Name and principal business address.

(3) Based on the bona fide requirements of the applicant, the estimated quantity of all formulations of specially denatured spirits, in gallons, which will be procured during a 12-month period.

(4) Location, or locations where specially denatured spirits will be sold or used if different from the business address.

(5) Statement that specially denatured spirits will be stored in accordance with the requirements of this part.

(6) For user applications, statement as to the intended use (*e.g.* cosmetics, external medicines, solvents, fuels, mouthwashes, laboratory uses, inks, etc.) to be made of the specially denatured spirits, and whether recovery, restoration, and redenaturation processes will be used.

(7) Statement as to the type of business organization and of the persons interested in the business, supported by the items of information listed in § 20.45.

(8) Listing of the principal equipment to be used in recovery processes, including processing tanks, storage tanks, and equipment for recovery.

restoration, and redenaturation of denatured spirits (including the serial number, kind, capacity, names and addresses of manufacturer and owner of distilling apparatus along with intended use).

(9) List of trade names under which the applicant will conduct operations, and the offices where these names are registered.

(10) Listing of the titles of offices, the incumbents of which are responsible for the specially denatured spirits activities of the business and are authorized by the articles of incorporation, the bylaws, or the board of directors to act and sign on behalf of the applicant.

(11) Other information and statements as the regional director (compliance) may require to establish that the applicant is entitled to the permit. In the case of a corporation or other legal entity, the regional director (compliance) may require information which establishes that the officers, directors and principal stockholders whose names are required to be furnished under § 20.45 (a)(2) and (c) have not violated or conspired to violate any law of the United States relating to intoxicating liquor or have been convicted of any offense under Title 26, U.S.C., punishable as a felony or of any conspiracy to commit such offense.

(b) If any of the information required by paragraphs (a)(4) through (a)(10) and any information which may be required under paragraph (a)(11) of this section is on file with any regional director (compliance), the applicant may incorporate this information by reference by stating that the information is made a part of the application.

### § 20.43 Exceptions to application requirements.

(a) The regional director (compliance) may waive detailed application and supporting data requirements, other than the requirements of paragraphs (a)(1) through (a)(6) and (a)(9) of § 20.42, and paragraph (a)(8) of that section as it relates to recovery, restoration and redistillation, in the case of—

(1) All applications, Form 5150.22, filed by States or political subdivisions thereof or the District of Columbia, and

(2) Applications, Form 5150.22, filed by applicants whose annual withdrawal and sale or use of specially denatured spirits does not exceed 5,000 gallons.

(b) The waiver, provided for in this section will terminate when the permittee, other than a State or a political subdivision thereof, or the District of Columbia, files an application to amend its permit, Form 5150.9, to increase the annual withdrawal and sale or use of specially denatured spirits to an amount in excess of 5,000 gallons. In this case, the permittee shall also furnish information required by § 20.56(a)(2).

### § 20.44 Disapproval of application.

The regional director (compliance) may, in accordance with Part 200 of this chapter, disapprove an application for a permit to withdraw and deal or use denatured spirits, if on examination of the application (or inquiry), the regional director (compliance) has reason to believe that:

(a) The applicant is not authorized by law and regulations to withdraw and deal in or use specially denatured spirits;

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

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

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

### § 20.45 Organizational documents.

The supporting information required by § 20.42(a)(7) includes, as applicable:

(a) *Corporate documents.* (1) Certified true copy of the certificate of incorporation, or certified true copy of certificate authorizing the corporation to operate in the State where the premises are located (if other than that in which incorporated);

(2) Certified list of names and addresses of officers and directors, along with a statement designating which corporate offices, if applicable, are directly responsible for the specially denatured spirits portion of the business; and

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

(b) *Articles of partnership.* True copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of persons owning 10% or more of each of the classes of stock in the corporation, or legal entity, and the nature and amount of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him or her. If a corporation is wholly owned or controlled by another corporation, persons owning 10% or more of each of the classes of stock of the parent corporation are considered to be the persons interested in the business of the subsidiary, and the names and addresses of such persons shall be submitted to the regional director (compliance) if specifically requested.

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

## Industrial Alcohol User Permit, ATF F 5150.9

### § 20.48 Conditions of permits.

(a) Permits to withdraw and deal in or use specially denatured spirits will designate the acts which are permitted, and include any limitations imposed on the performance of these acts. All of the provisions of this part relating to the use, recovery, restoration or redistillation of denatured spirits or articles are considered to be included in the provisions and conditions of the permit, the same as if set out in the permit.

(b) An applicant need not have formulas and statements of processes, approved by the Director, prior to the issuance of a permit by the regional director (compliance).

(c) A permittee shall not use specially denatured spirits in the manufacture or production of any article unless the Director has approved the formula on Form 5150.19 or the article is covered by an approved general-use formula.

### § 20.49 Duration of permits.

Permits to withdraw and deal in or use specially denatured spirits are continuing unless automatically terminated by the terms thereof, suspended or revoked as provided in § 20.51, or voluntarily surrendered. The provisions of § 20.57 are considered part of the terms and conditions of all permits.

### § 20.50 Correction of permits.

If an error or a permit is discovered, the permittee shall immediately return the permit to the regional director (compliance) for correction.

**§ 20.51 Suspension or revocation of permits.**

The regional director (compliance) may institute proceedings under Part 200 of this chapter to suspend or revoke a permit whenever the regional director (compliance) has reason to believe that the permittee:

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

(b) Has violated the conditions of that permit;

(c) Has made any false statements as to any material fact in the application for the permit;

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

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

(f) Is, by reason of its operations, no longer warranted in procuring and dealing in or using specially denatured spirits authorized by the permit; or

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

**§ 20.52 Rules of practice in permit proceedings.**

The regulations of Part 200 of this chapter apply to the procedure and practice in connection with the disapproval of any application for a permit and in connection with suspension or revocation of a permit.

**§ 20.53 Powers of attorney.**

An applicant or permittee shall execute and file with the regional director (compliance) a Form 1534, in accordance with the instructions on the form, for each person authorized to sign or to act on behalf of the applicant or permittee. Form 1534 is not required for a person whose authority is furnished in accordance with § 20.42(a)(10).

**§ 20.54 Photocopying of permits.**

A permittee may make photocopies of its permit exclusively for the purpose of furnishing proof of authorization to withdraw specially denatured spirits from a distilled spirits plant and other persons authorized under this part to deal in specially denatured spirits.

**§ 20.55 Posting of permits.**

Permits issued under this part shall be kept posted and available for inspection on the permit premises.

## Changes After Original Qualification

**§ 20.56 Changes affecting applications and permits.**

(a) *General.*—(1) *Changes affecting application.* When there is a change relating to any of the information contained in, or considered a part of the application on Form 5150.22 for a permit, the permittee shall, within 30 days (except as otherwise provided in this subpart) file a written notice with the regional director (compliance) to amend the application. However, a change in the information required by § 20.42(a)(6) caused by approval of a new formula or statement of process shall not require filing a new application unless the approval is the permittee's first statement of process covering recovery operations.

(2) *Changes affecting waivers.* When any waiver under § 20.43 is terminated by a change to the application, the permittee shall include the current information as to the item previously waived with the written notice required in paragraph (a)(1) of this section.

(3) *Changes affecting permit.* When the terms of a permit are affected by a change, the written notice required by paragraph (a)(1) of this section (except as otherwise provided in this subpart) will serve as an application to amend the permit.

(4) *Form of notice.* A written notice to amend an application on Form 5150.22 shall—

(i) Identify the permittee;

(ii) Contain the permit identification number;

(iii) Explain the nature of the change and contain any required supporting documents;

(iv) Identify the serial number of the applicable application, Form 5150.22; and

(v) Be consecutively numbered and signed by the permittee or any person authorized to sign on behalf of the permittee.

(b) *Amended application.* The regional director (compliance) may require a permittee to file an amended application on Form 5150.22 when the number of changes to the previous application are determined to be excessive, or when a permittee has not timely filed the written notice prescribed in paragraph (a)(1) of this section. If items on the amended application remain unchanged, they will be marked "No change since Form 5150.22, Serial No. ———."

(c) *Changes in officers, directors and stockholders*—(1) *Officers.* In the case of a change in the officers listed under the provisions of § 20.45(a)(2), the notice required by paragraph (a)(1) of this section shall only apply (unless otherwise required, in writing, by the regional director (compliance)) to those offices, the incumbents of which are responsible for the operations covered by this part.

(2) *Directors.* In the case of a change in the directors listed under the provisions of § 20.45(a)(2), the notice required by paragraph (a)(1) of this section shall reflect the changes.

(3) *Stockholders.* In lieu of reporting all changes, within 30 days, to the list of stockholders furnished under the provisions of § 20.45(c)(1), a permittee may, upon filing written notice to the regional director (compliance) and establishing a reporting date, file an annual notice of changes. The notice of changes in stockholders does not apply if the sale or transfer of capital stock results in a change in ownership or control which is required to be reported under § 20.57.

(Approved by the Office of Management and Budget under control number 1512-0336)

**§ 20.57 Automatic termination of permits.**

(a) *Permit not transferable.* (a) Permits issued under this part are not transferable. In the event of the lease, sale, or other transfer of such a permit, or of the operations authorized by the permit, the permit shall, except as provided for in this section, automatically terminate.

(b) *Corporations.* (1) If actual or legal control of any corporation holding a permit issued under this part changes, directly or indirectly, whether by reason of a change in stock ownership or control (in the permittee corporation or any other corporation), by operation of law, or in any other manner, the permittee shall, within 10 days of the change, give written notice to the regional director, (compliance). Within 30 days of the change, the successor shall file an application for a new permit, Form 5150.22 with supporting documents. If an application for a new permit is not filed on Form 5150.22 within 30 days of the change, the outstanding permit will automatically terminate.

(2) If an application for a new permit is filed on Form 5150.22 within the 30-day period prescribed in paragraph (b)(1) of this section, the outstanding permit may remain in effect until final action is taken on the application. When final action is taken, the outstanding permit will automatically terminate and shall be forwarded to the regional director (compliance). The successor corporation may adopt the formulas and statements of process of the predecessor.

(c) *Proprietorships.* In the event of a change in proprietorship of a business of a permittee (as for instance, by reasons of incorporation, the withdrawal or taking in of additional partners, or succession by any person who is not a fiduciary), the successor shall file written notice and make application on Form 5150.22 for a new permit, under the same conditions provided for in paragraph (b) of this section. The successor may adopt the formulas and statements of process of the predecessor.

(Approved by the Office of Management and Budget under control number 1512–0336)

### § 20.58 Adoption of documents by a fiduciary.

If the business covered by a permit issued under this part, is to be operated by a fiduciary, the fiduciary may, in lieu of qualifying as a new proprietor, file a written notice, and any necessary supporting documents, to amend the predecessor's permit. The fiduciary shall furnish a consent of surety on Form 1533, extending the terms of the predecessor's bond, if any, and may adopt the formulas and statements of process of the predecessor. The effective date of the qualifying documents filed by a fiduciary shall coincide with the effective date of the court order or the date specified therein for the fiduciary to assume control. If the fiduciary was not appointed by the court, the date the fiduciary assumed control shall coincide with the effective date of the filing of the qualifying documents.

### § 20.59 Continuing partnerships.

(a) *General.* If, under the laws of a particular State, a partnership is not teminated on death or insolvency of a partner, but continues until final settlement 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 withdraw and use specially denatured spirits under the prior qualifications of the partnership.

(b) *Bonds.* If a bond was required under the previous partnership, the surviving partner shall furnish a consent of surety, in which the surety and surviving partner agree to remain liable.

(c) *Requalification.* If a surviving partner acquires the business on completion of the settlement of the partnership, that partner shall qualify as a new proprietor, from the date of acquisition, under the same conditions and limitations prescribed in § 20.56.

(d) *More than one partner.* The rule set forth in this section also applies if there is more than one surviving partner.

### § 20.60 Change in name of permittee.

(a) *Permit.* When the only change is a change in the individual, firm, or corporation name, a permittee may not conduct operations under the new name until a written notice, accompanied by necessary supporting documents, to amend the application and permit has been filed and an amended permit issued by the regional director (compliance).

(b) *Bond.* If required to file a bond, the permittee shall furnish a consent of surety on Form 1533 or a new bond to cover the change in name.

(Approved by the Office of Management and Budget under control number 1512–0336)

### § 20.61 Change in trade name.

If there is to be a change in, or addition of, a trade name, the permittee may not conduct operations under the new trade name until a written notice has been filed and an amended permit has been issued by the regional director (compliance). A new bond or consent of surety is not required for changes in trade names.

(Approved by the Office of Management and Budget under control number 1512–0336)

### § 20.62 Change in location.

(a) *Permit.* When there is to be a change in location within the same region, a permittee may not conduct operations at the new location until a written notice, accompanied by necessary supporting information to amend the application and permit has been filed and an amended permit issued by the regional director (compliance).

(b) *Bond.* If required to file a bond, the permittee shall furnish a consent of surety on Form 1533 or a new bond to cover the new location.

(Approved by the Office of Management and Budget under control number 1512–0336)

### § 20.63 Adoption of formulas and statements of process.

(a) The adoption by a successor (corporation, proprietorship or fiduciary) of a predecessor's formulas and statements of process, as provided in § 20.57 (b) and (c), and § 20.58, will be in the form of a certificate to be made a part of the written notice or the application for a new permit submitted to the regional director (compliance).

(b) The certificate will contain, as applicable, (1) a list of all approved formulas or statements of process in which specially denatured spirits are used or recovered, (2) the formulas of specially denatured spirits used, (3) the ATF laboratory number of the sample (if any), (4) the date of approval of Form 1479–A or serial number of Form 5150.19, and (5) the applicable code number for the article or process. In addition, the certificate will contain the name of the successor followed by the phrase "Formula of ——— (Name of predecessor) is hereby adopted."

(Approved by the Office of Management and Budget under control number 1512–0336)

### § 20.64 Return of permits.

Following the issuance of a new or amended permit, the permittee shall (a) obtain and destory all photocopies of the previous permit from its suppliers, and (b) return the original of the previous permit to the regional director (compliance).

## Registry of Stills

### § 20.66 General.

Part 196 of this chapter applies to stills located on the premises of a permittee. The listing of a still on Form 5150.22 and the issuance of a permit constitute registration of that still in lieu of filing Form 26.

## Permanent Discontinuance of Business

### § 20.68 Notice of permanent discontinuance.

(a) *Notice.* When a permittee permanently discontinues business, a written notice shall be filed with the regional director (compliance) to cover the discontinuance. The notice will be accompanied by the permit, and contain—

(a) A request to cancel the permit,

(2) A statement of the disposition made of all specially denatured spirits, as required in § 20.234, and

(3) The date of discontinuance.

(b) *Bonds.* The bond of a permittee may not be canceled until all specially denatured spirits have been properly disposed of as required by this part.

(c) *Final Reports.* The written notice required by this paragraph will also be accompanied by a report on Form 5150.18 covering the discontinuance and marked "Final Report."

(Approved by the Office of Management and Budget under control number 1512–0336)

## Subpart E—Bonds and Consents of Surety

### § 20.71 Bond.

(a) Except as provided in paragraph (d) of this section, each permittee who intends to withdraw more than 5000 gallons of specially denatured spirits per annum shall file a bond, Form 5150.25, before issuance of the permit. The penal sum of the bond shall be as follows:

| Maximum annual withdrawals | Bond penal sum |
|---|---|
| 0 to 5,000 gallons | No bond required. |
| Over 5,000 but not over 500,000 gallons. | $2,000 plus $1,000 for each 5,000 gallons of withdrawals over 10,000 gallons. |
| Over 500,000 gallons | $100,000. |

(b) The following method may be used to compute your penal sum:

(1) If the total of your estimated annual withdrawals is divisible by 5,000, divide it by 5. The result is your penal sum in dollars.

(2) If the total of your estimated annual withdrawals is not divisible by 5,000, increase it to the next highest number which is divisible by 5,000 and divide that number by 5. The result is your penal sum in dollars.

(c) The following are some examples:

| If your annual withdrawals are | Your penal sum is |
|---|---|
| 25,000 gallons | $5,000 |
| 84,500 gallons | 17,000 |
| 335,000 gallons | 67,000 |

(d) Any bond previously approved on Form 1475 or 1480 which fulfills the penal sum requirements of paragraph (b) of this section shall remain valid and will be regulated by the same provisions of this subpart as it refers to bonds on ATF F 5150.20.

### § 20.72 Evaluation of bond penal sum.

(a) *Permittee's evaluation.* Each permittee shall, for the period from July 1 through the following June 30, make an annual evaluation of the permittee's previous and future needs for specially denatured spirits. Based on the results of this evaluation:

(1) The permittee shall file a new bond in increased penal sum, if the existing bond no longer meets the penal sum requirements of § 20.71, or

(2) The permittee may file a new bond in decreased penal sum, if the existing bond exceeds the penal sum requirements of § 20.71.

(b) *Authority of regional director (compliance).* The regional director (compliance) may, at any time, require a permittee to file a new bond in a larger penal sum, or require a satisfactory explanation why a new bond should not be filed.

### § 20.73 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 in the current revision of Treasury Department Circular No. 570.

(b) Treasury Department Circular No. 570 is published in the **Federal Register** annually as of the first workday in 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.

### § 20.74 Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, must be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to 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.

### § 20.75 Execution of powers of attorney.

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 not a manually signed original, it shall be accompanied by certification of its validity.

### § 20.76 Deposit of securities instead of corporate surety.

Instead of corporate surety, the principal may pledge and deposit as surety for the bond, securities which are transferable and which are guaranteed as to both interest and principal by the United States, under the provisions of 31 CFR Part 225.

### § 20.77 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.

### § 20.78 Strengthening bonds.

(a) 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. A strengthening bond will not be approved if it bears any notation which is intended or which may be considered:

(1) To be a release of any former bond, or

(2) As limiting the amount of any bond to less than its full penal sum.

(b) Strengthening bonds shall show the date of execution and the effective date, and shall be marked "Strengthening Bond."

### § 20.79 Superseding bonds.

Superseding bonds are required when insolvency or removal of any surety occurs. Superseding bonds may also be required at the discretion of the regional director (compliance) when any other contingency affects the validity or impairs the sufficiency of the bond. If the principal intends to continue the transactions to which the bond relates after the surety, under § 20.80, has applied for relief of liability under the bond, the principal shall file a valid superseding bond to be effective on or before the date specified in the surety's application for relief of liability. Superseding bonds shall show the date of execution and the effective date, and shall be marked "Superseding Bond." If the principal does not file a superseding bond when required, the principal may not conduct any operation under the permit.

### § 20.80 Notice by surety of termination of bond.

A surety on any bond required by this part may at any time, in writing, notify the principal and regional director (compliance) with whom the bond is filed, that the surety desires (after a specified date) to be relieved of liability under the bond. The specified date may not be less than 90 days after the date the notice is received by the regional director (compliance). The surety shall also file with the regional director (compliance) an acknowledgment or other proof of service of the notice of termination on the principal.

(Approved by the Office of Management and Budget under control number 1512-0336)

### § 20.81 Termination of rights and liability under a bond.

(a) If the notice of termination given by the surety is not withdrawn, in writing, the rights of the principal as supported by the bond terminate on the date named in the notice. The surety is relieved from liability under a bond as to any operations which are wholly subsequent to:

(1) The date named in a notice of termination (§ 20.80); or

(2) The effective date of a superseding bond (§ 20.79); or

(3) The date of approval of the discontinuance of operations by the principal.

(b) If the principal fails to file a valid superseding bond before the date on which the surety desires to be relieved from liability under the bond, the surety, notwithstanding the release from liability as specified in paragraph (a)(1) of this section, shall remain liable under the bond for all specially denatured spirits or articles on hand or in transit to the principal on that date until the spirits or articles have been lawfully disposed of or a new bond has been filed by the principal.

**§ 20.82 Release of pledged securities.**

Securities of the United States, pledged and deposited as provided in § 20.76, will be released only under the provisions of 31 CFR Part 225. When the regional director (compliance) is satisfied that they may be released, the regional director (compliance) shall fix the date or dates on which a part or all of the securities may be released. At any time before the release of the securities, the regional director (compliance) may extend the date of release for any additional length of time considered necessary.

## Subpart F—Formulas and Statements of Process

**§ 20.91 Formula.**

(a) Each article made with specially denatured spirits shall be made in accordance with (1) an approved formula, Form 5150.19, or (2) an approved general-use formula prescribed in this subpart, approved by the Director as an alternate method, or published as an ATF Ruling in the ATF Bulletin. The manufacturer shall file Form 5150.19, along with the sample(s) required by § 20.92, and obtain an approved formula before manufacturing the article.

(b) An article made in accordance with a formula on Form 1479-A approved under previous regulations in Part 211 of this chapter will be considered to comply with the requirements of this subpart.

(c) Any person who has approved formulas or statements of process, Form 1479-A or Form 5150.19, which have been discontinued or have become obsolete, may submit these formulas or statements of process to the Director for cancellation.

**§ 20.92 Samples.**

(a) For each formula submitted in accordance with § 20.91 covering a toilet preparation made with S.D.A. Formula No. 39-C and containing an essential oil, the manufacturer shall submit a 0.5-ounce sample of the essential oil used in the article. The Director may also require the manufacturer to submit a sample of any ingredient which is not adequately described in the formula.

(b) For each formula submitted in accordance with § 20.91, the Director may require the manufacturer to submit a 4-ounce sample of the finished article.

(c) The regional director (compliance) or the Director may, at any time, require submission of samples of (1) any ingredient used in the manufacture of an article, or (2) any article.

**§ 20.93 Changes to formulas.**

(a) *General.* Except as provided in paragraph (b) of this section, any change of ingredients or quantities of ingredients listed in an appoved formula shall constitute a different article for which a different approved formula is required by § 20.91.

(b) *Exceptions.* A different approved formula is not required for the following—

(1) A change from an ingredient identified in the formula by a brand name to the same quantity of a chemically identical ingredient acquired under a different brand name, or

(2) A change of an ingredient which is a coloring material.

**§ 20.94 Statement of process.**

(a) Manufacturers shall submit a statement of process on Form 5150.19, in accordance with paragraph (b) of this section, covering the following activities:

(1) If specially denatured spirits are used for laboratory or mechanical purposes, other than use of S.D.A. Formula No. 3-A, 3-C, or 30 for laboratory or mechanical purposes not in the development of a product;

(2) If specially denatured spirits are used in a manufacturing process in which none of the specially denatured spirits remains in the finished product;

(3) If specially denatured spirits, completely denatured alcohol, or articles are used in a manufacturing process and are to be recovered; or

(4) If recovered denatured spirits are to be redenatured.

(b) The manufacturer shall submit a separate Form 5150.19 for each activity described in paragraph (a) of this section describing the process completely.

(1) If specially denatured spirits are used for laboratory or mechanical purposes, other than use of S.D.A. Formula No. 3-A, 3-C, or 30 for laboratory or mechanical purposes not in the development of a product, the Form 5150.19 shall identify the formula number of specially denatured spirits, a description of the laboratory or mechanical use, and the approximate annual quantity to be used.

(2) If the Form 5150.19 is submitted covering activities described in paragraphs (a)(2), (a)(3), or (a)(4) of this section, the Form 5150.19 shall also contain the following information:

(i) Flow diagrams shall be submitted with the Form 5150.19 clearly depicting the equipment in its relative operating sequence, with essential connecting pipelines and valves. All major equipment shall be identified as to its use. The direction of flow through the pipelines shall be indicated in the flow diagram. The flow diagram, shall be accompanied by a written description of the flow of materials through the system.

(ii) The statement of process shall describe the chemical composition of the recovered spirits. The statement of process shall be accompanied by a statement of the intended use of the recovered spirits.

**§ 20.95 Developmental samples of articles.**

(a) A user may use limited quantities of specially denatured spirits in the manufacture of samples of articles for submission on request by the Director in accordance with § 20.92.

(b) A user may prepare developmental samples of articles, of limited sizes and quantities, for one-time shipment to prospective customers. The user shall maintain records showing—

(1) The types of product samples prepared,

(2) The size and number of samples sent, on a one-time basis, to each prospective customer, and

(3) The names and addresses of the prospective customers.

(Approved by the Office of Management and Budget under control number 1512-0337)

## Approval Policies

**§ 20.100 General.**

(a) In addiiton to the limitations in this part, and if necessary to protect the revenue or public safety, the Director, when approving Form 5150.19 may:

(1) Specify on the Form 5150.19 the size of containers in which any article may be sold;

(2) Specify the maximum quantity that may be sold to any person at one time; or

(3) Restrict the sale of an article to a specific class of vendee and for a specific use.

(b) Approval by the Director of formulas, samples, or statements of process means only that they meet the standards of the Bureau of Alcohol, Tobacco and Firearms. The approval does not require the regional director (compliance) to issue a permi' under Subpart D of this part to withdraw and use specially denatured spirits in those formulas, articles, or statements of process.

**§ 20.101 Drafting formulas.**

(a) In preparing Form 5150.19, the manufacturer shall, for each ingredient containing ethyl alcohol, identify—

(1) The percent alcohol by volume of the ingredient, if known, and

(2) The supplier's name and serial number or approval date of the supplier's approved formula covering the manufacture of the ingredient.

(b) In preparing Form 5150.19, manufacturers may—

(1) Identify ingredients by generic names rather than brand names, and

(2) Identify quantities of ingredients used in ranges rather than in finite quantities.

(c) If ranges of ingredients are used, as authorized by paragraph (b)(2) of this section—

(1) The lower range shall not be zero for any ingredient, and

(2) The range for usage of specially denatured spirits shall not exceed ± 5%.

**§ 20.102 Bay rum, alcoholado, or alcoholado-type toilet waters.**

All bay rum, alcoholado, or alcoholado-type toilet waters made with specially denatured alcohol shall contain:

(a) 1.10 grains of benzyldiethyl (2:6-xylylcarbamoyl methyl) ammonium benzoate (Bitrex (THS-839)) in each gallon of finished product in addition to any of this material used as a denaturant in the specially denatured alcohol, or

(b) 32 grains of tartar emetic in each gallon of finished product, or

(c) 0.5 avoirdupois ounce of sucrose octaacetate in each gallon of finished product.

**§ 20.103 Articles made with S.D.A. Formula No. 39-C.**

Each article made with S.D.A. Formula No. 39-C shall contain in each gallon of finished product not less than 2 fluid ounces of perfume material (essential oils, isolates, aromatic chemicals, etc.) satisfactory to the Director.

**§ 20.104 Residual alcohol in spirit vinegar.**

Commercial strength (40 grain) vinegar made from specially denatured alcohol may contain trace amounts of residual alcohol, not to exceed 0.5 percent of alcohol by volume, in the finished product.

## General-Use Formulas

**§ 20.111 General.**

(a) An approved formula on Form 5150.19 is not required for an article made in accordance with any approved general-use formula prescribed by §§ 20.112-20.119, approved by the Director as an alternate method, or published as an ATF Ruling in the ATF Bulletin.

(b) Any interested party may petition ATF for approval of a new general-use formula by submitting a letter describing the proposed general-use formula to the Director.

(Approved by the Office of Management and Budget under control number 1512-0336)

**§ 20.112 Special industrial solvents general-use formula.**

(a) A special industrial solvent is any article made with any other ingredients combined with the ingredients in the minimum ratios prescribed in this section. A special industrial solvent shall be made with S.D.A. Formula No. 1, 3A, or 3C containing, for every 100 parts (by volume) of alcohol:

(1) No less than 1 part (by volume) of one or any combination of the following: methyl isobutyl ketone, methyl *n*-butyl ketone, nitropropane (mixed isomers), or ethylene glycol monoethyl ether, and

(2) No less than 5 parts (by volume) of one or any combination of the following: ethyl acetate (equivalent to 85% ester content, as defined in § 21.106 of this chapter), isopropyl alcohol, or methyl alcohol.

(b) Special industrial solvents are intended for use as ingredients or solvents in manufacturing processes and shall not be distributed through retail channels for sale as consumer commodities for personal or household use. When a special industrial solvent is used in the manufacture of an article for sale, sufficient ingredients shall be added to definitely change the composition and character of the special industrial solvent. A special industrial solvent shall not be reprocessed into another solvent intended for sale if the other solvent would contain more than 50% alcohol by volume.

(c) If this article contains more than 4% by weight of methyl alcohol, the label shall have a skull and crossed bones symbol and the following words: "danger," "poison," "vapor harmful," "May be fatal or cause blindness if swallowed," and "Cannot be made nonpoisonous."

**§ 20.113 Proprietary solvents general-use formula.**

(a) A proprietary solvent is any article made with any other ingredients combined with the ingredients in the minimum ratios prescribed in this section. A proprietary solvent shall be made with S.D.A. Formula No. 1 or 3-A containing, for every 100 parts (by volume) of alcohol:

(1) No less than 1 part (by volume) of one or any combination of the following: gasoline, unleaded gasoline, heptane, or rubber hydrocarbon solvent, and

(2) No less than 3 parts (by volume) of one or any combination of the following: ethyl acetate (equivalent to 85% ester content, as defined in § 21.106 of this chapter), methyl isobutyl ketone, methyl *n*-butyl ketone, *tert*-butyl alcohol, *sec*-butyl alcohol, nitropropane (mixed isomers), ethylene glycol monoethyl ether, or toluene.

(b) If this article contains more than 4% by weight of methyl alcohol, the label shall have a skull and crossed bones symbol and the following words: "danger," "poison," "vapor harmful," "May be fatal or cause blindness if swallowed," and "Cannot be made nonpoisonous."

**§ 20.114 Tobacco flavor general-use formula.**

Tobacco flavor general-use formula is any finished article made with S.D.A. Formula No. 4 or S.D.R. Formula No. 4 which—

(a) Contains sufficient flavors,

(b) May contain other ingredients, and

(c) Is packaged, labeled, and sold or used as a tobacco flavor only.

**§ 20.115 Ink general-use formula.**

Ink general-use formula is any finished article made with S.D.A. Formula No. 1, 3-A, 3-C, 13-A, 23-A, 30, 32, or 33 which—

(a) Contains sufficient pigments, dyes, or dyestuffs,

(b) May contain other ingredients, and

(c) Is packaged, labeled and sold or used as an ink.

**§ 20.116 Low alcohol general-use formula.**

Low alcohol general-use formula is a finished article containing not more than 5% alcohol by volume.

**§ 20.117 Reagent alcohol general-use formula.**

(a) Reagent alcohol is an article (1) made in accordance with paragraph (b) of this section, (2) packaged and labeled in accordance with paragraph (c) of this section, and (3) distributed in accordance with paragraph (d) of this section.

(b) Reagent alcohol shall be made with 95 parts (by volume) of S.D.A. Formula No. 3-A, and 5 part (by volume) of isopropyl alcohol. Water may be added at the time of manufacture. Reagent alcohol shall not contain any ingredient other than those named in this paragraph.

(c)(1) Except as provided in paragraph (d) of this section, reagent alcohol shall be packaged by the manufacturer in containers not exceeding four liters. Each container shall have affixed to it a label with the following words, as conspicuously as any other words on the labels: "Reagent Alcohol, Specially Denatured Alcohol Formula 3–A–95 parts by vol., and Isopropyl Alcohol—5 parts by vol."

(2) Because this article contains more than 4% by weight of methyl alcohol, the label shall have a skull and crossbones symbol and the following words: "danger," "poison," "vapor harmful," "May be fatal or cause blindness if swallowed," and "Cannot be made nonpoisonous

(3) If water is added at the time of manufacture, the label shall reflect the composition of the diluted product. If the addition of water reduces the methyl alcohol concentration to less than 4% by weight, the requirements of paragraph (c)(2) of this section shall not apply.

(4) A back label shall be attached showing the word "ANTIDOTE", followed by suitable directions for an antidote.

(d)(1) Reagent alcohol may be distributed in containers not exceeding 4 liters exclusively to laboratories or persons who require reagent alcohol for scientific use.

(2) Reagent alcohol may be distributed in bulk containers to proprietors of bona fide laboratory supply houses for packaging and resale, and to any other person who was qualified to receive bulk shipments of reagent alcohol on the effective date of this part. Reagent alcohol may also be distributed in bulk containers to any person who has received approval of a letterhead application containing the following:

(i) The applicant's name, address, and permit number, if any;

(ii) A description of the security measures which will be taken to segregate reagent alcohol from denatured spirits or other alcohol which may be on the same premises;

(iii) A statement that labels required by paragraph (c) of this section will be affixed to containers of reagent alcohol filled by the applicant;

(iv) A statement that the applicant will allow ATF Officers to inspect the applicant's premises; and

(v) A statement that the applicant will comply with the requirements of § 20.133 which may be conditions of approval by the regional director (compliance).

(Approved by the Office of Management and Budget under control number 1512–0336)

### § 20.118 Rubbing alcohol general-use formula.

(a) Rubbing alcohol is an article made with S.D.A. Formula No. 23–H (1) containing 70% ethyl alcohol by volume (2) made in accordance with one of the two formulas prescribed in paragraph (b) of this section, and (3) labeled in accordance with § 20.134(e) of this part.

(b) Either of the following two formulas is approved for manufacturing rubbing alcohol:

Formula A

| | |
|---|---|
| S.D.A. formula no. 23–H | 103.3 fl. oz. |
| Sucrose octa-acetate | 0.5 av.oz. |
| Water | q.s. 1 gallon.112 |

(If desired, odorous, medicinal and/or colorative ingredients may be added.)

Formula B

| | |
|---|---|
| S.D.A. formula no. 23–H | 103.3 fl. oz. |
| Benzyldiethyl (2: 6-xylylcarbamoyl methyl) ammonium benzoate (Bitrex (THS–839)). | 0.88 grains. |
| Water | q.s. 1 gallon. |

(If desired, odorous, medicinal and/or colorative ingredients may be added.)

### § 20.119 Toilet preparations containing 10% essential oils general-use formula.

This general-use formula shall consist of an article containing 10% essential oils by volume made with a formula of S.D.A. authorized for that article on the following list:

| Article | Product code No. | Formula authorized |
|---|---|---|
| Bath preparations | 142 | 1, 3-A, 3-B, 3-C, 23-A, 30, 36, 38-B, 39-B, 39-C, 40, 40-A, 40-B, 40-C. |
| Colognes | 122 | 38-B, 39, 39-A, 39-B, 39-C, 40, 40-A, 40-B, 40-C. |
| Deodorants (body) | 114 | 23-A, 38-B, 39-B, 39-C, 40, 40-A, 40-B, 40-C. |
| Hair and scalp preparations | 111 | 3-B, 23-A, 23-F, 23-H, 37, 38-B, 39, 39-A, 39-B, 39-C, 39-D, 40, 40-A, 40-B, 40-C. |
| Lotions and creams (body, face, and hand). | 113 | 23-A, 23-H, 31-A, 37, 38-B, 39, 39-B, 39-C, 40, 40-A, 40-B, 40-C. |
| Perfume materials (processing) | 121 | 38-B, 39, 39-B, 39-C, 40, 40-A, 40-B, 40-C. |
| Perfumes and perfume tinctures | 121 | 38-B, 39, 39-B, 39-C, 40, 40-A, 40-B, 40-C. |
| Shampoos | 141 | 1, 3-A, 3-B, 3-C, 23-A, 27-B, 31-A, 36, 38-B, 39-A, 39-B, 40, 40-A, 40-B, 40-C. |
| Soaps, toilet | 142 | 1, 3-A, 3-C, 23-A, 30, 36, 38-B, 39-B, 39-C, 40, 40-A, 40-B, 40-C. |
| Toilet waters | 122 | 38-B, 39, 39-A, 39-B, 39-C, 40, 40-A, 40-B, 40-C. |

## Subpart G—Requirements Relating to Articles

### § 20.131 Scope of subpart.

This subpart prescribes requirements relating to articles which may affect persons who are not required to obtain a permit under this part. These requirements, described in general terms § 20.132, are imposed by law. Criminal penalties imposed for violating these requirements are described in § 20.137. In this subpart, the term "article" means any substance or preparation in the manufacture of which denatured spirits are used, including the product obtained by further manufacture or by combination with other materials, if the article subjected to further manufacture or combination contained denatured spirits.

### § 20.132 General requirements.

(a) *Internal medicinal preparations and flavoring extracts*—(1) *Manufacture.* No person shall use denatured spirits in the manufacture of medicinal preparations or flavoring extracts for internal human use where any of the spirits remain in the finished product.

(2) *Sale.* No person shall sell or offer for sale for internal human use any medicinal preparations or flavoring extracts manufactured from denatured distilled spirits where any of the spirits remain in the finished product.

(3) *Labeling and advertising.* Labeling and advertising of articles shall not imply that the article is intended for or suitable for internal human use.

(b) *Beverage use.* No person shall sell or offer for sale any article containing denatured spirits for beverage purposes. Labeling and advertising of articles shall not imply that the article is intended for or suitable for use as a beverage.

(c) *Trafficking in articles.* The regional director (compliance) may impose the requirements of § 20.133 on any person who reprocesses, rebottles, or repackages articles, deals in articles, or receives articles in containers exceeding one gallon.

### § 20.133 Registration of persons trafficking in articles.

(a) Upon written notice from the regional director (compliance), any person who reprocesses, rebottles, or repackages articles, deals in articles, or receives articles in containers exceeding one gallon may be required to submit any of the following:

(1) Nature of activities to be conducted;

(2) Name and address of supplier;

(3) Size and type of containers in which articles will be received and, if applicable, rebottled or repackaged;

(4) Maximum quantity of each article to be obtained during any calendar month;

(5) Description of the reprocessing operation;

(6) Samples of the reprocessed article;

(7) Labels and advertising materials; and,

(8) Names and addresses of recipients of articles and quantities received;

(b) The regional director (compliance) shall prohibit any of the activities described in paragraph (a) of this section if the activities pose a jeopardy to the revenue, or a burden in administering this part.

(Approved by the Office of Management and Budget under control number 1512-0336)

### § 20.134 Labeling.

(a) *General.* Except as provided in paragraph (b) or (c) of this section, each article shall, before removal from the manufacturer's premises, have a label affixed to its immediate container identifying (1) the name, trade name or brand name of the article, and (2) the name and address (city and State) of the manufacturer or distributor of the article.

(b) *Articles for external human use.* Except as provided in paragraph (c) of this section, an article intended for external human use shall, before removal from the manufacturer's premises, have a label affixed to its immediate container identifying the name, trade name or brand name of the article. If the volume of the article in the container exceeds 8-fluid ounces, the label shall also show the information required by paragraph (b) (1) or (2) of this section.

(1) If the article was packaged or bottled by the person who manufactured it, the label shall identify—

(i) The manufacturer's name and the address (city and State) of the actual place or places where article was manufactured, or

(ii) The name and principal office address (city and State) of the manufacturer, and the permit number or numbers of the place or places of manufacture, or

(iii) The manufacturer's permit number and the name and address (city and State), of the person for whom the article was packaged and bottled.

(2) If the article was packaged or bottled by a person other than the manufacturer of the article, the label shall identify—

(i) The name and address (city and State) of the person by whom or for whom the article was packaged or bottled, and

(ii) The permit number of the manufacturer or distributor.

(3) If a permit number is required to be shown on the label, it may be shown utilizing a State code number, in accordance with § 20.135.

(c) *Shipment of unlabeled articles.* A manufacturer may, subject to the approval of the regional director (compliance) and compliance with § 20.133, remove an unlabeled article from the manufacturer's premises, if the outer containers of the article are labeled with the name, trade name or brand name of the article and the names and addresses (city and State) of the manufacturer and the consignee.

(d) *Use of the words "denatured alcohol."* If the words "denatured alcohol" appear on the label of an article, the label shall also have a name, trade name or brand name which appears as conspicuously as the words "denatured alcohol."

(e) *Use of the words "rubbing alcohol."* If the words "rubbing alcohol" appear on the label of an article, (1) the article shall be made in accordance with § 20.118 of this part, and (2) the label (i) shall have the words "rubbing alcohol" in letters of the same color and size, (ii) shall identify the name and address (city and State) of the manufacturer or bottler, (iii) shall state the alcohol content as 70% by volume with no reference to the proof strength, and (iv) shall have the warning "For external use only. If taken internally, will cause serious gastric disturbances." An alcohol rub made from any other material, such as isopropyl alcohol, shall not be labeled "Rubbing Alcohol" unless the label informs the consumer that the preparation was not made with specially denatured alcohol.

(Approved by the Office of Management and Budget under control number 1512-0336)

### § 20.135 State code numbers.

In showing the permit number on labels as provided in § 20.134(b)(2)(ii), the permittee who distributes the article may substitute the appropriate number shown below for the State abbreviation. For example, permit number SDA-CONN-1234 may be shown on the labels as SDA-07-1234. The code numbers for the respective State are as follows:

01—Alabama
02—Alaska
03—Arizona
04—Arkansas
05—California
06—Colorado
07—Connecticut
08—Delaware
09—D.C.
10—Florida
11—Georgia
12—Hawaii
13—Idaho
14—Illinois
15—Indiana
16—Iowa
17—Kansas
18—Kentucky
19—Louisiana
20—Maine
21—Maryland
22—Massachusetts
23—Michigan
24—Minnesota
25—Mississippi
26—Missouri
27—Montana
28—Nebraska
29—Nevada
30—New Hampshire
31—New Jersey
32—New Mexico
33—New York
34—North Carolina
35—North Dakota
36—Ohio
37—Oklahoma
38—Oregon
39—Pennsylvania
40—Rhode Island
41—South Carolina
42—South Dakota
43—Tennessee
44—Texas
45—Utah
46—Vermont
47—Virginia
48—Washington
49—West Virginia
51—Wisconsin
51—Wyoming

### § 20.136 Labeling regulations of other agencies.

(a) *General.* Other Federal agencies have promulgated regulations which may affect labeling of articles, as described in this section.

(b) *Consumer Product Safety Commission.* The Consumer Product Safety Commission has promulgated regulations to administer the Federal Hazardous Substances Act. The regulations in 16 CFR Chapter II require warning labels for products containing certain specified substances. For example, S.D.A. Formula Nos. 3-A and 30 require warning labels because they contain methyl alcohol, a hazardous substance at levels of 4% or more by weight. Manufacturers, reprocessors, rebottlers, and repackagers who convey articles containing strong chemicals should refer to 16 CFR Chapter II for warning label requirements.

(c) *Federal Trade Commission.* The Federal Trade Commission (F.T.C.) has promulgated regulations to administer the Fair Packaging and Labeling Act. The regulations in 16 CFR Chapter I affect packaging and labeling of "consumer commodities." The term "consumer commodities" generally means products intended for retail sale to an individual for personal or household use. The F.T.C. regulations do not apply to drugs, medical devices, or cosmetics for which the Food and Drug Administration enforces the Fair Packaging and Labeling Act (see paragraph (d) of this section). Manufacturers, reprocessors, rebottlers, and repackagers who convey articles which are "consumer commodities" should refer to 16 CFR Chapter I for packaging and lebeling requirements.

(d) *Food and Drug Administration, Department of Health and Human Services.* The Food and Drug Administration has promulgated regualtions in 21 CFR Chapter I to administer the Fair Packaging and Labeling Act (as it applies to drugs, medical devices, or cosmetics) and the Federal Food, Drug and Cosmetic Act. Manufacturers, reprocessors, rebottlers, and repackagers who convey articles which are drugs, medical devices, or cosmetics should refer to 21 CFR Chapter I for packaging and labeling requirements.

### § 20.137 Penalties.

Violation of the requirements prescribed in § 20.132 is punishable by a fine of not more than $10,000 and/or imprisonment for not more than 5 years for each offense. In addition, persons who manufacture (including reprocess), sell, or transport articles in violation of this part are liable for payment of a tax on the articles at the rate imposed by law on distilled spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended, 1402 (26 U.S.C. 5001, 5607))

## Subpart H—Sale and Use of Completely Denatured Alcohol

### § 201.41 General.

(a) Each formula of completely denatured alcohol may be sold and used for any purpose, subject to the limitations in the formula prescribed in Part 21 of this chapter. For example, C.D.A. Formula No. 18 or 19 may be used:

(1) In the manufacture of definite chemical substances where the alcohol is changed into some other chemical substance and does not appear in the finished product;

(2) In the arts and industries, including but not limited to the manufacture of cleaning fluids, detergents, proprietary antifreeze solutions, thinners, lacquers, and brake fluids; and

(3) For fuel, light, and power.

(b) Completely denatured alcohol may not be used in the manufacture of preparations or products for internal human use or consumption where any of the alcohol or the denaturants used in that alcohol remain in the finished product.

(c) Persons distributing and using (but not recovering for reuse) completely denatured alcohol are not required to obtain a permit or file a bond under this part.

(d) Any person recovering completely denatured alcohol for reuse shall obtain a permit under Subpart D of this part if the recovered alcohol does not contain all of the original denaturants of the completely denatured alcohol.

(e) Containers of products manufactured with completely denatured alcohol (such as proprietary antifreeze solutions, solvents, thinners, and lacquers) may not be branded as completely denatured alcohol. These products may not be advertised, shipped, sold, or offered for sale as completely denatured alcohol.

### § 20.142 Records of bulk conveyances.

If completely denatured alcohol is to be shipped in a bulk conveyance, the shipment shall be accompanied by a record which identifies each car, truck, or compartment, the name and location (city or town and State) of both the consignor and consignee, the quantity in gallons, and the formula number of the completely denatured alcohol.

(Approved by the Office of Management and Budget under control number 1512–0337)

### § 20.143 Receipt.

Unless completely denatured alcohol received in bulk conveyances or by pipeline is to be used immediately, it shall be deposited in storage tanks, stored in the tank cars or tank trucks in which received, or drawn into packages which shall be marked or labeled as required by this subpart.

### § 20.144 Packages of completely denatured alcohol.

Packages containing more than 5 gallons of completely denatured alcohol shall be of metal or other equally suitable material approved by the Director. The openings of these packages shall be sealed with appropriate seals furnished by the person filling the packages.

### § 20.145 Encased containers.

Completely denatured alcohol may be packaged by distributors in unlabeled containers which are completely encased in wood, fiberboard, or similar material so that the surface (including the opening) of the actual container is not exposed. When completely denatured spirits are packaged in unlabeled containers, the distributor shall apply the required marks or label to an exposed surface of the case. The case shall be so constructed that the portion containing the marks will be securely attached to the encased container until all of the contents have been removed. A statement reading "Do Not Remove Inner Container Until Emptied," or words of similar meaning, shall be placed on the portion of the case bearing the marks.

### § 20.146 Labels on bulk containers.

(a) Completely denatured alcohol in bulk containers with a capacity exceeding 1 gallon shall be labeled on the head or side of the container or on the side of the casing, with the following:

(1) The name and address of the person filling the containers;

(2) The contents in gallons;

(3) The words "Completely Denatured Alcohol"; and

(4) The formula number.

(b) Packages of 5 gallons or less shall bear labels required by § 20.147, in lieu of the labels required by this section.

(c) The letters and figures used for marking packages shall be large enough to be easily read and, when printed, labeled, or stenciled, shall be in permanent ink and shall contrast distinctly with the background to which applied.

(d) Packages may also be marked with the brand name and a statement to the type of merchandise contained in the package if these markings do not obscure or detract from the required markings. The person filling the packages shall maintain the record required by § 20.261.

### § 20.147 Labels on consumer-size containers.

(a) Each consumer-size container with a capacity of 5 gallons or less of completely denatured alcohol sold or offered for sale by a distributor shall bear a label showing, in plain, legible letters, the following:

(1) The words "Completely Denatured Alcohol";

(2) The statement "Caution—contains poisonous ingredients"; and

(3) The name and address of the distributor filling the packages, unless shown elsewhere on the package.

(b) No other information (except that required by State or Federal law) may be shown on the label without the Director's approval. The word "pure", qualifying denatured alcohol may not appear on the label or the container.

(c) The requirements of paragraphs (a) and (b) of this section apply to any person who sells completely denatured alcohol at wholesale or retail.

### § 20.148 Manufacture of articles with completely denatured alcohol.

Articles may be made with completely denatured alcohol for sale under brand names. If ingredients are added in sufficient quantities to materially change the composition and character of the completely denatured alcohol, the article is not classified as completely denatured alcohol and may not be marked, branded, or sold as completely denatured alcohol.

### § 20.149 Records.

Records of transactions in completely denatured alcohol and articles made with completely denatured alcohol shall be maintained as prescribed in § 20.261.

(Approved by the Office of Management and Budget under control number 1512-0337)

## Subpart I—Operations by Dealers and Users of Specially Denatured Spirits

### Obtaining Specially Denatured Spirits

#### § 20.161 Withdrawals under permit.

(a) *General.* The permit, Form 5150.9, issued under Subpart D of this part, authorizes a person to withdraw specially denatured spirits from the bonded premises of a distilled spirits plant or a dealer.

(b) *Photocopying of permit, Form 5150.9.* (1) As provided in § 20.54, a permittee may make photocopies of its permit, or amended permit, for the exclusive purpose of furnishing proof of authorization to withdraw specially denatured spirits.

(2) A permittee need only furnish the photocopy of its permit, or amended permit, to a distilled spirits plant or dealer for the "initial order" from that distilled spirits plant or dealer.

(3) When a permittee makes photocopies of its permit, Form 5150.9, each copy must be signed, dated, and contain the word "COPY" across the face.

(4) A permittee is responsible for obtaining and, as applicable, destroying all photocopies of its permit from distilled spirits plants and dealers when: (i) An amended or corrected permit is issued which supersedes the copy on file, (ii) the permit is canceled by reason of requalification as a new permittee, (iii) the permit is revoked or suspended, or (iv) upon permanent discontinuance of dealing in or using specially denatured spirits.

(c) *Withdrawals.* (1) When a permittee places an initial order for specially denatured spirits the permittee will forward a signed copy of its permit, for retention by the distilled spirits plant or dealer, along with the purchase request.

(2) When the permittee places a subsequent order for specially denatured spirits, the purchase request, in addition to any other information, will contain the permit identification number and date of issue along with a statement that the permittee possesses a valid permit to withdraw specially denatured spirits, a copy of which is on file with the supplier.

(3) Shipments will not be made by a proprietor of a distilled spirits plant or dealer until it is in possession of a signed copy of a valid permit, Form 5150.9, unless the regional director (compliance) authorizes the shipment.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended, 1395, as amended (26 U.S.C. 5271, 5555))

#### § 20.162 Regulation of withdrawals.

(a) Each permittee shall regulate its withdrawals of specially denatured spirits to ensure that (1) the quantity on hand and unaccounted for does not exceed the capacity of the storage facilities, and (2) the cumulative quantity withdrawn or received in any calendar year does not exceed the quantity authorzied by the permit, Form 5150.9. Recovered alcohol will be taken into account in determining the total quantity of alcohol on hand.

(b) For the purpose of this section, specially denatured spirits and recovered alcohol will be considered as unaccounted for if lost under circumstances where a claim for allowance is required by this part and the claim has not been allowed, or if used or disposed of in any manner not provided for in this part.

#### § 20.163 Receipt and storage of specially denatured spirits.

(a) *Receipt of bulk conveyances or by pipeline.* A permittee who receives specially denatured spirits in bulk conveyances or by pipeline shall: (1) Deposit the specially denatured spirits into storage tanks as provided by § 20.165; (2) draw the specially denatured spirits into packages marked and labeled as required by paragraph (b) of this section; (3) store the specially denatured spirits in the tank truck or tank car in which received if the conveyance is effectively immobilized within an enclosure secured to prevent unauthorized access; or (4) use the specially denatured spirits immediately in accordance with an approved formula or statement of process.

(b) *Marks on portable containers.* (1) A user who receives specially denatured spirits in bulk conveyances or by pipeline and who transfers the spirits to drums shall plainly label them to show (i) the words "Specially Denatured Alcohol" or "Specially Denatured Rum", and (ii) the formaula number.

(2) A dealer who fills packages of specially denatured spirits shall label them in accordance with § 20.178.

(c) *Receipt of portable containers.* A permittee who receives specially denatured spirits in portable containers such as drums or barrels shall transfer the specially denatured spirits to storage tanks or deposit the specially denatured spirits in a storeroom as provided in § 20.165, or use the spirits in accordance with an approved formula or statement of process. A user may not transfer the spirits to other portable containers for storage except in the following circumstances:

(1) Contents of damaged packages may be transferred to new packages to prevent loss or waste; or

(2) Contents of portable containers may be transferred to "safety" containers to comply with city or State fire code regulations, or on filing notice with the regional director (compliance) to comply with the safety practices of the user. The user shall label the new containers with the information marked on the original containers and shall also identify the new containers as "repackaged."

(d) *Record of receipt.* Records of receipt will consist of the consignor's invoice of bill or lading which identifies the quantities, formula number(s), and serial numbers of containers of specially denatured spirits, and which has been annotated by the consignee with the date of receipt of the shipment.

(e) *Losses.* On receipt of specially denatured spirits, the user shall determine and account for any losses in transit in accordance with Subpart J of this part.

(Approved by the Office of Management and Budget under control number 1512-0337)

### Premises and Equipment

#### § 20.164 Premises.

(a) A permittee shall have premises suitable for the business being conducted and adequate for protecting the revenue.

(b) Storage facilities shall be provided on the premises for specially denatured spirits received or recovered. Except as provided in paragraph (c) of this section, storage facilities shall consist of storerooms, compartments, or stationary storage tanks (not necessarily in a room or building).

(c) A permittee receiving and storing specially denatured spirits in tank cars or tank trucks, as provided in § 20.163, need not provide stationary storage tanks.

(d) If specially denatured spirits are received at or removed from a permittee's premises in bulk conveyances, suitable facilities for those operations shall be provided.

(e) The regional director (compliance) may require the storage facilities or distilling equipment to be secured with Government locks or seals, or both.

#### § 20.165 Storage facilities.

(a) Storerooms shall be constructed and secured to prevent unauthorized access and the entrance doors shall be equipped for locking.

(b) Each stationary tank used for the storage of specially denatured spirits shall be equipped for locking to control access to the denatured spirits. An accurate means of measuring its contents shall be provided for each tank.

(c) Storerooms and storage tanks shall be kept locked when unattended. A storage cabinet or locker kept inside a room which is locked when unattended is considered to be adequately secured.

### § 20.166 Stills and other equipment.

If recovered denatured spirits or articles are to be restored on the permittee's premises, all equipment to be used in the restoration process shall be located on the permit premises. Distilling apparatus or other equipment, including pipelines, for restoration or for recovery, shall be constructed and secured in such a manner as to prevent unauthorized access to the denatured spirits and so arranged as to be readily inspected by ATF officers.

### § 20.167 Recovered and restored denatured spirits tanks.

Suitable storage tanks shall be provided for recovered and restored denatured spirits. Each storage tank for recovered and restored denatured spirits shall be—

(a) Durably marked to show its capacity and use,

(b) Equipped for locking to control access to the contents, and

(c) Provided with an accurate means of measuring its contents.

## Inventory and Records

### § 20.170 Physical inventory.

Once in each calendar year and when requested by an ATF officer, each permittee shall perform and record a physical inventory of each formula of new and recovered specially denatured spirits.

(Approved by the Office of Management and Budget under control number 1512-0337)

### § 20.171 Record of shipment.

(a) *Dealer.* When a dealer transfers new or recovered specially denatured spirits to a distilled spirits plant or permittee in the normal course of business or in accordance with § 20.216 or § 20.231 of this part, the dealer shall prepare a record of shipment in accordance with paragraph (c) of this section. Dealers shall consistently use the same record series for the record of shipment. A dealer's record of shipment shall show a serial number or other unique number.

(b) *User.* When a user transfers new or recovered specially denatured spirits to a distilled spirits plant or permittee in accordance with § 20.216, 20.231, or 20.235 of this part, the user shall prepare a record of shipment in accordance with paragraph (c) of this section.

(c) *Record.* The record of shipment shall consist of an invoice, bill of lading or similar document which shows the following information:

(1) Date of shipment;

(2) Consignor's name and address;

(3) Consignee's name, address, and permit number or distilled spirits plant registry number;

(4) For each formula of specially denatured spirits—

(i) The formula number,

(ii) The number and sizes of containers, and

(iii) The total quantity; and.

(5) If the specially denatured spirits are recovered, the word "recovered" shall appear on the record.

(Approved by the Office of Management and Budget under control number 1512-0337)

### § 20.172 Records.

In addition to the records required by this subpart, permittees shall maintain records required in Subpart P of this part.

(Approved by the Office of Management and Budget under control number 1512-0337)

## Operations by Dealers

### § 20.175 Shipment for account of another dealer.

(a) A dealer may order specially denatured spirits shipped directly from a denaturer or another dealer to a customer (dealer or user).

(b) The dealer who ordered the shipment of specially denatured spirits shall forward a copy of his or her permit, Form 5150.9, and the consignee's permit, Form 5150.9, to the person actually shipping the specially denatured spirits.

(c) The bond of the dealer who ordered the shipment shall be liable for the tax while the specially denatured spirits are in transit and the bond of the person actually shipping the specially denatured spirits shall not be liable.

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

### § 20.176 Packaging by a dealer.

A dealer may package specially denatured spirits in containers of any size necessary for the conduct of business. After filling packages, the dealer shall accurately determine the contents of each package. After filling drums, the dealer shall seal all the drum openings with the dealer's own seals. Packages of specially denatured spirits shall be marked or labeled in accordance with § 20.178.

### § 20.177 Encased containers.

(a) A dealer may package specially denatured spirits in unlabeled containers which are completely encased in wood, fiberboard, or similar material. The total surface (including the opening) of the actual container of the spirits must be enclosed.

(b) When specially denatured spirits are packaged in unlabeled containers, the bonded dealer shall apply the required marks to an exposed surface of the case. The case shall be constructed so that the portion bearing the marks will remain securely attached to the encased container until all the spirits have been removed. A statement reading "Do not remove inner container until emptied," or of similar meaning, shall be placed on the portion of the case bearing the marks.

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

### § 20.178 Marks and brands on containers of specially denatured spirits.

(a) *Required marks.* Each dealer who fills packages of specially denatured spirits shall mark or label each package with the following imformation:

(1) Quantity, in gallons, or in liters and gallons;

(2) Package identification number or serial number (see § 20.179);

(3) Name and permit number of the dealer;

(4) The words "Specially Denatured Alcohol" or "Specially Denatured Rum," or an appropriate abbreviation;

(5) Formula number;

(6) Proof, if the spirits were denatured at other than 190° proof;

(7) Denaturants used, if alcohol was denatured under an approved formula authorizing a choice of denaturants; and

(8) Quantity of denaturants used, if the approved formula authorizes a choice of quantities of denaturants.

(b) *Location of marks.* The dealer shall place the required marks on the head of the package or on the side of the case.

(c) *Other marks.* Other marks authorized by this paragraph may not interfere with or detract from the marks required by this subpart. The dealer may place marks other than the required marks on the Government head or Government side of the package if the other marks—

(1) Are authorized by the Director, or

(2) Consist of a brand name, or consist of caution notices, or consist of other material required by Federal or State law or regulations.

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

**§ 20.179 Package identification number or serial number.**

(a) *Requirement.* A dealer who fills packages with specially denatured spirits shall mark each package with a package identification number, in accordance with paragraph (b) of this section, or a serial number, in accordance with paragraph (c) of this section.

(b) *Package identification number.* A package identification number shall apply to all of the packages filled at the same time on which all of the marks required by § 20.178 (a)(1) and (a)(3) through (a)(8) are identical. All of the packages in one lot shall be the same type, have the same rated capacity, and be uniformly filled with the same quantity. A package identification number shall be derived from the date on which the package is filled, and shall consist of the following elements, in the order shown—

(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) A letter suffix when more than one identical lot is filled into packages during the same day. For successive lots after the first lot, a letter suffix shall be added in alphabetical order, with "A" representing the second lot of the day, "B" representing the third lot of the day, etc. (*e.g.* the first three lots filled into packages on November 19, 1983, would be identified as "83K19," "83K19A," and "83K19B").

(c) *Serial number.* A consecutive serial number shall be marked on each package, beginning with the number "1" and continuing in regular sequence. The dealer shall use a separate but similar number series for packages containing specially denatured rum. When any numbering series reaches "1,000,000", the dealer may recommence the series by providing an alphabetical prefix or suffix for each number in the new series.

(d) *Continuation of numbering series.* If a change in proprietorship, name, or trade name occurs, the numbering system in use at the time of the change may be continued. If serial numbers are used at the time of a change, the numbering series in use at the time of the change may be continued.

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

**§ 20.180 Record of packages filled.**

(a) *Requirement to keep record.* A dealer shall keep a record when filling packages with specially denatured spirits. The dealer shall keep a separate record of packages for each formula of specially denatured alcohol and specially denatured rum.

(b) *Information to be shown.* The dealer shall show the following information on the record of packages filled—

(1) Date packages filled;

(2) Package identification number and number of packages in each identical lot filled, or the serial numbers;

(3) Kinds of packages;

(4) Wine gallons or liters;

(5) Kind of specially denatured spirits and formula number; and

(6) Proof, if the spirits were denatured at other than 190° proof.

(c) *Filing.* The dealer shall retain the record at the premises and shall file it according to the serial numbers or package identification numbers of the packages.

(Approved by the Office of Management and Budget under control number 1512-0337)

**§ 20.181 Limitations on shipments.**

(a) *Shipments made under permit.* A dealer may ship specially denatured spirits to users and other dealers under the consignee's permit, Form 5150.9. The dealer may not ship specially denatured spirits before receiving the consignee's permit, Form 5150.9, unless the shipment has been authorized by the regional director (compliance).

(b) *Shipments of samples.* A dealer may ship samples of specially denatured spirits to the persons authorized to receive them, and in the quantities permitted by Subpart O of this part.

**§ 20.182 Bulk shipments.**

(a) *Use.* Dealers may ship specially denatured spirits in bulk conveyances. The dealer shall seal the bulk conveyances at the time of filling with railroad or other appropriate serially numbered seals dissimilar in marking from cap seals used by the Bureau of Alcohol, Tobacco and Firearms. Specially denatured alcohol or specially denatured rum from only one consignor may be placed in any one compartment of a bulk conveyance. Not less than the entire contents of any one compartment may be delivered to any one consignee at any one premises.

(b) *Construction of bulk conveyances.* Bulk conveyances shall be constructed to conform to the following requirements:

(1) All openings (including valves) shall be constructed so that they may be sealed to prevent unauthorized access to the contents of the conveyance. Outlets, valves or other openings to or from tank cars may be constructed in such a manner that they may be closed and securely fastened on the inside.

(2) If the conveyance has two or more compartments, the outlets of each shall be so equipped that delivery of any compartment will not afford access to the contents of any other compartment.

(3) Each compartment shall be arranged so that it can be completely drained.

(4) Each tank car or tank truck shall be permanently and legibly marked with its number, capacity in gallons or liters, and the name or symbol of its owner. If the tank car or truck consists of two or more compartments, each compartment shall be identified and the capacity of each shall be marked thereon.

(5) Permanent facilities must be provided on tank trucks to permit ready examination of manholes or other openings.

(6) Calibrated charts, prepared or certified by recognized authorities or engineers, showing the capacity of each compartment in gallons or liters for each inch of depth, must accompany each tank truck, tank ship, or tank barge.

**Operations by Users**

**§ 20.189 Use of specially denatured spirits.**

(a) Specially denatured spirits shall not be used for any purpose not authorized in this section.

(b) Specially denatured spirits shall be used (1) in the manufacture of articles in accordance with the formula requirements of Subpart F of this part, (2) for other purposes in accordance with approved statements of process (§ 20.94), or (3) in the case of S.D.A. Formula No. 3-A, 3-C, or 30, for mechanical or laboratory purposes not involving the development of a product.

(c) Each formula of specially denatured spirits may be used only for the purposes authorized under Part 21 of this chapter.

(d) By the use of essential oils and chemicals used in the manufacture of each liquid article, the user shall ensure that the finished article cannot be reclaimed or diverted to beverage use or internal human use.

(e) Each finished article shall conform to the sample, if any, and formula for that article approved by the Director.

**§ 20.190 Diversion of articles for internal human use or beverage use.**

A regional director (compliance) who has reason to believe that the spirits in any article are being reclaimed or diverted to beverage or internal human use may direct the permittee to modify an approved formula to prevent the reclamation or diversion. The regional director (compliance) may require the permittee to discontinue the use of the formula until it has been modified and again approved.

### § 20.191 Bulk articles.

Users who convey articles in containers exceeding one gallon may provide the recipient with a photocopy of Subpart G of this part to ensure compliance with requirements relating to articles. Copies of Subpart G are printed as ATF Publication 5150.5 and are available from the ATF Distribution Center, 3800 South Four Mile Run Drive, Arlington, Virginia 22206.

### § 20.192 Manufacturing record.

For each manufacturing process in which specially denatured spirits are used, the user shall record:

(a) Quantity and formula number of new or recovered specially denatured spirits used;

(b) Names and quantities of ingredients used; and

(c) Name, trade name or brand name and alcoholic content of each article or intermediate product manufactured, as applicable.

(Approved by the Office of Management and Budget under control number 1512-0337)

## Subpart J—Losses

### § 20.201 Liability and responsibility of carrier.

(a) A person or carrier transporting specially denatured spirits to a consignee or returning it to the consignor is responsible for the safe delivery and is accountable for any specially denatured spirits not delivered.

(b) A person or carrier transporting specially denatured spirits in violation of any law or regulation pertaining thereto, is subject to all provisions of law relating to alcohol and the payment of tax thereon, and shall be required to pay the tax.

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

### § 20.202 Losses in transit.

(a) *Reporting losses.* Upon discovering any loss of specially denatured spirits while in transit, the carrier shall immediately inform the consignee, in writing, of the facts and circumstances relating to the loss. In the case of theft, the carrier shall also immediately notify the consignee's regional director (compliance) of the facts and circumstances relating to the loss.

(b) *Recording losses.* At the time the shipment or report of loss is received, the consignee shall determine the quantity of specially denatured spirits lost. The consignee shall note the quantity lost on the receiving document and attach all relevant information to the record of receipt, prescribed in § 20.163. For the purpose of maintaining the records prescribed in Subpart P of this part, receipts of specially denatured spirits will only include the quantity actually received.

(c) *Claims.* A claim for allowances of losses of specially denatured spirits will, as prescribed in § 20.205, be filed:

(1) If the quantity lost in transit exceeds one percent of the total quantity shipped and is more than 10 gallons, the consignee shall file a claim for allowance of the entire quantity lost; or

(2) If the loss was due to theft or other unlawful removal, the consignee shall file a claim for allowance of the entire quantity lost, regardless of the quantity or percentage involved.

(Reporting approved by the Office of Management and Budget under control number 1512-0336; recordkeeping approved by the Office of Management and Budget under control number 1512-0337)

### § 20.203 Losses on premises.

(a) *Recording of losses.* A permittee shall determine and record, in the records prescribed by Subpart P of this part, the quantity of specially denatured spirits or recovered alcohol lost on premises:

(1) When an inventory is taken,

(2) At the time a container is emptied, or

(3) Immediately upon the discovery of any loss due to casualty, theft or other unusual causes.

(b) *Claims.* A claim for allowance of specially denatured spirits will be filed as prescribed in § 20.205, in the following circumstances:

(1) If the quantity lost during the annual accounting period (§ 20.263(c)) exceeds one percent of the quantity to be accounted for during that period, and is more than 50 gallons; or,

(2) If the loss was due to theft or unlawful use or removal, the permittee shall file a claim for allowance of losses regardless of the quantity involved.

(Approved by the Office of Management and Budget under control number 1512-0337)

### § 20.204 Incomplete shipments.

(a) Subject to the provisions of this part (and Part 19 of this chapter for shipments made by a distilled spirits plant), 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.

(b) When specially denatured spirits are returned to the shipper in accordance with this section, the carrier shall inform the shipper, in writing, of the facts and circumstances relating to the loss. In the case of theft, the carrier shall also immediately notify the shipper's regional director (compliance) of the facts and circumstances relating to the loss.

(c) Subject to the limitations for loss prescribed in § 20.202, the dealer or proprietor shall file a claim for allowance of the entire quantity lost, in the same manner provided in that section. The claim shall include the applicable data required by § 20.205.

### § 20.205 Claims.

Claims for allowance of losses of specially denatured spirits or recovered alcohol will be filed, on Form 2635 (5620.8), with the regional director (compliance) within 30 days from the date the loss is ascertained, and will contain the following information:

(a) Name, address, and permit number of claimant;

(b) Identification and location of the container(s) from which the specially denatured spirits or recovered alcohol was lost, and the quantity lost from each container;

(c) Total quantity of specially denatured spirits or recovered alcohol covered by the claim and the aggregate quantity involved;

(d) Date of loss or discovery, the cause or nature of loss, and all relevant facts, including facts establishing whether the loss occurred as a result of negligence, connivance, collusion, or fraud on the part of any person, employee or agent participating in or responsible for the loss;

(e) Name of carrier where a loss in transit is involved. The carrier's statement regarding the loss, prescribed by § 20.202 or § 20.204, will accompany the claim; and,

(f) Any additional evidence which the regional director (compliance) may require to be submitted in support of the claim.

## Subpart K—Recovery of Denatured Alcohol, Specially Denatured Rum, or Articles

### § 20.211 General.

(a) Upon filing the appropriate qualifying documents under the applicable provisions of Subparts D and F of this part and receiving approval, a manufacturer using denatured alcohol, specially denatured rum, or articles in an approved process may recover the denatured alcohol, specially denatured rum, or articles. However, a person who recovers (1) completely denatured alcohol with all its original ingredients, (2) an article made with specially denatured spirits with all its original ingredients (or practically so, to the extent that the presence of the original denaturants and other ingredients in the recovered article make it as nonpotable as the original article), or (3) an article made with completely denatured alcohol with all the denaturants of the completely denatured alcohol, shall not be required to obtain a permit under this part.

(b) For a determination as to whether obtaining a permit under this part is necessary, each person who intends to conduct the recovery operations outlined in paragraph (a) of this section shall forward Form 5150.19 with a sample of the recovered article, to the Director, in accordance with Subpart F of this part.

(c) Restoration and redenaturation may be done by a permittee or by the proprietor of a distilled spirits plant.

**§ 20.212 Deposit in receiving tanks.**

All recovered denatured alcohol, specially denatured rum, or articles shall be accumulated (after recovery or restoration is completed) in a receiving tank equipped for locking. If the recovered product is to be shipped under § 20.214, it may be accumulated in appropriately marked packages. All denatured alcohol or specially denatured rum recovered shall be measured and a record of the measurement shall be made before being redenatured or reused. Recovered denatured alcohol or specially denatured rum and new denatured alcohol or specially denatured rum shall be kept in separate storage containers properly marked for identification.

(Approved by the Office of Management and Budget under control number 1512-0337)

**§ 20.213 Reuse of recovered spirits.**

(a) If the denatured alcohol or specially denatured rum is recovered in its original denatured state, or practically so, or contains substantial quantities of the original denaturants and other ingredients which make it unfit for beverage or other internal human medicinal use, it may be reused in any approved process without further redenaturation. In these cases, the regional director (compliance) will require samples of the recovered product to be taken from time to time to determine if the product requires redenaturation.

(b) If the denatured alcohol or specially denatured rum is not recovered in its original denatured state, or practically so, it shall be redenatured at the premises of the manufacturer or a denaturer before being used. The regional director (compliance) may require supervision of the redenaturation of the recovered spirits by an ATF officer.

**§ 20.214 Shipment for restoration or redenaturation.**

Recovered denatured alcohol, recovered specially denatured rum, or recovered articles requiring restoration or redenaturation (or both, unless the restoration or redenaturation is to be done on the manufacturer's premises) shall be shipped to a distilled spirits plant or to a permittee. Packages shall be numbered with a package identification number or serial number in accordance with § 20.179 (b) or (c). Packages shall be labeled with the name, address, and permit number of the manufacturer, the quantity (in gallons) of spirits contained in the package, and the applicable words "Recovered denatured alcohol formula No. ____" or "Recovered specially denatured rum formula No. ____." If the restoration or redenaturation is performed by a user or dealer permittee (not a distilled spirits plant), the permittee shall return the same materials to the same manufacturer and shall not intermingle them with materials received from other sources.

**§ 20.215 Shipment of articles and spirits residues for redistillation.**

(a) The proprietor of a distilled spirits plant authorized to produce distilled spirits may receive for redistillation (1) articles manufactured under this part which contain denatured spirits, and (2) spirits residues of manufacturing processes related to the manufacture of these articles.

(b) Any person shipping these articles or spirits residues to a distilled spirits plant for redistillation shall—

(1) Identify each package or articles or spirits residues as to contents, and

(2) Mark and serially number each package as provided in § 20.214.

**§ 20.216 Record of shipment.**

A consignor shipping recovered denatured alcohol, recovered specifically denatured rum, or recovered articles to a distilled spirits plant or a permittee shall prepare and forward a record of shipment to the consignee, in accordance with § 20.171.

(Approved by the Office of Management and Budget under control number 1512-0337)

## Subpart L—Destruction

**§ 20.221 General.**

A permittee may terminate liability for payment of tax, prescribed by law, when specifically denatured spirits or recovered alcohol are destroyed in accordance with this subpart.

**§ 20.222 Destruction.**

(a) A permittee who destroys specifically denatured spirits or recovered alcohol shall prepare a record which identifies—

(1) The reason for destruction,

(2) The date, time, location and manner of destruction,

(3) The quantity involved and, if applicable, identification of containers, and

(4) The name of the individual who accomplished or supervised the destruction.

(b) This record of destruction shall be maintained with the records required by Subpart P of this part.

(Approved by the Office of Management and Budget under control number 1512-0337)

## Subpart M—Return, Reconsignment and Disposition of Specifically Denatured Spirits

**§ 20.231 Return.**

A permittee may, following the receipt of specifically denatured spirits and for any legitimate reason, return the specifically denatured spirits to any distilled spirits plant or dealer if the consignee consents to the shipment. The consignor shall prepare a record of shipment in accordance with § 20.171.

(Approved by the Office of Management and Budget under control number 1512-0337)

**§ 20.232 Reconsignment in transit.**

(a) *Reconsignment.* Specifically denatured spirits may be reconsigned to another permittee or returned to the consignor if, prior to or on arrival at the premises of the consignee, the alcohol is determined to be unsuitable for the intended purpose, was shipped in error, or, for any bona fide reason, is not accepted by the consignee or carrier.

(b) *Bond coverage.* In the case of reconsignment, the bond, if required, of the permittee to whom the specifically denatured spirits were reconsigned will cover the specifically denatured spirits while in transit. In the case of the return of a shipment, the bond, if required, of the consignor will cover the specifically denatured spirits while in transit.

(c) *Records of reconsignment.* In the case of reconsignment, the consignor shall cancel the initial record of shipment and prepare a new record of shipment, if the shipment is to another permittee. The new record of shipment will be annotated "Reconsignment."

(Approved by the Office of Management and Budget under control number 1512-0337)

**§ 20.233 Disposition after revocation of permit.**

When any permit issued on Form 5150.9 is revoked, all specifically denatured spirits in transit and all specifically denatured spirits on the former permit premises, may be lawfully possessed by the former permittee for the exclusive purpose of disposing of the specially denatured spirits, for a period of 60 days following the date of revocation. Any specifically denatured spirits or recovered alcohol not disposed of within the specific 60-day period, is subject to seizure and forfeiture.

**§ 20.234 Disposition on permanent discontinuance of use.**

(a) *Specially denatured spirits.* Specially denatured spirits on hand at the time of discontinuance of use, may be disposed of by (1) returning the specially denatured spirits to a distilled spirits plant or dealer, as provided in § 20.231, (2) destruction, as provided in § 20.222, or (3) shipped to another user, as provided in § 20.235.

(b) *Recovered denatured alcohol, recovered specially denatured rum, or recovered articles.* Upon permanent discontinuance of use, a permittee may dispose of recovered denatured alcohol, recovered specially denatured rum, or recovered articles by (1) shipment to a distilled spirits plant, as provided in § 20.215 for articles and spirits residues, (2) destruction, as provided in § 20.222, or (3) upon the filing of an application with the regional director (compliance), any other approved method.

(Approved by the Office of Management and Budget under control number 1512-0336)

**§ 20.235 Disposition to another user.**

(a) A user may dispose of specially denatured spirits to another permittee or Government agency.

(b) The user shall prepare a record of shipment in accordance with § 20.171. The user's copy of the record of shipment shall include an explanation of the reason for the disposition.

(c) The regional director (compliance) may require a user to apply for and obtain a dealer's permit, if shipments under this section are excessive.

(Approved by the Office of Management and Budget under control number 1512-0337)

## Subpart N—Use of Specially Denatured Spirits by the United States or Government Agency

**§ 20.241 General.**

The United States or any of its Government agencies may withdraw specially denatured spirits from a distilled spirits plant or dealer under this part, as authorized by 26 U.S.C. 5214(a)(2) and 5271. Before any specially denatured spirits may be withdrawn, a permit to procure the spirits shall be obtained from the Director. A bond is not required for any Government agency of the United States to procure specially denatured spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

**§ 20.242 Application and permit, Form 5150.33.**

(a) All permits previously issued to the United States or any of its Government agencies on Form 1444 shall remain valid and will be regulated by the same provisions of this subpart as it refers to permits on Form 5150.33.

(b) A Government agency shall apply for a permit to obtain specially denatured spirits on Form 5150.33, to the Director. Upon approval, Form 5150.33 will be returned to the Government agency, and will serve as authority to procure specially denatured spirits.

(c) A Government agency may specify on its application for a permit to procure specially denatured spirits, Form 5150.33, that it desires a single permit authorizing all sub-agencies under its control to procure specially denatured spirits; or each Government location (agency, department, bureau, etc.) desiring to procure specially denatured spirits may individually submit an application for a permit on Form 5150.33.

(d) An application for a permit shall be signed by the head of the agency or sub-agency or the incumbent of an office which is authorized by the head of the agency or sub-agency, to sign. Evidence of authorization to sign for the head of the agency or sub-agency shall be furnished with the application.

(e) Specially denatured spirits obtained by Government agencies may not be used for non-Government purposes.

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

**§ 20.243 Procurement of specially denatured spirits.**

Government agencies shall retain the original permit, Form 5150.33, on file. When placing an initial order with a vendor, the agency shall forward a photocopy of its permit with the purchase order for specially denatured spirits. In the case of an agency holding a single permit for use of other sub-agencies, the photocopy of the permit will contain an attachment listing all other locations authorized to procure specially denatured spirits. Any subsequent purchases from the same vendor need only contain the permit number on the purchase order.

**§ 20.244 Receipt of shipment.**

On receipt of a shipment of specially denatured spirits, a representative of the Government agency shall inspect the shipment for any loss or deficiency. In the case of loss or deficiency, the agency shall annotate the receiving document and forward a copy to the regional director (compliance) of the region from which the shipment was consigned.

**§ 20.245 Discontinuance of use.**

When a Government agency, holding a permit issued under this subpart, no longer intends to procure and use specially denatured spirits, the permit shall be returned to the Director for cancellation. All photocopies of the permit furnished to vendors shall be returned to the agency for destruction.

**§ 20.246 Disposition of specially denatured spirits on discontinuance of use.**

At the time of discontinuance of use of specially denatured spirits, a Government agency may dispose of any excess specially denatured spirits (a) to another Government agency holding a permit, (b) by returning the specially denatured spirits to a vendor, or (c) in any manner authorized by the Director. Specially denatured spirits may not be disposed of to the general public.

## Subpart O—Samples of Specially Denatured Spirits

**§ 20.251 General.**

(a) Applicants and prospective applicants for permits to use specially denatured spirits may obtain samples of specially denatured spirits for experimental purposes or for preparing samples of finished articles for submission on request by the Director. Samples of specially denatured spirits may only be obtained from distilled spirits plants or dealers.

(b) Samples not larger than five gallons per calendar year may be obtained without a permit. Dealers shall maintain records to ensure that samples of specially denatured spirits dispensed to nonpermittees do not exceed five gallons per calendar year.

(c) Samples larger than five gallons per calendar year may be obtained without a permit as described in § 20.252.

(d) Samples of specially denatured spirits shall not be used to manufacture articles for commercial sale.

(Approved by the Office of Management and Budget under control number 1512-0337)

**§ 20.252 Samples larger than five gallons.**

(a) *General.* The regional director (compliance) may waive the requirement to obtain a permit under

Subpart D of this part if a nonpermittee can demonstrate that more than five gallons is necessary to determine if an Industrial Use Permit is desired.

(b) *Application.* A nonpermittee who wishes to obtain more than five galllons of specially denatured spirits to determine if an Industrial Use Permit is desired, shall file a letterhead application with the regional director (compliance) of the region in which the nonpermittee's premises are located. The letter shall describe why the requested quantity is necessary.

(c) *Approval.* If the letterhead application is approved, the nonpermittee shall submit it to the proprietor of a distilled spirits plant or a dealer with the order for the sample of specially denatured spirits.

(Approved by the Office of Management and Budget under control number 1512-0336)

#### § 20.253 Labels for samples.

When a sample of specially denatured spirits is withdrawn from a dealer's premises, that dealer shall attach a label to the sample which shows the following information:

(a) The word "Sample";

(b) The dealer's name, address, and permit number;

(c) The words "Specially Denatured Alcohol" or "Specially Denatured Rum";

(d) The quantity; and

(e) The formula number.

### Subpart P—Records and Reports

#### § 20.261 Records of completely denatured alcohol.

When requested by the regional director (compliance), any person who receives, packages, stores, disposes of, or uses completely denatured alcohol shall keep records of all transactions in completely denatured alcohol which will enable ATF officers to verify and trace receipt, packaging, storage, usage, and disposal of the spirits, and to determine whether there has been compliance with law and regulations. However, on sales in quantities of less than 5 gallons, only the total quantity disposed of daily need be recorded.

(Approved by the Office of Management and Budget under control number 1512-0337)

#### § 20.262 Dealer's records of specially denatured spirits.

(a) Each dealer shall maintain separate records of each formula of new specially denatured spirits—

(1) received, as required by § 20.163,

(2) packaged, as required by § 20.180,

(3) destroyed, as required by § 20.222,

(4) lost, as required by §§ 20.202–20.204, and

(5) transferred to another permittee or a distilled spirits plant, as required by §§ 20.171, 20.216, and 20.231.

(b) Each dealer shall maintain separate records of each formula of recovered specially denatured spirits for each of the transactions listed in paragraphs (a)(1) through (a)(5) of this section.

(c) Once in each calendar year, and when requested by an ATF officer, each dealer shall perform and record a balanced accounting of each formula of new and recovered specially denatured spirits using the records required by § 20.170 and this section.

(d) When requested, the dealer shall submit the accounting required by paragraph (c) of this section to the regional director (compliance).

(Approved by the Office of Management and Budget under control number 1512-0337)

#### § 20.263 User's records of specially denatured spirits.

(a) Each user shall maintain separate records of each formula of new specially denatured spirits—

(1) Received, as required by §20.163,

(2) Recovered, as required by § 20.212,

(3) Used, as required by § 20.192,

(4) Destroyed, as required by § 20.222,

(5) Lost, as required by §§ 20.202–20.203, and

(6) Transferred to another permittee or a distilled spirits plant, as required by §§ 20.216, 20.231, and 20.235.

(b) Each user shall maintain separate records of each formula of recovered specially denatured spirits for each of the transactions listed in paragraphs (a)(1) through (a)(6) of this section.

(c) Once in each calendar year, and when requested by an ATF officer, each user shall perform and record a balanced accounting of each formula of new and recovered specially denatured spirits using the records required by § 20.170 and this section.

(d) When requested, the user shall submit the accounting required by paragraph (c) of this section to the regional director (compliance).

(Approved by the Office of Management and Budget under control number 1512-0337)

#### § 20.264 User's records and report of products and processes.

(a) *Records.* (1) Each user shall maintain separate accountings of—

(i) The number of gallons of each formula of new specially denatured spirits used for each product or process, recorded by the code number prescribed by § 21.141 of this chapter.

(ii) The number of gallons of each formula of recovered specially denatured spirits used for each product or process, recorded by the code number prescribed by § 21.141 of this chapter.

(2) Each user who recovers specially denatured spirits shall maintain separate accountings of the number of gallons of each formula of specially denatured spirits recovered from each product or process, recorded by the code number prescribed by § 21.141 of this chapter.

(3) Product or process code numbers are shown on approved formula and statement of process forms. For an article made in accordance with a general-use formula, the user will refer to § 21.141 of this chapter and record the applicable product or process code number.

(b) *Report.* Each user shall submit an annual report, Form 5150.18, for the period from July 1 through June 30, summarized from the records required by this section. The report shall be filed no later than July 15 following the end of the accounting period.

(Approved by the Office of Management and Budget under control number 1512-0337)

#### § 20.265 Retention of invoices.

(a) Any person required to keep records under this part shall retain copies of invoices which will enable ATF officers to readily obtain the details regarding:

(1) Purchases of all essential oils, chemicals, and other materials used in manufacturing articles, including the name and address of the vendor, and the quantity;

(2) Purchases of articles containing specially denatured spirits for reprocessing, or purchases of those articles for bottling, repackaging, and/or resale, including the name and address of the vendor and the quantity; and

(3) Dispositions of all articles manufactured or received, including in each case the name and address of the person to whom sold or otherwise disposed of.

(b) The regional director (compliance) may, on application filed by the permittee, waive the requirements for retaining invoices if the quantity sold to any person during a calendar month does not exceed 25 gallons, and if a waiver will not hinder the effective administration of this part and will not pose a jeopardy to the revenue.

(Approved by the Office of Management and Budget under control number 1512-0336)

#### § 20.266 Time for making entries in records.

Any person who conducts an operation which is required to be recorded under this part, shall enter that operation in the records on the same day on which the operation occurred. However, the daily posting of records may be deferred to conform to the permittee's normal accounting cycle if (a) supporting or supplemental records are prepared at the time of the operation, and these supporting or supplemental records are to be used to post the daily record, and (b) the deferral of posting does not pose a jeopardy to the revenue.

**§ 20.267 Filing and retaining records.**

Any person who is required to maintain records of operations under this part shall file and retain records and copies of reports in the following manner:

(a) Keep on file for a period of not less than 3 years after the date of the report covering the operation, in such a way as to allow inspection by ATF officers, all those records of operations, all supporting or supplemental records, and copies of all reports submitted to the regional director (compliance). However, the regional director (compliance) may require that the records and copies of reports be kept for an additional period, not to exceed 3 years.

(b) File all records and copies of reports at the premises where the operations are conducted.

(c) Make the files of records and copies of reports available to ATF officers during regular business hours for examination.

**§ 20.268 Photographic copies of records.**

(a) *General.* Permittees may record, copy, or reproduce required records. Any process may be used which accurately reproduces the original record, and which forms a durable medium for reproducing and preserving the original record.

(b) *Copies of records treated as original records.* Whenever records are reproduced under this section, the reproduced records will be preserved in conveniently accessible files, and provisions will be made for examining, viewing, and using the reproduced records the same as if they were the original record, and they will be treated and considered for all purposes as though they were the original record. All provisions of law and regulations applicable to the original are applicable to the reproduced record. As used in this section, "original record" means the record required by this part to be maintained or preserved by the permittee, 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))

## PART 21—FORMULAS FOR DENATURED ALCOHOL AND RUM

Section C. Part 21 is amended as follows:

**§ 21.4 [Amended]**

**Paragraph 1.** Section 21.4 is amended by replacing "Part 211" with "Part 20".

**Par. 2.** Section 21.11 is amended to revise the definition of *Manufacturer or user* to read as follows:

**§ 21.11 Meaning of terms.**

* * * * *

*Manufacturer or user.* A person who holds a permit, issued under Part 20 of this chapter, to withdraw and use specially denatured alcohol or specially denatured rum, or to recover completely or specially denatured alcohol, or specially denatured rum, or articles manufactured with denatured spirits, or a distilled spirits plant proprietor qualified under Part 19 of this chapter as a processor.

* * * * *

**§ 21.31 [Amended]**

**Par. 3.** The second sentence of paragraph (c) of § 21.31 is amended by replacing "Part 211" with "Part 20".

**Par. 4.** Paragraph (b) of § 21.32 is amended to change the name of product code 041 to read "041. Proprietary solvents" (deleting the words "(standard formulations)") and to change the name of product code 043 to read "043. Solvents, special (restricted sale)" (deleting the word "industrial").

**§ 21.32 Formula No. 1.**

* * * * *

(b) * * *

* * * * *

041. Proprietary solvents.

* * * * *

043. Solvents, special (restricted sale)

* * * * *

**Par. 5.** Paragraph (b) of § 21.35 is amended to add a listing for "041. Proprietary solvents" as an authorized use for Formula No. 3-A and to change the name of product code 043 to read "043. Solvents, special (restricted sale)" (deleting the word "industrial").

**§ 21.35 Formula No. 3-A.**

* * * * *

(b) * * *

* * * * *

041. Proprietary solvents.
043. Solvents, special (restricted sale)

* * * * *

**Par. 6.** Section 21.37 is amended to change the name of product code 043 to read "043. Solvents, special (restricted sale)" (deleting the word "industrial") and to revise paragraph (c) on conditions governing the use of Formula No. 3-C.

**§ 21.37 Formula No. 3-C.**

* * * * *

(b) * * *

* * * * *

043. Solvents, special (restricted sale)

* * * * *

(c) *Conditions governing use.* This formula shall not be used in manufacturing Reagent alcohol general-use formula under § 20.117 of this chapter.

**Par. 7.** In § 21.141, the table entitled "USES OF SPECIALLY DENATURED ALCOHOL" is amended to change the names of the entries for "Proprietary solvents" (deleting the words "(standard formulations)") and "Solvents, special (restricted sale)" (deleting the word "industrial").

**§ 21.141 List of products and processes using specially denatured alcohol and rum, and formulas authorized therefor.**

* * * * *

**Uses of Specially Denatured Alcohol**

| Product or process | Code No. | Formulas authorized |
| --- | --- | --- |
| * * * | * | * |
| Proprietary solvents | 041 | 1, 3-A |
| * * * | * | * |
| Solvents, special (restricted sale) | 043 | 1, 3-A, 3-C |

* * * * *

## PART 213—[REVISED AND REDESIGNATED AS PART 22]

Section D. Part 213 is revised and redesignated as Part 22 as follows:

1. The regulations in this part supersede 27 CFR Part 213 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.

3. The regulations in this part are effective on June 4, 1985.

## PART 22—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

**Subpart A—Scope**

**Authority:** August 16, 1954, Chapter 736, 68A Stat. 917, as amended (26 U.S.C. 7805); Sec. 201, Pub. L. 85–859, 72 Stat. 1370–1373, as amended (26 U.S.C. 5271–5275), unless otherwise noted.

## Subpart A—Scope

### § 22.1 General.

The regulations in this part relate to tax-free alcohol and cover the procurement, storage, use, and recovery of tax-free alcohol.

### § 22.2 Territorial extent.

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

### § 22.3 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.

## Subpart B—Definitions

### § 22.11 Meaning of terms.

When used in this part and in forms prescribed under this part, the following terms have the meanings given in this section. Words in the plural form include the singular, and vice versa, and words importing 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.* Spirits having a proof of 190° or more when withdrawn from bond, including all subsequent dilutions and mixtures thereof, from whatever source or by whatever process produced.

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

*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.

*CFR.* The Code of Federal Regulations.

*Clinic.* When used in this part the term includes veterinary clinics.

*Delegate.* Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one of more redelegations of authority, to perform the function mentioned or described in the context.

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

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the claim, form, or other document or, where no form of declaration is prescribed, with the declaration "I declare under the penalities of perjury that this ______ (insert type of document, such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

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

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

*Hospital.* When used in this part the term includes veterinary hospitals.

*Initial order.* The first order of tax-free alcohol placed by a permittee or Governmental agency with a distilled spirits plant or vendor, and, the first order placed following the issuance of an amended or corrected permit.

*Liter or litre.* A metric unit of capacity equal to 1,000 cubic centimeters of alcohol, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters (ml). The symbol for milliliter or milliliters is "ml".

*Permit.* The document issued under 26 U.S.C. 5271(a), authorizing a person to withdraw tax-free alcohol from the premises of a distilled spirits plant and use such alcohol under specified conditions.

*Permittee.* Any person holding a permit, on Form 5150.9, issued under this part to withdraw and use tax-free alcohol.

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

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

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

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

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

*Restoration.* Restoring to the original state of recovered tax-free alcohol, including redistillation of the recovered alcohol to 190° or more of proof and the removal of foreign materials by redistillation, filtration, or other suitable means.

*Secretary.* The Secretary of the Treasury or his delegate.

*Spirits or distilled spirits.* The substance known as ethyl alcohol, ethanol, or spirits of wine, having a proof of 190° or more when withdrawn from bond, including all subsequent dilutions and mixtures thereof, from whatever source or by whatever process produced.

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

*U.S.C.* The United States Code.

## Subpart C—Administrative Provisions

### Authorities

#### § 22.21 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part, including bonds, applications, notices, claims, reports, and records. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) ATF Publication 1322.1, Public Use Forms, is a numerical listing of forms issued by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(c) Requests for forms should be mailed to the ATF Distribution Center, 3800 South Four Mile Run Drive, Arlington, Virginia 22206.

#### § 22.22 Alternate methods or procedures; and emergency variations from requirements.

(a) *Alternate methods or procedures.*—(1) *Application.* A permittee, after receiving approval from the Director, may use an alternate method or procedure (including alternate construction or equipment) in lieu of a method or procedure prescribed by this part. A permittee wishing to use an alternate method or procedure may apply to the regional director (compliance). The permittee shall describe the proposed alternate method or procedure and shall set forth the reasons for its use.

(2) *Approval by Director.* The Director may approve the use of an alternate method or procedure if:

(i) The applicant shows good cause for its use;

(ii) It is consistent with the purpose and effect of the procedure prescribed by this part, and provides equal security to the revenue;

(iii) It is not contrary to law; and

(iv) It will not cause an increase in cost to the Government and will not hinder the effective administration of this part.

(3) *Exceptions.* The Director will not authorize an alternate method or procedure relating to the giving of a bond.

(4) *Conditions of approval.* A permittee may not employ an alternate method or procedure until the Director has approved its use. The permittee shall, during the terms of the authorization of an alternate method or procedure, comply with the terms of the approved application.

(b) *Emergency variations from requirements*—(1) *Application.* When an emergency exists, a permittee may apply to the regional director (compliance) for a variation from the requirements of this part relating to construction, equipment, and methods of operation. The permittee shall describe the proposed variation and set forth the reasons for using it.

(2) *Approval by regional director (compliance).* The regional director (compliance) may approve an emergency variation from requirements if:

(i) An emergency exists;

(ii) The variation from the requirements is necessary;

(iii) It will afford the same security and protection to the revenue as intended by the specific regulations;

(iv) It will not hinder the effective administration of this part; and

(v) It is not contrary to law.

(3) *Conditions of approval.* A permittee may not employ an emergency variation from the requirements until the regional director (compliance) has approved its use. Approval of variations from requirements are conditioned upon compliance with the conditions and limitations set forth in the approval.

(4) *Automatic termination of approval.* If the permittee fails to comply in good faith with the procedures, conditions or limitations set forth in the approval, authority for the variation from requirements is automatically terminated and the permittee is required to comply with prescribed requirements of regulations from which those variations were authorized.

(c) *Withdrawal of approval.* The Director may withdraw approval for an alternate method or procedure, or the regional director (compliance) may withdraw approval for an emergency variation from requirements, approved under paragraph (a) or (b) of this section, if the Director or the regional director (compliance) finds that the revenue is jeopardized or the effective administration of this part is hindered by the approval.

(Approved by the Office of Management and Budget under control number 1512-0335)

(Act of August 16, 1954, Chapter 736, 68A Stat. 917 (26 U.S.C. 7805); (Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

**§ 22.23 Allowance of claims.**

The regional director (compliance) is authorized to allow claims for losses of tax-free alcohol.

**§ 22.24 Permits.**

(a) The Director shall issue permits on Form 5150.33 covering the withdrawal of tax-free alcohol by the United States or a Governmental agency as provided in § 22.172.

(b) The regional director (compliance) shall issue the permit to withdraw and use tax-free alcohol, Form 5150.9 required under this part.

**§ 22.25 Bonds and consents of surety.**

The regional director (compliance) is authorized to approve all bonds and consents of surety required by this part.

**§ 22.26 Right of entry and examination.**

An ATF officer may enter, during business hours or at any time operations are being conducted, any premises on which operations governed by this part are conducted to inspect the records required by this part to be kept on those premises. An ATF officer may also inspect and take samples of tax-free alcohol to which those records relate.

**§ 22.27 Detention of containers.**

(a) *Summary detention.* An ATF officer may detain any container containing, or supposed to contain, alcohol when the ATF officer believes the alcohol was withdrawn, sold, transported, or used in violation of law of this part. The ATF officer shall hold the container at a safe place until it is determined if the detained property is liable by law to forfeiture.

(b) *Limitations.* Summary detention may not exceed 72 hours without process of law or intervention of the regional director (compliance). The person possessing the container immediately before its detention may prepare a waiver of the 72 hours limitation to have the container kept on its premises during detention.

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

## Liability for Tax

**§ 22.31 Persons liable for tax.**

All tax-free alcohol removed, sold, transported, or used in violation of law or regulations in this part, is subject to all provisions of law relating to taxable alcohol, including the requirement for payment of tax on the alcohol. The person removing, selling, transporting, or using tax-free alcohol in violation of law or regulations pertaining to tax-free alcohol shall be required to pay the distilled spirits tax on the alcohol.

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

## Destruction of Marks and Brands

**§ 22.33 Time of destruction of marks and brands.**

(a) Any person who empties a package containing tax-free alcohol shall immediately destroy or obliterate the marks, brand, and labels required by this chapter to be placed on packages of tax-free alcohol.

(b) A person may not destroy or obliterate the marks, brands or labels until the package or drum has been emptied.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5206))

## Document Requirements

**§ 22.35 Execution under penalties of perjury.**

(a) When any form or document prescribed by this part is required to be executed under penalties of perjury, the permittee or other authorized person shall:

(1) Insert the declaration "I declare under the penalties of perjury that I have examined this ________ (insert the type of document such as claim, application, statement, report, certificate), including all supporting documents, and to the best of my knowledge and belief, it is true, correct, and complete"; and

(2) Sign the document.

(b) When the required document already bears a perjury declaration, the permittee or other authorized person shall sign the document.

(Act of August 16, 1954, 68A Stat. 745 (26 U.S.C. 6056))

**§ 22.36 Filing of qualifying documents.**

All documents returned to a permittee or other person as evidence of compliance with requirements of this part, or as authorization, shall except as otherwise provided, be kept readily available for inspection by an ATF officer during business hours.

## Subpart D—Qualification

## Application for Permit, Form 5150.22

**§ 22.41 Application for industrial alcohol user permit.**

(a) *Users.* Each person desiring to withdraw and use tax-free alcohol shall, before commencing business, file an application on Form 5150.22 for, and obtain a permit, Form 5150.9, except permittees who were previously qualified to withdraw and use tax-free alcohol on the effective date of this regulation.

(b) *Filing.* All applications and necessary supporting documents, as required by this subpart, shall be filed with the regional director (compliance). All data, written statements, affidavits, and other documents submitted in support of the application are considered a part of the application.

(1) Applications filed as provided in this section, shall be accompanied by evidence establishing the authority of the officer or other person to execute the application.

(2) A State, political subdivision thereof, or the District of Columbia, may specify in the application that it desires a single permit authorizing the withdrawal and use of tax-free alcohol in a number of institutions under its control. In this instance, the application, Form 5150.22, or an attachment, shall clearly show the method of distributing and accounting for the tax-free alcohol to be withdrawn.

**§ 22.42 Data for application, Form 5150.22.**

(a) Unless waived under § 22.43, each application on Form 5150.22 shall include as applicable, the following information:

(1) Serial number and purpose for which filed.

(2) Name and principal business address.

(3) Based on the bona fide requirements of the applicant, the estimated quantity of tax-free alcohol in proof gallons, which will be procured during a 12-month period (one calendar year).

(4) Location, or locations where tax-free alcohol is to be used, if different from the business address.

(5) Statement showing the specific manner in which, or purposes for which, tax-free alcohol will be withdrawn and used.

(6) Statement that tax-free alcohol will be stored in accordance with the requirements of this part.

(7) Statement as to the type of business organization and of the persons interested in the business, supported by the items of information listed in § 22.45.

(8) Listing of the principal equipment for the recovery and restoration of alcohol (including the serial number, kind, capacity, name and address of manufacturer, and name and address of owner if different from applicant).

(9) List of any trade name(s) under which the applicant will conduct operations, and the offices where these names are registered.

(10) Listing of the titles of offices, the incumbents of which are responsible for the tax-free alcohol activities of the business and are authorized by the articles of incorporation, the bylaws, or the board of directors to act and sign on behalf of the applicant.

(11) Other information and statements as the regional director (compliance) may require to establish that the applicant is entitled to the permit. In the case of a corporation or other legal entity the regional director (compliance) may require information which establishes that the officers, directors and principal stockholders whose names are required to be furnished under § 22.45 (a)(2) and (c) have not violated or conspired to violate any law of the United States relating to intoxicating liquor or have been convicted of any offense under Title 26, U.S.C., punishable as a felony or of any conspiracy to commit such offense.

(b) If any of the information required by paragraphs (a)(4) through (a)(10) of this section is on file with any regional director (compliance), the applicant may incorporate this information by reference by stating that the information is made a part of the application.

### § 22.43 Exceptions to application requirements.

(a) The regional director (compliance) may waive detailed application and supporting data requirements, other than the requirements of paragraphs (a)(1) through (a)(6) of § 22.42, and of paragraph (a)(8) of that section as it relates to recovery, in the case of—

(1) All applications, Form 5150.22 filed by States or political subdivisions thereof or the District of Columbia, and

(2) Applications, Form 5150.22, filed by applicants, if their annual withdrawal and usage of tax-free alcohol does not exceed 1,500 proof gallons.

(b) The waiver provided for in this section will terminate when the permittee, other than States or political subdivisions thereof or the District of Columbia, files an application to amend their permit, Form 5150.9, to increase the annual withdrawal and usage of tax-free alcohol in excess of 1,500 proof gallons. In this case the permittee will furnish information in respect to the previously waived items, as provided in § 22.57(a)(2).

### § 22.44 Disapproval of application.

The regional director (compliance) may, in accordance with Part 200 of this chapter, disapprove an application for a permit to withdraw and use tax-free alcohol, if on examination of the application (or inquiry), the regional director (compliance) has reason to believe that:

(a) The applicant is not authorized by law and regulations to withdraw and use alcohol free of tax;

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

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

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

### § 22.45 Organizational documents.

The supporting information required by § 22.42(a)(7) includes, as applicable:

(a) *Corporate documents.* (1) Certified true copy of the certificate of incorporation, or certified true copy of certificate authorizing the corporation to operate in the State where the premises are located (if other than that in which incorporated).

(2) Certified list of names and addresses of officers and directors, along with a statement designating which corporate officers, if applicable, are directly responsible for the tax-free alcohol activities of the business.

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

(b) *Articles of partnership.* True copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of persons owning 10% or more of each of the classes of stock in the corporation, or legal entity, and the nature and amount of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him or her. If a corporation is wholly owned or controlled by another corporation, persons owning 10% or more of each of the classes of stock of the parent corporation are considered to be the persons interested in the business of the subsidiary, and the names and addresses of such persons shall be submitted to the regional director (compliance) if specifically requested.

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

## Industrial Alcohol User Permit, ATF F 5150.9

### § 22.48 Conditions of permits.

Permits to withdraw and use tax-free alcohol will designate the acts which are permitted, and include any limitations imposed on the performance of these acts. All of the provisions of this part relating to the use or recovery of tax-free alcohol are considered to be included in the provisions and conditions of the permit, the same as if set out in the permit.

### § 22.49 Duration of permits.

Permits to withdraw and use tax-free alcohol are continuing unless automatically terminated by the terms thereof, suspended or revoked as provided in § 22.51, or voluntarily surrendered. The provisions of § 22.58 are considered part of the terms and conditions of all permits.

### § 22.50 Correction of permits.

If an error on a permit is discovered, the permittee shall immediately return the permit to the regional director (compliance) for correction.

### § 22.51 Suspension or revocation of permits.

The regional director (compliance) may institute proceedings under Part 200 of this chapter to suspend or revoke a permit whenever there is reason to believe that the permittee—

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

(b) Has violated the conditions of that permit;

(c) Has made any false statements as to any material fact in the application for the permit;

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

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

(f) Is, by reason of its operations, no longer warranted in procuring and using tax-free alcohol authorized by the permit; or

(g) Has not engaged in any of the operations authorized by the permit for a period exceeding two years.

**§ 22.52 Rules of practice in permit proceedings.**

The regulations of Part 200 of this chapter apply to the procedure and practice in connection with the disapproval of any application for a permit and in connection with suspension or revocation of a permit.

**§ 22.53 Powers of attorney.**

An applicant or permittee shall execute and file with the regional director (compliance) a Form 1534, in accordance with the instructions on the form, for each person authorized to sign or to act in its behalf. Form 1534 is not required for persons whose authority is furnished in accordance with § 22.42(a)(10).

**§ 22.54 Photocopying of permits.**

A permittee may make photocopies of its permit exclusively for the purpose of furnishing proof of authorization to withdraw tax-free alcohol from a distilled spirits plant.

**§ 22.55 Posting of permits.**

Permits issued under this part will be kept posted and available for inspection on the permit premises.

## Changes After Original Qualification

**§ 22.57 Changes affecting applications and permits.**

(a) *General.*—(1) *Changes affecting application.* When there is a change relating to any of the information contained in, or considered a part of the application on Form 5150.22 for a permit, the permittee shall, within 30 days (except as otherwise provided in this subpart) file a written notice with the regional director (compliance) to amend the application.

(2) *Changes affecting waivers.* When any waiver under § 22.43 is terminated by a change to the application, the permittee shall include the current information as to the item previously waived with the written notice required in paragraph (a)(1) of this section.

(3) *Changes affecting permit.* When the terms of a permit are affected by a change, the written notice required by paragraph (a)(1) of this section (except as otherwise provided in this subpart) will serve as an application to amend the permit.

(4) *Form of notice.* All written notices to amend an application on Form 5150.22 with—

(i) Identify the permittee;

(ii) Contain the permit identification number;

(iii) Explain the nature of the change and contain any required supporting documents;

(iv) Identify the serial number of the applicable application, Form 5150.22; and

(v) Be consecutively numbered and signed by the permittee or any person authorized to sign on behalf of the permittee.

(b) *Amended application.* The regional director (compliance) may require a permittee to file an amended application on Form 5150.22 when the number of changes to the previous application are determined to be excessive, or when a permittee has not timely filed the written notice prescribed in paragraph (a)(1) of this section. If items on the amended application remain unchanged, they will be marked "No change since Form 5150.22, Serial No. ________."

(c) *Changes in officers, directors and stockholders*—(1) *Officers.* In the case of a change in the officers listed under the provisions of § 22.45(a)(2), the notice required by paragraph (a)(1) of this section shall only apply (unless otherwise required, in writing, by the regional director (compliance)) to those offices, the incumbents of which are responsible for the operations covered by the permit.

(2) *Directors.* In the case of a change in the directors listed under the provisions of § 22.45(a)(2), the notice required by paragraph (a)(1) of this section shall reflect the changes.

(3) *Stockholders.* In lieu of reporting all changes, within 30 days, to the list of stockholders furnished under the provisions of § 22.45(c)(1), a permittee may, upon filing written notice to the regional director (compliance) and establishing a reporting date, file an annual notice of changes. The notice of changes in stockholders does not apply if the sale or transfer of capital stock results in a change in ownership or control which is required to be reported under § 22.58.

(Approved by the Office of Management and Budget under control number 1512–0335)

**§ 22.58 Automatic termination of permits.**

(a) *Permit not transferable.* Permits issued under this part are not transferable. In the event of the lease, sale, or other transfer of such a permit, or of the operations authorized by the permit, the permit shall, except as provided for in this section, automatically terminate.

(b) *Corporations.* (1) If actual or legal control of any corporation holding a permit issued under this part changes, directly or indirectly, whether by reason of a change in stock ownership or control (in the permittee corporation or any other corporation), by operation of law, or in any other manner, the permittee shall within 10 days of the change, give written notice to the regional director (compliance). The written notice shall be accompanied by (or within 30 days of the change) an application and supporting documents on Form 5150.22 for a new permit. If an application on Form 5150.22 for a new permit is not filed within 30 days of the change, the outstanding permit will automatically terminate.

(2) If an application on Form 5150.22 for a new permit is filed within the 30-day period prescribed in paragraph (b)(1) of this section, the outstanding permit will remain in effect until final action is taken on the application. When final action is taken, the outstanding permit will automatically terminate and the permittee shall forward it to the regional director (compliance) for cancellation.

(c) *Proprietorships.* In the event of a change in proprietorship of a business of a permittee (as for instance, by reason of incorporation, the withdrawal or taking in of additional partners, or succession by any person who is not a fiduciary), the successor shall file written notice and make application on Form 5150.22 for a new permit under the same conditions provided for in paragraph (b) of this section.

(Approved by the Office of Management and Budget under control number 1512–0335)

**§ 22.59 Adoption of documents by a fiduciary.**

If the business covered by a permit issued under this part, is to be operated by a fiduciary, the fiduciary may, in lieu of qualifying as a new proprietor, file a written notice, and any necessary supporting documents, to amend the predecessor's permit. The fiduciary shall furnish a consent of surety on Form 1533, extending the terms of the predecessor's bond, if any. The effective date of the qualifying documents filed by a fiduciary shall coincide with the effective date of the court order or the date specified therein for the fiduciary to assume control. If the fiduciary was not appointed by the court, the date the fiduciary assumed control shall coincide with the effective date of the filing of the qualifying documents.

**§ 22.60 Continuing partnerships.**

(a) *Continuing partnerships.* If, under the laws of a particular State, a partnership is not terminated on death or insolvency of a partner, but continues until final settlement 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 withdraw and use tax-free alcohol under the prior qualifications of the partnership.

(b) *Bonds.* If a bond was required under the previous partnership, the surviving partner shall furnish a consent of surety, in which the surety and surviving partner agree to remain liable.

(c) *Requalification.* If a surviving partner acquires the business on completion of the settlement of the partnership, that partner shall qualify as a new proprietor, from the date of acquisition, under the same conditions and limitations prescribed in § 22.58(b).

(d) *More than one partner.* The rule set forth in this section also applies if there is more than one surviving partner.

**§ 22.61 Change in name of permittee.**

(a) *Permit.* When the only change is a change in the individual, firm, or corporation name, a permittee may not conduct operations under the new name until a written notice, accompanied by necessary supporting documents, to amend the application and permit has been filed and an amended permit has been issued by the regional director (compliance).

(b) *Bond.* If required to file a bond, the permittee shall furnish a consent of surety on Form 1533 or a new bond to cover the change in name.

(Approved by the Office of Management and Budget under control number 1512–0335)

**§ 22.62 Change in trade name.**

Where there is to be a change in, or addition of, a trade name, the permittee may not conduct operations under the new trade name until a written notice has been filed and an amended permit has been issued by the regional director (compliance). A new bond or consent of surety is not required for changes in trade names.

(Approved by the Office of Management and Budget under control number 1512–0335)

**§ 22.63 Change in location.**

(a) *Permit.* When there is to be a change in location within the same region, a permittee may not conduct operations at the new location until a written notice, accompanied by necessary supporting information, to amend the application and permit has been filed and an amended permit has been issued by the regional director (compliance).

(b) *Bond.* If required to file a bond, the permittee shall furnish a consent of surety on Form 1533 or a new bond to cover the new location.

(Approved by the Office of Management and Budget under control number 1512–0335)

**§ 22.64 Return of permits.**

Following the termination, surrender or revocation of a permit, or the issuance of a new or amended permit, caused by a change, the permittee shall (a) obtain and destroy all photocopies of the previous permit from its suppliers, and (b) return the original of the permit or obsolete permit to the regional director (compliance) for cancellation.

## Registry of Stills

**§ 22.66 Registry of stills.**

Part 196 of this chapter applies to stills located on the premises of a permittee. The listing of a still on Form 5150.22 and the issuance of a permit constitute registration of that still in lieu of filing Form 26.

## Permanent Discontinuance of Use of Tax-Free Alcohol

**§ 22.68 Notice of permanent discontinuance.**

(a) *Notice.* A permittee who permanently discontinues the use of tax-free alcohol shall file a written notice with the regional director (compliance) to cover the discontinuance. The notice will be accompanied by the permit, and contain—

(1) A request to cancel the permit,

(2) A statement of the disposition made, as provided in § 22.154, of all tax-free and recovered alcohol, and

(3) The date of discontinuance.

(b) *Bonds.* The bond of a permittee may not be canceled until all tax-free and recovered alcohol has been properly disposed of in accordance with the provisions of this part.

(Approved by the Office of Management and Budget under control number 1512–0335)

## Subpart E—Bonds and Consents of Surety

**§ 22.71 Bond.**

(a) Any bond previously approved, under this chapter, on Form 1448 (5150.25) which fulfills the penal sum requirements of paragraph (b) of this section shall remain valid and will be regulated by the same provisions of this subpart as it refers to bonds on Form 5150.25.

(b) Each person who intends to withdraw more than 1,500 proof gallons of tax-free alcohol per annum shall file a bond, Form 5150.25, before issuance of the permit. The penal sum of the bond will be as follows:

| Maximum annual withdrawals | Bond penal sum |
|---|---|
| 0 to 1,500 proof gallons | No bond required. |
| Over 1,500 but not over 3,000 proof gallons | $2,000 plus $100 for each additional 100 proof gallons up to a maximum of $3,000 (2,500 proof gallons). |
| Over 3,000 but not over 6,000 proof gallons | $3,000 plus $200 for each additional 100 proof gallons up to a maximum of $7,500 (5,250 proof gallons). |
| Over 6,000 proof gallons | $7,500 plus $250 for each additional 100 proof gallons up to a maximum penal sum of $15,000 (9,000 proof gallons). |

(c) The following are some examples:

| If your annual withdrawals are | Your penal sum is |
|---|---|
| 1,250 proof gallons | No bond required. |
| 2,800 proof gallons | $3,000 ($2,000 plus $1,000 ($100 × 10 units), last 300 proof gallons does not require additional bond coverage). |
| 8,250 proof gallons | $13,000 ($7,500 plus $5,500 ($250 × 22 units), the remaining 50 proof gallons does not increase the bond since it is not an "additional" 100 proof gallon unit). |

**§ 22.72 Evaluation of bond penal sum.**

(a) *Permittee's evaluation.* Each permittee shall, for the period from January 1 through the following December 31, make an annual evaluation of its previous and future needs for tax-free alcohol. Based on the results of this evaluation:

(1) The permittee shall file a new bond in increased penal sum, if the existing bond no longer meets the penal sum requirements of § 22.71, or

(2) The permittee may file a new bond in decreased penal sum, if the existing bond exceeds the penal sum requirements of § 22.71.

(b) *Authority of regional director (compliance).* The regional director (compliance) may, at any time, require a permittee to file a new bond in a larger penal sum, or require a satisfactory explanation why a new bond should not be filed.

**§ 22.73 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 in the current revision of Treasury Department Circular No. 570.

(b) Treasury Department Circular No. 570 is published in the Federal Register annually as of the first workday in 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.

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

### § 22.74 Filing of powers of attorney.

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 act on behalf of the surety. The regional director (compliance) may require additional evidence of the authority of the agent or officer to execute the bond or consent.

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

### § 22.75 Execution of powers of attorney.

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 not a manually signed original, it shall be accompanied by certification of its validity.

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

### § 22.76 Deposit of securities instead of corporate surety.

Instead of corporate surety, the principal may pledge and deposit as surety for the bond, securities which are transferable and which are guaranteed as to both interest and principal by the United States, under the provisions of 31 CFR Part 225.

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

### § 22.77 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.

### § 22.78 Strengthening bonds.

(a) When the penal sum of any bond becomes insufficient based on projected annual withdrawals, 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. A strengthening bond will not be approved if it bears any notation which is intended or which may be considered—

(1) To be a release of any former bond, or

(2) As limiting the amount of any bond to less than its full sum.

(b) Strengthening bonds will show the date of execution and the effective date, and will be marked "Strengthening Bond."

### § 22.79 Superseding bonds.

Superseding bonds are required when insolvency or removal of any surety occurs. Superseding bonds may also be required at the discretion of the regional director (compliance) when any other contingency affects the validity or impairs the sufficiency of the bond. If the principal intends to continue the transactions to which the bond relates after the surety, under § 22.80, has applied for relief of liability under the bond, the principal shall file a valid superseding bond to be effective on or before the date specified in the surety's application for relief of liability. Superseding bonds will show the date of execution and the effective date, and will be marked "Superseding Bond." If the principal does not file a superseding bond when required, the principal may not conduct any operation under the permit.

### § 22.80 Notice by surety of termination of bond.

A surety on any bond required by this part may at any time, in writing, notify the principal and regional director (compliance) with whom the bond is filed, that the surety desires (after a specified date) to be relieved of liability under the bond. The specified date may not be less than 90 days after the date the notice is received by the regional director (compliance). The surety shall also file with the regional director (compliance) an acknowledgment or other proof of service of the notice of termination on the principal.

(Approved by the Office of Management and Budget under control number 1512–0335)

### § 22.81 Termination of rights and liability under a bond.

(a) If the notice of termination given by the surety is not withdrawn in writing, the rights of the principal as supported by the bond terminate on the date named in the notice. The surety is relieved from liability under a bond as to any operations which are wholly subsequent to—

(1) The date named in a notice of termination (§ 22.80); or

(2) The effective date of a superseding bond (§ 22.79); or

(3) The date of approval of the discontinuance of operations by the principal.

(b) If the principal fails to file a valid superseding bond before the date on which the surety desires to be relieved from liability under the bond, the surety, notwithstanding the release from liability as specified in paragraph (a)(1) of this section, shall remain liable under the bond for all tax-free alcohol and recovered alcohol on hand or in transit to the principal on that date until the spirits have been lawfully disposed of or a new bond has been filed by the principal.

### § 22.82 Release of pledged securities.

Securities of the United States, pledged and deposited as provided in § 22.76, will be released only under the provisions of 31 CFR Part 225. When the regional director (compliance) is satisfied that they may be released, the regional director (compliance) shall fix the date or dates on which a part or all of the securities may be released. At any time before the release of the securities, the regional director (compliance) may extend the date of release for any additional length of time considered necessary.

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

## Subpart F—Premises and Equipment

### § 22.91 Premises.

All persons qualified to withdraw and use tax-free alcohol shall have premises suitable for the business being conducted and adequate for the protection of the revenue. Storage facilities shall be provided on the premises for tax-free alcohol received or recovered. The storage facilities may consist of a combination of storerooms, compartments, or stationary storage tanks.

### § 22.92 Storage facilities.

(a) Storerooms or compartments shall be so constructed and secured as to prevent unauthorized access and will be equipped for locking. These storage facilities shall be of sufficient capacity to hold the maximum quantity of tax-free alcohol which will be on hand at one time.

(b) Each stationary storage tank used to hold tax-free alcohol shall be equipped for locking in such a manner as to control access to the spirits. All stationary storage tanks shall be equipped with an accurate means of measuring the spirits.

(c) Storerooms and storage tanks shall be kept locked when unattended. A storage cabinet or locker kept inside a room which is locked when unattended is considered to be adequately secured.

**§ 22.93 Equipment for recovery and restoration of tax-free alcohol.**

(a) *Location.* All equipment used to recover and restore tax-free alcohol for reuse shall be located on the permit premises.

(b) *Construction.* (1) Distilling apparatus, pipelines and other equipment used for recovery and restoration of tax-free alchohol shall be constructed and secured in such a manner as to prevent unauthorized access and so arranged as to be readily inspected.

(2) Storage tanks shall be provided for the collection of recovered tax-free alcohol. Each storage tank shall—

(i) Be durably marked as to use and capacity;

(ii) Be equipped with, or for, an accurate means of measuring the spirits; and

(iii) Be equipped for locking to control unauthorized access to the spirits.

## Supart G—Use of Tax-Free Alcohol

**§ 22.101 Authorized uses.**

Alcohol may be withdrawn free of tax from the bonded premises of a distilled spirits plant for the use of any State or political subdivision of a State, or the District of Columbia, for nonbeverage purposes. Alcohol may also be withdrawn by persons eligible to use tax-free alcohol, for nonbeverage purposes and not for resale or use in the manufacture of any product for sale. Tax-free alcohol shall be withdrawn and used only as provided by law and this part, as follows:

(a) For the use of any educational organization described in 26 U.S.C. 170(b)(1)(A) which is exempt from income tax under 26 U.S.C. 501(a), or for the use of any scientific university or college of learning;

(b) For any laboratory for use exclusively in scientific research;

(c) For use at any hospital, blood bank, or sanitarium (including use in making any analysis or test at a hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engage in making analyses, or test, for hospitals or sanitariums; or

(d) For the use of any clinic operated for charity and not for profit (including use in the compounding of bona fide medicines for treatment of patients outside of the clinic).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended, (26 U.S.C. 5214))

**§ 22.102 Prohibited uses.**

(a) *Usage.* Under no circumstances may tax-free alcohol withdrawn under this part be used for beverage purposes, food products, or in any preparation used in preparing beverage or food products.

(b) *Selling.* Persons qualified under this part are prohibited from selling tax-free alcohol, using tax-free alcohol in the manufacture of any product for sale, or selling any products resulting from the use of tax-free alcohol. A separate charge may be made by a hospital, sanitarium or clinic for medicines compounded with tax-free alcohol and dispensed to patients for use on the premises, as provided in §§ 22.105 and 22.106. Hospitals may not furnish tax-free alcohol for use of physicians in their private practice.

(c) *Removal from premises.* Persons qualified under this part may not remove tax-free alcohol or products resulting from the use of tax-free alcohol from the permit premises unless specifically authorized by the terms of their permit, or permission is obtained from the regional director (compliance), except that:

(1) Products made through the use of tax-free alcohol which contain no alcohol may be removed to other premises for the sole purpose of further research; or

(2) Under the provisions of §§ 22.105 and 22.106, clinics operated for charity and not for profit may compound bona fide medicines with tax-free alcohol, and dispense the medicine from the premises for use by its patients outside of the clinic, if the furnishing of the medicine is not conditioned upon payment.

(d) *Liability for tax.* Permittees who use tax-free alcohol in any manner prohibited by this section become liable for the tax on the alcohol. Any permittee who sells tax-free alcohol also becomes liable for special (occupational) tax as a liquor dealer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended, 1343, as amended, 1362, as amended (26 U.S.C. 5001, 5121, 5214))

**§ 22.103 States and the District of Columbia.**

Except as otherwise provided in this section, tax-free alcohol withdrawn by a State or political subdivision of a State, or the District of Columbia shall be used solely for mechanical and scientific purposes, and except on approval of the regional director (compliance), the use of tax-free alcohol or the use of any resulting product will be confined to the premises under the control of the State or political subdivision of a State, or the District of Columbia. Tax-free alcohol withdrawn for use in hospitals, clinics, and other establishments specified in §§ 22.104 through 22.108, operated by a State, political subdivision of a State, or the District of Columbia, shall be used in the manner prescribed for those establishments.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

**§ 22.104 Educational organizations, colleges of learning, and scientific universities.**

(a) *Educational organizations.* Educational organizations authorized to withdraw and use tax-free alcohol under § 22.101 are those organizations which normally maintain a regular faculty and curriculum and which normally have a regularly enrolled body of students in attendance at the place where their educational activities are regularly carried on and which are exempt from Federal income tax under 26 U.S.C. 501(a).

(b) *Colleges of learning.* Colleges of learning, for the purposes of this subpart, have a recognized curriculum and confer degrees after specified periods of attendance at classes or research work.

(c) *Scientific universities.* Scientific universities include any university incorporated or organized under any Federal or State law which provides training in the sciences.

(d) *Uses.* Tax-free alcohol withdrawn by educational organizations, scientific universities, and colleges of learning shall be used only for scientific, medicinal, and mechanical purposes. Use of tax-free alcohol and resulting products are limited by the provisions of § 22.102.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

**§ 22.105 Hospitals, blood banks, and sanitariums.**

(a) Tax-free alcohol withdrawn for use by hospitals, blood banks, and sanitariums shall be used exclusively for medicinal, mechanical (analysis or test) and scientific purposes and in the treatment of patients. The use of tax-free alcohol and of products resulting from the use of tax-free alcohol shall be confined to the permit premises, except as provided in this section and § 22.102. Medicines compounded with tax-free alcohol on the premises of a hospital or sanitarium, for use of patients on the premises, may not be sold, but a separate charge may be made for the medicine.

(b) A hospital, operating a clinic on premises, may withdraw tax-free alcohol for use in the clinic, if the clinic is operated for charity and not for profit. Medicines compounded with tax-free alcohol may be dispensed to patients at a clinic for use outside of the clinic, if the furnishing of the medicine is not conditioned upon payment.

(c) A hospital or sanitarium, operating a pathological or other laboratory on premises, may withdraw tax-free alcohol for authorized use in the laboratory.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

### § 22.106 Clinics.

Tax-free alcohol withdrawn by clinics operated for charity and not for profit shall be used only for medicinal, scientific, and mechanical purposes and in the treatment of patients. Medicine compounded with tax-free alcohol may be dispensed to patients for use off the premises, if the furnishing of the medicine is not conditioned upon payment. A separate charge may be made for medicine coumpounded on the clinic premises with tax-free alcohol for use of patients on the premises. Except as provided in this section and in § 22.102, the use of tax-free alcohol shall be confined strictly to the premises of the clinic.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

### § 22.107 Pathological laboratories.

(a) Pathological laboratories, not operated by a hospital or sanitarium, may withdraw and use tax-free alcohol if exclusively engaged in making analyses or tests for hospitals or sanitariums. If a pathological laboratory does not exclusively conduct analyses or tests for hospitals or sanitariums, it does not qualify for the permit issued under this part.

(b) A pathological laboratory which uses tax-free alcohol for any other purpose, except as provided in this section, shall become liable for the tax on the alcohol.

(c) Except as provided in § 22.102, the use of tax-free alcohol and of products resulting from the use of tax-free alcohol shall be confined strictly to the permit premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1362, as amended (26 U.S.C. 5001, 5214))

### § 22.108 Other laboratories.

Laboratories, other than pathological laboratories specified in § 22.107, may withdraw and use tax-free alcohol exclusively in scientific research. The use of tax-free alcohol or of products resulting from the use of tax-free alcohol shall be confined strictly to the laboratory premises, except as provided in § 22.102.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

## Subpart H—Withdrawal and Receipt of Tax-Free Alcohol

### § 22.111 Withdrawals under permit.

(a) *General.* The permit, Form 5150.9, issued under Subpart D of this part, authorizes a person to withdraw tax-free alcohol from the bonded premises of a distilled spirits plant or, under the provisions of 26 U.S.C. 5688(a)(2)(B), receive alcohol from the General Services Administration.

(b) *Photocopying of permit, Form 5150.9.* (1) As provided in § 22.54, a permittee may make photocopies of its permit, or amended permit, for the exclusive purpose of furnishing proof of authorization to withdraw tax-free alcohol.

(2) A permittee need only furnish the photocopy of its permit, or amended permit, to a distilled spirits plant for the "initial order" from that distilled spirits plant.

(3) When a permittee makes photocopies of its permit, Form 5150.9, each copy shall be signed, dated, and contain the word "COPY" across the face.

(4) A permittee is responsible for obtaining and, as applicable, destroying all photocopies of its permit from distilled spirits plants when (i) an amended or corrected permit is issued which supersedes the copy on file, (ii) the permit is canceled by reason of requalification as a new permittee, (iii) the permit is revoked or suspended, or (iv) upon permanent discontinuance of use of tax-free alcohol.

(c) *Withdrawals under permit.* (1) When a permittee places an initial order for tax-free alcohol it shall forward a signed copy of the permit, for retention by the distilled spirits plant, along with the purchase request.

(2) When the permittee places a subsequent order for tax-free alcohol, the purchase request, in addition to any other information, shall contain the permit identification number and date of issue along with a statement that the permittee possesses a valid permit to withdraw tax-free alcohol, a copy of which is on file.

(3) Shipments shall not be made by a proprietor of a distilled spirits plant until it is in possession of a signed copy of a valid permit, Form 5150.9.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5555))

### § 22.112 Regulation of withdrawals.

(a) Each permittee shall regulate its withdrawals of tax-free alcohol to ensure that (1) the quantity on hand and unaccounted for does not exceed the capacity of the storage facilities, and (2) the cumulative quantity withdrawn or received in any calendar year does not exceed the quantity authorized by the permit, Form 5150.9. Recovered alcohol and alcohol received from the General Services Administration shall be taken into account in determining the total quantity of alcohol on hand.

(b) For the purpose of this section, tax-free alcohol and recovered alcohol shall be considered as unaccounted for if lost under circumstances where a claim for allowance is required by this part and the claim has not been allowed, or if used or disposed of in any manner not provided for in this part.

### § 22.113 Receipt of tax-free alcohol.

(a) When tax-free alcohol is received, it shall be placed in the storage facilities prescribed by § 22.91 and kept there under lock until withdrawn for use. Unless required by city or State fire code regulations or authorized by the regional director (compliance) or the terms of the permit, the permittee may not remove tax-free alcohol from the original packages or containers in which received until the alcohol is withdrawn for use. If the tax-free alcohol is transferred to "safety" containers in accordance with fire code regulations, the containers to which they are transferred shall be appropriately marked to identify the package from which transferred, the quantity transferred, the date of transfer, and the name and address of the vendor.

(b) When tax-free alcohol is received, the permittee shall ascertain and account for any losses in transit in accordance with Subpart I of this part. The permittee shall note any loss or deficiency in the shipment on the record of receipt.

(c) Records of receipt shall consist of the consignors invoice or bill. Records of receipt may be filed in accordance with the permittee's own filing system as long as it does not cause inconvenience to ATF officers desiring to examine the records. The filing system shall systematically and accurately account for the receipt of all tax-free alcohol.

### § 22.114 Alcohol received from the General Services Administration.

Any nonprofit charitable institution holding a permit on Form 5150.9, and receiving alcohol from the General Services Administration under the provisions of 26 U.S.C. 5688(a)(2)(B), shall include any quantity of alcohol received in computing the quantity of tax-free alcohol that may be procured under its permit during the calendar year. The alcohol, on receipt, shall be placed in the storage facilities prescribed in § 22.91 and kept there under lock until withdrawn for use.

## Subpart I—Losses

### § 22.121 Liability and responsibility of carriers.

(a) A person or carrier transporting tax-free alcohol to a consignee or returning the alcohol to the consignor is responsible for the safe delivery and is accountable for any tax-free alcohol not delivered.

(b) A person or carrier transporting tax-free alcohol in violation of any law or regulation pertaining thereto, is subject to all provisions of law relating to alcohol subject to and the payment of tax thereon, and shall be required to pay the tax.

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

### § 22.122 Losses in transit.

(a) *Reporting losses.* Upon discovering any loss of tax-free alcohol while in transit, the carrier shall immediately inform the consignee, in writing, of the facts and circumstances relating to the loss. In the case of theft, the carrier shall also immediately notify the consignee's regional director (compliance) of the facts and circumstances relating to the loss.

(b) *Recording losses.* At the time the shipment or report of loss is received, the consignee shall determine the quantity of tax-free alcohol lost. The consignee shall note the quantity lost on the receiving document and attach all relevant information to the record of receipt, prescribed in § 22.113. For the purpose of maintaining the records prescribed in Subpart M of this part, receipts of tax-free alcohol shall only include the quantity actually received.

(c) *Claims.* A claim for allowances of losses of tax-free alcohol shall, as prescribed in § 22.125, be filed:

(1) If the quantity lost in transit exceeds 1 percent of the total quantity shipped and is more than 5 proof gallons, the consignee shall file a claim for allowance of the entire quantity lost; or

(2) If the loss was due to theft or other unlawful removal, the consignee shall file a claim for allowances of the entire quantity lost, regardless of the quantity or percentage involved.

(Reporting approved by the Office of Management and Budget under control number 1512-0335; recordkeeping approved by the Office of Management and Budget under control number 1512-0334)

### § 22.123 Losses on premises.

(a) *Recording of losses.* A permittee shall determine and record, in the records prescribed by Subpart M of this part, the quantity of tax-free or recovered alcohol lost on premises—

(1) At the end of each semi-annual period when the inventory required by § 22.162 is taken, or

(2) Immediately upon the discovery of any loss due to casualty, theft or other unusual causes.

(b) *Claims.* A claim for allowances of losses of tax-free alcohol shall be filed as prescribed in § 22.125, in the following circumstances—

(1) if the quantity lost during any semi-annual inventory period exceeds 1 percent of the quantity to be accounted for during that period, and is more than 10 proof gallons, or

(2) if the loss was due to theft or unlawful use or removal, the permittee shall file a claim for allowances of losses regardless of the quantity involved.

(Approved by the Office of Management and Budget under control number 1512-0334)

### § 22.124 Incomplete shipments.

(a) 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 distilled spirits plant.

(b) When tax-free alcohol is returned to the distilled spirits plant, in accordance with this section, the carrier shall inform the proprietor, in writing, of the facts and circumstances relating to the loss. In the case of theft, the carrier shall also immediately notify the shipper's regional director (compliance) of the facts and circumstances relating to the loss.

(c) Subject to the limitations for loss prescribed in § 22.122, the proprietor of the distilled spirits plant shall file a claim for allowance of the entire quantity lost, in the same manner provided in that section. The claim shall include the applicable daté required by § 22.125.

### § 22.125 Claims.

(a) Claims for allowances of losses of tax-free or recovered alcohol shall be filed, on Form 2635 (5620.8), with the regional director (compliance) within 30 days from the date the loss is ascertained, and shall contain the following information:

(1) Name, address, and permit number of claimant;

(2) Identification and location of the container(s) from which the tax-free or recovered alcohol was lost, and the quantity lost from each container;

(3) Total quantity of tax-free or recovered alcohol covered by the claim and the aggregate quantity involved;

(4) Date of loss or discovery, the cause or nature of loss, and all relevant facts, including facts establishing whether the loss occurred as a result of negligence, connivance, collusion, or fraud on the part of any person, employee or agent participating in or responsible for the loss; and

(5) Name of carrier where a loss in transit is involved.

(b) The carriers statement regarding a loss in transit, prescribed by § 22.122 or 22.124, shall accompany the claim.

(c) The regional director (compliance) may require additional evidence to be submitted in support of the claim.

## Subpart J—Recovery of Tax-Free Alcohol

### § 22.131 General.

Any person or permittee conducting recovery operations of tax-free alcohol shall be qualified by the terms of their permit to do so, under the provision of Subpart D of this part. Restoration of recovered tax-free alcohol may only be accomplished on the permit premises or by the proprietor of a distilled spirits plant.

### § 22.132 Deposit in storage tanks.

(a) Recovered alcohol shall be accumulated and kept in separate storage tanks conforming to § 22.93. Recovered alcohol shall be measured before being redistilled or reused.

(b) Recovered alcohol may be removed from storage tanks for packaging and shipment to a distilled spirits plant for redistillation.

### § 22.133 Shipment for redistillation.

(a) Unless a permittee intends to redistill recovered alcohol to its original state, the recovered alcohol shall be shipped in containers to a distilled spirits plant for restoration.

(b) Containers shall be labeled with—

(1) The name, address, and permit number of permittee,

(2) The quantity of recovered alcohol in gallons,

(3) The words "Recovered tax-free alcohol", and

(4) A package identification number or serial number in accordance with paragraph (c)(1) or (c)(2) of this section.

(c)(1) A package identification number shall apply to all of the packages filled at the same time. All of the packages in one lot shall be the same type, have the same rated capacity, and be uniformly filled with the same quantity. A package identification number shall be derived from the date on which the package is filled, and shall consist of the following elements, in the order shown—

(i) The last two digits of the calendar year;

(ii) An alphabetical designation from "A" through "L", representing January through December, in that order;

(iii) The digits corresponding to the day of the month; and

(iv) A letter suffix when more than one identical lot is filled into packages during the same day. For successive lots after the first lot, a letter suffix shall be added in alphabetical order, with "A" representing the second lot of the day, "B" representing the third lot of the day, etc. (*e.g.* the first three lots filled into packages on November 19, 1983, would be identified as "83K19," '83K19A," and "83K19B."

(2) A consecutive serial number shall be marked on each package, beginning with the number "1" and continuing in regular sequence. When any numbering series reaches "1,000,000," the user may recommence the series by providing an alphabetical prefix or suffix for each number in the new series.

### § 22.134 Records of shipment.

A consignor shipping recovered alcohol or tax-free alcohol to a distilled spirits plant shall prepare and forward a record of shipment to the consignee. The record of shipment may consist of a shipping invoice, bill, or bill of lading, or another document intended for the same purpose. The record of shipment shall accurately identify and account for the tax-free or recovered alcohol being shipped. A permittee shall file one copy of the record of shipment with the records required by § 22.161.

(Approved by the Office of Management and Budget under control number 1512–0334)

## Subpart K—Destruction

### § 22.141 General.

A permittee may terminate liability for payment of tax, prescribed by law, when tax-free or recovered alcohol is destroyed in accordance with this subpart.

### § 22.142 Destruction.

(a) A permittee may destroy tax-free or recovered alcohol upon (1) the filing of a notice of intention to destroy with the area supervisor at least 7 days prior to the proposed date of destruction, or (2) furnishing the notice to an ATF officer at the premises who may supervise the destruction or transmit the notice to the area supervisor.

(b) The notice of intention to destroy shall contain—

(1) The reason for destruction,

(2) The date, time, location and manner of destruction, and

(3) The quantity involved and, if applicable, the package identification numbers of containers.

(c) If, by the date and time specified in the notice, an ATF officer has not supervised the destruction, or the area supervisor has not advised the permittee to the contrary, the spirits may be destroyed in the manner stated in the notice.

(d) Following the destruction, if unsupervised by an ATF officer, the permittee shall annotate a copy of the notice with the name of the individual who accomplished or supervised the destruction. This notice shall serve as a record of destruction and shall be maintained with the records required by § 22.161.

(Approved by the Office of Management and Budget under control number 1512–0335)

## Subpart L—Return, Reconsignment and Disposition of Tax-Free or Recovered Alcohol

### § 22.151 Return.

A permittee may, following the receipt of tax-free alcohol and for any legitimate reason, return the spirits to any distilled spirits plant if the consignee consents to the shipment. The consignor shall prepare a record of shipment in the same manner prescribed in § 22.134 for shipment of recovered alcohol.

(Approved by the Office of Management and Budget under control number 1512–0334)

### § 22.152 Reconsignment in transit.

(a) *Reconsignment.* Tax-free alcohol may be reconsigned to another permittee or returned to the consignor if, prior to, or on arrival at the premises of the consignee, the alcohol is determined to be unsuitable for the intended purpose, was shipped in error, or, for any bona fide reason, is not accepted by the consignee or carrier.

(b) *Bond coverage.* In the case of reconsignment, the bond, if required, of the permittee to whom the tax-free alcohol was reconsigned or the bond of the consignor, if for return, shall cover the spirits while in transit.

(c) *Records of reconsignment.* In the case of reconsignment, the consignor shall cancel the initial record of shipment and prepare a new record of shipment, if the shipment is to another permittee. The new record of shipment shall be annotated "Reconsignment."

(Approved by the Office of Management and Budget under control number 1512–0334)

### § 22.153 Disposition after revocation of permit.

When any permit issued on Form 5150.9 is revoked, all tax-free alcohol in transit and all alcohol on the former permit premises, may be lawfully possessed by the former permittee for the exclusive purpose of disposing of the alcohol, for a period of 60 days following the date of revocation. Any tax-free or recovered alcohol not disposed of within the specified 60-day period, is subject to seizure and forfeiture.

### § 22.154 Disposition on permanent discontinuance of use.

(a) *Tax-free alcohol.* Tax-free alcohol on hand at the time of discontinuance of use, may be disposed of by (1) returning the spirits to a distilled spirits plant, as provided in § 22.151, (2) destruction, as provided in § 22.142, or (3) shipping to another permittee, in accordance with § 22.155.

(b) *Recovered tax-free alcohol.* Upon permanent discontinuance of use, a permittee may dispose of recovered tax-free alcohol by (1) shipment to a distilled spirits plant, as provided in § 22.133, (2) destruction, as provided in § 22.142, or (3) upon the filing of an application with the regional director (compliance), any other approved method.

(Approved by the Office of Management and Budget under control number 1512–0335)

### § 22.155 Emergency disposition to another permittee.

(a) In the case of an emergency, a permittee may, upon the filing of a notice with the area supervisor, dispose of tax-free alcohol to another permittee, when the quantity involved does not exceed 10 proof gallons. In the case of a medical emergency or disaster, the area supervisor is authorized to verbally approve, with the required notice to follow, disposals of tax-free alcohol to another permittee or Government agency in excess of 10 proof gallons. The tax-free alcohol disposed of shall be in original unopened containers. The consignor shall prepare a record of shipment in the same manner prescribed in § 22.134.

(b) The notice required by this section shall (1) explain the nature of the emergency, (2) identify the consignee by name, address and permit number, and (3) list the quantity of alcohol and package identification number of the container(s) involved.

(c) The consignor permittee may not receive remuneration for tax-free alcohol given to another permittee in case of an emergency, as authorized by this section.

(Notice approved by the Office of Management and Budget under control number 1512-0335; recordkeeping approved by the Office of Management and Budget under control number 1512-0334)

## Subpart M—Records of Transactions

### § 22.161 Records.

(a) *General.* All persons qualified under this part shall keep accurate records of all receipts, shipments, usage, destructions and claims pertaining to the withdrawal and use of tax-free alcohol. These records shall be in sufficient detail to enable the permittee to reconcile any losses or gains for the semi-annual inventory, and to enable ATF officers to verify all transactions and to ascertain whether there has been compliance with law and regulations. All records required by this section shall identify tax-free alcohol by proof, date of transaction, and quantity involved, and shall include alcohol received from the General Services Administration and the recovery of alcohol and its disposition. Records shall be kept current at all times.

(b) *Records of receipt and shipment.* Records of receipt and shipment shall consist of the consignor's or consignee's (as the case may be) invoice, bill or bill of lading, or another document used for the intended purpose. Records of receipt shall record only the quantity of tax-free alcohol actually received. Losses in transit shall not be considered as received, but may be the subject of a claim for allowances of losses, as prescribed in Subpart I of this part.

(c) *Records of usage.* For the purpose of this subpart, tax-free or recovered alcohol shall be considered as "used" when permanently removed from a permittee's supply storeroom, compartment, or tank for any authorized use. Records of usage shall identify the tax-free alcohol by quantity, proof, and purpose of removal (office, department or location to which dispensed). This record shall list separately, the usage of tax-free alcohol from recovered alcohol or alcohol received from the General Services Administration.

(d) *Records of destruction.* Records of destruction shall consist of a copy of the notice of intention to destroy, prescribed in § 22.141, signed by an ATF officer or employee witnessing the destruction.

(e) *Claims.* Claims for allowance of losses of tax-free alcohol, required to be filed under Subpart I of this part, shall consist of Forms 2635 (5620.8) and supporting data.

(Approved by the Office of Management and Budget under control number 1512-0334)

### § 22.162 Inventories.

Each permittee shall take a physical inventory of the tax-free and recovered alcohol in its possession semi-annually for the periods ending June 30 and December 31 of each year; or other inventory periods which are approximately 6 months apart, upon filing written notice with the regional director (compliance) establishing other inventory periods. These inventories may be recorded separately or as an entry in the record of usage with any necessary adjustments (losses or gains). If an inventory results in a loss in excess of the quantities prescribed by Subpart I of this part, the permittee shall file a claim for allowance of loss.

(Notice approved by the Office of Management and Budget under control number 1512-0335; recordkeeping approved by the Office of Management and Budget under control number 1512-0334)

### § 22.163 Time for making entries.

Any person who conducts an operation which is required to be recorded under this part, shall enter that operation in the records on the same day the operation occurred. However, the daily posting of records may be deferred to conform to the permittee's normal accounting cycle if (a) supporting or supplemental records are prepared at the time of the operation, and these supporting or supplemental records are to be used to post the daily record, and (b) the deferral of posting does not pose a jeopardy to the revenue.

### § 22.164 Filing and retention of records.

Each person required to maintain records of operations and transactions under this part shall:

(a) Keep on file all records and copies of claims for a period of not less than 3 years following the date of transaction or, at the discretion of the regional director (compliance), an additional 3-year period; and

(b) Maintain all records at the permit premises, except that the records may be kept at a central location by a State or political subdivision of a State, or the District of Columbia which distributes tax-free alcohol to multiple dependent agencies, institutions, or departments.

### § 22.165 Photographic copies of records.

(a) *General.* Permittees may record, copy, or reproduce required records. Any process may be used which accurately reproduces the original record, and which forms a durable medium for reproducing and preserving the original record.

(b) *Copies of records treated as original records.* 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 records the same as if they were the original record, and they shall be treated and considered for all purposes as though they were the original record. All provisions of law and regulations applicable to the original are applicable to the reproduced record. As used in this section, "original record" means the record required by this part to be maintained or preserved by the permittee, 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))

## Subpart N—Use of Tax-Free Spirits by the United States or Government Agency

### § 22.171 General.

(a) The United States or any of its Government agencies may withdraw tax-free spirits for nonbeverage purposes from a distilled spirits plant under this part, as authorized by 26 U.S.C. 5214(a)(2). Before any tax-free spirits may be withdrawn, a permit to procure the spirits shall be obtained from the Director. A bond is not required for any Government agency of the United States to procure tax-free spirits.

(b) The provisions of Subpart M of 27 CFR Part 251 cover the withdrawal of imported spirits, free of tax, for use of the United States or any of its Government agencies.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended) (26 U.S.C. 5214))

### § 22.172 Application and Permit, Form 5150.33.

(a) All permits previously issued to the United States or any of its Government agencies on Form 1444 shall remain valid and shall be regulated by the same provisions of this subpart as it refers to permits on Forms 5150.33.

(b) A Government agency shall apply for a permit to obtain tax-free spirits on Form 5150.33, to the Director. Upon approval, Form 5150.33 will be returned to the Government agency, and shall serve as authority to procure spirits free of tax.

(c) A Government agency may specify on its application for a permit to procure tax-free spirits, Form 5150.33, that it desires a single permit authorization all sub-agencies under its control to procure tax-free spirits; or each Government location (agency, department, bureau, and etc.) desiring to procure tax-free spirits for nonbeverage purposes may individually submit an application for a permit on Form 5150.33.

(d) An application for a permit shall be signed by the head of the agency or sub-agency, or the incumbent of an office which is authorized by the head of the agency or sub-agency, to sign. Evidence of authorization to sign for the head of the agency or sub-agency shall be furnished with the application.

(e) Tax-free spirits obtained by Government agencies may not be used for non-Government purposes.

**§ 22.173 Procurement of tax-free spirits.**

Each Government agency shall retain the original of its permit, Form 5150.33, on file. When placing an initial order with a vendor, the agency shall forward a photocopy of its permit with the purchase order for tax-free spirits. In the case of an agency holding a single permit for use of other sub-agencies, the photocopy of the permit shall contain an attachment listing all other locations authorized to procure tax-free spirits. Any subsequent purchases from the same vendor need only contain the permit number on the purchase order.

**§ 22.174 Receipt of shipment.**

On receipt of a shipment of tax-free spirits, a representative of the Government agency shall inspect the shipment for any loss or deficiency. In the case of loss or deficiency, the agency shall annotate the receiving document and forward a copy to the regional director (compliance) of the region from which the shipment was consigned.

**§ 22.175 Discontinuance of use.**

When a Government agency, holding a permit issued under this subpart, no longer intends to procure and use tax-free spirits, the permit shall be returned to the Director for cancellation. All photocopies of the permit furnished to vendors shall be returned to the agency for destruction.

**§ 22.176 Disposition of excess spirits.**

At the time of discontinuance of use of tax-free spirits, a Government agency may dispose of any excess tax-free spirits (a) by transferring the spirits to another Government agency holding a permit, (b) by returning the spirits to a vendor, or (c) in any manner authorized by the Director. Tax-free spirits may not be disposed of to the general public.

## PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Section E. Part 170 is amended as follows:

**§ 170.23 [Amended]**

The definition of *Denatured spirits* in § 170.23 is amended by replacing "Part 212" with "Part 21".

## PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS

Section F. Part 200 is amended to remove references to withdrawal permits, including references to expiration or renewal of withdrawal permits, and to eliminate the distinction between initial applications and renewal applications as follows:

**Paragraph 1.** The table of sections for Part 200 is amended to reflect amended headings of §§ 200.48, 200.49a, 200.62, 200.67, 200.78, 200.79, 200.80, 200.81, 200.107, and 200.108, and to reflect the removal of §§ 200.50, 200.63, and 200.68.

Sec.

* * * * *

200.48 Operating permits and industrial use permits.

200.49 * * *

200.49a Applications for operating permits and industrial use permits.

200.49b * * *

**Subpart F * * ***

* * * * *

200.62 Application.

**Answers**

200.64 * * *

* * * * *

200.67 Applications.

200.69 * * *

* * * * *

200.78 Applications.

200.79 Suspension, revocation, or annulment.

**Burden of Proof**

200.80 Applications.

200.81 Suspension, revocation, or annulment.

* * * * *

200.107 Application.

200.108 Suspension, revocation, or annulment proceedings.

* * * * *

**Par. 2.** The definitions of *Application, Citation, Initial decision, Permit,* and *Respondent* in § 200.5 are amended to read as follows:

**§ 200.5 Meaning of terms.**

* * * * *

*Application.* Any application for a permit under the Federal Alcohol Administration Act or the Internal Revenue Code (26 U.S.C.) for operations not covered by an existing permit.

* * * * *

*Citation.* Includes any notice contemplating the disapproval of an application or any order to show cause why a permit should not be suspended, revoked or annulled.

* * * * *

*Initial decision.* The decision (order) of the regional director (compliance) in any proceeding on an application for a permit, and the decision of the administrative law judge in any proceeding on the suspension, revocation, or annulment of a permit.

* * * * *

*Permit*—(a) *Alcohol fuel permit.* The document issued under 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.* The document issued under 26 U.S.C. 5271(a), authorizing the person named therein to withdraw and use distilled spirits free of tax in accordance with Part 22 of this chapter, or withdraw and deal in or use specially denatured spirits in accordance with Part 20 of this chapter, as described therein.

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

(e) *Tobacco permit.* The document issued under 26 U.S.C. 5713(a), authorizing the person named therein to engage in the business described therein.

* * * * *

*Respondent.* Any person holding a permit against which an order has been issued to show cause why such permit should not be suspended, revoked or annulled.

* * * * *

**§ 200.35 [Amended]**

**Par. 3.** Section 200.35 is amended by deleting "or application for renewal disapproved," and "or applicant for renewal," from the first sentence and by deleting "or disapproval of the renewal application," from the last sentence.

**§ 200.36 [Amended]**

**Par. 4.** Section 200.36 is amended by deleting "or his application for renewal disapproved," from the first sentence.

**§ 200.37 [Amended]**

**Par. 5.** Section 200.37 is amended by deleting "or his application for renewal thereof be disapproved," from the first sentence.

§ 200.38 [Amended]

**Par. 6.** Section 200.38 is amended by deleting "or disapproval of renewal application," from the first sentence.

**Par. 7.** The introductory text of § 200.48 is revised to delete references to withdrawal permits. As revised, the introductory text of § 200.48 reads as follows:

**§ 200.48 Operating permits and industrial use permits.**

Whenever the regional director (compliance) has reason to believe that any person who has an operating permit or an industrial use permit:

* * * * *

**Par. 8.** The introductory text of § 200.49a is revised to delete references to withdrawal permits and renewal applications. As revised, the introductory text of § 200.49a reads as follows:

**§ 200.49a Applications for operating permits and industrial use permits.**

If, on examination of an application for an operating permit or an industrial use permit, the regional director (compliance) has reason to believe:

* * * * *

§ 200.50 [Removed]

**Par. 9.** Section 200.50 is removed because it relates to expiration of withdrawal permits.

§ 200.55 [Amended]

**Par. 10.** Section 200.55 is amended by replacing "an initial or renewal permit" with "a permit".

§ 200.56 [Amended]

**Par. 11.** Paragraph (b) of § 200.56 is amended by deleting ", whether initial or renewal".

§ 200.59 [Amended]

**Par. 12.** Section 200.59 is amended by replacing "an initial or renewal permit" with "a permit".

§ 200.62 [Amended]

**Par. 13.** The heading of § 200.62 is amended by replacing "Initial application" with "Application", and the first sentence of § 200.62 is amended by deleting "initial".

§ 200.63 [Removed]

**Par. 14.** Section 200.63 is removed because it relates to renewal applications.

§ 200.67 [Amended]

**Par. 15.** The heading of § 200.67 is amended by replacing "Initial applications" with "Applications", and the first sentence of § 200.67 is amended by deleting "initial".

§ 200.68 [Removed]

**Par. 16.** Section 200.68 is removed because it relates to renewal applications.

§ 200.70 [Amended]

**Par. 17.** Section 200.70 is amended by replacing "an initial or renewal permit" with "a permit" in the second sentence.

§ 200.78 [Amended]

**Par. 18.** The heading of § 200.78 is amended by replacing "Initial applications" with "Applications". The first and third sentences of § 200.78 are amended by replacing "initial applications" with "applications".

**Par. 19.** Section 200.79 is revised to remove reference to renewal permits. As revised, § 200.79 reads as follows:

**§ 200.79 Suspension, revocation, or annulment.**

The administrative law judge who presides at the hearing in proceedings for the suspension, revocation, or annulment of a permit shall make the initial decision.

§ 200.80 [Amended]

**Par. 20.** The heading of § 200.80 is amended by replacing "Initial applications" with "Applications", and the first sentence of § 200.80 is amended by deleting "initial".

**Par. 21.** Section 200.81 is revised to remove reference to renewal applications. As revised, § 200.81 reads as follows:

**§ 200.81 Suspension, revocation, or annulment.**

In hearings on the suspension, revocation, or annulment of a permit, the burden of proof is on the Government.

**Par. 22.** Paragraph (h) of § 200.97 is revised to eliminate the distinction between initial and renewal applications. As revised, paragraph (h) of § 200.97 reads as follows:

**§ 200.97 Powers.**

* * * * *

(h) Render recommended decisions in proceedings on applications for permits, and in suspension, revocation, or annulment proceedings against permits;

* * * * *

§ 200.106 [Amended]

**Par. 23.** Paragraph (a) of § 200.106 is amended by replacing "initial application" with "an application". Paragraph (b) of § 200.106 is amended by deleting "proceedings on renewal applications and".

§ 200.107 [Amended]

**Par. 24.** The heading of § 200.107 is amended by replacing "Initial applications" with "Application", and the fourth sentence of § 200.107 is amended by deleting "initial".

**Par. 25.** The first clause of 200.108 is revised to remove references to renewal applications. As amended, the first clause of § 200.108 reads as follows:

**§ 200.108 Suspension, revocation, or annulment proceedings.**

Upon receipt of the complete certified record of the hearing the regional director (compliance) shall enter an order suspending, revoking, or annulling the permit (Form 1430-B) or dismissing the proceedings in accordance with the administrative law judge's findings and decision. * * *

§ 200.109 [Amended]

**Par. 26.** Section 200.109 is amended by deleting "or disapproving a renewal application" from the first sentence.

§ 200.115 [Amended]

**Par. 27.** Section 200.115 is amended by deleting "disapproving a renewal application and" and "initial" from the second sentence.

§ 200.116 [Amended]

**Par. 28.** Section 200.116 is amended by deleting "initial" from the second sentence.

§ 200.117 [Amended]

**Par. 29.** Section 200.117 is amended by replacing "annulment, or renewal application" with "or annulment" in the first sentence, and by deleting the last sentence.

## PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Section G. Part 250 is amended as follows:

**Paragraph 1.** The table of sections for Part 250 is amended to reflect the removal of §§ 250.36a, 250.36b, and 250.201b, and to reflect the revision of Subparts Ia and O.

Sec.

* * * * *

250.36 * * *

250.36c * * *

* * * * *

**Subpart Ia—Shipment of Denatured Spirits and Products Made With Denatured Spirits to the United States From Puerto Rico**

250.191 Notice of shipment.

250.192 Samples and analysis.

250.193 Notification of tax liability.

250.194 Detention of articles.

Subpart Ib * * *

* * * * *

250.201a * * *
250.201c * * *

* * * * *

**Subpart O—Tax-Free Shipments to the United States From the Virgin Islands**

250.291 General.

**Shipment of Industrial Spirits and Specially Denatured Spirits**

250.292 Copy of consignee's permit under Part 20 or 22.
250.293 Marks on containers.
250.294 Record of shipment.

**Shipment of Completely Denatured Alcohol and Products Made with Denatured Spirits**

250.295 Marks on containers.
250.296 Record of shipment.

**Arrival in the United States**

250.297 General.

* * * * *

**Par. 2.** The authority citation for Part 250 is revised to read as follows:

**Authority:** August 16, 1954, Ch. 736, 68A Stat. 906–907, as amended, 917, as amended (26 U.S.C. 7651–7652, 7805); Sec. 201, Pub. L. 85–859, 72 Stat. 1375, as amended (26 U.S.C. 5314), unless otherwise noted.

**Par. 3.** Section 250.36 is revised to provide for bringing industrial spirits, denatured spirits, and products made with denatured spirits into the United States from Puerto Rico with equal tax treatment for similar products made in the United States. As revised, § 250.36 reads as follows:

**§ 250.36 Products exempt from tax.**

(a) *General.* Industrial spirits, denatured spirits, and products made with denatured spirits in Puerto Rico may be brought into the United States without incurring tax liability imposed by 26 U.S.C. 5001 or 7652.

(b) *Industrial spirits.* A distiller of industrial spirits who registers and files a bond as a distilled spirits plant in accordance with Part 19 of this chapter may ship industrial spirits to a tax-free alcohol user in the United States who holds a permit under Part 22 of this chapter. These shipments shall be made in accordance with the requirements of Parts 19 and 22 of this chapter.

(c) *Denatured spirits.* A distiller who registers and files a bond as a distilled spirits plant in accordance with Part 19 of this chapter and who denatures spirits in accordance with Parts 19 and 21 of this chapter may ship (1) completely denatured alcohol to anyone in the United States, and/or (2) specially denatured spirits to a dealer or user of specially denatured spirits in the United States or Puerto Rico who holds a permit under Part 20 of this chapter. These shipments shall be made in accordance with the requirements of Parts 19 and 20 of this chapter, and Subpart Ia of this part.

(d) *Products made with denatured spirits.* (1) A person in Puerto Rico who manufactures products with completely denatured alcohol in accordance with the requirements of Part 20 of this chapter may ship those products to the United States in accordance with the requirements of Part 20 of this chapter, and Subpart Ia of this part.

(2) A person in Puerto Rico who manufacturers products with specially denatured spirits may ship those products to the United States if that person (i) obtains a permit to use specially denatured spirits under Part 20 of this chapter, and (ii) complies with the requirements of Part 20 of this chapter and Subpart Ia of this part relating to the manufacture and shipment of those products.

**§ 250.36a and 250.36b [Removed]**

**Par. 4.** Sections 250.36a and 250.36b are removed because they are made obsolete by the above revision of § 250.36.

**Par. 5.** Paragraphs (b) and (c) of § 250.51 are revised to reflect new regulations in Part 20 and the new form number of a Government form. As revised, § 250.51 (b) and (c) read as follows:

**§ 250.51 Formulas for articles and products manufactured with denatured spirits.**

* * * * *

(b) *Formulas for products manufactured with denatured spirits.* Products manufactured with denatured spirits shall be manufactured in accordance with the formula requirements of Part 20 of this chapter for similar products made in the United States.

(1) Products may be made with completely denatured alcohol for sale under brand names under Part 20 of this chapter without obtaining an approved formula. If ingredients are added in sufficient quantities to materially change the composition and character of the completely denatured alcohol, the product is not classified as completely denatured alcohol and may not be marked, branded, or sold as completely denatured alcohol.

(2) Products made with specially denatured spirits shall be made in accordance with (i) a general-use formula approved as provided in Part 20 of this chapter, or (ii) an approved formula on Form 5150.19, or previously approved on ATF Form 1479–A or 27–B Supplemental.

(c) *Form 5150.19.* Formulas required by this section shall be submitted on Form 5150.19 in accordance with § 250.54.

**Par. 6.** Subpart Ia is revised to provide for equal tax treatment by eliminating procedural requirements which exceed the requirements of Parts 19, 20, and 21 relating to manufacture and shipment of denatured spirits and products made with denatured spirits. However, oversight by the chemist of the Secretary of the Treasury of Puerto Rico is retained so that the Treasury of Puerto Rico can ensure that products shipped tax-exempt are qualified for tax-exempt status. As revised, Subpart Ia reads as follows:

**Subpart Ia—Shipment of Denatured Spirits and Products Made With Denatured Spirits to the United States From Puerto Rico**

Sec.
250.191 Notice of shipment.
250.192 Samples and analysis.
250.193 Notification of Tax liability.
250.194 Detention of articles.

## Subpart Ia—Shipment of Denatured Spirits and Products Made With Denatured Spirits to the United States From Puerto Rico

**§ 250.191 Notice of shipment.**

At least 5 business days before shipment, each proprietor of a distilled spirits plant in Puerto Rico who intends to ship denatured spirits to the United States in containers larger than 5 gallons, and each permittee in Puerto Rico who intends to ship products made with denatured spirits to the United States in containers larger than 5 gallons shall notify the chemist of the Treasury of Puerto Rico of the intent to ship.

(Approved by the Office of Management and Budget under control number 1512–0336)

**§ 250.192 Samples and analysis.**

The chemist of the Treasury of Puerto Rico may take samples of the product to be shipped in order to determine that it is eligible for tax-free status.

**§ 250.193 Notification of tax liability.**

(a) If the chemist of the Treasury of Puerto Rico finds that denatured spirits or products made with denatured spirits are not eligible for tax-free shipment, before the shipment is made, the chemist will immediately notify the shipper that the article is subject to tax, payable in accordance with §§ 250.107 through 250.110.

(b) If the chemist of the Treasury of Puerto Rico finds that denatured spirits or products made with denatured spirits are not eligible for fax-free shipment, after the shipment is made, the chemist will immediately notify the shipper that the tax shall be paid immediately in accordance with § 250.113. The chemist will also notify the regional director (compliance) of the consignee's region.

**§ 250.194 Detention of articles.**

(a) Upon receiving a notification in accordance with § 250.193(b), the regional director (compliance) will detain the article in accordance with Part 20 of this chapter or seize the article in accordance with Part 72 of this chapter.

(b) After the shipper furnishes proof that the tax was paid in accordance with § 250.113, the regional director (compliance) will release the article to the consignee.

**Par. 7.** Section 250.201 is revised to provide for bringing industrial spirits, denatured spirits, and products made with denature spirits into the United States from the Virgin Islands with equal tax treatment for similar products made in the United States. As revised, § 250.201 reads as follows:

**§ 250.201 Products exempt from tax.**

(a) *General.* Industrial spirits, denatured spirits, and products made with denatured spirits in the Virgin Islands may be brought into the United States without incurring tax liability imposed by 26 U.S.C. 5001 or 7652.

(b) *Industrial spirits.* A distiller of industrial spirits who qualifies under regulations issued by the Governor of the Virgin Islands may ship industrial spirits to a tax-free alcohol user in the United States who holds a permit under Part 22 of this chapter. Shipments shall be made in accordance with the requirements of Subpart O of this part.

(c) *Denatured spirits.* A distiller who qualifies under the regulations issued by the Governor of the Virgin Islands and who denatures spirits in accordance with Part 21 of this chapter may ship (1) completely denatured alcohol to anyone in the United States, and/or (2) specially denatured spirits to a dealer or user of specially denatured spirits in the United States or Puerto Rico who holds a permit under Part 20 of this chapter. Shipments shall be made in accordance with the requirements of Subpart O of this part.

(d) *Products made with denatured spirits.* A person in the Virgin Islands who manufactures products with completely denatured alcohol or specially denatured spirits in accordance with the requirements of Part 20 of this chapter and regulations issued by the Governor of the Virgin Islands may ship those products to the United States in accordance with the requirements of Subpart O of this part.

**§ 250.201b [Removed]**

**Par. 8.** Section 250.201b is removed because it is made obsolete by the above revision of § 250.201.

**Par. 9.** Paragraphs (b) and (c) of 250.221 are revised to reflect new regulations in Part 20 and the new form number of a Government form. As revised, § 250.221 (b) and (c) read as follows:

**§ 250.221 Formulas for articles and products manufactured with denatured spirits.**

* * * * *

(b) *Formulas for products manufactured with denatured spirits.* Products manufactured with denatured spirits shall be manufactured in accordance with the formula requirements of Part 20 of this chapter for similar products made in the United States.

(1) Products may be made with completely denatured alcohol for sale under brand names under Part 20 of this chapter without obtaining an approved formula. If ingredients are added in sufficient quantities to materially change the composition and character of the completely denatured alcohol, the product is not classified as completely denatured alcohol and may not be marked, branded, or sold as completely denatured alcohol.

(2) Products made with specially denatured spirits shall be made in accordance with (i) a general-use formula approved as provided in Part 20 of this chapter, or (ii) an approved formula on Form 5150.19, or previously approved on ATF Form 1479–A or 27–B Supplemental.

(c) *Form 5150.19.* Formulas required by this section shall be submitted on Form 5150.19 in accordance with § 250.224.

**Par. 10.** Subpart O is revised to provide equal tax treatment by adding procedural requirements prescribed in Parts 19, 20, 21 and 22 relating to manufacture and shipment of industrial spirits, denatured spirits and products made with denatured spirits in the United States, and by eliminating procedural requirements which exceed the requirements for those products made in the United States. As revised, Subpart O reads as follows:

**Subpart O—Tax-Free Shipments to the United States From the Virgin Islands**



## Subpart O—Tax-Free Shipments to the United States From the Virgin Islands

**§ 250.291 General.**

(a) Industrial spirits may be shipped into the United States to the holder of a permit under Part 22 of this chapter, in accordance with § 250.292 through 250.294 and regulations issued by the Governor of the Virgin Islands.

(b)(1) Specially denatured spirits may be shipped into the United States to the holder of a permit under Part 20 of this chapter, in accordance with §§ 250.292 through 250.294 and regulations issued by the Governor of the Virgin Islands.

(2) Completely denatured alcohol may be shipped to anyone in the United States in accordance with §§ 250.295 through 250.296 and regulations issued by the Governor of the Virgin Islands.

(3) Denatured spirits shall be denatured in accordance with Part 21 of this chapter and regulations issued by the Governor of the Virgin Islands.

(c) Products made with denatured spirits may be shipped to anyone in the United States in accordance with §§ 250.295 through 250.296 and regulations issued by the Governor of the Virgin Islands. These products are also subject to the requirements of § 250.221 of this part.

**Shipment of Industrial Spirits and Specially Denatured Spirits**

**§ 22.292 Copy of consignee's permit under Part 20 or 22.**

The consignor or consignee shall file a copy of the consignee's permit issued under Part 20 of this chapter (for shipments of specially denatured spirits) or Part 22 of this chapter (for shipments of industrial spirits) with the district director of customs of the port of entry. The copy of the permit shall be adequate evidence that the consignee is authorized to enter industrial spirits or specially denatured spirits free of tax.

**§ 250.293 Marks on containers.**

(a) *Industrial spirits.* The shipper shall mark or label each immediate container of industrial spirits with the following information:

(1) The name or trade name of the distiller or shipper;

(2) The words "Virgin Islands Industrial Spirits";

(3) A package identification number as required by Subpart R of Part 19 of this chapter;

(4) The date filled;

(5) Proof; and

(6) Quantity in proof gallons.

(b) *Specially denatured spirits.* The shipper shall mark or label each immediate container of specially denatured spirits with the following information:

(1) Quantity, in gallons, or in liters and gallons;

(2) A serial number or package identification number;

(3) Name and address of shipper;

(4) The words "Virgin Islands Specially Denatured Alcohol" or "Virgin Islands Specially Denatured Rum," as appropriate;

(5) Formula number prescribed by Part 21 of this chapter;

(6) Proof, if the spirits were denatured at other than 190 proof;

(7) Denaturants used, if spirits were denatured under an approved formula authorizing a choice of denaturants; and

(8) Quantity of denaturant used, if the approved formula authorizes a choice of quantities of denaturants.

#### § 250.294 Record of shipment.

(a) Each shipment of industrial spirits or specially denatured spirits from the Virgin Islands to the United States shall be accompanied by a record of shipment. The record of shipment shall consist of an invoice, bill of lading or similar document which shows the following information:

(1) Consignor's name and address;

(2) Consignee's name, address, and permit number;

(3) For each formula of specially denatured spirits—

(i) The formula number prescribed by Part 21 of this chapter,

(ii) The serial numbers or package identification numbers of containers, and

(iii) The total quantity in wine gallons;

(4) For industrial spirits—

(i) The package identification numbers of containers, and

(ii) The total quantity in proof gallons.

(b) The record of shipment shall be made available to custom officers inspecting the shipment.

(Records relating to industrial spirits approved by the Office of Management and Budget under control number 1512-0334; records relating to specially denatured spirits approved by the Office of Management and Budget under control number 1512-0337)

### Shipment of Completely Denatured Alcohol and Products Made With Denatured Spirits

#### § 250.295 Marks on containers.

(a) *Completely denatured alcohol.* (1) For each immediate container of completely denatured alcohol with a capacity exceeding 1 gallon, the shipper shall mark or label on the head or side of the package or on the side of the casing, the following:

(i) The name and address of the person filling the container;

(ii) The contents in gallons;

(iii) The words "Virgin Islands Completely Denatured Alcohol"; and

(iv) The formula number prescribed by Part 21 of this chapter.

(2) In addition, if the container has a capacity of 5 gallons or less, the words "Completely Denatured Alcohol" shall be in red letters on white background, and the label shall also have the words "Caution—contains poisonous ingredients" in red letters on white background.

(b) *Products made with denatured spirits.* The shipper shall mark or label each immediate container of a product made with denatured spirits with the name, trade name or brand name of the product and the name and address of the shipper.

#### § 250.296 Record of shipment.

(a) Each shipment of completely denatured alcohol or products made with denatured spirits shall be accompanied by a record of shipment. The record of shipment shall consist of an invoice, bill of lading or similar document which shows the following information:

(1) Consignor's name and address;

(2) Consignee's name and address;

(3) Capacity and number of containers;

(4) Total quantity shipped; and

(5)(i) For completely denatured alcohol, the words "Virgin Islands Completely Denatured Alcohol" and the formula number prescribed by Part 21 of this chapter, or

(ii) For products made with denatured spirits, the name, trade name or brand name of the product.

(b) The record of shipment shall be made available to customs officers inspecting the shipment.

(Approved by the Office of Management and Budget under control number 1512-0337)

### Arrival in the United States

#### § 250.297 General.

The district director of customs shall inspect each shipment of industrial spirits, specially denatured spirits, completely denatured alcohol, and products made with denatured spirits coming into the United States from the Virgin Islands. If the shipment complies with the requirements of this part, the products may be released free of tax.

## PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER

Section H. Part 251 is amended as follows:

**Paragraph 1.** The table of sections for Part 251 is amended to reflect the revision of Subpart M.

Sec.

* * * * *



* * * * *

**Par. 2.** Subpart M of Part 251 is revised to read as follows:

### Subpart M—Withdrawal of Imported Distilled Spirits From Customs Custody Free of Tax For Use of the United States

#### § 251.181 General.

(a) The United States or any of its Government agencies may, upon filing proper customs entry, withdraw imported distilled spirits free of tax from customs custody, as authorized by 26 U.S.C. 5313 and under the provisions of this subpart. Before any distilled spirits may be withdrawn, a permit to procure the spirits shall be obtained from the Director. A bond is not required for any Government agency to procure and withdraw spirits free of tax under this subpart.

(b) The provisions of Subpart N of Part 22 of this chapter cover the withdrawal of domestically produced tax-free spirits for use of the United States or any of its Government agencies.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1372, as amended, 1375, as amended (26 U.S.C. 5273, 5313))

#### § 251.182 Application and Permit, Form 5150.33.

(a) *General.* All permits previously issued to the United States or any of its Government agencies on Form 1444 shall remain valid and will be regulated by the same provisions of this subpart as it refers to permits on Form 5150.33.

(b) *Application.* (1) A Government agency of the United States shall apply to the Director for a permit to procure and withdraw spirits free of tax on Form 5150.33. Upon approval by the Director, Form 5150.33 will be returned to the agency.

(2) If a Government agency intends to withdraw spirits free of tax under this part and Part 22 of this chapter, Form 5150.33 may be annotated to cover both types of withdrawals.

(3) A separate permit is not required for each port of entry. The application, Form 5150.33, may be completed to indicate the applicable ports of entry in which spirits will be withdrawn from customs custody.

(4) A Government agency may specify on its application that it desires a single permit authorizing all sub-agencies under its control to procure and withdraw spirits free of tax under this subpart and Subpart N of Part 22 of this chapter; or, each Government location may individually file an application for a permit, Form 5150.33.

(5) Each application for a permit shall be signed by the head of the agency or sub-agency, or the incumbent of an office which is authorized by the head of the agency or sub-agency, to sign. Evidence of authorization to sign on behalf of the head of an agency or sub-agency shall be furnished with the application.

(c) *Use of spirits.* Spirits withdrawn under this subpart may not be used for non-Government purposes.

(d) *Cancellation of permit.* All permits on Form 5150.33 and previous editions on Form 1444 shall remain in force until surrendered or canceled. Upon surrender or cancellation, the Government agency shall obtain and destroy all photocopies of the permit furnished to district directors of customs, and forward the original to the Director for cancellation.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

### § 251.183 Use of permit, Form 5150.33.

Each Government agency shall retain the original of its permit, Form 5150.33, on file. When filing an initial customs entry to withdraw spirits free of tax from a port of entry, the agency shall furnish a photocopy of its permit to the district director of customs for retention. In the case of an agency holding a single permit for use of its sub-agencies, an attachment to the permit shall list all locations authorized to withdraw spirits free of tax from customs custody. Any subsequent requests for customs entry from the same port shall refer to the permit number.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

### § 251.184 Entry documents.

Entry documents for importation of tax-free spirits under this subpart shall record the serial numbers or other identifying numbers of the containers and the total quantity in proof gallons of the spirits to be entered.

### § 251.185 Customs release.

(a) Upon receipt of appropriate customs entry and a photocopy of a permit, Form 5150.33 or previous editions on Form 1444 (5150.33), the district director of customs shall, following an inspection of the shipment, release spirits free of tax to the Government agency named on the permit, or an attachment thereto.

(b) Customs officers shall not release spirits for shipment until the shipment has been inspected for losses in transit. If it appears that a container or containers have sustained losses in transit, the customs officers shall gauge the damaged container and prepare a package gauge record for the entire shipment, according to § 251.139. A copy of the package gauge record will be retained for the customs files and the original forwarded to the consignee agency.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

## PART 252—EXPORTATION OF LIQUORS

Section I. Part 252 is amended as follows:

**Paragraph 1.** The table of sections for Part 252, Subpart C, is amended to reflect the addition of § 252.20.

Sec.

* * * * *

#### Subpart C—Miscellaneous Provisions

252.20 Alternate methods or procedures; and emergency variations from requirements.

* * * * *

**Par. 2.** Section 252.3 is revised by removing "27 CFR Part 211—Distribution and Use of Denatured Alcohol and Rum" because it is not related to Part 252. As revised, § 252.3 reads as follows:

### § 252.3 Related regulations.

Regulations related to this part are listed below:

19 CFR Chapter I—Customs Regulations.
27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
27 CFR Part 4—Wine Labeling and Advertising.
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 231—Taxpaid Wine Bottling Houses.
27 CFR Part 240—Wine.
27 CFR Part 245—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.

### § 252.11 [Amended]

**Par. 3.** The definition of *Specially denatured spirits* in § 252.11 is amended by replacing "Part 212" with "Part 21".

**Par. 4.** Subpart C is amended by adding § 252.20 immediately preceding the undesignated center head "Withdrawal or Lading for Use on Certain Vessels and Aircrafts." As added, § 252.20 reads as follows:

## Subpart C—Miscellaneous Provisions

### § 252.20 Alternate methods or procedures; and emergency variations from requirements.

(a) *Alternate methods or procedures.*—(1) *Application.* An exporter, after receiving approval from the Director, may use an alternate method or procedure (including alternate construction or equipment) in lieu of a method or procedure prescribed by this part. An exporter wishing to use an alternate method or procedure may apply to the regional director (compliance). The exporter shall describe the proposed alternate method or procedure and shall set forth the reasons for its use.

(2) *Approval by Director.* The Director may approve the use of an alternate method or procedure if:

(i) The applicant shows good cause for its use;

(ii) It is consistent with the purpose and effect of the procedure prescribed by this part, and provides equal security to the revenue;

(iii) It is not contrary to law; and

(iv) It will not cause an increase in cost to the Government and will not hinder the effective administration of this part.

(3) *Exceptions.* The Director will not authorize an alternate method or procedure relating to the giving of a bond or the payment of tax.

(4) *Conditions of approval.* An exporter may not employ an alternate method or procedure until the Director has approved its use. The exporter shall, during the terms of the authorization of an alternate method or procedure, comply with the terms of the approved application.

(b) *Emergency variations from requirements.*—(1) *Application.* When an emergency exists, an exporter may apply to the regional director (compliance) for a variation from the requirements of this part relating to construction, equipment, and methods of operation. The exporter shall describe the proposed variation and set forth the reasons for using it.

(2) *Approval by regional director (compliance).* The regional director (compliance) may approve an emergency variation from requirements if:

(i) An emergency exists;

(ii) The variation from the requirements is necessary;

(iii) It will afford the same security and protection to the revenue as intended by the specific regulations;

(iv) It will not hinder the effective administration of this part; and

(v) It is not contrary to law.

(3) *Conditions of approval.* An exporter may not employ an emergency variation from the requirements until the regional director (compliance) has approved its use. Approval of variations from requirements are conditioned upon compliance with the conditions and limitations set forth in the approval.

(4) *Automatic termination of approval.* If the exporter fails to comply in good faith with the procedures, conditions or limitations set forth in the approval, authority for the variation from requirements is automatically terminated and the exporter is required to comply with prescribed requirements of regulations from which those variations were authorized.

(c) *Withdrawal of approval.* The Director may withdraw approval for an alternate method or procedure, or the regional director (compliance) may withdraw approval for an emergency variation from requirements, approved under paragraph (a) or (b) of this section, if the Director or the regional director (compliance) finds the revenue is jeopardized or the effective administration of this part is hindered by the approval.

(Act of August 16, 1954, Ch. 736, 68A Stat. 917 (26 U.S.C. 7805); Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

Signed.

**Stephen E. Higgins,**

*Director.*

Approved.

November 26, 1984.

**John M. Walker, Jr.,**

*Assistant Secretary (Enforcement and Operations).*

[FR Doc. 85-5136 Filed 3-5-85; 8:45 am]

**BILLING CODE 4810-31-M**